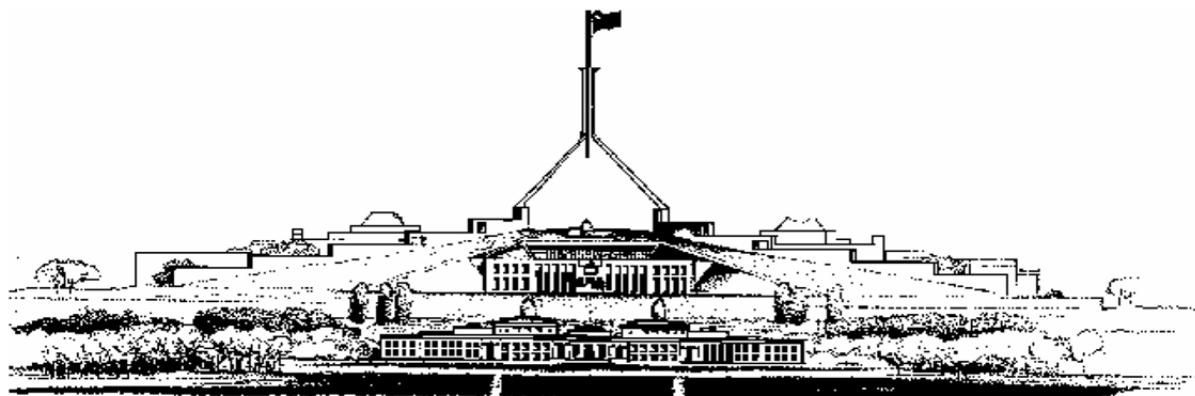




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate
Official Hansard

**No. 159, 1993
Monday 27 September 1993**

THIRTY-SEVENTH PARLIAMENT
FIRST SESSION—SECOND PERIOD

BY AUTHORITY OF THE SENATE

THIRTY-SEVENTH PARLIAMENT

FIRST SESSION—SECOND PERIOD

Governor-General

His Excellency the Hon. William George Hayden, Companion of the Order of Australia,
Governor-General of the Commonwealth of Australia

Senate Officeholders

President—Senator the Hon. Kerry Walter Sibraa

Deputy President and Chairman of Committees—Senator Noel Ashley Crichton-Browne

Temporary Chairmen of Committees—Senators Paul Henry Calvert, Hedley Grant Pearson Chapman, Bruce Kenneth Childs, Malcolm Arthur Colston, John Herron, Julian John James McGauran, James Philip McKiernan, Baden Chapman Teague, Suzanne Margaret West and Alice Olive Zakharov

Leader of the Government in the Senate—Senator the Hon. Gareth John Evans QC

Deputy Leader of the Government in the Senate—Senator the Hon.
Robert Francis Ray

Leader of the Opposition—Senator Robert Murray Hill

Deputy Leader of the Opposition—Senator Richard Kenneth Robert Alston

Manager of Government Business in the Senate—Senator the Hon. John Philip Faulkner

Senate Party Leaders

Leader of the Australian Labor Party—Senator the Hon. Gareth John Evans QC

Deputy Leader of the Australian Labor Party—Senator the Hon.
Robert Francis Ray

Leader of the Liberal Party of Australia—Senator Robert Murray Hill

Deputy Leader of the Liberal Party of Australia—Senator Richard Kenneth Robert Alston

Leader of the National Party of Australia—Senator Ronald Leslie Doyle Boswell

Deputy Leader of the National Party of Australia—Senator David Gordon Cadell Brownhill

Leader of the Australian Democrats—Senator Cheryl Kernot

Deputy Leader of the Australian Democrats—Senator Meg Heather Lees

Members of the Senate

Senator	State or Territory	Term expires	Party
Alston, Richard Kenneth Robert	Vic.	30.6.96	LP
Archer, Brian Roper	Tas.	30.6.99	LP
Baume, Michael Ehrenfried	NSW	30.6.99	LP
Beahan, Michael Eamon	WA	30.6.96	ALP
Bell, Robert John	Tas.	30.6.96	AD
Bishop, Bronwyn Kathleen	NSW	30.6.96	LP
Bolkus, Hon. Nick	SA	30.6.99	ALP
Boswell, Ronald Leslie Doyle	Qld	30.6.96	NP
Bourne, Victoria Worrall	NSW	30.6.96	AD
Brownhill, David Gordon Cadell	NSW	30.6.96	NP
Burns, Bryant Robert	Qld	30.6.96	ALP
Calvert, Paul Henry	Tas.	30.6.96	LP
Campbell, Ian Gordon	WA	30.6.99	LP
Carr, Kim John	Vic.	30.6.99	ALP
Chamarette, Christabel Marguerite Alain ⁽²⁾	WA	30.6.96	G(WA)
Chapman, Hedley Grant Pearson	SA	30.6.96	LP
Childs, Bruce Kenneth	NSW	30.6.96	ALP
Coates, John	Tas.	30.6.99	ALP
Collins, Hon. Robert Lindsay ⁽¹⁾	NT		ALP
Colston, Malcolm Arthur	Qld	30.6.99	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.99	ALP
Cooney, Bernard Cornelius	Vic.	30.6.96	ALP
Coulter, John Richard	SA	30.6.96	AD
Crane, Winston	WA	30.6.96	LP
Crichton-Browne, Noel Ashley	WA	30.6.96	LP
Crowley, Hon. Rosemary Anne	SA	30.6.96	ALP
Denman, Kay Janet ⁽³⁾	Tas.	30.6.99	ALP
Devereux, John Robert	Tas.	30.6.96	ALP
Ellison, Christopher Martin	WA	30.6.99	LP
Evans, Christopher Vaughan	WA	30.6.99	ALP
Evans, Hon. Gareth John, QC	Vic.	30.6.99	ALP
Faulkner, Hon. John Philip	NSW	30.6.99	ALP
Ferguson, Alan Baird	SA	30.6.99	LP
Foreman, Dominic John	SA	30.6.99	ALP
Gibson, Brian Francis	Tas.	30.6.99	LP
Harradine, Brian	Tas.	30.6.99	Ind.
Herron, John	Qld	30.6.96	LP
Hill, Robert Murray	SA	30.6.96	LP
Jones, Gerry Norman	Qld	30.6.96	ALP
Kemp, Charles Roderick	Vic.	30.6.96	LP
Kernot, Cheryl	Qld	30.6.96	AD
Knowles, Susan Christine	WA	30.6.99	LP
Lees, Meg Heather	SA	30.6.99	AD
Loosley, Stephen	NSW	30.6.96	ALP
Macdonald, Ian Douglas	Qld	30.6.99	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.99	NP
McGauran, Julian John James	Vic.	30.6.99	NP
MacGibbon, David John	Qld	30.6.99	LP
McKiernan, James Philip	WA	30.6.96	ALP

Members of the Senate—*continued*

Senator	State or Territory	Term expires	Party
McMullan, Hon. Robert Francis ⁽¹⁾	ACT		ALP
Margetts, Diane Elizabeth (Dee)	WA	30.6.99	G(WA)
Minchin, Nicholas Hugh	SA	30.6.99	LP
Murphy, Shayne Michael	Tas.	30.6.99	ALP
Newman, Jocelyn Margaret	Tas.	30.6.96	LP
O'Chee, William George	Qld	30.6.99	NP
Panizza, John Horace	WA	30.6.96	LP
Parer, Warwick Raymond	Qld	30.6.99	LP
Patterson, Kay Christine Lesley	Vic.	30.6.96	LP
Ray, Hon. Robert Francis	Vic.	30.6.96	ALP
Reid, Margaret Elizabeth ⁽¹⁾	ACT		LP
Reynolds, Hon. Margaret	Qld	30.6.99	ALP
Richardson, Hon. Graham Frederick	NSW	30.6.99	ALP
Schacht, Hon. Christopher Cleland	SA	30.6.96	ALP
Sherry, Hon. Nicholas John	Tas.	30.6.96	ALP
Short, James Robert	Vic.	30.6.99	LP
Sibraa, Hon. Kerry Walter	NSW	30.6.99	ALP
Spindler, Siegfried Emil	Vic.	30.6.96	AD
Tambling, Grant Ernest John ⁽¹⁾	NT		NP
Teague, Baden Chapman	SA	30.6.96	LP
Tierney, John William	NSW	30.6.99	LP
Troeth, Judith Mary	Vic.	30.6.99	LP
Vanstone, Amanda Eloise	SA	30.6.99	LP
Watson, John Odin Wentworth	Tas.	30.6.96	LP
West, Suzanne Margaret	NSW	30.6.96	ALP
Woodley, John	Qld	30.6.99	AD
Zakharov, Alice Olive	Vic.	30.6.99	ALP

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

(2) Chosen by the Parliament of Western Australia vice Josephine Vallentine, resigned.

(3) Chosen by the Parliament of Tasmania vice Hon. Michael Carter Tate, resigned.

PARTY ABBREVIATIONS

AD—Australian Democrats; ALP—Australian Labor Party; G(WA)—Greens (WA); Ind.—Independent; LP—Liberal Party of Australia; NP—National Party of Australia

Heads of Parliamentary Departments

Clerk of the Senate—H. Evans

Clerk of the House of Representatives—L. M. Barlin

Parliamentary Librarian—

Principal Parliamentary Reporter—J. W. Templeton

Secretary, Joint House Department—M. W. Bolton

SECOND KEATING MINISTRY

Prime Minister	The Hon. Paul John Keating
Deputy Prime Minister and Minister for Housing, Local Government and Community Services	The Hon. Brian Leslie Howe
Leader of the Government in the Senate and Minister for Foreign Affairs	Senator the Hon. Gareth John Evans QC
Deputy Leader of the Government in the Senate and Minister for Defence	Senator the Hon. Robert Francis Ray
Treasurer	The Hon. John Sydney Dawkins
Minister for Finance	The Hon. Ralph Willis
Minister for Employment, Education and Training and Leader of the House	The Hon. Kim Christian Beazley
Minister for Health	Senator the Hon. Graham Frederick Richardson
Minister for the Environment, Sport and Territories	The Hon. Roslyn Joan Kelly
Minister for Trade	Senator the Hon. Peter Francis Salmon Cook
Minister for Immigration and Ethnic Affairs and Minister Assisting the Prime Minister for Multicultural Affairs	Senator the Hon. Nick Bolkus
Minister for Primary Industries and Energy	The Hon. Simon Findlay Crean
Minister for Industry, Technology and Regional Development	The Hon. Alan Gordon Griffiths
Minister for Transport and Communications	Senator the Hon. Robert Lindsay Collins
Minister for Social Security	The Hon. Peter Jeremy Baldwin
Minister for the Arts and Administrative Services	Senator the Hon. Robert Francis McMullan
Minister for Industrial Relations and Minister Assisting the Prime Minister on Public Service Matters	The Hon. Laurence John Brereton
Attorney-General	The Hon. Michael Hugh Lavarch
Minister for Resources and Minister for Tourism	The Hon. Michael John Lee

(The above Ministers constitute the Cabinet)

Second Keating Ministry—*continued*

Minister for Communications	The Hon. David Peter Beddall
Minister for Development Cooperation and Pacific Island Affairs	The Hon. Gordon Neil Bilney
Minister for Aboriginal and Torres Strait Islander Affairs	The Hon. Robert Edward Tickner
Minister for Schools, Vocational Education and Training	The Hon. Ross Vincent Free
Minister for Consumer Affairs	The Hon. Jeannette McHugh
Minister for Family Services and Minister Assisting the Prime Minister for the Status of Women	Senator the Hon. Rosemary Anne Crowley
Minister for Defence Science and Personnel, Minister for Veterans' Affairs and Manager of Government Business in the Senate	Senator the Hon. John Philip Faulkner
Assistant Treasurer	The Hon. George Gear
Minister for Justice	The Hon. Duncan James Colquhoun Kerr
Minister for Science and Small Business and Minister Assisting the Prime Minister for Science	Senator the Hon. Christopher Cleland Schacht
Special Minister of State and Vice-President of the Executive Council	The Hon. Francis John Walker QC
Parliamentary Secretary to the Treasurer	The Hon. Gary Thomas Johns
Parliamentary Secretary to the Attorney-General	The Hon. Peter Duncan
Parliamentary Secretary to the Minister for Employment, Education and Training and Parliamentary Secretary to the Minister for the Environment, Sport and Territories	The Hon. Warren Edward Snowdon
Parliamentary Secretary to the Minister for Social Security	The Hon. Concetto Antonio Sciacca
Parliamentary Secretary to the Minister for Defence	The Hon. Gary Francis Punch
Parliamentary Secretary to the Minister for the Arts and Administrative Services	The Hon. Janice Ann Crosio MBE
Parliamentary Secretary to the Minister for Industry, Technology and Regional Development	The Hon. Eamon John Lindsay
Parliamentary Secretary to the Minister for Transport and Communications	The Hon. Neil Patrick O'Keefe
Parliamentary Secretary to the Minister for Primary Industries and Energy	Senator the Hon. Nicholas John Sherry
Parliamentary Secretary to the Minister for Housing, Local Government and Community Services and Parliamentary Secretary to the Minister for Health	The Hon. Andrew Charles Theophanous

JOINT SELECT COMMITTEE

FAMILY LAW ISSUES, CERTAIN—Mr Price (*Chairman*), Senators Brownhill, Carr, McKiernan, Reid and Spindler and Ms Henzell, Mr L. J. Scott, Mr K. J. Andrews and Mr Williams.

JOINT STANDING COMMITTEES

ELECTORAL MATTERS—Senator Foreman (*Chairman*), Senators Chamarette, Christopher Evans, Lees, Minchin and Tierney and Mr Cobb, Mr Connolly, Mr Griffin, Mr Melham, Mr S.F. Smith and Mr Swan.

FOREIGN AFFAIRS, DEFENCE AND TRADE—Senator Loosley (*Chairman*), Senators Beahan, Bourne, Brownhill, Chapman, Childs, Crichton-Browne, Harradine, Jones, Margetts, Reynolds and Teague and Mr Bevis, Dr Blewett, Mr Campbell, Mr Ferguson, Mr Fitzgibbon, Mr Gibson, Mr Grace, Mr Halverson, Mr Hawker, Mr Hicks, Mr Hollis, Mr Kerin, Mr Langmore, Mr Lieberman, Mr MacKellar, Mr Moore, Mr Price, Mr Simmons, Mr Sinclair and Mr Taylor.

MIGRATION—Senator McKiernan (*Chairman*), Senators Chamarette, Cooney and Short and Mr Ferguson, Mr Holding, Mr Ruddock, Mr Sinclair, Mrs Sullivan and Mr Woods.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES—Mr Chynoweth (*Chairman*), the Deputy President, the Deputy Speaker, Senators Bell, Coates, Colston, Ian Macdonald and Reid and Mr Halverson, Mr Langmore, Mr McLeay and Mr Sharp.

JOINT STATUTORY COMMITTEES

AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION—Mr Gorman (*Presiding Member*), Senators Coulter, Minchin and Zakharov and Mr Campbell, Mr Dodd and Mr B. C. Scott.

BROADCASTING OF PARLIAMENTARY PROCEEDINGS—The President*, the Speaker*, Senators Coates and Vanstone and Mr Bevis, Mr Cameron, Mr Hicks, Mr Knott and Mr Price.

* ex officio members.

CORPORATIONS AND SECURITIES—Senator Beahan (*Chairman*), Senators Campbell, Cooney, McGauran and Spindler and Mr Cleeland, Mr Humphreys, Mr Moore, Mr Sinclair and Mr Tanner.

NATIONAL CRIME AUTHORITY—Mr Cleeland (*Chairman*), Senators Jones, Loosley, Spindler, Troeth and Vanstone and Mr Duffy, Mr Filing, Mr P. F. Morris and Mr Vaile.

PUBLIC ACCOUNTS—Mr L. J. Scott (*Chairman*), Senators Bishop, Cooney, Denman, Parer and Reynolds and Mr Brown, Mr Fitzgibbon, Mr Griffin, Mr Haviland, Mr McLeay, Mrs Moylan, Mr Somlyay, Mr Taylor and Mr Vaile.

PUBLIC WORKS—Mr Hollis (*Chairman*), Senators Burns, Calvert and Devereux and Mr Andrew, Mr Braithwaite, Mr Gorman, Mr Halverson and Mr Humphreys.

SENATE

Clerk of the Senate—H. Evans
Deputy Clerk of the Senate—A. Lynch
Clerk Assistant (Table Office)—C. J. C. Elliott
Clerk Assistant (Corporate Management)—J. Vander Wyk
Clerk Assistant (Procedure)—P. O'Keeffe
Clerk Assistant (Committees)—R. Laing
Usher of the Black Rod—R. Alison

HOUSE OF REPRESENTATIVES

Clerk of the House—L. M. Barlin
Deputy Clerk of the House—I. C. Harris
First Clerk Assistant—B. C. Wright
Clerk Assistant (Procedure)—I. C. Cochran
Clerk Assistant (Table)—J. W. Pender
Serjeant-at-Arms—D. Elder

PARLIAMENTARY REPORTING STAFF

Principal Parliamentary Reporter—J. W. Templeton
Chief Hansard Reporter—B. A. Harris
Assistant Chief Reporter (Senate)—M. A. R. McGregor
Assistant Chief Reporter (House of Representatives)—V. M. Barrett

LIBRARY

Parliamentary Librarian—

JOINT HOUSE

Secretary—M. W. Bolton

Monday, 27 September 1993

The PRESIDENT (Senator the Hon. Kerry Sibraa) took the chair at 2 p.m., and read prayers.

MINISTERIAL ARRANGEMENTS

Senator ROBERT RAY (Victoria—Acting Leader of the Government in the Senate)—by leave—I inform the Senate that the Minister for Foreign Affairs, Senator Gareth Evans, is overseas on government business. He will return on 2 October. All questions relating to the foreign affairs and trade portfolios should be directed to the Minister for Trade, Senator Cook. I will act as Leader of the Government in the Senate during Senator Evans's absence. I will also take questions, in a representational capacity, directed to the Prime Minister and to the Special Minister of State.

QUESTIONS WITHOUT NOTICE

Deficit Reduction Legislation

Senator HILL—My question is directed to the Minister representing the Treasurer. In view of the government's decision to split the so-called deficit reduction bill into a series of bills, could the minister explain why the test bill does not constitute precisely the same risk of unconstitutionality as did the original bill? In view of the government's humiliating backdown on the latter, why is the government deliberately prolonging doubt and uncertainty by not splitting the test bill?

Senator McMULLAN—The strangest irony is to find the opposition coming in here asking why we are concerned about uncertainty with regard to the budget. The most serious concern that one could have about the processes of consideration of the budget, particularly the revenue measures of the budget, relates to the tactics of the opposition in its absolute intransigence in refusing to recognise the proper processes and the conventions as to the way in which the Senate has dealt with revenue measures in the past and the government's basic thrust of revenue.

Nevertheless, I remain as confident today as I was on the day the budget came down that its core legislation will pass. It has always

been the case that it would, and it will. I have always been confident of that and I remain confident of it. With regard to the constitutional validity of the legislation, I remain of the view that the original deficit reduction bill was constitutionally valid, but it is nevertheless an important—

Senator Ian Macdonald—Why did you change it then?

Senator McMULLAN—I thank Senator Macdonald for that invitation. I am just about to explain that, but probably not in words he can understand. The situation is, as the Treasurer made clear, that there is concern that there will be constitutional challenge to the deficit reduction bill.

Senator Ian Macdonald—You just said there wouldn't be.

Senator McMULLAN—There is a difference between saying there will be a challenge and having it upheld, may I explain to Senator Macdonald, but probably, once again, not in words he could understand. The deficit reduction bill would have been held up and that could have had significant detrimental concern to the revenue of the Commonwealth and, therefore, macro-economic implications. Nevertheless, it is an important constitutional point to be resolved. So the government formed the view, and the Treasurer articulated the view, that there should be an opportunity to test that principle in a manner which does not threaten the revenue. Given the timetable for the introduction of the two measures in the so-called test bill, it will enable those matters to be tested in the High Court without in any way threatening the revenue of the Commonwealth and, therefore, not in any way exacerbating the uncertainty which has been so unnecessarily created.

Senator HILL—Mr President, I ask a supplementary question. I know that this government may not be particularly interested in the parliamentary process, but how can it be sound parliamentary process to introduce, and expect this Senate to debate and pass, a bill about which there is serious constitutional doubt, as advised to the government by a committee of this Senate, when that doubt can be so easily overcome by the bill being split?

Senator McMULLAN—The government does not share the view that the original bill was unconstitutional or the view that this one is. We accept that it is important that the potential revenue implications of the challenge to the first bill created too much uncertainty, but it is important that the issue is tested in a manner which does not threaten the revenue and, therefore, have adverse macro-economic implications. Of course, the parliament often passes legislation which people threaten to challenge in the High Court. We are proposing to introduce industrial relations legislation that some of the states wish to challenge in the High Court. We are proposing to introduce Mabo legislation, which some people might wish to challenge. Nevertheless, if it is the majority view of the parliament that it should pass, then it should pass, and the courts are the place to test it—not here.

Russia

Senator LOOSLEY—My question is directed to the Acting Minister for Foreign Affairs, Senator Cook. I refer to the political upheaval in the Russian federation over the past week or so, in particular, disturbing reports at the weekend of continuing confrontation in Moscow between the executive and legislative branches of the Russian government. What is the Australian government's assessment of President Yeltsin's action in dissolving the Russian legislature and calling parliamentary and presidential elections? What are the consequences for the future of democratic reform and economic liberalisation in Russia? What view has the Australian government formed of events?

Senator COOK—The confrontation between the executive and the legislature in Russia should be seen against the background of the historic transformation that is under way across the vast area that was the Soviet bloc; for example, the building of an open democratic society and a prosperous economy in Russia on the rubble of the Soviet system is an undertaking on an epic scale. It should also be borne in mind as a comparison with other newly independent states, which highlights how much President Yeltsin and his government have achieved in the mere two

years since the break-up of the Soviet Union. We should not forget that only a few years ago very few people thought that fundamental change was possible in the old Soviet Union.

But the path to a durable and legitimate political system is strewn with the relics of the old Soviet era. One such remnant is the congress of deputies itself. Another is the existing constitution, a Soviet document of limited post-Soviet era use. Congress deputies were selected by the old apparatus, the Communist Party, and 90 per cent of them were party members. The congress has rebuffed all attempts by President Yeltsin to compromise with it and rejected virtually all of his reform policies. It openly sought to wreck the Russian government's responsible budget strategy by enlarging the deficit to 25 per cent of GDP.

The government believes that congress's intransigence left President Yeltsin no option but to take decisive action to break an increasingly dangerous impasse. President Yeltsin has announced elections for a new parliament from 11 to 12 December, to be followed by presidential elections on 6 June next year. While his action may seem autocratic in style, its democratic content cannot be gainsaid. By calling elections for a legitimate parliament, he is strengthening democratic reforms and preparing the ground for a new stage of Russian transition.

I note that the finance ministers of the G7 states have added their voices to the broad international support for President Yeltsin's action. That support reflects the fact that the fate of reform in Russia is a global concern. Russia retains 27,000 nuclear weapons. If reform goes wrong, global security could be threatened. The scale of challenge in transforming Russia means the process will take decades.

Russian leaders face frightening dilemmas. Too much protection of the thousands of value subtracting factories means hyperflation, and too little risks unemployment on a scale guaranteeing popular revolt. So even in the most optimistic scenario we are looking at years of continuing tension and turmoil.

It should be noted that Russia has the richest resource endowment in the world. For

instance, it has about 40 per cent of the world's recoverable reserves of natural gas. Two-thirds of Russia lies in Asia, close to some of Australia's most important markets. So, whatever happens, Australia will not be immune to these consequences.

Budget 1993-94

Senator ALSTON—I refer the Minister representing the Treasurer to the recent comment by the discredited present Treasurer that the budget had to have something to draw the crabs. Can the minister inform the Senate what particular measure the Treasurer was referring to? Was it the massive increase in fuel excise? Was it the 55 per cent increase in wine tax? Was it the across-the-board increase in sales tax? Was it the retrospective nature of tax changes to long service and annual leave? Was it the decision to change the arrangements in relation to credit unions and friendly societies? Was it simply the reneging of the promise of no new taxes?

Senator McMULLAN—I did not know that he said it, let alone what he was referring to when he did—if he did.

Arts

Senator ZAKHAROV—The Minister for the Arts and Administrative Services is probably aware that 140,000 people attended the major league football grand finals at the weekend and that over the respective seasons of the games attendances reached something like four million overall. How does this compare with attendances at arts and cultural events? What does this indicate about the contribution of the arts to the Australian way of life?

Senator McMULLAN—Some senators opposite would have shared my sorrow on Saturday regarding the outcome of the game. We do not find common cause on very many things, but I share their sorrow.

Senator Short—With due respect.

Senator McMULLAN—That is right. Notwithstanding the fact that the wrong team won, it is true that a lot of people were there to watch the game. That also occurred somewhat earlier in the finals of the rugby league when the Raiders went out. Everybody recog-

nises that those two events that took place last weekend, which were attended by so many people, the major finals which led up to them and the whole season of those two codes are very important parts of Australian society and are very important to hundreds of thousands—in fact, millions—of Australians.

Notwithstanding the fact that, as Senator Zakharov said, during the year four million people attended these various codes of football—which is a proper reflection of the importance of the games in our society—historically there has been insufficient recognition of the much greater number of Australians who, during any 12-month period, attend things such as museums, art galleries or many other areas of cultural activity.

The main reason why there has been a lack of appreciation of this has been the paucity of statistical information until recent times. My predecessors and the counterpart state ministers have taken substantial steps to remedy that through the Cultural Ministers Council and the statistical advisory group in cooperation with the Bureau of Statistics. Some important statistics have been emerging about the economic and social significance of the arts and the cultural industry.

For example, a recent survey by the National Culture/Leisure Statistics Unit of the ABS showed that in 1991 some 8.5 million patrons attended performances by Australian music and performing arts organisations. The Australia Council did research that showed that Australia's museums and art galleries in 1992 received 16.9 million visits; that is, four times as many people went to art galleries and museums last year as went to the various major codes of football in Australia.

This does not in any way denigrate the importance of football and sport in Australian society. The fact that Australia takes its sport so seriously was recognised appropriately by the international sporting movement last week. Everybody welcomes that. The last thing I would wish to do is in any way to downplay that. I simply want to put in context that important as that is more Australians get their relaxation, leisure and satisfaction in entertainment from arts and cultural activities

than from those major sporting events. It is important that we put it in context.

Senator Campbell—Some do both.

Senator McMULLAN—The statistics would not add up if it was not the case that many people did both; Senator Campbell is absolutely right. It may be the same number of people; in which case they are doing it more often in the arts and cultural activities. As someone who loves both sport and the arts, I welcome the success and flourishing of both and wish to put in context, notwithstanding the importance of sport, the greater propensity of Australians to attend and participate in arts and cultural activities.

Budget 1993-94

Senator KERNOT—My question is directed to the Minister representing the Treasurer. The Treasurer has said that the government's proposed tax cuts legislation is dependent on the rest of the revised budget being passed in 'a form acceptable to the government.' Just exactly what does 'a form acceptable to the government' mean? Given that the Senate will not be intimidated by such a transparent tactic, is this just a backdoor way of linking the bills together, or does the government now want to avoid paying these unaffordable tax cuts by using a blame the Senate strategy? What is the point of this latest strategy from the Treasurer?

Senator McMULLAN—Linkage has always been the key element of the presentation and interrelationship between these various tax measures because that is a fundamental question of economic responsibility. We sought to make it clear right from the start, as we do now, that it is fundamental to the deficit reduction strategy and to the medium term economic management that we consider in parallel those things which reduce the revenue with those things which compensate by increasing the revenue.

We cannot have a situation where Australia gets to the United States type situation where it becomes impossible for governments to legislate to implement difficult decisions; all the soft, warm and fuzzy parts get passed and the legislature refuses to pass the hard decisions and therefore we get deficit blow-outs

and the profound problems of macro-economic policy that concern people.

It is that linkage which is, and remains, fundamental. Now that the bills are no longer in one package the linkage will be reflected in the legislation. As I am advised the trigger mechanism for the tax cut legislation will be royal assent to the other bills. There will need to be passage of the legislation in a manner that is acceptable to both houses of parliament.

Senator KERNOT—Mr President, I ask a supplementary question. If linkage is so important to the minister, if the government reneges on the tax cuts the government's ability to reduce the deficit is substantially enhanced rather than impaired. What is the point of this linkage now that the bills are split?

Senator McMULLAN—The point is exactly the same. The government has the proper intention for a variety of reasons to deliver a lower rate of tax to people on average weekly earnings. We do not regard it as acceptable that the current rate of tax which applies to people on average weekly earnings should continue over the years to come. We are not prepared to allow that to continue.

We wish to implement the tax cuts which were promised in the election, and we wish to fund them. That is the purpose of the linkage. It has always been the purpose of the linkage. It remains the purpose of the linkage.

South Africa

Senator JONES—My question is directed to the Minister representing the Minister for Foreign Affairs. Will the minister comment on recent reports of developments in constitutional negotiations in South Africa? Further, could the minister inform the Senate of the implications for Australian business of the lifting of trade and investment sanctions against South Africa?

Senator COOK—The government welcomes the passing into law of the Transitional Executive Council and the independent media and electoral commissions of the South African parliament on 23 September. We believe this represents a significant step

forward in South Africa's transition to democracy. We hope that the parties can quickly resolve the current impasse in negotiations resulting from differences over the proposed interim constitution, that they will continue to work towards the April 1994 election date and that the election will go ahead on that date as planned.

The lifting of Commonwealth economic sanctions will provide a much needed boost to the South African economy. It will provide increased trading opportunities, new investment and increased access to international finance. It will help, as Nelson Mandela has said, to ensure the success of the transition to democracy.

For Australia, the government sees opportunities for exports of communications equipment, automotive spare parts and accessories, agricultural and mining equipment and technology, environmental technology and services. There will also be openings for Australian companies to participate as partners with South Africans taking up business opportunities in development areas in southern and central Africa, particularly in service exports and areas such as mining where we have a lead in technology and capital equipment provision. I have also mentioned environmental technology where Australia is a world leader.

I expect that Australian exports will show something like a 50 per cent increase over the 1992-93 figure in a few years time. Australian exporters will now be able to benefit from a range of government export assistance that was previously unavailable to them because of the sanctions. This includes the immediate opening of an Austrade office in Johannesburg; the full range of Austrade's marketing and financial services, including the export market development grants scheme; and, as honourable senators may now be aware per courtesy of the media, I have asked our special trade representative, Ambassador John Button, to lead a trade mission to South Africa as soon as possible so that Australian business people can take advantage of the lifting of sanctions and the market opportunities that exist there.

Budget 1993-94

Senator REID—My question is directed to the Minister representing the Treasurer. Can the minister inform the Senate how this government can call itself 'caring' when it makes the delivery of a \$150 rebate to low income earners and income tax cuts to middle income earners dependent upon the passage of highly regressive increases in petrol excise and other sales taxes? Does the minister seriously maintain, as he has just said, that most Australians do not deserve tax cuts or rebates unless they can somehow be linked in with increases in the wine tax?

Senator McMULLAN—I can just see all those poor people waiting for the \$150 rebate crying over the fact that a bottle of Grange is going to go up by \$10! I am not in any doubt that the low income rebate will be paid. None of the delay which may occur in the passage of the various pieces of legislation and which could have an impact on the timing of the payment of the tax cuts will affect the rebate because, by its very nature, people do not get the benefit of the rebate until the end of the financial year. So let us put that particular thing to one side for a moment.

I am confident, as I said earlier, that the legislation will eventually pass in a form acceptable to the government. During this financial year those tax measures will take effect and, therefore, the rebate will be paid on schedule. That is what I confidently expect.

With regard to the tax cuts, it is the government's view that the tax cuts should be paid and that middle income Australians are entitled to them, but it is also our view that it is necessary over the four years to pursue a deficit reduction strategy, and we will continue to do so. If people cannot understand that in year 1 one can have a stimulus because the economy is not growing as quickly as one would wish and still have a medium term deficit reduction strategy, I am sorry; it is obviously not something that anybody can explain to those people.

It is quite clear that, over the medium term, the deficit reduction strategy is important to Australia's international and macro-economic circumstance. We will continue to pursue it

and, therefore, we will not allow the situation to develop in Australia where those things that reduce the government's revenue pass and those things that increase it do not. That is a recipe for irresponsible macro-economic policy. It is not something that we will allow to develop. It is something that I am confident will in the end not develop.

Population and Development Conference

Senator WEST—Can the Minister for Immigration and Ethnic Affairs give an assurance that women will be represented on the committee advising the Commonwealth on Australia's participation at the United Nations international conference on population and development in Cairo in 1994?

Senator Kemp—You should be on the front bench, Sue.

Senator BOLKUS—I welcome Senator Kemp's endorsement of Senator West's capacity as a very effective senator. I can assure her that the government's continuing commitment to the women of Australia will be reflected in this committee's preparation for this important international conference. I am pleased to say that in our approach to this committee and in our approach to activities in the portfolio of immigration and ethnic affairs the role of women is well and truly recognised.

For instance, the majority of the members of my major advisory body on settlement issues, the settlement advisory council, are women. It is a body which covers areas such as intergovernmental planning, funding, health, aged and refugee issues, English language and employment services. Ten of the 14 members of that committee are women. That is one indication of the respect that we have for the role of women in the migration area. Another indication of our respect for women is in regard to the operation of the Refugee Review Tribunal, a body which was recently appointed. Almost 50 per cent of the members of that tribunal—this is almost unprecedented—are women; 19 of the 41 full-time members of the RRT are women, and six of the 16 part-time members are women.

The committee to which Senator West refers is one that I announced at the beginning of September. It has as one of its roles to advise the government on Australia's participation in Cairo. It is a committee of 27 members, reflecting a very broad base of skills and community input on a range of population issues. The six women on the committee include Ms Kaye Loder, the convenor of the National Women's Consultative Council, and representatives of the Family Planning Association, the Australian Conservation Foundation, the Office of the Status of Women, the Department of the Environment, Sport and Territories and the Australian International Development Assistance Bureau.

The most democratic approach to representation from the six NGOs was to call for nominations from them rather than to have the government decide who their nominees should be, and those NGOs did appoint as their representatives a number of women. I should point out that this committee does not comprise the final delegation to the Cairo conference. As I said earlier, the role of the committee is to ensure that our contribution to the conference canvasses a range of issues on the relationships between population, development, environment and related matters, including the status of women, health, population distribution, migration, use of resources and so on. To that effect I am currently discussing with my colleague Senator Crowley, who assists the Prime Minister for the status of women, the possibility of making additional appointments to the population committee to ensure that it benefits by the use of the best possible expertise, particularly in further issues affecting women.

Waterfront Strike

Senator SANDY MACDONALD—My question is directed to the Minister for Transport and Communications and it concerns the national waterfront strike. Can the minister explain how Australian exporters can be competitive on the world market when waterfront unions have once again blatantly gone out on strike in defiance of the Industrial

Relations Commission? What action can the minister take following the claim by the Maritime Union of Australia that we are on the brink of the biggest waterfront dispute for 40 years?

Senator COLLINS—The industrial action that is currently being taken is extremely regrettable and is not in the least helpful to Australia's export industries. It is a complex issue which currently involves two things. First, the enterprise agreements which were arrived at during the government's period of running the Waterfront Industry Reform Authority have reached the end of their two-year life and are being renegotiated, so logs of claims are being brought forward in respect of those matters.

Senator Cook—Consistent with your industrial relations policy.

Senator COLLINS—That is right, Senator Cook. Secondly, it involves a proposal from Australian Stevedores to make redundant 317 of its employees. The matter is currently being addressed by the industrial commission. In fact, it is being heard in the industrial commission today. I am available, as I always am available, to industry parties to discuss these issues but the matter is being handled in the commission. The matter is being heard today and I will follow the proceedings of the commission hearings closely. I would urge all parties, as I have done already privately, to abide by whatever determination the commission makes.

International Air Services

Senator DENMAN—My question is directed to the Minister for Transport and Communications. Is the minister aware of recent developments in the availability of international air services to Australia which will assist in bringing overseas visitors and tourists to this country? Can the minister advise the Senate whether Australian airlines will benefit from these developments?

Senator COLLINS—I am pleased to advise the Senate that the implementation of the government's multiple designation policy for Australian carriers has already achieved tangible results. Ansett Australia has become our second international carrier with its

commencement of services to Bali earlier this month. I am advised by Ansett that the forward bookings it has received on these services over the next few months are very encouraging.

As a senator for the Northern Territory, I was pleased to note the announcement of a draft determination by the International Air Services Commission last week which, if confirmed, will provide for twice weekly B737 services by Qantas on the Darwin-Denpasar route. This announcement represents one of a number of important allocation decisions made by the IASC last week which will expand access to Asian markets by Australian carriers.

Ansett Australia has received capacity to operate up to five services a week from April 1995 to Hong Kong. Qantas also received additional capacity to Hong Kong with the overall increase in capacity allocated on this route being 42 per cent over the next two years. Qantas also received approval for an extra service a week to the Philippines commencing on 1 November this year which will for the first time provide direct flights to Brisbane.

In addition to this growth in Australian carriers' capacity, we saw last week the entry into Australia of the Taiwanese carrier Eva Air, which is one of the fastest growing carriers in Asia. Eva Air commenced twice weekly operations from Taipei to Sydney and Brisbane last week. Cathay Pacific has also indicated that later this year it will introduce an additional Hong Kong service out of Perth.

Since the International Air Services Commission was established on 1 July last year, it has allocated a total of sixty-five 747 units of capacity per week which represents an additional 22,400 seats a week to Australian carriers. This significant increase in capacity is especially timely, given the expected increase of inbound tourism to Australia over the next few years following the announcement that Sydney will host the 2000 Olympics.

Aboriginal and Torres Strait Islander Commission

Senator PANIZZA—My question is directed to the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs. I refer the minister to the leak of papers concerning the 1993-94 revised ATSIC estimates, especially the major bid of \$10 million for additional Mabo funding. Because of confusion amongst Aboriginal communities and others and because of conflicting answers that I received at Estimates Committee A, will the minister table in the Senate the full 1993-94 revised ATSIC estimates, including major bids that were submitted to ATSIC commissioners at meeting No. 24 on 9 to 12 August 1993?

Senator COLLINS—That is a matter for the Minister for Aboriginal and Torres Strait Islander Affairs. I will ensure that he receives Senator Panizza's request today. It is a matter for him to determine whether he will comply with that request.

Higher Education

Senator BELL—My question is directed to the Minister representing the Minister for Schools, Vocational Education and Training. Presuming the minister has noted the recent Sydney University research which shows that 82 per cent of Aboriginal and Torres Strait Islanders would fail at least one unit of their degree course, and given the link which the United Nations has identified between education for women and girls and their equality in society and also the suggestion that women are five times less likely than men to repay their HECS debt by the age of 30, what specific changes will the government make in higher education to demonstrate its real commitment to access and equity in higher education?

Senator ROBERT RAY—I have not read that research that Senator Bell refers to. I will pass his question on to the minister for a full response.

Budget 1993-94

Senator SHORT—My question is directed to the Minister representing the Treasurer. It follows questions put to him earlier today by

Senator Reid and Senator Kernot. I preface it by urging him to try to do better than the superficial, frivolous and quite derisory responses he has given so far in attempting to defend the indefensible. I refer the minister to the Prime Minister's comments to the recent ACTU congress when he justified the government's support for the personal income tax cuts as giving something back to middle Australia, which had missed out relatively during the 1980s, and—to quote the Prime Minister—'those who have waited last to get the kind of tax relief I think they ought to be getting'. How does the government reconcile this rhetoric with the Treasurer's threat last week to withhold any income tax cuts from middle Australia unless the Senate supports all the budget's unfair, regressive and discriminatory tax increases?

Senator McMULLAN—There is absolutely no contradiction. The government is very committed to those tax cuts. We wish to introduce them. That is why we took the initiative to propose them. They will flow. What we are arguing about is the timing. We all understand that, of course. Therefore, we are committed to delivering those tax cuts and to delivering them as early as possible, but we will do it in a manner which does not undermine either the fiscal responsibility of the deficit reduction package or the proper parliamentary processes, the proper processes of government and the proper relationship between the legislature and the executive.

That is why there is and always has been a linkage between the revenue increases and the tax cuts. There was such a linkage; there remains such a linkage. It is responsible that there should be one, but we do wish to deliver tax cuts to middle Australia. That is a primary objective of the package. We wish to bring them forward and we will do that if the Senate is cooperative.

Senator SHORT—Mr President, I ask a supplementary question. The words about linkage seem to have emerged in the last few days. Did the Prime Minister advise the ACTU congress that there was a link between the personal income tax cuts that he promised and the passage of indirect tax increases through legislation?

Senator McMULLAN—He would not need to do that. They are not stupid enough not to work it out for themselves.

Japanese Tourists

Senator CHAMARETTE—My question is directed to the Minister for Immigration and Ethnic Affairs. I ask: firstly, did a group consisting of 19 Japanese males and six 14-year-old Japanese girls enter Australia through Perth international airport on 9 September 1993? Secondly, if so, did their entry visas state that they were on holiday and were staying at the Perth Ambassador Hotel? Thirdly, were two of the men apprehended by customs under section 23 of the Civil Aviation Act for having concentrated hydrochloric acid in their hand luggage disguised as hand soap? Fourthly, were two of the group subsequently apprehended for speeding in Leonora, over 1,000 kilometres from Perth? Fifthly, did customs and immigration officials seek approval to have the group deported because of the breaches of their visa conditions? Sixthly, was this approval refused and, if so, why, by whom and for what reasons?

Senator BOLKUS—I do have some information which answers Senator Chamarette's questions. I am advised that a group of 25 Japanese, including 18 males and seven females aged between 14 and 21, arrived at Perth on 9 September 1993. Due to the behaviour of some of the members of the party, they were brought to the attention of both immigration and customs authorities. I believe that that is a normal occurrence when people do misbehave on flights. Each was in possession of a class 670 visa authorising a stay of one month for the purpose of sightseeing and tourism. They indicated on their passenger cards that they were staying at the Ambassador Hotel in Perth. I am told that two men pleaded guilty to carrying dangerous goods on an aircraft, were each fined \$2,400 and were each ordered to pay \$594 court costs.

I do not know the answer to Senator Chamarette's question about the alleged speeding offence, because that is probably something that would be covered by state law and state administration. I can go on to say, though, that no approval to deport the group

was sought, but consideration was given to refusing entry. As no breaches of visa conditions existed, they were permitted to enter. I can add that checks with our Tokyo office revealed that all the girls had received the consent of their parents to travel on this trip.

Senator CHAMARETTE—I ask a supplementary question. I understand that this party brought in two crates of mineral exploration equipment as excess baggage and supplied false information on both visa applications and passenger cards. Why was there federal intervention to allow them to remain when they clearly represented illegal entrants under section 20 of the immigration act?

Senator BOLKUS—My advice is that no visa conditions were breached. I have no information that false information was provided. As to federal intervention, apart from the answer that I have given today, I do not know what Senator Chamarette is talking about. So I think her follow-up question probably does not go to any relevant point. I will have it checked to see whether there is anything in it.

Olympic Games

Senator BROWNHILL—My question is to the Minister representing the Minister for the Environment, Sport and Territories. Given that the Australian Olympic Committee has apparently prepared a \$400 million plan to boost our medal prospects at the 2000 Olympics, I ask whether any of this money is likely to be directed towards country areas for such things as regional training centres, which will undoubtedly provide a much needed stimulus for rural town economies.

Senator SCHACHT—I have been advised by the Minister for the Environment, Sport and Territories, Mrs Kelly, that it should be noted that the federal government has already made a major commitment of \$150 million towards the cost of the games. This is in addition to the \$5 million that was made available by the federal government to assist in the bid itself. Mrs Kelly advises that the federal government has already indicated its full support for the staging of the games and its willingness to provide the range of assistance necessary for a successful games.

Obviously, this will mean a role for the federal government in preparing for the games, and the federal government's representation on the organising committee would certainly be a useful way to ensure that its preparation is smooth and effective. But all this will be done, of course, in a cooperative manner with the New South Wales state government and the city of Sydney.

As far as funding for regional development and infrastructure for sporting programs is concerned—not just in New South Wales but in other states—I will refer that matter on.

Senator Brownhill—Can you guarantee she is not going to be parochial about Canberra?

Senator SCHACHT—I think the events of last Friday morning meant that we should look at this as a national success rather than as a parochial matter. Of course, there are benefits for all of Australia, both in the sporting area and in the economic area. I know that many state governments and regional areas are looking at how there can be a spin-off in the tourist industry for the rest of Australia. Also, I know that in my own state the Minister for Sport is making the excellent sporting facilities of South Australia available for preliminary training, not only for Australian athletes but also for those of other nations who wish to come here before the Olympic games take place.

So I will refer the specific part of Senator Brownhill's question to the minister. I can assure him that all of us will have an interest in this. In conclusion, I think we should all pay tribute to the excellent work of those who worked so hard to have a successful bid—and this is across all levels of politics and the community.

Senator Ian Macdonald—What did Keating do? Absolutely nothing.

Senator SCHACHT—Senator Macdonald asks: what did Keating do? The Prime Minister was involved with Mr Fahey in the presentation. But I would have thought that, above all else, we would have been very proud of, amongst other things, Mrs Keating's presentation in three different languages to the International Olympic Committee which, by all accounts, did help.

I find it absolutely extraordinary that the people opposite would try to denigrate people who were involved in the successful bid, which was bipartisan, or tripartisan; they are trying to abuse those who were successful. It is not what Senator Brownhill asked, but some of the troglodytes opposite could not help getting stuck into it, making partisan comments and abusing those who were successful in getting this bid up so that all of Australia can enjoy its success.

Senator Teague—Mr President, I raise a point of order. The minister spoke of abuse coming from this side of the chamber. I would have thought it was indeed to be commended by all Australians that the Prime Minister's wife made a positive contribution; so did the premier of New South Wales. I ask the minister, through you, Mr President, to withdraw any suggestion that there was abuse. We want bipartisan support for an outcome which is good for all Australians.

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

Senator BROWNHILL—Mr President, I ask a supplementary question. In no way did I want to make this question a partisan one. My supplementary question is: do I get the assurance from Senator Schacht that the minister will look at all areas in a fair manner, rather than just looking at Canberra in isolation as the minister representing this area?

Senator SCHACHT—I think already the statement has been made by Mrs Kelly as minister for sport, in the hour after the successful bid was announced in Monte Carlo, that this was an Australian success. I think that gives every opportunity for all of Australia to participate and indicates that all of Australia will share. I can assure Senator Brownhill that I will refer his question to the minister for further response. I certainly believe that all of us, irrespective of our party position, want the benefits to be spread across Australia rather than going just to any particular area.

AIDS

Senator McKIERNAN—My question is directed to the Minister for Health. When will

the government's new HIV-AIDS strategy be announced? Will the strategy contain any special provisions for Aboriginals and Torres Strait Islanders in view of their current susceptibility to STDs?

Senator RICHARDSON—The reason that the strategy has not been announced is that I have not yet taken it to cabinet. I hope that that will happen over the next couple of weeks. I imagine that, certainly during October, we should be able to announce our new agreed strategy. The reason for the delay is that there has been a pretty lengthy period of consultation between the Commonwealth, the states, the medical, scientific and research communities and, of course, those who suffer from HIV-AIDS or who are at the greatest risk of contracting it. All of that takes time. In the absence of a cure or a vaccine, we need some finetuning and some changes to the previous strategy to make sure that we keep up what has been a tremendous record in the last few years of maintaining a rate of disease that is much lower than many people expected.

Accordingly, there are two main changes to the strategy. One is to give more weight to case load. New South Wales is the state where the rate of infection has been greatest—it has the greatest number of people infected—and that is where the burden of treatment falls. Whereas the previous funding formula in its weighting to AIDS cases, as opposed to general population, gave more consideration to the general population than to the actual case load, that has been reversed in the new strategy that will be announced shortly.

The other main change is in the area that Senator McKiernan mentioned—the Aboriginal and Torres Strait Islander communities. Honourable senators might recall that the late Professor Hollows made a point of saying that because those communities were so prone to sexually transmitted diseases, the day could well come when they would be more than vulnerable to this kind of epidemic and we had to be careful about it. An extra five per cent, or \$3 million, will go towards helping those states and territories which have large Aboriginal and Torres Strait Islander commu-

nities to make sure that we can combat it. That means that funding of about \$52 million will be allocated to the states and territories for hospital based treatment; \$30 million will be allocated to the states and territories for HIV-AIDS; and another \$21 million will be allocated for Commonwealth education programs, research and the like.

Our formula is being altered but the funding is actually being increased. That money for Aboriginal and Torres Strait Islanders does not have to be matched by the states. The new strategy, once it is formally agreed to by cabinet—I believe it is only a formality—will please not only those who are at risk from HIV-AIDS but the whole of the community because it is one of those great health worries that we can gradually get on top of.

Wine Tax

Senator MINCHIN—Can the Minister representing the Treasurer advise the Senate whether the South Australian Labor government presented a case to the federal government against any increase in the wine tax before it was announced in the budget? What direct representations has the South Australian government made to the Commonwealth on the 55 per cent increase in wine tax since the federal budget? Does the Commonwealth consider that any such representations have substance and require the Commonwealth to review its budget decision?

Senator McMULLAN—I do not know all the details of the dialogue between the Premier of South Australia and the Treasurer. I know that there has been a substantial amount of discussion between them about the wine tax, and there continues to be representations from the South Australian government. The Treasurer is continuing to have discussions with the industry, the South Australian government and others about this matter. But as to whether they took place before the budget, that is not something about which I am aware. I know that there have been such discussions since and they have been the usual competent and effective representations we would expect from that government. The government's policy on this matter has been articulated clearly by the Treasurer and at this stage has not changed.

Senator MINCHIN—Does the discredited Treasurer's determination to proceed with the wine tax increase indicate that the federal Labor government has abandoned the SA state Labor government in the face of polls showing that it has no hope of retaining office at the election due in November?

Senator McMULLAN—No.

Motor Vehicle Franchises

Senator CHRIS EVANS—My question is directed to the Minister for Science and Small Business. I refer the minister to media reports that the minister, at a meeting with the Motor Trades Association, stated that he shared the concerns of association members about the lack of commitment by car dealers to the franchising code of conduct. Are these reports an accurate reflection of the minister's views with respect to the operation of the franchising code of conduct within the motor industry?

Senator SCHACHT—The short answer is no. The comment attributed to me was completely inaccurate and in no way represents my view. To make matters worse, it was preceded by the comment that 'the federal government says it will consider legislating to protect car manufacturers if dealers continue to ignore a franchising code of conduct released earlier this year'. Again, that comment is 100 per cent wrong. The same news report referred to the Deputy Director of the Motor Trades Association, Mr Geoff Gardiner, as saying that 'no dealers had signed the code and it would be a pity if the government had to legislate to bring them into line'. Again, that comment is completely wrong. It should have referred to manufacturers—not dealers.

The reality of the situation is that, in general terms, the members of the Motor Trades Association are strong supporters of the franchising code of conduct. It is the major car manufacturers who, to date, have not subscribed to the franchising code of conduct. In fact, I have written to the Federal Chamber of Automotive Industries to encourage them to join, and I remain hopeful that they will do so. I strongly agree with the comments that have been made by the Motor Trades Asso-

ciation that it would be a pity if the government had to resort to legislation to bring the manufacturers into line.

The association's view is that the voluntary codes are simpler to administer and encourage a level of trust and confidence between the franchisor and the franchisee. Voluntary codes work better for all sides: for the franchisors, the franchisees and the consumers. I have consistently encouraged all persons associated with the franchising industry to support the code. Whilst to date the response has been encouraging, there is still room for considerable improvement. If significant industry groups do not support the code, then the pressure on the government to legislate will increase. It is as simple as that.

In setting up the code of conduct and the franchising code, the government has given an opportunity to the industry to put its own house in order. I sincerely hope the industry does that in the very near future. I want to emphasise that we do not want to go the legislative route but, in the end, if the major industry groups do not sign the code, the pressure at state and federal level for legislation will grow and I think that would be unfortunate. But if it turns out that way because people have refused to cooperate with a very reasonable code, then it will be on their own heads.

Taxation: Car Parking Costs

Senator WATSON—My question is directed to the Minister representing the Treasurer. Are not the car parking measures confusing, in that from 1 April 1994—which, incidentally, is April Fools' Day—the self-employed will be allowed to claim for the cost of parking at a meter in the street, providing the taxpayer meets the provisions of section 51(1), but can be denied a claim if parked off the street? Is not this assessment of the law correct?

Senator McMULLAN—I always enjoy the opportunity to discuss the matters of arcane tax principle and its administration with Senator Watson. It is important for people to realise that there was an anomaly which needed to be addressed with regard to car parking by self-employed persons. Let me

make it clear what the circumstance is. That cost of parking by self-employed persons will no longer be deductible for income tax purposes where the parking is at or in the vicinity of the person's place of work; the car is being used by the person for travel between home and work; the car is parked there for more than four hours in total between 7 a.m. and 7 p.m.; and the car is parked within one kilometre of an all-day commercial parking facility.

Senator Watson and Senator Kernot, with whom we discussed similar car parking legislation at some length last year, both here and in the committee, will be somewhat familiar with those qualifying conditions because they have a certain familiar ring to them. It is probably appropriate that we should put the taxation of car parking by self-employed persons on a similar footing to car parking for employees.

The conditions under which parking by the self-employed will be non-deductible are the same as those which make it subject to the FBT. Therefore, because those conditions are the same, it will not be more complex or confusing than the minimum requirement to deal with what is a complex circumstance. People utilise this benefit in a wide variety of ways. Therefore, we cannot have a simple tax measure that will equitably address the very different ranges of circumstances in which people find themselves and which the government and the tax office would have to deal with in setting a proper framework for dealing with what is a very complex situation, particularly with regard to employees subject to FBT.

It is a complex situation, but complexity of arrangement is not a justification for making something exempt from the proper tax arrangements. Otherwise, we are simply recreating the situation where the people with the best tax accountants pay the least tax rather than tax according to income. Although simplicity in tax is a desirable objective, equity is also a very necessary element. Therefore, we will continue to have to balance those different elements of the tax situation. I do not think it is more complex

than the minimum necessary for implementing this equitable measure.

English Programs and Tests for Migrants

Senator KNOWLES—My question is directed to the Minister for Immigration and Ethnic Affairs. While unemployment levels among some of the ethnic communities are as high as 30 per cent—and much of it is due to their inability to speak English—why did the minister allow Mr Dawkins to cut the adult migrant English program and the offshore English language testing arrangements?

Senator BOLKUS—Mr Dawkins has not cut funding for the adult migrant education program. In fact, in its funding decisions 12 to 18 months ago, the government increased funding for this program quite substantially. Senator Knowles may also have the wrong end of the stick in respect of the testing of English language overseas in that the government's new test of English overseas that it is developing will be implemented in the very near future.

Senator KNOWLES—Mr President, I ask a supplementary question. Quite clearly, the minister has not looked at his budget figures, where there is a cut in both areas.

Senator Patterson—Which budget?

Senator KNOWLES—Senator Patterson asks a very good question. Are we talking about budget mark 1, mark 2 or mark 3? Clearly, there is a cut in the adult migrant English program and the offshore testing program. Why did he allow this to happen at a time of high levels of unemployment?

Senator BOLKUS—I have already answered the question concerning the offshore testing. The government is implementing a program of offshore testing. The particular testing aspect of the program is being developed and will be introduced in the not-too-distant future. In respect of AMEP and English language training, the government made some quite radical changes to the program 12 to 18 months ago. As part of those changes, there was enhanced funding for the program. As Senator Knowles may appreciate, much of the program is now being administered by the Department of Employment, Education and Training. That may be the reason why there

is some confusion in her mind as to the level of funding. When funding and the program were reorganised 12 to 18 months ago, there was an enormous increase in funding allocated by the government, amounting to an extra \$20 million or so.

Senator Robert Ray—Mr President, I ask that further questions be placed on the *Notice Paper*.

ANSWERS TO QUESTIONS ON NOTICE

Environment—Hydrological Research

Senator COULTER (South Australia)—Pursuant to the order of the Senate of 28 September 1988, I ask the Minister representing the Minister for Primary Industries and Energy to explain why an answer has not yet been provided to my question on notice No. 208 relating to the impact of timber harvesting on water resources of which notice was given on 18 May 1993.

Senator COOK (Western Australia—Minister for Trade)—I am not aware of the reason for not at this moment providing an answer to the question, but I do undertake to inquire and as soon as possible deliver an answer for Senator Coulter. I indicate that this means no disrespect to him or the institution.

CONDOLENCES

Oodgeroo Noonuccal

The PRESIDENT—It is with deep regret that I inform the Senate of the death, on 16 September 1993, of Oodgeroo of the Noonuccal tribe.

Senator ROBERT RAY (Victoria—Acting Leader of the Government in the Senate)—by leave—I move:

That the Senate expresses its deep regret at the death, on Thursday 16 September 1993, of Oodgeroo of the tribe Noonuccal, poet, writer, educator and Aboriginal activist, and places on record its appreciation of her long and meritorious public service and tenders its profound sympathy to her family and community in their bereavement.

Oodgeroo was born in 1920. She was previously known as Kath Walker; a name she renounced in protest at the discrimination suffered by Aboriginals and Torres Strait Islanders. She gave a gift to the world in the

form of her poems and stories about aboriginality and about Aboriginal culture and folklore. Her name Oodgeroo means paperbark; an appropriate name for a writer. She was proud of her aboriginality and dedicated her life to improving the lot of her people.

Oodgeroo of the Noonuccal tribe spent her early childhood and much of her later life on Stradbroke Island. In the early years she was employed as a domestic worker, telephonist in the Australian Women's Army Service and also as a stenographer.

Oodgeroo was the first Aboriginal poet to have a book published and her first publication, *We are Going*, went on to become a best seller. Her brilliance was recognised by the awards she gained: Fellowship of the Australian Writers' Award, membership of the Black Hall of Fame, the Mary Gilmore Medal, the Jessie Litchfield Award and an International Acting Award. She was also awarded an MBE in the Queen's Birthday honours list in 1970 but renounced this in the lead up to the Bicentenary in protest at the treatment of her people since European settlement.

During the 1960s, she was a key figure in the campaign which led to the 1967 referendum which finally afforded Aboriginal people the vote. Oodgeroo was also an active member of the Queensland Aboriginal Advancement League, the Federal Council for the Advancement of Aborigines and Torres Strait Islanders and later of the Aboriginal Tribal Council.

For much of her life she assumed the role of educator and lectured on Aboriginal issues both internationally and within Australia. She was a passionate women who used the vehicle of teaching to foster a better understanding of her people which she hoped would help towards creating a more equitable and integrated Australian society. Her perspective was wider too. She had a deep concern for world peace and perhaps above all for a just and lasting reconciliation between Aboriginal and other Australians.

Oodgeroo of the tribe Noonuccal will long be remembered for her poems, her books and her never ending campaign for Aboriginal rights. She richly deserved the respect and recognition she received.

In 1985 she was named Aborigine of the Year, indicating the respect and esteem in which she was held by her own people. Oodgeroo's struggle and love of her people are echoed in her poems and stories, which continue to inspire and captivate us all. Her spirit will live forever. Oodgeroo of the tribe Noonuccal will be sadly missed. On behalf of the government, I extend our sincere sympathy to Oodgeroo's family and her community in their bereavement.

Senator HILL (South Australia—Leader of the Opposition)—On behalf of opposition senators, I join with the Acting Leader of the Government in the Senate (Senator Robert Ray) in expressing our sincere condolences at the recent death at the age of 72 of Oodgeroo of the tribe Noonuccal. Oodgeroo's life was one of inspiration to all Australians. She overcame the formidable obstacles in the path of an Aboriginal woman in our society to become a widely respected poet and storyteller with an international reputation.

In 1964 hers was the first book of verse by an Aboriginal author to be published in Australia. Throughout her lifetime she was also a tireless campaigner for the advancement of the civil rights of Aborigines and Torres Strait Islanders. Her life's work was directed towards the reconciliation of black and white Australians and the elimination of racism. She passionately believed that improvement would come through education and personally taught tens of thousands of children, black and white, about Aboriginal culture at her home at Moongalba on Stradbroke Island. Oodgeroo will always have an important place in the cultural and literary history of Australia. She will be greatly missed. We send our deepest sympathy to her family and many friends in their bereavement.

Senator BOSWELL (Queensland—Leader of the National Party of Australia)—I would like to associate the members of the National Party in the Senate with the condolence motion moved by the government. Oodgeroo was a talented writer, poet, artist and educator who made a significant contribution to Australian life, culturally and educationally. In 1964 Oodgeroo was the first Aboriginal poet to have a book of verse published, which

quickly became a best-seller, and her reputation as a poet of note was established. She was a prolific writer. She followed up her initial success with *The Dawn is at Hand* in 1966; *My People* in 1970; *Stradbroke Dreamtime* in 1972; and *Father Sky and Mother Earth* also in 1972.

Oodgeroo was born in Brisbane in 1920. She had a tough childhood growing up during the Depression. She was one of seven children in a very poor family. She worked hard at school, consistently topping her year in English. Her education was cut short at the age of 13 when she was sent out to work as a domestic servant. She continued to educate herself through her love of literature. She served in the Australian Women's Army in Brisbane during the early part of the Second World War.

During the 1960s she became involved with the government community in adult education. She delivered lectures at universities both in Australia and overseas on Australian literature and Aboriginal culture. She was also deeply involved with the 1967 referendum campaign to allow Aboriginals and Torres Strait Islanders the right to be included on the census and consequently to have the right to vote.

In the 1970s Oodgeroo became the managing director of the Noonuccal-Nughie Education Cultural Centre on Stradbroke Island as well as establishing the Moongalba Centre where she lectured to thousands of Australians, both Aboriginal and non-Aboriginal, on Aboriginal life, culture and history. During her full life she was an unceasing advocate for the rights and advancement of her people. However, she never preached the politics of separatism. She wanted a peaceful Australia with a fair go for everyone, black and white alike. Oodgeroo enriched this nation during her life with her drive to bring Aboriginal culture and history into the mainstream of Australian education. Even after her death, her lyrical poetry will live on as an essential facet of Australian literature. I am sure all honourable senators will join with me in supporting this condolence motion for Oodgeroo.

Senator KERNOT (Queensland—Leader of the Australian Democrats)—On behalf of the Australian Democrats, I join with the rest

of the Senate in this condolence motion. Oodgeroo of the tribe Noonuccal died in Brisbane 11 days ago at the age of 72. Many labels have been applied to her in an attempt to encapsulate her extraordinary gifts and achievements. They include: poet, conservationist, Aboriginal rights campaigner, educator, painter and occasional actor. Behind these labels was a person of rare courage, strength and passion. She had a large impact on the development of our nation; an achievement which is particularly extraordinary given the obstacles confronting Aboriginal women.

As a schoolgirl, I remember often being asked to read Kath Walker's poetry to the school assembly. I grew up to meet her and know her. I invited her, as a living poet, to come and speak to many of my English classes. Indeed, I took part in her campaign for election to the Queensland parliament as a Democrat. I can testify to the many positive qualities which have been ascribed to her in the tributes which have followed her death.

It goes without saying that Oodgeroo experienced racism first-hand, and it is well documented that she chose to fight it. As a gifted communicator she was a powerful and inspiring voice for Aboriginal aspirations. Providing that voice became her life's work to which, as she once wrote, even love eventually had to take a back seat. She said:

The social part, the personal
I have renounced of old;
Mine is a dedicated life,
No man's to have and hold.

Oodgeroo's poetry brought her prominence, and with her prominence and eloquence she campaigned for what she believed in. Dr 'Nugget' Coombs described her as one of the most powerful influences on public opinion during the campaign for the 1967 constitutional referendum. As a scathing critic of the doctrine of terra nullius, the Mabo decision must have been a welcome repudiation of that legal fiction for her. It remains to be seen whether the promise of Mabo will be realised in law.

As a Democrat I can identify with much of what Oodgeroo stood for. She was a passionate advocate of constitutional change—not for

her the minimalist position. As far as she was concerned:

... instead of changing, let's burn it, let's do a Guy Fawkes on it and rip it out of existence and start all over again and build a constitution that meets the needs of all the people of this country. While I would not quite put it like that, it was so typical of her to state her views so colourfully, pointedly and effectively. No-one could possibly miss the point she was making.

Oodgeroo was also an ardent conservationist. She practised what she preached. While Moongalba on Stradbroke Island was her home and resting place, it was hardly restful for her. She educated many Aboriginal and non-Aboriginal Australians in traditional ways, helping to reconnect young people with the land. Oodgeroo was fiery, outspoken and often angry, but she eschewed hatred and violence and preached reconciliation.

I was fascinated to learn that in 1975 Oodgeroo found herself on a plane hijacked by Palestinians, a hijack which resulted in the death of a West German banker. The lesson she learned was to promote tolerance, not division—and she succeeded admirably. We owe her much. We, too, will greatly miss her. I extend the sympathy of the Democrats to her family.

Senator CHAMARETTE (Western Australia)—The Greens of Western Australia join in support of this condolence motion on the death of Oodgeroo of the tribe Noonuccal. Her many attributes and gifts have already been very adequately presented by other senators. I simply wish to note that it was the principal effect of her lobbying that led to the 1967 referendum on the recognition of Aboriginal people. When she was nominated as Aborigine of the Year in September 1985, she said:

I weep tears of blood over the loss of our land. When it came to the bicentennial celebrations, she insisted:

What the Aboriginal will be celebrating is our survival after 200 years that the whites have been at war with us. It has been an absolute aggression and terrible neglect. It will be survival '88 for us.

Through more than three decades she argued against assimilation and for constitutional equality and land rights for Aboriginal people.

n 1988, she shed her Anglo-Saxon name and returned her MBE.

The ATSIC chairperson Lois O'Donoghue said that Oodgeroo will always be a source of inspiration and an example of courage, sensitivity and determination for Aboriginal people. Her family members passed on her request that any memorial of her life should focus on celebration and hope for her people. In that spirit, I wish to conclude my support of this condolence motion with something which was utterly dear to her heart and which was presented in Adelaide in 1962 to the annual general meeting of the Federal Council of Aboriginal Advancement, the Aboriginal Charter of Rights:

We want hope, not racialism,
Brotherhood, not ostracism,
Black advance, not white ascendancy:
Make us equals, not dependants.
We need help, not exploitation,
We want freedom, not frustration;
Not control, but self-reliance,
Independence, not compliance,
Not rebuff, but education,
Self-respect, not resignation.
Free us from a mean subjection,
From a bureaucrat protection.
Let's forget the old-time slavers:
Give us fellowship, not favours;
Encouragement, not prohibitions,
Homes, not settlements and missions.
We need love, not overlordship,
Grip of hand, not whip-hand wardship;
Opportunity that places
White and black on equal basis.
You dishearten, not defend us,
Circumscribe, who should befriend us.
Give us welcome, not aversion,
Give us choice, not cold coercion,
Status, not discrimination,
Human rights, not segregation.
You the law, like Roman Pontius,
Make us proud, not colour-conscious;
Give the deal you still deny us,
Give goodwill, not bigot bias;
Give ambition, not prevention,

Confidence, not condescension;
Give incentive, not restriction,
Give us Christ, not crucifixion.
Though baptized and blessed and bailed
We are still tabooed and libelled.
You devout salvation-sellers,
Make us neighbours, not fringe-dwellers;
Make us mates, not poor relations,
Citizens, not serfs on stations.
Must we native Old Australians
In our land rank as aliens?
Banish bans and conquer caste,
Then we'll win our own at last.

Senator HERRON (Queensland)—Oodgeroo Noonuccul was all the things that the speakers have said before. She was an actor, a poet, an author and an Aboriginal leader who fought for the rights of her people. Above all, she was an educator. She had a favourite saying which I think should be recorded because it should be listened to by all of us. Her favourite saying was: 'Don't hate, educate'. She was recognised also by her tribal elders. The feminists of today do not really know what it is all about when one considers what it means for an Aboriginal woman to be recognised by the patriarchal Aboriginal society. She was a gentle and peaceful person and she helped shape Australia's history. She wrote her own obituary in her own words as: 'Win, lose or draw; I have done my best'. If all of us could say that, we would join with her in that memory.

On behalf of Queensland Liberal senators, I join in this tribute and I know that joining with me is former Liberal senator Neville Bonner, who was a close personal friend and who actually sang the dirge at her funeral.

Senator PATTERSON (Victoria)—I wish to join my colleagues in support of this condolence motion for Oodgeroo of the tribe Noonuccul. One of her poems says:

Now light shall guide us,
no goal denied us,
and all doors open
that were long closed.

Even though Oodgeroo has passed away, the doors she opened will remain open and she will continue to open them for us all.

Born at North Stradbroke Island, Queensland, in November 1920, Kathleen Jean Mary Ruska, a poet, would write a new chapter in the social and cultural world of Australia, for Kath Walker, as she was known then, was truly culturally ambidextrous in Australian history. She was a great Aboriginal leader and also a great influence in the white community. In fact, she served in World War II working in the Australian women's armed service. I will not go through the list of the various things she has done as they have been listed today, but nobody has mentioned that—and I may be wrong—she was also a member of the state women's cricket team at one point.

In 1964 she published her first book—*We are going*. It may date me somewhat to say that was one of my treasured 21st birthday presents. That book experienced phenomenal success. It started a writing career which was to be acknowledged by the Jessie Litchfield Award, the Mary Gilmore Medal and a Fellowship of Australian Writers Award. Kath Walker used her status as a writer-educator to bring to the public's attention her concern about the past treatment of her people. For her insights and her vision, Australia is grateful. She was a great woman of essential qualities that should be upheld: honesty, courage and that of speaking one's mind.

She was a sensitive register of inequity, injustice and the wounds that she saw that had occurred to her people. But, as others have said earlier, she did not hate. She said, 'Don't ask me about things I hate. Hate is not part of my vocabulary. If I ever had it, I threw it out years ago'. It is for that reason that she was described as the Martin Luther King of Australia.

As an Aborigine, an Australian, an educator, a servicewoman and a poet, she informed the Australian community and inspired it through her work and her poetry. I join with other honourable senators in offering my condolences to her family and friends.

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

PETITIONS

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

Medicare Benefits for Optometric Examinations

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

The petition of the undersigned citizens of Australia respectfully shows:

1. Optometry has been covered by Medicare since its inception in 1975, and currently provides eye care to over 2.4 million people each year.
2. Removal of optometric benefits from Medicare will increase Government expenditure on eye care, as people will instead obtain their care from a more expensive source.
3. The cost to the public of eye care will increase, both through the removal of benefits for optometric consultations and the shift to ophthalmologists who generally charge well over the scheduled fee.
4. The visual welfare of the community will suffer as people are discouraged from seeking eye care. Many eye diseases, such as glaucoma, do not produce symptoms until they are in an advanced stage. Any discouragement from seeking regular eye care will increase suffering from these diseases.
5. The removal of benefits for optometric examinations will disadvantage children, as undetected visual disorders will adversely affect their development and school performance.
6. Access to eye care will be reduced, particularly in rural areas, as part-time and visiting optometric practices will no longer be economically viable, and alternate care is not available.

We therefore request that the Parliament take steps to ensure that Medicare continues to be a universal health insurance system and that all eye examinations by optometrists are covered.

by Senator Alston (from 63 citizens),

Senator Coates (from 44 citizens),

Senator Crowley (from 131 citizens),

Senator Ellison (from 120 citizens),

Senator Gareth Evans (from 327 citizens),

Senator Herron (from 22 citizens) and

Senator West (from 263 citizens).

Unrealised Capital Gains and Losses

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

The petition of the undersigned shows:

We the undersigned citizens respectfully submit that the Government's proposals to treat unrealised

capital gains and losses on listed securities as income under the Social Security Act 1991 and the Veterans' Entitlement Act 1986 be abandoned. The Petitioners note particularly that:

1. The majority of Australians regard the proposed method of calculating unrealised capital gains and losses as unfair and inequitable;
2. The implementation of this measure will have a deleterious effect on national savings and investments of pensioners and veterans;
3. We regard the Government's estimates of cost saving as spurious.

And your petitioners, as in duty bound, will ever pray.

by Senator Michael Baume (from 57 citizens),

Senator Herron (from 132 citizens),

Senator Kemp (from 10 citizens),

Senator Knowles (from 71 citizens) and

Senator Parer (from 20 citizens).

Unrealised Capital Gains and Losses

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

The Petition of the undersigned shows: That the laws passed in December 1992 counting unrealised capital gains on shares held by pensioners as income for the purposes of the social security income test are unfair, illogical and discriminatory, and should be repealed as soon as is practicable.

Your Petitioners ask that the Senate should: (1) note that the Liberal and National Parties now oppose the laws after voting for them in December; (2) condemn the government for persisting with the laws; and (3) take whatever steps are necessary to achieve the repeal of the laws mentioned above.

by Senator Lees (from 308 citizens) and

Senator Spindler (from 14 citizens).

United Nations Conventions

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

We, the undersigned citizens of Australia respectfully submit that:

The United Nations declaration on the elimination of all forms of intolerance and of discrimination based on religion and belief:

Prohibits all forms of religious discrimination thus potentially restricting the freedom of Australians to make any choices on the grounds of their belief.

Could lead to US-style prohibitions on public Christian prayers, Christmas carols, or nativity scenes.

Has the potential, according to the NSW Attorney-General to restrict greatly the freedom of religious groups.

and the United Nations Convention on the Rights of the Child:

Gives wide rights to children in Articles 12-16, including the right to privacy and freedom of association.

Gives only the legally-weak term "respect" for the rights of parents in Article 5.

Could result in Government-assisted rebellion against parents who want to set limits for their children in their children's best interests.

Your petitioners therefore pray that the Senate will:

Act to disallow these two international instruments from the HREOC Act.

And your petitioners, as in duty bound, will ever pray.

by Senator Calvert (from 39 citizens),

Senator Herron (from 26 citizens) and

Senator Kemp (from 53 citizens).

Aerial Spraying

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

We the undersigned respectfully call upon the Federal Government to phase out aerial spraying in accordance with recommendation 89 of the report of the Senate Select Committee on Agricultural and Veterinary Chemicals in Australia.

by Senator Bell (from 250 citizens).

Freedom of Religious Belief

We the undersigned do hereby petition the Senate in respect of the legislation to which we fervently request your attention to resist this legislation being passed.

We refer to the Declaration on the Elimination of all forms of Tolerance and Discrimination based on Religious Belief that is presently before the Parliament as an attachment to Section 47 of the Human Rights and Equal Opportunity Commission Act 1986.

We know it is our duty to keep you informed as to our will on any matters that come before the Parliament.

This Declaration as above has the intention of restricting the rights of Christians to the free exercise of their religion.

All law is based on religion whether that religion is Christian, Muslim, Buddhism or the religion of secularism. This declaration discriminates against all forms of religion except one, secularism. Therefore this declaration is a contradiction in terms, since it enacts religious discrimination in the name of secularism as a means to eliminate all other forms of religion.

This declaration conflicts with section 116 of the Australian Constitution which provides that the Commonwealth will make no laws that restrict the free exercise of religion.

It is also taking from us, as the Australian people, the right to live in the freedom which is our birthright.

It is our will that you move a notice of motion to disallow the Declaration (under section 48(5) of the Acts Interpretation Act 1901).

It is also our will that no amendment be made to the Commonwealth Constitution without the consent and express will of the Australian People by Referendum.

by Senator Boswell (from 14 citizens).

Army Band

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

We, the residents of the State of Western Australia, express our strongest opposition to the decision of the Federal Government to disband the Australian Army Band, Perth, and respectfully call on the Senate to oppose any such move.

And your petitioners, as in duty bound, will ever pray.

by Senator Panizza (from 70 citizens).

Petrol Excise

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

The petition of the undersigned citizens of Australia opposes the increase in excise of 7 cents per litre on leaded petrol and 5 cents per litre on unleaded petrol resulting from the Budget. This rise in petrol tax:

1. discriminates against low income families and those living in rural areas
2. increases business costs and will cause further unemployment
3. adds further to the price of an already heavily taxed product
4. breaks Mr Keating's election promise not to put up tax.

And your petitioners therefore pray that the Senate oppose these increases in petrol excise.

by Senator Campbell (from 1,288 citizens) and

Senator Reid (from 165 citizens).

HECS Fees

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

This petition of citizens and residents of Australia draws to the attention of the House the importance of the principle of equality of opportunity in higher education provision, and accordingly supports the progressive expansion of public funding for education programs, and opposes any increase in present levels of fees or payments levied upon participants in education.

Specifically, we the undersigned oppose:

- (i) any increase in the basic rate of HECS debt accumulation;
- (ii) any move to impose different rates of HECS debt accumulation proportional to cost of course provision; and
- (iii) any move to increase rates of HECS debt accumulation in proportion to speculation about lifetime earnings associated with particular disciplines.

We strongly urge the Government and the Senate to focus upon the importance of free, public, accessible education to a just and democratic society.

by Senator Bell (from 125 citizens).

Taxation: Holiday and Long Service Leave

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

The Petition of the undersigned shows:

We the undersigned citizens respectfully submit that the Government's proposals to retrospectively subject accrued holiday and long service leave to the full rate of taxation be abandoned. The Petitioners note particularly that:

1. The majority of Australians regard the proposed method of taxing accrued holiday and long service leave as unfair and inequitable.
2. The implementation of this measure will have a deleterious effect upon millions of taxpayers who have foregone their long service and holiday leave entitlements in order to accumulate a nest egg for retirement.
3. We regard the Government's intention to apply such measures retrospectively as being an undemocratic use of the Parliament.

And your petitioners, as in duty bound, will ever pray.

by Senator Calvert (from 56 citizens).

Petitions received.

NOTICES OF MOTION

Legal and Constitutional Affairs Committee

Senator COONEY (Victoria)—I give notice that, on the next day of sitting, I shall move:

That the time for the presentation of the report of the Standing Committee on Legal and Constitutional Affairs on the effectiveness of the Financial Transaction Reports Act 1988 (formerly the Cash Transaction Reports Act 1988) be extended to 28 October 1993.

Budget 1993-94

Senator SHORT (Victoria)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

- (a) notes the latest threat by the Treasurer (Mr Dawkins) to withdraw the personal income tax cuts contained in the 1993-94 Budget if all the other tax increase measures are not passed by the Senate;
- (b) advises the Treasurer that each and every piece of legislation should be scrutinised on its merits by the Senate and rejected if considered unacceptable or inappropriate;
- (c) calls on the Prime Minister (Mr Keating), in the absence of a sound and stable Treasurer, to make an unequivocal statement as to whether the personal income tax cuts in the Budget will be delivered unconditionally, however much they renege on the original cuts promised by the Labor Party and its leader;
- (d) reminds the Parliament that the tax cuts legislated for 1992 are 'L-A-W—law' and can only be revoked by this Parliament, and not by some bullying threat by the Treasurer or the Prime Minister; and
- (e) condemns the arrogance, deceit and untrustworthiness of the Treasurer and the Prime Minister with respect to their dealings with the Australian electorate, their own backbench and Cabinet, and the Australian Parliament.

2000 Olympic Games

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

That the Senate—

- (a) congratulates Sydney on its successful bid for the year 2000 Summer Olympics and in particular, congratulates Mr Rod McGeoch and his Olympic bid team for their outstanding effort in securing the right to host the Games on behalf of all Australians; and
- (b) notes:
 - (i) the enormous benefits of this decision for Australia, in sporting and economic terms, and in reminding Australians of their ability to take on the world and win, and
 - (ii) that a key ingredient of the Sydney bid was the support offered by the people of Australia, and that it will be this unity and not division which will see Australia stand proud in the international community as the host of the year 2000 Olympic Games.

Inter-Parliamentary Union Conference

Senator REID (Australian Capital Territory)—On behalf of Senators Bourne, Calvert and Childs and on my own behalf, I give notice that, on the next day of sitting, I shall move:

That the Senate notes—

- (a) the success of the 90th Conference of the Inter-Parliamentary Union, held in Canberra from 13 to 18 September 1993, at which 95 countries were represented; and
- (b) the invaluable contribution of Ms Anne Hazelton, the Conference Co-ordinator,

and expresses its thanks to Ms Hazelton and the many Parliament House staff who worked to make the conference such an outstanding success.

National Flag

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

That the Senate—

- (a) notes that the Prime Minister (Mr Keating) was upset at seeing the Australian flag being used at the announcement of Sydney's winning Olympic bid, as

reported in the Australian of 27 September 1993;

- (b) seeks an explanation as to why Mr Keating is ashamed of the official flag of this nation, the nation that elected him to its highest position; and
- (c) reminds Mr Keating of the oath of allegiance he took when sworn in as Prime Minister, and that if he no longer wishes to abide by that oath then he should step aside for someone that does.

2000 Olympic Games

Senator IAN MACDONALD (Queensland)—I give notice that, on the next day of sitting, I shall move:

That the Senate congratulates the people of Sydney, those involved in the lobbying committee and the Government of New South Wales, under the leadership of the New South Wales Premier (Mr Fahey), on the successful attainment of the Olympic Games.

Question Time

Senator KEMP (Victoria)—I give notice that, on the next day of sitting, I shall move:

- (1) That question time on each day continue until 28 questions, including supplementary questions, have been asked and answered.
- (2) That this order operate as a sessional order.

Community Standards Committee

Senator JONES (Queensland)—On behalf of Senator Reynolds, I give notice that, on the next day of sitting, Senator Reynolds will move:

That the time for the presentation of the report of the Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies on the 0055 'reverse telephone directory' services be extended to 16 December 1993.

Student Unions

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

That the Senate—

- (a) recognises that in a free Australia there is a right to voluntary association; and
- (b) condemns the proposed move by the Minister for Employment, Education and Training (Mr Beazley) to cut education funding to the State of Western Australia by \$5 million in order to compensate

student unions in that State for any potential loss of subscriptions which might be caused by the Western Australian Government's planned legislation for voluntary student unionism.

Republic

Senator SANDY MACDONALD (New South Wales)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

- (a) notes that:
 - (i) the visit by the Prime Minister (Mr Keating) to England to discuss his objective for Australia to become a Republic with Her Majesty Queen Elizabeth II, Queen of Australia, was both divisive and improper as he has no mandate for his republican agenda,
 - (ii) the attempt by the Prime Minister to bring religion into the debate was highly regressive and thoroughly un-Australian, and
 - (iii) our Asian trading partners have no serious interest in our constitutional debate and that inferring that they would be more likely to trade with an Australian Republic has caused bemusement to them and embarrassment to us; and
- (b) re-affirms its support and allegiance to Her Majesty Queen Elizabeth II as Queen of Australia.

Airport Landing Fees

Senator CALVERT (Tasmania)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

- (a) notes, with grave concern, a proposal by the Prices Surveillance Authority (PSA) which would levy airport landing fees on a user pays basis;
- (b) recognises that such a proposal would seriously affect smaller airports around the country, such as Hobart and Launceston, and also impact on passenger numbers by imposing a minimum airfare price hike of 4 per cent;
- (c) acknowledges that preliminary figures prepared by the Federal Airports Corporation indicate that the PSA proposal would cost Tasmanian tourism \$13 million in lost revenue per year and would cost the State 415 lost jobs per year; and

- (d) calls upon the Federal Government to reject the PSA proposal and support the existing network pricing system to ensure the survival of the tourism industry in smaller centres throughout Australia.

2000 Olympic Games

Senator TIERNEY (New South Wales)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

- (a) congratulates:

- (i) all those involved in the successful Sydney 2000 Olympic Games bid, especially Mr Rod McGeoch, chief executive of the bid for his excellent efforts, and
- (ii) New South Wales Liberal Premier (Mr Fahey) and New South Wales Minister with responsibility for the Sydney 2000 Olympic bid, Mr Bruce Baird, for their foresight, dedication and sheer hard work in making a successful bid;

- (b) calls on the Prime Minister (Mr Keating) to acknowledge that, in winning the Olympics, the close ties between Australia and the Royal Family were of enormous benefit because of the pivotal role played by the Princess Royal when it came to winning the necessary second preferences from Manchester;

- (c) condemns the Prime Minister for using the successful Olympic bid win for his own divisive purpose of pushing his republican agenda; and

- (d) calls on all Australians to continue the united commitment they have shown so far over the next 7 years for a successful Sydney Olympic Games in the year 2000.

World Heritage Listings

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

That the Senate—

- (a) notes that:

- (i) 12 years after the Willandra Lake Region was inscribed on the World Heritage list, the Federal Government has still not agreed to a management plan for the area,
- (ii) 9 months after the Prime Minister (Mr Keating) first announced his decision to assess the Lake Eyre Region of South Australia, the

joint Commonwealth and South Australian Task Force and Consultative Committee has still not been established, and

- (iii) much of the uncertainty felt by local pastoralists about the possible nomination of Lake Eyre can be sheeted home to the Government's mishandling of the management of the Willandra Lake Region World Heritage area; and

- (b) calls on the Government:

- (i) to prioritise the development and adoption of a comprehensive management plan for Willandra Lake, and
- (ii) to announce promptly the establishment of the task force and consultative committee promised for the Lake Eyre Region assessment.

Finance and Public Administration Committee

Senator PARER (Queensland)—I give notice that, on the next day of sitting, I shall move:

That the reference to the Standing Committee on Finance and Public Administration for the reconsideration of the committee's report on the Metway Bank be withdrawn.

I seek leave to make a short statement in regard to this motion.

Leave granted.

Senator PARER—This reference is being withdrawn because of a board decision by Metway not to give evidence to the committee. I am personally saddened that political realities have forced the Metway Bank to make a commercial decision. I believe the airing of the evidence at a public hearing would have assisted in deterring either the Labor government in Queensland—or any government in the future—from grabbing funds which are not theirs and thus introducing further uncertainties in financial institutions vis-a-vis governments.

Some of the more responsible state Labor members of parliament in Queensland have let it be known privately that the Goss government confiscated by legislation some \$18 million, which was rightfully the property of

the Metway Bank and its shareholders, because of the enterprise agreement entered into willingly by the employees of Metway without the involvement of unions. The fact that the punitive action of a government, pushed by unelected people in the union movement, has resulted in a decision by the board of Metway to decline to appear before the Senate committee highlights the influence by unions on Labor governments.

Budget 1993-94

Senator SHORT (Victoria)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

- (a) notes the remarks made by the Prime Minister (Mr Keating) on 26 September 1993 that he intends to 'stare down' the Senate;
- (b) condemns the Treasurer (Mr Dawkins) and Prime Minister's abysmal handling of the 1993-94 Budget, which has now undergone four sets of changes after humiliating capitulations in the face of justifiable hostility towards the Budget;
- (c) calls on the Government to heed calls to rewrite the Budget, with particular emphasis on withdrawing its unfair, regressive and harsh indirect tax rises; and
- (d) takes up the Prime Minister's challenge to out stare him.

Finance and Public Administration Committee

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

That the following matter be referred to the Standing Committee on Finance and Public Administration for inquiry and report on or before 28 October 1993:

The provisions of the Taxation (Deficit Reduction) Bill (No. 1) 1993 concerning the taxation treatment of credit unions, with particular reference to:

- (a) the role played by credit unions in Australia;
- (b) their structure, operations and community services;
- (c) the reasons for credit unions being granted a partial tax exemption in 1974;
- (d) the effect of the taxation treatment proposed by the Government on credit unions' capital formation and on their

continued provision of financial and community services;

- (e) the effect of the taxation treatment proposed by the Government on asset concentration in both the credit union movement and retail financial sector, and the implications of this effect upon consumer choice; and
- (f) whether the reasons for the differentiated tax treatment of credit unions and building societies are still valid.

Legislative and General Purpose Standing Committees

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

That the following provisions have effect as a sessional order and apply to the committees specified:

- (1) The chairs of the Legislative and General Purpose Standing Committees shall be allocated so that 3 chairs are held by Senators appointed to the committees on the nomination of the Leader of the Government in the Senate, 4 chairs are held by Senators appointed to the committees on the nomination of the Leader of the Opposition in the Senate, and 1 chair is held by a Senator appointed to the committee on the nomination of the minority groups or independent Senators.
- (2) Where the chair of a committee is a Senator appointed to the committee on the nomination of the Leader of the Government in the Senate, the deputy chair shall be a Senator appointed to the committee on the nomination of the Leader of the Opposition in the Senate, and where the chair of a committee is a Senator appointed to the committee on the nomination of the Leader of the Opposition in the Senate, the deputy chair will be a Senator appointed to the committee on the nomination of the Leader of the Government in the Senate.
- (3) In the event of any failure of the committees to allocate the chairs in accordance with this resolution, the allocation of the chairs shall be determined by the Senate.

Estimates Committees

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

That the following provisions have effect as a sessional order and apply to the committees specified:

- (1) The chairs of the estimates committees shall be allocated so that 2 chairs are held by Senators appointed to the committees on the nomination of the Leader of the Opposition in the Senate, and 1 chair is held by a Senator appointed to the committee on the nomination of the minority groups or independent Senators.
- (2) Where the chair of a committee is a Senator appointed to the committee on the nomination of the Leader of the Government in the Senate, the deputy chair shall be a Senator appointed to the committee on the nomination of the Leader of the Opposition in the Senate, and where the chair of a committee is a Senator appointed to the committee on the nomination of the Leader of the Opposition in the Senate, the deputy chair will be a Senator appointed to the committee on the nomination of the Leader of the Government in the Senate.
- (3) In the event of any failure of the committees to allocate the chairs in accordance with this resolution, the allocation of the chairs shall be determined by the Senate.

Regulations and Ordinances Committee: Scrutiny of Bills Committee

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

That the following provisions have effect as a sessional order and apply to the committee specified:

- (1) The chairs of the Standing Committees on Regulations and Ordinances and for the Scrutiny of Bills shall be allocated so that 1 chair is held by a Senator appointed to the committee on the nomination of the Leader of the Government in the Senate and 1 chair is held by a Senator appointed to the committee on the nomination of the Leader of the Opposition in the Senate.
- (2) In the event of any failure of the committees to allocate the chairs in accordance with this resolution, the allocation of the chairs shall be determined by the Senate.

LEAVE OF ABSENCE

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

That leave of absence be granted to Senator Michael Baume for the period 27 September 1993

to 16 December 1993 inclusive and to Senator Crichton-Browne for the period 27 September 1993 to 7 October 1993 inclusive, on account of official parliamentary business overseas.

ORDER OF BUSINESS

Broadcasting of Proceedings

Motion (by Senator Faulkner) agreed to:

That government business notice of motion No. 1, relating to the broadcasting of the proceedings of the Senate and Senate committees, be postponed till 5 October 1993.

Standing Order 75: Time Limitations

Motion (by Senator Faulkner) agreed to:

That government business notices of motion No. 4, relating to proposed time limits for debate, be postponed till 5 October 1993.

Routine

Motion (by Senator Faulkner) agreed to:

That government business notice of motion No. 3, relating to the routine of business, be postponed till the next day of sitting.

Migration Laws Amendment Bill 1993

Motion (by Senator Faulkner, on behalf of Senator Robert Ray) agreed to:

That government business order of the day No. 2, relating to the Migration Laws Amendment Bill 1993, be postponed till the next day of sitting.

Community Affairs Committee

Motion (by Senator Reid, on behalf of Senator Patterson) agreed to:

That business of the Senate notice of motion No. 1, relating to the reference of a matter to the Standing Committee on Community Affairs, be postponed till 28 September 1993.

Finance and Public Administration Committee

Motion (by Senator Reid, on behalf of Senator Panizza) agreed to:

That business of the Senate order of the day No. 3, relating to the reference of a matter to the Standing Committee on Finance and Public Administration, be postponed till 29 September 1993.

COMMITTEES

Industry, Science, Technology, Transport, Communications and Infrastructure Committee

Extension of Time

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

That the time for presentation of the report of the Standing Committee on Industry, Science, Technology, Transport, Communications and Infrastructure on the provisions of the Taxation (Deficit Reduction) Bill 1993 which contain proposed amendments to the Fringe Benefits Tax Assessment Act 1986, be extended to 18 October 1993.

Senator IAN MACDONALD (Queensland)(3.45 p.m.)—The motion moved by Senator Childs seeks to extend the time allowed for presentation of the report of the Standing Committee on Industry, Science, Technology, Transport, Communications and Infrastructure to 18 October 1993. I intend to move an amendment to this motion to extend the time for presentation to 30 November 1993. I want to make a couple of very brief points about the reason for the amendment.

The revenue raising measures contained in the Taxation (Deficit Reduction) Bill and the fringe benefits tax on business travel will not take effect until 1 April 1994, so delaying the reporting date of the committee to 30 November will have no effect whatsoever on revenue. In any case, there is a lot of evidence from the industry that this budget has no implications for revenue. In fact, a lot of work is being done by many people in the tourism and accommodation industries which suggests that the contrary will be the case.

There is some material in existence which suggests that, as a result of employment losses which will follow any fringe benefits tax on business travel, the federal budget deficit is likely to be increased both because of lower personal income tax collections and because of higher outlays on unemployment benefits. It is suggested that instead of the claimed reduction of \$60 million in the first year presented in Budget Paper No. 1, Statement No. 4, these consequential job losses could actually increase the deficit by as much as, or even considerably more than, that amount. Extending the reporting date by a

few extra weeks will certainly have no impact upon the budget at all.

The fringe benefits tax matter has been referred to the standing committee which, according to its current schedule, will meet this Friday to hear evidence from the industry, the minister and the department. Unfortunately, the limits above which fringe benefits would be paid on travel and business allowances are not specified in the bill. That is something that will be determined by regulation at a later date. This bill has caused a lot of concern in the hotel and tourist industries and associated industries because of the expected loss of jobs and revenue and because of the compliance costs of filling in the forms and doing what needs to be done.

The government has sought information from the industry and has consulted fairly widely on what that limit should be and if the limit should be there. That government inquiry—it is something the government is doing; it is not part of the Senate inquiry—has requested that evidence be submitted by 30 September. No doubt, once 30 September comes the government will consider all of that information and will then determine what the limits should be. It is my suggestion and the suggestion of the Liberal and National parties that, having heard what the government has proposed on that limit, the standing committee should then consider that limit, should then perhaps invite further evidence from the industry and should then be able to come to this parliament with a recommendation on this very important matter.

It is a very important matter because there have been suggestions that up to 20,000 jobs could be lost. There has been some evidence that the profitability of the industry would be quite severely damaged; that investment in hotel accommodation—this is very important with the Olympic games coming to Sydney in the year 2000—could be stopped, and already there is evidence that building projects worth upwards of \$30 million have ceased.

As I mentioned earlier, the revenue is not there. The government has assumed that if these proposals are introduced people will keep using business accommodation and travel in the way they did before. That is not

the case, of course, as has been shown with the luxury car tax. So the revenue being anticipated by the government is not there. The quality of the Australian product in the hotel and travel industry, in terms of the international competitiveness, would fall, and conferences and meetings would be hit, if this legislation goes through as proposed, as they would be enticed to go offshore, undermining the viability and effectiveness of these facilities.

There are alternative ways of addressing any problems that the government foresees with regard to a very few people rorting the system, and no doubt these will be made available to us, evidence will be given on them and suggestions will be made by the industry this Friday morning. I urge the Green senators and the Australian Democrats to support this small extension of time to enable the government to complete its inquiry into the limit of allowances for business travel and accommodation; to allow it to come up with a suggestion; to allow the industry to have a look at that and determine whether the problems it now foresees would still be there if those limits were adopted; and to allow industry to make any other submissions it might like to make on those particular proposals by the government. It would seem to make the work of the committee much more effective if we were to report back after a time when the government had given some indication of what that limit might be. I urge the Democrats, the Greens and the government itself to allow that extension of time in reporting back so that we can properly investigate all these things on the committee.

I re-emphasise that the legislation is not scheduled to come into effect until 1 April 1994, so any delay to 30 November this year will in no way affect any revenue that might be gained. There is some real doubt as to whether there are any revenue implications at all. It will not be holding up the budget bills. I know the Democrats were a little concerned that it might be seen as doing that, but it will not because, as I said, the bills do not take effect until 1 April 1994. But it would allow the committee to make an informed and intelligent assessment and recommendation

after the government had come to the industry and said that the limit it is proposing is such and such a figure. So there is no detriment. We are not holding up the government bills. We are not delaying the government in any way. But it would allow the committee to more effectively and efficiently complete its task. I move:

Omit '18 October', substitute '30 November 1993'.

Senator SPINDLER (Victoria) (3.53 p.m.)—At this stage the Australian Democrats are not disposed to go along with the delaying tactics that Senator Ian Macdonald has laid before the Senate. We believe that the committee can work until 18 October and request the government to provide the information that the committee requires to carry out its work efficiently and productively. Should it be the case that the government does not comply with the committee's request to provide that information or that it is impossible for that information to be provided in any other way to the committee, then the committee has the option to return to this chamber and to ask for a further extension. But, at this stage, we see no reason whatsoever why the work of the committee should be extended in this way right into November. I believe the committee should assess the legislation before it now, should obtain the information and should ask for the further extension only if this becomes absolutely essential.

Senator ELLISON (Western Australia) (3.54 p.m.)—I rise to support Senator Ian Macdonald's amendment to this motion. With reference to Senator Spindler's remarks, I would say that recently we saw an example where too early a time limit was set in the relation to the Senate Standing Committee on Legal and Constitutional Affairs and we had to come back to this house to get an extension of time. I think it is best to set a more realistic date so that one can chart the course of the committee accordingly and thereby provide an opportunity for the matter to be properly ventilated.

I cannot stress enough to the Senate how important this measure is, in view of the Olympic Games being held in Sydney in the

year 2000. The tourism and hospitality industry is the greatest employer of young people in this country. At the moment they are in training programs and jobs which will prepare them for seven years time when we have the Olympics in this country.

Alan Boys, a senior partner of Horwath and Horwath, the leading accounting practice in this country which deals with the tourism industry, has stated that if this measure goes through in its present form it will be a disaster for the tourism industry. In today's *Australian Financial Review* it has been said that 20,000 jobs could be lost.

In order to ventilate the matter properly, I put to this house that further time is needed if submissions are to be taken and properly considered. I say that in view of the development in the last few days of Australia getting the Olympic Games in the year 2000, tourism has become even more crucial. If we make any hasty decision about this measure, it could have drastic ramifications for the tourism industry and we could well rue the day in seven years time when the Olympic Games come around.

Question put:

That the amendment (Senator Ian Macdonald's) be agreed to.

The Senate divided. [3.59 p.m.]

(The President—Senator the Hon. Kerry Sibraa)

Ayes	33
Noes	35
Majority	2

AYES

Alston, R. K. R.	Bishop, B. K.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Crane, W.
Ellison, C.	Ferguson, A. B.
Gibson, B. F.	Herron, J.
Hill, R. M.	Kemp, R.
Knowles, S. C.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. F.
Newman, J. M.	O'Chee, W. G.
Panizza, J. H. *	Parer, W. R.
Patterson, K. C. L.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Teague, B. C.	Tierney, J.

AYES

Vanstone, A. E.

NOES

Beahan, M. E.	Bell, R. J.
Bolkus, N.	Bourne, V.
Carr, K.	Chamarette, C.
Childs, B. K.	Coates, J.
Colston, M. A.	Cook, P. F. S.
Cooney, B.	Coulter, J. R.
Crowley, R. A.	Denman, K. J.
Devereux, J. R.	Faulkner, J. P.
Foreman, D. J.	Jones, G. N. *
Kernot, C.	Lees, M. H.
Loosley, S.	Margetts, D.
McKiernan, J. P.	McMullan, R. F.
Murphy, S. M.	Ray, R. F.
Reynolds, M.	Richardson, G. F.
Schacht, C. C.	Sherry, N.
Sibraa, K. W.	Spindler, S.
West, S. M.	Woodley, J.
Zakharov, A. O.	

PAIRS

Archer, B. R.	Evans, C. V.
Baume, M. E.	Burns, B. R.
Crichton-Browne, N. A.	Evans, G. J.

* denotes teller

Question so resolved in the negative.

Original question resolved in the affirmative.

DOCUMENTS

Budget 1993-94

Tabling

Senator SHORT (Victoria)—I seek leave to make a brief statement in respect of the government's failure on the last sitting day, 7 September 1993, to comply fully with the Senate order of 6 September 1993 requiring the Leader of the Government in the Senate, Senator Gareth Evans, to table the modelling of the budget based on a number of criteria specified in the budget.

Leave granted.

Senator SHORT—I will be brief. The Senate will recall that on 6 September it passed an order of return requiring the government, through the Leader of the Government in the Senate, Senator Gareth Evans, to lay on the table of the Senate by 5 o'clock on 7 September a statement of the results and outcomes of the running of the Treasury model, Prismod, for a range of items showing

the distributional effects on households of the 1993-94 budget measures and the likely impact of the budget measures on various industries.

On 7 September, the due date, the government, in the form of Senator McMullan, rather than Senator Gareth Evans, responded by tabling a letter from the Treasurer to Senator McMullan stating that the work required in the return to order had not been done within the Treasury. Instead, the Treasurer included copies of certain modelling results that had already been made public—and some that had not—in accordance with the Senate's order.

There were two problems with that. Firstly, the order was complied with in the Senate at 8 p.m. on 7 September, not by 5 p.m., which is the deadline contained in the Senate's order. More important is the fact that the government failed to comply with the Senate's order in that much of the material that was requested by the Senate was not provided by the Treasurer through Senator McMullan; nor did the government provide an appropriate reason for its failure to comply with the order. The main reason that was given by Senator McMullan, when he tabled the material from the Treasurer, is this:

... it has not been possible to comply with the literal terms of the resolution because many—perhaps all—of the documents requested to be tabled do not exist.

He went on to say other things.

At the time the documents were tabled—during the evening of our last sitting day—I undertook to look at them and come back to the Senate and the government if they did not comply fully with the Senate's order. Since then, I have written to the Clerk of the Senate, Mr Harry Evans, seeking advice on orders of the Senate regarding the production of documents, and he has replied to me. I have not had a chance to show that reply to the government. I seek leave to incorporate it in Hansard.

Leave granted.

The letter read as follows—

OFFICE OF THE CLERK OF THE SENATE

20 September 1993

Senator J R Short

62 Smith Street

COLLINGWOOD VIC 3066

Dear Senator Short

ORDERS FOR THE PRODUCTION OF DOCUMENTS

I refer to your letter of today's date seeking advice on orders by the Senate for the production of documents.

Orders for the production of documents, which are known as orders for returns, the documents, when produced, being known as returns to order, can require the production of either documents which already exist and are in the custody or control of the person or organisation to which the order is directed, or the creation of documents which do not already exist by the person or organisation who has the information to compile such documents.

Historically, the latter category of orders for returns was more important, and orders were frequently used, particularly by the British Parliament in the last century, to require the compilation of statistics by government departments and other public bodies. Indeed, the OED gives this, a document created in response to an order, as the dictionary meaning of "return" in this sense.

In more recent times, and in the context of the Australian Senate, orders for returns have usually been directed to documents already in existence. There have, however, been occasional examples of the other category of orders.

For example, during the consideration of the "VIP Planes Affair", the order of the Senate of 5 October 1967 requiring the production of documents relating to VIP flights clearly required the creation of documents containing information culled from various records. The then government, in response to the order, tabled a specially created document and some of the records on which it was based.

More recent examples include the order of the Senate of 29 November 1988 for the regular production of a list of unproclaimed legislation, and the order of 16 December 1992 for the production of a special report by the Auditor-General.

Failure to comply with an order for the production of documents is declared to be a contempt of the Senate by paragraph (13) of Resolution 6 of the Senate's Privilege Resolutions of 25 February 1988:

(13) A person shall not, without reasonable excuse:

- (a) refuse or fail to attend before the Senate or a committee when ordered to do so; or

- (b) refuse or fail to produce documents, or to allow the inspection of documents, in accordance with an order of the Senate or of a committee.

Paragraph (15) of the Resolution is also relevant:

- (15) A person shall not destroy, damage, forge or falsify any document required to be produced by the Senate or by a committee.

The reference in this paragraph to the falsification of a document covers a document specially created in response to an order.

If the Senate considers that a contempt has been committed, it may:

impose a penalty of a fine or imprisonment in accordance with section 7 of the *Parliamentary Privileges Act 1987* (such a penalty could not be imposed on a member, including a minister, of another House of the Parliament or of a state or territory parliament: see the advice to the Select Committee on the Australian Loan Council, published in the interim report of that Committee)

if the contemner is a Senator, impose some procedural penalty, such as a suspension from the sittings of the Senate.

impose some form of political sanction, ranging from debate in the Senate to a refusal to consider government legislation.

It would be for the Senate to decide the appropriate action.

Please let me know if I can be of any further assistance.

Yours sincerely

(Harry Evans)

Senator SHORT—There is one paragraph of the letter that relates specifically to the excuse that Senator McMullan gave for not complying with the order in the first place. In his letter the Clerk says:

Orders for the production of documents, which are known as orders for returns, the documents, when produced, being known as returns to order, can require the production of either documents which already exist and are in the custody or control of the person or organisation to which the order is directed, or the creation of documents which do not already exist by the person or organisation who has the information to compile such documents.

The Clerk goes on to show specific examples where there have been orders for return given by the Senate which have required the creation by the government of the day of documents which it had not already prepared and

for the tabling of those documents in the Senate. In other words, the fundamental reason given by Senator McMullan on behalf of the government for its failure to comply with the order of return of 6 September, namely that many of the documents requested by the Senate did not exist, is not a valid reason for failure to comply.

Last week I wrote to the Leader of the Government in the Senate, Senator Gareth Evans, raising this matter again. I attached a copy of the Clerk's letter and requested that there be a formal response in the Senate today as to the reasons for the failure to comply. Senator Gareth Evans is absent this week and because of that I will not pursue the matter further today. However, I give notice to the government that I, and I am sure the Senate, expect a proper response to be given to this chamber on the first day Senator Gareth Evans returns.

It is a very serious matter. Failure to comply with a Senate order is a contempt of this place. The matter is not just about modelling the budget as required by the order, but is very importantly about disobeying an important order and procedure of the Senate; therefore, it represents a contempt and disregard for this place and, therefore, the whole parliament. I seek leave to incorporate in *Hansard* my letter to the Leader of the Government in the Senate, Senator Gareth Evans.

Leave granted.

The letter read as follows—

SENATOR JIM SHORT

Liberal Senator for Victoria

Shadow Minister for Multicultural Australia,

Immigration and Citizenship

and Assisting the Leader on Ethnic Affairs

22 September 1993

Senator Hon Gareth Evans QC

Leader of the Government in the Senate

Parliament House

Canberra

Fax no. (06)273-4112

Dear Senator Evans

Budget Modelling Return to Order

I refer you to the Senate's Return to Order no. 164, of 6 September 1993, calling on you to table

relevant documents of the results and outcomes of distributional outcomes and industry impacts of the Budget measures as per that Order.

I note that you have not personally responded to that Senate Order. Nevertheless, Senator McMullan has tabled some documents in response to that Order on 7 September—3 hours after the Senate specified time. Those documents, however, do not respond fully to the Order. Indeed, in a letter to Senator McMullan from the Treasurer, Mr Dawkins, tabled with the other documents, he says "The specific year by year modelling identified by the Senate at (a)(i) and (a)(ii) of the order has not been undertaken by Treasury".

I would remind you that a Senate Return to Order can require the creation of documents where they do not already exist to satisfy the Order.

I have enclosed a letter from the Clerk of the Senate, Mr Harry Evans, clarifying a number of points of relevance with respect to Senate Orders. You may find the letter of interest in your consideration of the matter.

I would urge you to reconsider your non-response to the Senate Order of 6 September, before the Senate resumes sittings next week, with a view to fulfilling the Senate's resolution.

Yours sincerely

JIM SHORT

Senator SHORT—I urge the government to reconsider its failure to fully comply with the Senate order. I wish to give the government an opportunity to properly respond and advise the Senate what further action the government intends to take so that the Senate can then decide what further action it could or should take.

MATTERS OF URGENCY

General Agreement on Tariffs and Trade

The PRESIDENT—I inform the Senate that I have received the following letter, dated 27 September, from Senator Coulter:

Dear Mr President,

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

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

The necessity for the Government, as a matter of the highest priority, to move for international reconsideration of GATT, which is naive, dangerous and contrary to the urgent need to reorient all economic activity toward ecological sustainability, with a view to having it become

GAST, the General Agreement on Sustainable Trade.

Is the proposal supported?

More than the number of senators required by the Standing Orders having risen in their places—

Senator COULTER (South Australia) (4.15 p.m.)—I move:

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

The necessity for the Government, as a matter of the highest priority, to move for international reconsideration of GATT, which is naive, dangerous and contrary to the urgent need to reorient all economic activity toward ecological sustainability, with a view to having it become GAST, the General Agreement on Sustainable Trade.

The General Agreement on Tariffs and Trade, GATT, is both the symbol and the substance of global economic rationalism. It is the 1993 equivalent of the 1893 gunboats to China; gunboats to force Chinese trade into the hegemony of European dominance. If it is less physically violent, it is nonetheless the instrument by which the economically powerful seek to dominate and exploit the weak, to dispossess them of their resources and to ensure the unimpeded penetration of the products of rich nations into the markets of the poor.

GATT is euphemistically described as the mechanism for regulating free and fair international trade. This is a cruel euphemism. After 40 years of the operation of GATT, one need only observe the growing difference between rich and poor nations, to note the hopeless debt burden of almost every nation in Africa and South America, the continual flow of material and economic resources from the poor nations of the world towards the rich nations to recognise that GATT has failed—or has it? Perhaps that has been the hidden agenda behind GATT all along.

GATT is fundamentally flawed. It is based on the proposition that the market will deliver fairness and equity. All we have to do is remove all the impediments to trade and the market will deliver justice and fairness. This belief is naive at best and at worst a deliberate deceit by those with the ability to control the market. Unregulated markets will always

supply the wishes, indeed the whims, of the powerful, before, if ever, they supply the needs of the weak and disadvantaged.

GATT has been, and will continue to be, inimical to the legitimate interests of the disadvantaged. Moreover, at its very core it runs counter to the urgent need to move toward sustainability every aspect of the relationship between human activity and the natural environment. The GATT overrules environmental consideration. It places a higher priority on trade than on environmental protection. The legitimacy of environmental protection measures is to be judged, not by environmental criteria but by trade criteria. Trade is to take precedence over the environment.

GATT usurps national sovereignty. Those who worry about international treaties on world heritage or the rights of the child, which includes many people on the opposition side, should be doubly concerned by GATT which subsumes all standards in relation to health, food, environment and investment which may impact on our imports. Abundant proof of this is to be found within the GATT. It is heavily underscored in the cases which have been adjudicated under the GATT rules and also by other analogous trade fora.

The GATT does not allow one country to look at the occupational, human or environmental conditions associated with the production of a good or service from another nation. No nation may look further back than the point at which the good or service enters its territory. The product may have been produced under the most appalling conditions of human misery, exploitation and/or environmental defoliation, yet the importing country is forced under GATT to treat that product in every way equal to the home grown product made in conformity with the higher standards of work and occupational health and environmental protection.

GATT thus forces all towards the lowest standards. GATT does not allow the imposition of a tariff to represent the saving made by the country with the low standards. The framers of GATT quite inconsistently will not recognise that, by setting very low standards or indeed no standards at all, the country that

does so is providing a subsidy to production. This deliberate blindness, this deliberate double standard, reveals the real motivation behind the GATT. It is to obtain resources and products at the lowest possible price and to hell with the human and environmental consequences.

If the imposition of high standards of work conditions, occupational health and environmental protection do involve higher costs of production then under GATT the nation that imposes them will suffer declining employment as companies move offshore to take advantage of the exploitative conditions that exist in nations with low or non-existent standards.

Has a nation the right to protect the conditions of its workers and has the government of a nation a responsibility to protect its citizens and its environment? According to GATT these interests must be subsumed to the pre-eminent importance of trade.

Do the citizens of one nation as citizens of the world, as those with a concern for the world of tomorrow, the world of their children, have a right and responsibility to protect the global environmental when its integrity is being damaged by another nation? According to the GATT they do not. Under GATT Australians may not refuse the importation, for example, of tropical rainforest logs no matter how unsustainably the forests supplying those logs are being exploited.

In 1991 a GATT panel began adjudicating a complaint from Mexico that the US was infringing the GATT. The US had passed the Marine Mammal Protection Act which sought, inter alia, to protect dolphins caught by purse seine netting of yellowfin tuna in the eastern tropical Pacific Ocean. The law set a limit to the number of dolphins which may be taken relative to the catch of tuna. For imported tuna it set a limit of 25 per cent above the allowable US limits. Under this law imports of yellowfin tuna from Mexico were banned. The GATT panel found that the law infringed the provision of the GATT.

Whether Mexican fishermen were catching an excessively large number of dolphins in the course of their tuna fishing was never at issue. The GATT panel specifically con-

sidered this as irrelevant. What was at issue was whether the US could pass that legislation within the GATT rules. The panel found that GATT did not allow laws which operated extraterritorially. For example, the panel said:

A country can effectively control the production or consumption of an exhaustible natural resource only to the extent that the production or consumption is under its jurisdiction.

The panel also considered that if:

... each contracting party could unilaterally determine the life or health protection policies from which other contracting parties could not deviate without jeopardising their rights under the General Agreement—

that is, the rights of unrestricted entry to markets in that country—

the General Agreement would then no longer constitute a multilateral framework for trade among all contracting parties but would provide legal security only in respect of trade between a limited number of contracting parties with identical internal regulations.

The principle of the lowest common denominator with respect to environmental and other protection could not have been more clearly spelt out. The panel could not have expressed the dominance of trade over all other considerations more succinctly.

The restriction which the US had sought was on the import of tuna caught in such a way that an excessive number of dolphins were also caught. The panel found that the GATT:

... calls for a comparison of the treatment of imported tuna as a product with that of domestic tuna as a product. Regulations governing the taking of dolphins incidental to the taking of tuna could not possibly affect tuna as a product and that therefore (GATT) obliges the United States to accord treatment to Mexican tuna no less favourable than that accorded to United States tuna, whether or not the incidental taking of dolphins by Mexican vessels corresponds to that of United States vessels.

There are disturbing parallels in bi-, tri- and other multinational trade agreements which are modelled on GATT and from which GATT draws legitimacy.

In late 1988 the Canada-US Free Trade Agreement was ratified. The FTA, as it is called, requires both countries to forgo the use of regulatory devices that could prevent the

development of fossil fuel resources for export. Subsidies for oil and gas exploration and development are given special status and insulated from attack under the trade protection laws of either country. Subsidies and other programs intended to encourage energy efficiency and conservation are given no similar protection under the FTA.

The FTA obligates Canada to share its resources with the US even when it is rationing them domestically and no matter how severe the environmental impacts of exploration or exploitation. The FTA assures the US secure supplies of energy at stable and reasonable prices by proscribing future government interference in the trade in energy resources. It is highly significant that this FTA has frequently been described as a model for other bilateral and multilateral agreements, including GATT.

In late 1989 Denmark was taken before the Court of Justice of the European Community because it had had the temerity to issue a waste reduction regulation that required all beer and soft drinks to be sold in returnable containers. In considering this case, the court noted the obligation established by the EEC treaty to preserve, protect and improve the quality of the environment. It found that the Danish regulations were a bona fide and successful effort to accomplish these environmental objectives. Despite this, the court found that Denmark was in breach of its trade obligations under the EEC, saying:

There has to be a balancing of interests between the free movement of goods and environmental protection, even if in achieving the balance the high standard of the protection sought has to be reduced.

GATT allows a nation to give priority to human health over trade liberalisation provided—and I stress this—that the measure taken is necessary. The panel which considered the Thai tobacco imports said that the import restrictions could only be considered necessary if:

... there were no alternative measure consistent with the General Agreement, or less inconsistent with it which Thailand could reasonably be expected to employ to achieve its health policy objectives.

The panel then went on to consider some alternatives. In short, the panel, whose brief

was trade—a trade panel not composed of health experts—made and imposed a decision which vitally affected the health of the Thai people. Again, Australians who have expressed nationalistic indignation at the prospect of international agreements on the rights of the child or world heritage interfering with home-made decisions should really jump up and down, not only at the restriction of sovereignty in the determination of suitable health measures but especially at the very narrow, inexpert and unrepresentative criteria used by GATT panels.

Great concern should also be felt at the imminence of the signing of the Uruguay Round and the role of the Codex Alimentarius Commission, the setting of standards for the quality of food products. For example, the Codex allows levels of DDT in various foods between 20 and 50 times those allowed by the US EPA. Aldrin and heptachlor, which are strictly controlled in Australia and which many hope will shortly be totally banned, are allowed in food under the Codex. The patenting of genes, life forms, plants and animals was bitterly debated in this chamber only a few years ago with government and opposition supporting patenting. However, I think honourable senators will agree that profound ethical questions surround this issue. Under the GATT, far-reaching and potentially dangerous decisions in this area will be based on considerations of trade, and not on informed ethics.

The careless aside made by officers in Senator Cook's department a few weeks ago that when decisions in relation to GATT are taken by vote, the vote results in the south voting against the north, in itself indicates what the GATT and Uruguay Round are about. The chief priority of the industrialised countries in the Uruguay Round is to extend their control over the global economy. In the past, this was achieved through a mixture of colonialism and the threat of military intervention. Today, it is hoped that GATT and the threat of trade retaliation will serve the same purpose.

Under the Uruguay Round, under the extension of GATT into financial and intellectual property, Third World countries may be

on the point of being pushed back to the colonial era. Third World governments may then not only be unable to advance the economic and social wellbeing of their people, but they may also be obliged to protect the interests of large transnational corporations against their own people.

The GATT rounds and processes are primarily oriented towards gaining greater access to resources and markets by large transnational companies. It is naive of our government to think that in our slide towards Third World status we will miraculously become a beneficiary under the Uruguay Round rather than a victim. These rounds and processes are inimical to the wellbeing and health of the majority of the world's people and run counter to the urgent need for a global move towards greater awareness and protection of the environment. This urgent need to develop and implement patterns of sustainable use of the environment is far more important than trade. Australia should lead the way in replacing GATT with GAST, a general agreement on sustainable trade.

Senator SHERRY (Tasmania—Parliamentary Secretary to the Minister for Primary Industries and Energy) (4.29 p.m.)—I am not quite sure where I should begin after all that. The accusation that GATT does not represent the general agreement on tariffs and trade, but rather represents some sort of gunboat attack on Third World tariffs, seems to be the theme of Senator Coulter's debate. About the only area of the debate that he did not touch on was to congratulate the French farmers on their current stand in the GATT negotiations. If we followed his theme, that is what he should be doing, but he did not mention that in his speech.

I do not think Senator Coulter has a fundamental understanding of the nature, purpose and process of the GATT. Senator Coulter links the alleged growing gap between rich and poor nations with the last 40 years of the operation of the GATT. Certainly, the GATT has operated for 40 years. Some countries are doing a great deal worse and some are doing a great deal better. That may be fact, but is it fair to link those two factors?

I would argue that, for example, in the case of many of the African countries which have not done well over the last 40 years it is not because of the GATT. A variety of economic, political and social factors have led to very severe economic and social conditions in some of those African nations. Conversely, many nations, particularly in Asia and some in Latin America, have done very well over the last 40 years. I do not believe that because the GATT has existed for 40 years and some countries have done very poorly one can necessarily conclude that it is because of the GATT.

I would argue that many of the former colonies of Africa did not do well because when they became independent much of their infrastructure was destroyed by the removal of much of their bureaucracy. Generally, there was not a lot of preparation for independence for those countries. There was very little education and training of their work forces. The coupling together of ethnic groups in the countries of Africa bore absolutely no resemblance to any logical, geographical ethnic boundaries. There is a whole range of reasons why African countries generally have not done well economically over the last 40 years or so.

There is an assertion that the GATT usurps national sovereignty. In some respects, it allows countries to provide for a more fair and open trading environment. There are certainly some disadvantages in some sectors of national economies. But, at the same time, there are generally great advantages, particularly economic—even for the French. France is about the only area that Senator Coulter did not mention. Even French farmers would be better off, the wacky French farmers who are protesting and burning bales and tyres all over France and outside Paris, trying to maintain the ridiculously high level of subsidies on what they produce, all in the cause of some quaint, emotional, notional treatment that French men—generally French men, not French women—should be kept on the land. That is just wacky. The notion is completely absurd. As a nation, even the French would be better off if the GATT round that is currently being negotiated is concluded. So, yes,

it might usurp some aspects of national sovereignty, but that usurpation of national sovereignty is generally to the greater good of those nations and of world trade.

Senator Coulter poses the question: 'Has a nation the right to protect the rights of its workers?'. Very simply, yes, it does. We protect the rights of our workers in this nation. Interestingly—the opposition disagrees with this—we can protect the rights of workers by the use of International Labour Organisation conventions, a series of international conventions and treaties which assist the rights of workers. We have an international treaty which actively protects the rights of our workers as well as our own internal legislation.

There are many other criticisms that I have to make of Senator Coulter's approach. I sum them up by saying that Senator Coulter's view is a First World elitist view. He is basically arguing that the countries of the First World—Europe, North America and Australia—should maintain tariff barriers to the exclusion of many of the developing Third World countries. I absolutely and fundamentally reject that. If one asserts that we are one world with one citizenry, that we are to have that outlook on the world, then one cannot necessarily come to the conclusion that those former Third World countries—Korea, Taiwan and Thailand—are all developing and prospering.

I might disagree with much of the political, social and economic environments within those countries. I disagree with the way many of the workers are treated. I disagree with the political repression. But generally those societies are performing economically better. To simply say, 'Keep tariff walls high, keep out their goods and services and they will be better because of it' is absolutely absurd. As I have said, it is basically First World elitism. The only way the world can grow and prosper economically is for the initiatives that have been launched under the GATT banner to continue and to be developed.

The GATT sets out principles on which international trading systems operate. It is not a branch of the United Nations. It is not an institution in itself. It is a trade agreement in

which all the members, who are known as contracting parties, are in effect the directors of their trade. The GATT secretariat is a servicing body. It has around 400 persons. The GATT has no coercive powers. Disputes have to be referred to the various parties collectively for some form of collective decision making. The GATT itself does not seek out potential breaches of commitment. It does not provide for the payment of fines. The only sanction, which has been used once, is a suspension by the injured parties of their obligations.

The GATT is a code of rules of behaviour in relation to international trade. It provides collective protection for the small country against the strong—not, as Senator Coulter would allege, an opportunity for the strong to exploit the weak. That is simply not the case. Without the GATT as a reference point the economically strong powers, through their market strength, can coerce and shape the policies, both economic and social, of smaller countries. Many smaller countries have prospered under the GATT regime.

The GATT does not intrude into the internal sovereignty of countries. They are free to set their own economic agendas, and there is a very diverse range of economic agendas within the countries that are members of GATT. The trade occurs because of the interplay of the world economies, not because GATT exists. All the GATT does is to ensure that trade takes place on a fair and predictable basis. Policies followed by the individual contracting parties are their own affairs.

In the context of the motion that is before us today, the statement is made that there is a need to reorient all economic activity towards ecological sustainability. This infers that the GATT itself sets trade targets, directs trade or engages in trade. The GATT does not do that. It is not that sort of organisation. Trade is carried out by individuals within the framework set up by their own countries.

Sustainable development policies, which are very important—and this government acknowledges that—are not formulated by the GATT, but are formulated elsewhere. They are formulated at either a national level, as this government has been doing, or by other

international negotiations that are especially set up for that purpose. That is in precisely the same way as health, social, employment or industrial relations policies—I referred earlier to the ILO—are established. In the 46-year history of the GATT there has been no dispute arising through the carrying out of obligations under other international agreements such as, for example, the convention for the trade in endangered species. The GATT does not cut across that and undermine it in any way.

The GATT generally does not have views on these matters nor does it seek to set international standards in those other areas. It defers those questions to other international organisations. It is hard to see therefore in this global universality the acceptance of a perception not only by Australia but also the rest of the world that the GATT is, as stated in this motion, 'naive, dangerous and contrary to the urgent need to reorient all economic activity toward ecological sustainability'. In fact, the opposite of what is being asserted in this motion put forward to us by the Australian Democrats today is true. The GATT, by providing a rules based trading system with non-discrimination as its cardinal principle, ensures that the general anarchy that could evolve is minimised and that many of the trade problems are discerned and solutions sought and found.

It is an agonising process watching this particular Uruguay Round which I understand is the eighth set of negotiations under the GATT. It does have a wide agenda and that will bring services and intellectual property into the GATT system. But this does provide very significant benefits to a relatively small country such as Australia in providing some certainty in our trade negotiations.

We can still be injured by other countries' trading policies but the position would be much worse in the absence of GATT. There is no way that the destruction of the GATT could be considered in this country's national interest. In any case the GATT is not something for Australia to play with, but is a critical agreement to most of the countries in the world. Australia would not be allowed to

damage it; we would only succeed in marginalising Australia.

The Uruguay Round will bring very substantial benefits to Australia. I think Senator Margetts may object to this—I have heard her interjections to Senator Cook before—but it has been economically modelled and generally accepted. If the Uruguay Round is successfully completed there will be benefits of approximately \$2.5 billion a year to Australia. As I said earlier, whilst there will be, as there should be, some reductions in the ridiculous subsidies, those wacky French farmers who are out protesting everywhere and the French nation as a whole will benefit from the GATT negotiations and the Blair House agreement in its current form.

This government pursues policies designed to liberalise trade and to increase market access for our exports. Senator Cook, whom I must commend to the Senate, is doing an excellent job in this regard in attempting to maximise the Australian negotiating position in a very difficult world trade and negotiating environment.

Our efforts in the Uruguay Round to curb agricultural export subsidies provide a perfect example of how our economic and environmental interests can coincide—for example, in the form of a reduction in export subsidies which would reduce the incentive for intensive farming techniques, which would lead to soil and water degradation, oil pollution and the disruption of the ecological balance.

A successful conclusion to GATT, contrary to the argument of Senator Coulter and contrary to what I am sure will be argued by the Green senator, will in fact improve the economics and environment of this planet. I emphasise that the environment of this planet will be improved by successful conclusion to the GATT negotiations. In fact, many Third World countries will do much better in trade terms if the GATT negotiations are successfully concluded, so I ask the Senate to reject this matter of urgency.

Senator GIBSON (Tasmania) (4.43 p.m.)—I also oppose the motion, not because we in the coalition are against the principles which the Democrats and Senator Coulter are pursuing—that is, ecologically sustainable develop-

ment—but because we believe that marrying trade negotiations with environment constraints is inappropriate and not very practical.

I agree with Senator Sherry that we have to aim for increased economic growth. One of the preconditions of economic growth and higher incomes around the world as well as here in Australia is freer trade. Trade and competition are not sufficient but are necessary for increased wealth around the world within particular countries and around the whole globe. So we in Australia have been pushing certainly for many years now to reduce the barriers to trade, as have many other countries, and we have been signatories to GATT since its formation after the war.

I also agree with Senator Sherry that this matter is of particular importance to developing countries. It is the people of the really poor countries of the world who are at most risk from these trade negotiations. We in Australia have had the advantage of experiencing economic growth. In our lifetimes we have seen incomes per capita rise in real terms by three times since the end of World War II. Actual per capita incomes in Australia in about 1947 were about \$7,000 in 1991 dollars and in 1991 they were about \$22,000. That is a rise of about three times.

We all understand that out of that we have had options to spend more on the environment and clean up our environment as well as recognising through better education and communication what needed to be done. The South East Asian tigers have had growth about double the rate of ours and instead of trebling incomes over a 40-year period, they have trebled them over the last 20 years. Compare that with countries which have not pursued free trade such as Brazil and which have gone backwards. So there is not any question: we have to open up the world for trade.

The GATT is an agreement involving 105 countries. It is aimed at tariff reduction only essentially but without conditions. Of course, the last round, the Tokyo round in 1987, resulted in a reduction of average tariffs in the industrialised world from 7.4 per cent to 4.7 per cent. The Uruguay Round has been under way for seven years. In this whole business

Australia is a minor player, but we should be supporting the USA in the Blair House agreement with the EC and we should be pushing for settlement of the GATT agreement by the end of this year. As Senator Sherry said, there are large benefits for this country and large benefits for the whole of the world. For the whole of the world the estimates are about \$200 billion, or about half of Australia's GDP, being added to the world.

We in the coalition are also in favour of ecologically sustainable development, but I believe it is impossible for us to marry one ideal with the other. We are only a small player. If one looks at the history of GATT and the agreement of those 105 countries, one will see that it is virtually impossible to try to impose conditions on those trading agreements. Rather, we should work to try to persuade people in the developing countries in particular, and throughout the world, to improve the way they manage the ecology of the world. It has to be done but it is a very difficult task.

I have had some personal experience of endeavouring to work in a developing country. Many years ago I had a United Nations job with the Food and Agriculture Organisation and worked for about a year with the poor peasants in the hill country of Jamaica, trying to persuade them to stop their ecologically damaging practices of shifting cultivation. They were actually farming 30-degree slopes, growing beans and other vegetables. When the summer rains came, that soil got washed out to sea, and they would move on and clear the next bit of forest and so on and so on.

Shifting cultivation is basically acknowledged as the worst ecological problem in the poor world. I do not think trade has anything much to do with it, because most of the products that come from shifting cultivation are in fact consumed within the developing countries where they are grown. We have to try to persuade the people who find themselves in those terrible situations to adopt better practices and to open up those countries to trade. In fact, in the country where I was working, it was the rich people of the country who were putting restrictions on trade and

therefore holding down the incomes of the poor people in the hills who were indulging in these terrible practices.

In conclusion, we have to pursue the GATT trade negotiations. I think it is sad that during his recent visit to Europe, the Prime Minister (Mr Keating) did not schedule further trade talks with Germany, France and Belgium in order to put further heat on for finalising the GATT negotiations by the middle of December. Whilst we applaud the intentions of the Democrats, I am against the motion.

Senator SPINDLER (Victoria) (4.51 p.m.)—Listening to the last two speakers, I wonder to what extent they are familiar with the current GATT round of negotiations. I wonder whether they are aware of exactly what that round provides. I wonder whether they know that it is aimed at a continuing reduction of any type of support for manufacturing and other industries in any country with the aim of bringing about a global free trade situation. I will return to that in a moment.

My colleague Senator Coulter has placed before the Senate in considerable detail the Australian Democrats' concerns about how GATT is structured and how it works to depress environmental safeguards, wage levels, working conditions and quality of life to the lowest global common denominator. It will be useful to extract from this detail some general principles which indicate this government's policies on world trade.

These concerns can perhaps be best illustrated by juxtaposing two items of information. First, evidence was given to my inquiry into tariffs and industry development that Chinese textile industry workers were paid a wage of \$20 for a 48-hour week with no work safety provisions and no environmental safeguards. The second item is Professor Garnaut's quite ludicrous—in view of that fact—proposal some months ago that we should establish a free trade zone with China; a proposal which was immediately and warmly welcomed by Prime Minister Keating.

Clearly, it is important to remove some of the outrageous trade barriers which currently exist in the world. I refer particularly to the ones that the United States, France, Germany

and, to some extent, Canada have erected against Australian agricultural produce. In the main, these are in the form of subsidies which allow their farmers—for instance, through the United States export enhancement program—to push Australian farmers out of our traditional markets. This distortion has gone so far that some American farmers are deriving the bulk of their income from these subsidies. As an example, in Illinois in 1991 farmers derived more than 90 per cent of their income from subsidies while hundreds and thousands of Australian farmers were—and they still are—going to the wall.

We need to be careful, though, that we do not achieve reforms at the expense of our workers, our living standards, our environment, our industries and even, in the long term, our farmers. In the future when all barriers are removed and all countries are competing on an absolutely free trade basis, our farmers might be forced to farm the land in such a way that they will destroy it—and we have become conscious of that in recent years. They may fall, once again, below subsistence level, this time not due to the subsidies offered by other countries but because there are absolutely no limits and protections anywhere in the world in respect of maintaining standards either for our farmers or for anyone else.

If the attempt in the current Uruguay Round to remove these distortions succeeds—and the Democrats support this—it will be an extremely good result, for now, for Australia's primary producers. However, it does not follow that the government is entitled, as a necessary consequence of removing such extreme distortions in one particular industry, to continue its suicidal strategy to open up Australia's domestic market to cheap imports, many of which are produced at a cost which is one twenty-fifth of that which Australian manufacturers face, right across-the-board.

In a global sense, the Australian government is becoming a party to an agreement which will ensure that goods will continue to be produced in slave labour conditions and with total disregard of the environmental standards which we take for granted. The consequence is twofold: the often subhuman

conditions under which these goods are produced will be perpetuated; and bankruptcies and unemployment will continue to rise in Australia. Once again, it needs to be put on record that Australia needs an industry by industry assessment and a sectoral, positive industry and trade policy which integrates economic and social objectives and maximises the comparative advantages that a particular Australian industry has.

The GATT agreement, as it stands, clearly does not meet these requirements. Contravention of a country's health standards is the only ground currently admissible under GATT for the refusal of entry to goods into that country and, occasionally, even this may be circumvented. Clearly, if we are to develop an industry strategy which takes into account Australia's wage levels, working conditions, work safety standards and environmental safeguards, and which lifts global standards to at least these levels instead of the other way around, we must introduce a degree of flexibility into GATT. In particular, we must admit factors and circumstances which were part of the production process in assessing how a particular product could be treated under GATT rather than just the condition or properties of the finished product.

In direct questions to the minister, in the departmental briefing he courteously provided and in any other government statements, there is no trace, no indication, that the minister, his predecessors or any official acting on behalf of the Australian government have, at any stage, sought to introduce any measures or modifications to GATT to minimise the very real dangers of the present model. Nor has there been any consultation with the community or any public assessment of the consequences if Australia signs this particular GATT agreement. (*Time expired*)

Senator McGAURAN (Victoria) (4.58 p.m.)—I also wish to address the urgency motion moved by Senator Coulter. As with any of his motions and speeches, on this occasion the former Australian Democrat leader is again doing no more than satisfying his marginal constituency, his marginal followers, who sit in an unreal world and who are constantly going off on intellectual tan-

gents. The former Democrat leader uses words in his motion such as 'naive' and 'dangerous' in respect of the current formation of GATT.

While it is recognised that the GATT discussions—in particular, the Uruguay Round, launched in 1986—move at glacial pace and are frustrating, and that at times the word 'GATT' is ridiculed as standing for no more than 'general agreement to talk and talk', it is neither a dangerous nor a naive organisation, as Senator Coulter would have us believe. Rather, GATT is a well established organisation with 105 contracting parties, a secretariat of over 400, and committees and working parties which are set up to deal with current questions relating to trade between nations. It is, in fact, the United Nations of trade. It is a servicing body with no enforcement powers.

It would be 'dangerous' and 'naive', to use Senator Coulter's words, not to pursue the current negotiations and format of GATT. It would be dangerous and naive for Senator Coulter to suggest that Australia opt out, or change the current format, of the GATT round. It is estimated that a successful end to the current Uruguay Round of agreements would mean an extra \$1 billion per year in agricultural trade to Australia alone; that is some \$10,000 per Australian farmer.

It is estimated, as was stated by the government, that Australia's trade overall would increase by some \$2.5 billion. At a time when the Australian rural sector is facing its worst terms of trade in its history, this would be a welcome relief. It means access to new markets; that is the bottom line. At a time when the world growth has come to a virtual standstill with no optimistic predictions being made for over the next five years, the opening of new markets, or better access for Australian produce in agriculture, is fundamental to Australia lifting itself from the bottom of a recession; and it is fundamental to the lives of families of rural Australians. There is no other answer for the well-being of the now struggling and desperate rural sector.

The alternative for Australia, a small player in world trade, could be ruinous. Without GATT, trade wars would intensify and trade blocs would develop. We would be beaten in

this war before we started; Australia would be the first country to go out backwards. It would be a case of: who is in a trade bloc and who is not in a trade bloc? Existing world trade blocs, common markets or communities of cooperation would stiffen their resolve. NAFTA, for instance, could well include agricultural products if the GATT round were to fail, which would exclude important access of wool and beef into that trading region. Australia would be left to rely on membership of an Asian bloc which would be willing to include it.

As an economic measure of the effect of the world closing up its trading blocs, I refer to a paper—discussion paper No. 2—produced by the Australian Chamber of Commerce. It claims pessimistically that Australia's GDP would be lowered by 3.5 per cent relative to what it would be in 1993; the exchange rate would fall 15.5 per cent; inflation would increase by 4.9 per cent; interest would increase by 2.9 per cent; and unemployment would increase by one per cent. That is what Senator Coulter's sort of economics would bring down upon the Australian economy.

In conclusion, given the short time, and the cooperation needed with these motions, I would however say that I do not think for a minute that this is an easy process we are going through; and I do not think the government should build its agricultural policies exclusively, as it has done, around a GATT instigated breakthrough at some point on the distant horizon. Farmers have been told for well over a decade that they have to wait for GATT. They are still waiting. The government has used the GATT negotiations as the cornerstone of its primary industry policy. That has failed too. I happen to think a narrow band of policy settings based on the prospects of GATT is equally seriously dangerous and naive for the Australian farm sector.

Senator MARGETTS (Western Australia) (5.03 p.m.)—In supporting this motion, I would like to point out that the General Agreement on Tariffs and Trade was established in the wake of World War II as a counter to colonial domination and control of trade. Ironically, the Uruguay Round would

bring us full circle, where it is multinational corporations acting as the dominating and controlling agents of trade. GATT is not an organisation to regulate trade, it is true. It will not make it fair or safe; its brief is to remove regulation.

The direct implications of GATT include the erosion of national and international environmental standards—for instance, the famous US dolphin-tuna standards—and a similar thing may occur with rainforest timber in respect of the barriers against unsustainably harvested timber. The multilateral trade organisation that is to be set up will specifically target environmental, social and work related ‘barriers to trade’. There would be erosion of public health and consumer protection standards, through the Codex Alimentaire being substituted for national standards. It is not true that these will not be affected. This would not be able to be addressed by labelling, as differentiation of products may be considered also to be an unfair trading practice.

There would be further deregulation of the financial sector and financial services, which was at the root of the currency speculation that arose largely since the middle 1970s. Global trade in the short term money market is now over 75 times greater than trade in all real goods and services.

There would be increased regulation of intellectual property, which has been mentioned already. This process guarantees corporate control of items such as the smokebush in Western Australia which has been patented as a treatment for cancer by a United States company. Free scientific information published in major journals has been patented by companies not involved in its development; and recently the United States granted one company a patent on all future transformation by anyone of the cotton genome until the year 2017.

The indirect implications of the Uruguay Round of GATT are even more frightening. They are already evident in areas such as the US-Mexico border. The freedom of movement for corporations allows them to site wherever costs are lower—for example, where there is the cheapest labour and the least environment-

al and occupational health regulation. The loss of jobs in nations with stronger standards as corporations relocate creates continual pressure to reduce standards in the nations with higher standards.

Downward pressure exists everywhere. Korea says that its wages cannot be maintained because they make labour uncompetitive with Indonesia or Thailand. Thailand cannot raise its wages above the present \$4 a day because it is already uncompetitive relative to the lower wages in Vietnam. It is not just a problem for the north; nor is it a nationalist protection issue. It is a case of all nations losing for corporate gain. The nations most vulnerable to downward pressures are those which are poorest. Deregulation does not lead to poverty alleviation.

Consequences to date have been increased inequality and absolute poverty world wide. All developed nations have seen a growing division between rich and poor. Globally, we have seen a similar widening gap between the rich and poor nations. This dual economy is the major product of deregulation, as well as the loss of power for nations to respond effectively on economic matters.

We want fair trade, not free trade. The only people for whom trade is free are the big corporations. GATT will work against people of all nations for corporate profit. Making things attractive for international investment is the most frequent motive in major economic decisions. Corporate profits are booming, despite increases in global hardship. We need to regulate trade on a global basis.

The Brandt report published in 1980 highlighted the disaster caused by trade. It is not a problem of lack of freedom but lack of fairness. The Brundtland report published in 1987 re-emphasised the findings of the Brandt report. It stressed that the global environmental situation was becoming critical and that maldevelopment was at the bottom of it.

Trade is a major issue. Global environmental sustainability is dependent on responsible development. That is not what unregulated development would create. Addressing global poverty is dependent on responsible development. That, too, is not what unregulated development would create. GATT would be

disaster for the environment, for people and for any real sense of development. (*Time expired*)

Senator COULTER (South Australia) (5.08 p.m.)—in reply—I will take just a few minutes to sum up. I did not suggest, as Senator McGauran said, that we should walk away from GATT. Quite the contrary; I think the GATT meetings are meetings which occur behind closed doors with a very narrow and specific agenda which is not in accordance with either social justice or proper environmental protection. What I was suggesting was that the GATT process be opened up to take into consideration those far more important matters.

I will give my Senate colleagues in the government and in the opposition a little lesson in mathematics. If, as Senator McGauran said, the global economy is not growing and ‘growth is at a standstill’, and Australia is going to grow by \$2.5 billion per year, what will happen to other nations? If the global economy is not growing—and assume for the moment that gross world product is a proper measure of real benefit; it is not, but just make that assumption for the moment—and if we grow under GATT, it means that somebody else will become poorer. As Senator Margetts has just said—and as I pointed out earlier—the history of the world over the last 40 years shows that the difference between rich and poor has become much more marked.

The essential point that I want to establish is that under GATT it is not possible to go further back than the point at which goods or services land on one’s doorstep. So, if a nation is exploiting forests quite unsustainably, one cannot under GATT say, ‘We will not import logs from that country’. If a nation is exploiting its workers—and I will come to the rights of those workers in a minute—one cannot refuse the entry of those goods into ones country under GATT.

Senator Sherry seems to be under the misapprehension that the businesses in Third World countries are under the control of Third World people. The businesses in Third World countries are largely under the control of the multinationals that have gone in to take

advantage of cheap labour. I will give the example of such an industry that I saw on a trip to Western Samoa which I took during the winter recess. In the Yusaki factory in Western Samoa, some 1,500 workers, mainly women, are paid as little as a dollar a day for making cabling for motor vehicles which is sold into First World countries. That industry is Japanese; it is not owned by the Western Samoans. The industry has relocated from Melbourne to Western Samoa to take advantage of those very poor working conditions.

What we must be able to do is look further back than the point at which goods and services land on our shores, and discriminate according to whether those goods are being produced under conditions which are fair, reasonable and not exploitative, and which protect the environment. GATT does not allow that to occur. The whole point of this debate is that GATT needs to be changed to that extent.

To argue that GATT has been operating for 40 years, that the Uruguay Round has been going for seven years, and that we are somehow locked in, is to fly in the face of the evidence of this chamber changing the government’s mind on the Antarctic. Former Senator Jo Valentine raised the issue that the CRAMRA agreement should not be passed, despite the many years of negotiation that had gone on, and that Australia should go back and try to get world heritage for the Antarctic. After some considerable argument, with the opposition first supporting the government and then later recognising the advantage of not supporting the CRAMRA agreement, the government was persuaded to go back and renegotiate. While we did not get world heritage status for the Antarctic, we did get a vast improvement in the environmental management of that continent.

For Senator Gibson to say that the economy needs to grow for the environment to be improved is a nonsense. I just simply ask Senator Gibson: is the Australian environment better today than it was just after the Second World War, despite the fact that we have a per capita GDP which has gone up threefold? Did we have 1,000 kilometres of the Murray polluted with blue-green algae back in the

1940s? Did we have the extensive salinisation of soil, which has gone on apace? The economy has grown, but we are spending less on the environment. The opposition, of course, is supporting the government's tax cuts rather than putting some of that increased wealth into looking after the environment. But that really is an aside.

The point of this debate is to say to the government that this GATT agreement is fundamentally inimical to proper environmental protection, to proper protection of human standards, to proper protection of work conditions and, therefore, it needs to be modified. It is not a case of walking away from these negotiations but of going in with a different, a more open and a wider agenda and that we put that to the international community. Only then will all the people of the world benefit and not just the rich multinational corporations.

Question put:

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

The Senate divided. [5.19 p.m.]

(The President—Senator the Hon. Kerry Sibraa)

Ayes	9
Noes	<u>53</u>
Majority	<u>44</u>

AYES

Bell, R. J.	Bourne, V. *
Chamarette, C.	Coulter, J. R.
Kernot, C.	Lees, M. H.
Margetts, D.	Spindler, S.
Woodley, J.	

NOES

Alston, R. K. R.	Beahan, M. E.
Bishop, B. K.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H.
Campbell, I. G.	Carr, K.
Chapman, H. G. P.	Childs, B. K.
Coates, J.	Colston, M. A.
Cooney, B.	Crane, W.
Denman, K. J.	Devereux, J. R.
Ellison, C.	Evans, C. V.
Ferguson, A. B.	Foreman, D. J.
Gibson, B. F.	Herron, J.
Hill, R. M.	Jones, G. N.
Kemp, R.	Knowles, S. C.
Loosley, S.	Macdonald, I.

NOES

Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	McKiernan, J. P.
McMullan, R. F.	Minchin, N. F.
Murphy, S. M.	Newman, J. M.
O'Chee, W. G.*	Panizza, J. H.
Parer, W. R.	Reid, M. E.
Reynolds, M.	Schacht, C. C.
Sherry, N.	Short, J. R.
Sibraa, K. W.	Tambling, G. E. J.
Teague, B. C.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. A.	West, S. M.
Zakharov, A. O.	

* denotes teller

Question so resolved in the negative.

COMMITTEES

Reports: Government Responses

Senator McMULLAN (Australian Capital Territory—Minister for the Arts and Administrative Services)—I table the government's response to the President's report on outstanding government responses to parliamentary committee reports. I seek leave to incorporate the document in *Hansard* and move a motion in relation to the document.

Leave granted.

The response read as follows—

GOVERNMENT RESPONSE TO
PARLIAMENTARY COMMITTEE REPORTS
RESPONSE TO THE LIST TABLED IN THE
SENATE BY THE PRESIDENT ON 27 MAY
1993

PRIVILEGES—(Standing)

Possible improper interference with a witness and possible misleading evidence before the National Crime Authority Committee

Recommendation 2 by the Committee was that appropriate steps be taken to clarify matters of concern in relation to sections 51 and 55 of the National Crime Authority Act 1984.

As the Government had foreshadowed in its response to the PJC report "Who is to Guard the Guards?", the National Crime Authority Amendment Bill (No.2) 1992 was introduced in November 1992. The Bill was amended in the Senate in a manner unacceptable to the Government, and was subsequently not pursued in the House of Representatives in December. The Government is still considering what further action it might take.

COMMUNITY AFFAIRS—(Standing)

Alleged intimidation of witnesses—implementation of pharmaceutical restructuring measures inquiry

The final response to this report was contained in the document entitled Government Response to Parliamentary Committee Reports—Response to the List Tabled in the Senate by the President on 17 December 1992 which was presented to the Senate on 20 May 1993. No further Government response is necessary.

EMPLOYMENT, EDUCATION AND TRAINING—(Standing)

Inquiry into the operation of the Education Services for Overseas Students Registration of Providers and Financial Regulations) Act 1991

Tabled in the Senate 19 August 1993.

Wanted: our future—implications of sustained high levels of unemployment among young people (15-24 year olds)

The Government's response is expected to be tabled in the 1993 Budget sittings.

ENVIRONMENT, RECREATION AND THE ARTS—(Standing)

Australian environment and tourism report

The report raises a number of issues which require further consideration by interested parties before a substantive response can be finalised. The federal election period delayed consideration of these issues.

Work is currently being undertaken to resolve outstanding issues and the Government expects to provide its response for tabling during the Budget session of the Parliament.

Physical and sport education

The Government's response is approaching finalisation and is expected to be tabled in the 1993 Budget sittings.

FINANCE AND PUBLIC ADMINISTRATION—(Standing)

Management and operation of the Department of Foreign Affairs and Trade

Tabled in the Senate 19 August 1993.

FOREIGN AFFAIRS, DEFENCE AND TRADE—(Standing)

Implications of United States policies for Australia

The response to this report is to be tabled during the 1993 Budget sittings.

INDUSTRY, SCIENCE AND TECHNOLOGY—(Standing)

(Now Industry, Science, Technology, Transport, Communications and Infrastructure.)

Gas and electricity—combining efficiency and greenhouse

The Government's response to this report is expected to be tabled in the Budget sittings.

LEGAL AND CONSTITUTIONAL AFFAIRS—(Standing)

Feasibility of a national ID scheme; the tax file number

The Government's response to this report will be provided in due course.

Review of determinations of the Human Rights and Equal Opportunity Commission and the Privacy Commissioner

The response is to be tabled during the 1993 Budget sittings.

Doctrine of the shield of the crown

The response is expected to be tabled during the 1993 Budget sittings.

Proposed amendments to Part VA of the Trade Practices Act 1974—product liability—where should the loss fall?

The Government intends to respond to the report in the 1993 Budget sittings.

The cost of justice—foundations for reform

The response is expected to be tabled during the 1993 Budget sittings.

RURAL AND REGIONAL AFFAIRS—(Standing)

A national drought policy—appropriate Government responses to the recommendations of the Drought Policy Review Task Force—Final Report

The Government's response to this report is expected to be tabled in the Budget sittings.

Beef cattle feedlots in Australia

The Government's response to this report is expected to be tabled in the Budget sittings.

TRANSPORT, COMMUNICATIONS AND INFRASTRUCTURE—(Standing) Now Industry, Science, Technology, Transport, Communications and Infrastructure.)**Report on aspects of heavy road vehicle charges**

Presented to the President of the Senate on 20 July 1993 and tabled on the 17 August 1993.

COMMUNITY STANDARDS RELEVANT TO THE SUPPLY OF SERVICES UTILISING TELECOMMUNICATIONS TECHNOLOGIES—(Select) (now Community Standards Relevant to the Supply of Services Utilising Electronic Technologies)**Final report**

The Government intends to respond to this report during the 1993 Budget sitting.

SUBSCRIPTION TELEVISION BROADCASTING SERVICES—(Select)**Final report**

The final response to this report was contained in the document entitled Government Response to Parliamentary Committee Reports—Response to the List Tabled in the Senate by the President on 17 December 1992 which was presented to the Senate on 20 May 1993.

SUPERANNUATION—(Select)

Super and the financial system

A response to this report is under consideration and will be provided in due course.

CERTAIN ASPECTS OF THE OPERATION AND INTERPRETATION OF THE FAMILY LAW ACT —(Joint)

Family Law Act 1975: aspects of its operation and interpretation

The Government intends to respond to this report during the 1993 Budget sittings following the conclusion of the Government's deliberation on the substantial policy issues raised by the report.

CORPORATIONS AND SECURITIES—(Joint)

Close Corporations Act 1989

The Government intends to respond to this report during the 1993 Budget sittings.

ELECTORAL MATTERS—(Joint)

The conduct of elections: new boundaries for cooperation

To be tabled in the 1993 Budget sittings.

Counting the vote on election night

To be tabled in the 1993 Budget sittings.

Ready or not—refining the process for election '93

To be tabled in the 1993 Budget sittings.

FOREIGN AFFAIRS, DEFENCE AND TRADE—(Joint)

Stock holding and sustainability in the Australian Defence Force

Tabled in the Senate 19 August 1993.

MIGRATION REGULATIONS—(Joint) (now Migration)

Australia's refugee and humanitarian system: achieving a balance between refuge and control

This report raised a number of complex issues which the Government is examining. A formal response will be provided at the earliest possible date following the conclusion of Government deliberations.

Conditional migrant entry: the health rules

The Government is examining the complex matters raised by this report and expects to table a formal response at the earliest opportunity following consideration of the related policy issues.

NATIONAL CAPITAL—(Joint) (now National Capital and External Territories)

Our bush capital—protecting and managing the national capital's open spaces

Prior to the March 1993 election, responsibility for preparing the Government's response to the Joint Committee on the National Capital's report, Our Bush Capital—Protecting and Managing the National Capital's Open Spaces was with the then Minister for the Arts, Sport, the Environment and Territories. Following the transfer of responsibility for the Australian Capital Territory (Planning and Land Management) Act 1988 and the National Capital Planning Authority to the Minister for Health, Housing, Local Government and Community Services, preparation of the response became the responsibility of that portfolio.

The response will be tabled in Parliament in the 1993 Budget sittings.

NATIONAL CRIME AUTHORITY—(Joint)

Legal casinos and organised criminal activity

The Committee's inquiry was suspended in June 1992 and has not been resumed. Therefore no Government response is required.

PARLIAMENTARY ZONE—(Joint)

Future of Old Parliament House

To be tabled in the 1994 Autumn sittings

Senator McMULLAN—I move:

That the Senate take note of the document.

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

DOCUMENTS

The PRESIDENT—Pursuant to the order of the Senate agreed to on 18 August 1993, I advise honourable senators that the Manager of Government Business in the Senate lodged government documents with the Clerk immediately after prayers today. The list of the documents is attached to today's red.

**National Board of Employment,
Education and Training and its Higher
Education Council**
Preliminary Advice

Senator TIERNEY (New South Wales)
(5.27 p.m.)—I move:

That the Senate take note of the document.

The document before the Senate today is the preliminary advice of the National Board of Employment, Education and Training and its

Higher Education Council on planning for the 1994-1996 triennium. Broadly, NBEET has agreed that growth in the higher education system should be carefully targeted to regions that are experiencing greater than average population increases for undergraduates and to areas of research strength for postgraduate research students.

The advice states that while the Higher Education Council does not propose that there be substantial growth identified for the higher education sector, there are a number of factors which suggest that some growth is needed. I find that last statement—'some growth is needed'—rather amazing. This government obviously does not understand the extent of shortfall and unmet demand for places in our university system. It is planning small growth at a time when we are turning 50,000 people away from universities every year. That will not go away.

The Senate Standing Committee on Employment, Education and Training undertook a study into adult and community education and found that there is a tidal wave of demand from people who want to upgrade their skills and move into either TAFE or university education, but the places are not there. The government might think it is going to redirect post-secondary education in this country more towards the TAFE sector, but ANTA has just begun and the preference of Australians is still for the university system. These things will not be turned around overnight, so it is rather amazing that the advice being given to the government is for low growth.

NBEET also states in this advice:

Growth in postgraduate student numbers is necessary to accommodate growth in undergraduate completions, to maintain an appropriate level of opportunity for graduates to achieve a high level of research skills.

There will not just be growth in undergraduate completions; there will be a massive growth in demand for people wanting to go on to further degrees. The fact that the government has suddenly brought in a doubling of the HECS fees for these people will really do nothing towards creating the clever country.

I cannot remember any senators opposite suggesting, before the last election, that they would garrote higher education postgraduate research and student completion of awards in this area by doubling fees. I challenge any of my colleagues to recall any statement by the government before the election that it was going to put up fees in this area. This is just another lie from this government. What will happen is that a lot of people who proposed to do a second degree and gain the skills that a clever country needs will just not go on and do it because of this additional cost.

NBEET has also advised the minister that the allocation of research postgraduate load should be based on evidence from institutions of the research management plan. It says:

Growth places must be directed to areas where the institution has research strengths and where there are trained supervisors.

That seems fine on the surface, but people have to realise what the government's hidden agenda is. When that particular piece of gobbledegook is translated, it means that the government will focus its resources and support the 'big seven' concept of universities. The effect of this, as our Senate inquiry into university research has revealed, will be to create either a new binary system or a four-level system of post-secondary institutions in this country where the rich will get richer and the poor will get poorer. Those universities that have established track records will be getting preference.

So instead of assisting the newer universities and giving them proper research infrastructure and spending the sort of money the government should be spending in this area, it will is to concentrate on just a few. That is totally at odds with the developing direction of the findings of the Senate standing committee inquiry into universities. People are telling us that the research money should follow expertise wherever that may be—whether it is in country New South Wales or in the centre of Melbourne—and it should not be focused in the way that is indicated.

My last point relates to the other funding that the government is putting into infrastructure, which is also inadequate. In this advice, NBEET has warned the government that

quality of higher education will decline if there is any further funding reduction, and that has occurred, as indicated in this report.
(Time expired)

COMMITTEES

Legal and Constitutional Affairs Committee Report

The ACTING DEPUTY PRESIDENT (Senator West)—Pursuant to the resolution of the Senate of 23 August 1990, I table the report of the Senate Standing Committee on Legal and Constitutional Affairs on the constitutional aspects of the Taxation (Deficit Reduction) Bill 1993, which was presented to the Acting Deputy President (Senator Childs) on my behalf on 20 September 1993. In accordance with the terms of the resolution of the Acting Deputy President, I authorise the printing and circulation of the document.

Ordered that the report be printed.

Senator VANSTONE (South Australia) (5.35 p.m.)—by leave—I move:

That the Senate take note of the report.

This document is one that I have had a hand in writing, as have Senator McKiernan and Senator Chris Evans, who are sitting opposite; Senator Ellison, who is sitting behind me; and Senator O'Chee. The remarks I wish to make relate to that report and, in particular, to the response to that report thus far by the current discredited Treasurer (Mr Dawkins). It is important to address this report tonight at some length because the response by the government is very instructive for us as to the way the government has responded to this Senate report, obviously, and as to the way it thinks about the Senate as a whole. In particular, it is very instructive as to the mind-set, the thinking and the intellectual capacity of the Treasurer.

The night that this report was released the Treasurer appeared on a national radio program on the ABC, *PM*, saying that he had gone back and asked his legal advisers to see where risk might exist and whether there was anything we could do to minimise that risk. What kind of a disgrace is that? There had been a constitutional cloud of doubt over this

bill from almost the minute that it was presented. The government had every opportunity to get every bit of advice it wanted; it had received advice; it had the benefit of the legal advice that the committee had received; and the most pathetic response we got from this Treasurer was, 'Well, I'll go and get some advice on it'. Of course, we know what happened. Overnight, the advice clearly was to split the bills. Nonetheless, that is an indication of how recalcitrant and reluctant this Treasurer is to listen to what he is told—

Senator Campbell—Petulant.

Senator VANSTONE—As was interjected by Senator Campbell, it is an indication of how petulant this Treasurer is. He said that the committee had given no explanation as to what the risk was or where it lay in the bill. What the committee did was to answer the questions it was given by the Senate. There were two reasons why a lot of detail was not spelt out. One was that it would be obvious to blind Freddy with a mask on that if the answer to the question, 'Does this bill impose taxation?' was 'Yes', or, 'There is a significant risk that it does', everything else followed. Someone doing constitutional law I—probably legal studies in year 12—would understand the reasoning and the relationship between section 55 and section 53, the powers of the Senate and the way in which a bill had to be drafted.

As I said, blind Freddy with a mask on could see that if this report said there was a real risk which was substantial, the High Court would hold that this bill did impose tax and the rest followed, namely, because it dealt with a number of subjects of taxation, it would be in contravention of section 55. That did not need to be spelt out to the most inarticulate, ill-informed person that I have come across, so why the Treasurer felt the committee should point it out, I do not know.

The following day the Treasurer went on to say that these bills would be split. He made some other remarks and it is those remarks that I particularly want to spend some time addressing. He was asked by a journalist whether he felt somewhat betrayed by the Labor senators in this situation. I think that question goes to the heart of what Senate

committees are all about and the Treasurer's response goes to the heart of how he, and probably other members of this government, think Senate committees should behave. The question was:

Do you feel somewhat betrayed by Labor senators in this situation?

The inference being that Labor senators on the other side of the chamber will always do in committees as they are instructed; that they have no regard for the truth; no regard for what the proper story is that should be put before parliament; and, if there is any difficulty created in a report, then they will not sign that report and their job is simply to sign reports that make it easy for the Treasurer. That was the inference to be drawn from the question and, of course, it was a very well placed question because the response was:

I could not, in polite language, describe how I feel about the members of that Committee, including those from my own party.

So the Treasurer is saying that the members of his party who were on this committee should have ignored the advice that they were given; ignored the evidence that was put before the committee; ignored the real risk, if this bill was left in its current form, that it would later go to the High Court, be challenged and be held to be invalid; ignored the consequences for millions of consumers around Australia who are already, because of this Treasurer's ineptitude, paying higher prices for goods that they need not pay because some of these taxes might not be passed; and ignored what was described by one witness as potentially Australia's greatest fiscal nightmare, in that taxes would have been paid and have failed to have been collected under an invalid law, given that there are exemptions and reductions included.

The Treasurer is saying that his colleagues on the opposite side of the chamber should simply ignore Australia's greatest potential fiscal nightmare. He is saying that they should put out a report which says, 'If the Treasurer wants to have a go at this, let him have a go. We will remain silent about the things we know'. There can be no greater insult to members of parliament—be they Labor, Democrat, Liberal, Independent or Green—

than to suggest that they will come into this place and simply, on all occasions, sing the tune of their respective parties, whatever the risk to the nation.

But that is apparently what this Treasurer expects. This petulant, failed Treasurer, who chose to package the bill in this way, somehow believes that a Senate committee should simply endorse what a bill says and that it has no business in questioning his choice to package the bill in this way. The Treasurer is not that informed. He went on to say that only one sentence in the report includes any sense of wisdom. And I thought Senator McMullan was one of the most condescending people I have ever met!

Mr Dawkins said, 'Only one sentence in the report includes any sense of wisdom'. The Treasurer can glean nothing out of the report—all the work that has been done, all the evidence that has been given by people who are both well-intentioned and well-informed. Some of them came to opinions that were different from others. Nonetheless, all this work had been done and all the Treasurer could say was, 'Only one sentence includes any sense of wisdom'.

The Treasurer then went on to say that the rest of the committee report is just speculation and simply the opinion of a 'collection of people'—obviously the terminology is chosen to denigrate the committee in some way—'who are, after all, just politicians'. We are all politicians. The Treasurer seems to miss the point that he is one too. He said, 'They are not High Court judges and most of them are not even lawyers'. Senator Chris Evans, you can help me out by a nod or a wink as to whether your profession—

The ACTING DEPUTY PRESIDENT (Senator West)—Order! Senator Vanstone, address your remarks through the chair.

Senator VANSTONE—Senator Chris Evans, if he were listening—which I am sure he is—could help me by indicating whether his profession before coming into this place was one which required legal qualifications.

Senator Chris Evans—Certainly not.

Senator VANSTONE—The Treasurer is still wrong, because he says that most of the

committee members are not even lawyers. In fact, half the members of this committee have legal qualifications: Senator O'Chee, Senator Ellison, Senator Cooney and me. I am not sure about—

Senator O'Chee—Senator Spindler has legal qualifications.

Senator VANSTONE—Senator Spindler also has legal qualifications. That is a majority of members. That is how ill-informed this man is. He rattled off something about committee members being incompetent and having no knowledge of law. He said that most of the members of the committee are not even lawyers. However, when we do a quick count, we find that most of them are. So I do not know where this man is coming from. I wonder whether I should bother reading anything else that he has said.

Mr Dawkins said one thing which caused amusement in the supermarkets. Pretty soon there will be a slow clap in the supermarkets like the one which can be heard at artistic performances. When a performance is running late, there is a slow clap from the audience, demanding that something happen. This will happen to Treasurer Dawkins. In response to a question from Paul Lyneham, he referred to the times when it becomes necessary for him to leave Fremantle. Poor petal, having to leave Fremantle! He chose this job and he can choose to leave it any time he likes. It is not necessary for him to come here. One might argue that we would all be better off if he did not.

He said that, when it becomes necessary for him to get on a plane and come to Canberra, the prospect of retirement does well in his mind. Let him give the job away. Are we all meant to be lying in the aisles and saying, 'Change the Senate committee report because it is all too frustrating for a Treasurer who messed it up in the first place'? Is that what we are meant to do? Oh, no! Mr Dawkins is thinking of retiring. Let us give it away. Let us cause no more difficulty. Let us not look at the constitutionality of this bill. Let us ignore our responsibilities in this chamber to get things right in the first place.

Let us say, 'If Mr Dawkins wants to pass this, whacko! Let's pass it and give it a run.'

Let's give it a burl. Let's run it through the High Court. Let's run this high risk and face this constitutional and fiscal uncertainty and fiscal nightmare; because otherwise Mr Dawkins might have had too much and will want to give it away'. It is obviously a ludicrous proposition.

A number of other points need to be made with respect to Mr Dawkins. One colleague opposite, Senator McKiernan, described him as aloof. I do not disagree with that. It clearly indicates that he is somewhat out of touch. In fact, Senator McKiernan was very helpful when he said:

I am not surprised at all by his comments and reaction. The guy is an elitist and he is aloof.

I do not think being elitist is necessarily a bad thing. People are entitled to choose their course in life. But that brings us back to the Treasurer's remarks about senators in this committee not being able to deal with more than one matter at a time; in particular, it tells us something about this Treasurer. He behaves badly under pressure. He feels under pressure; he feels responsible—which is quite a good thing, because he is. When he gets to a particular stress point, he wants to give it all away. But when he is in that position he does something else which is particularly unattractive. When the blowtorch is applied to him, instead of accepting responsibility and trying to fix the problem, he has a go at his mates.

I would have thought that the concept of mateship, as it has developed in Australia generally, but more particularly in the Labor Party, means that people are accepted with their good and bad points and mates are not bucketed simply because they have a different view. There are two people who sit in this chamber—I do not know whether they regard themselves as mates of Mr Dawkins; I do not understand the factional arrangements within the Labor Party to the extent that I could comment on that—who are members of his party. Because they have not done his bidding, whistled to his tune and done exactly as he wanted, he says that there is no way he can describe what he feels about them in terms that could be printed.

On one occasion the Treasurer said of senators, 'What's wrong with those people?

Can't they deal with more than one matter at one time?'. He even described senators as being feeble-minded people—totally bypassing the point. He insulted us by calling us feeble-minded; it was he, after all, who packaged the bill in an unconstitutional form, or at least in a form that runs a high risk of being considered unconstitutional. He said that we are feeble-minded people who cannot consider a number of issues at one time.

He completely bypassed the very important point that what we do in this chamber with respect to bills and how we deal with them—that is, whether we can introduce them and the way in which we might amend them—is quite clearly indicated to us by the constitution. We probably all appreciate that the way that we deal with them if we get it wrong is a matter between the houses. But what is important is that section 55 of the constitution, as it relates to this matter, makes it quite clear that when parliament wants to pass a bill imposing taxation, that bill should deal with only one instance of taxation.

So the Senate's desire to have this matter investigated by the Standing Committee on Legal and Constitutional Affairs and reported back has nothing to do with the difficulty of considering one, two, three, four, five or six matters at one time; it quite simply has everything to do with a desire to ascertain whether the legislation that we are dealing with would, if passed, be in conformity with the constitution.

At one stage, Mr Dawkins indicated that he thought the Senate inquiry had been a big waste of time and money. It cannot be a waste of time and money for the Senate to ascertain whether legislation it is dealing with would, if passed, be held to be valid or invalid. I would have thought that might be one of the primary things we would be required to look at.

Or is Mr Dawkins suggesting that we should sit here and willy-nilly pass things irrespective of what the constitutional restraints might be and without looking back to see the reasons why those restraints are there and attempting to comply with them. In fact what he is saying is that cabinet will decide what the constitution says for the purposes of

today and tomorrow and he or she who wins power in the lower house can decide what the constitution should say and everyone else should just accept it. Australian consumers run the risk that the cabinet of the day has got it wrong.

The first and most important point I want to make in respect of this report is, namely, that the reaction of the Treasurer tells us something. It tells us that the Treasurer is under pressure and that he is a man who behaves badly when he is under pressure. He comes out on the attack rather than accepting responsibility, attacks rather than trying to find a resolution to the problem, believes the Senate should ignore what the constitutional restraints are on parliament and also believes the Senate should ignore the reasons why section 55 was structured as it was and just pass legislation as he wants.

He is a man who when under pressure not only attacks anyone from the opposition or the Democrats, which is understandable in the political process, but also expects his colleagues and his mates to follow his tune at any time. They decided to tell the truth in the unanimous report of the committee by saying that there was no way but to decide that the Taxation (Deficit Reduction) Bill if passed in its present form would run the real risk of the High Court considering that it imposed a tax under section 55.

Of course the rest follows. On the face of it we can see that if the bill imposes tax, it imposes a number of taxes and consequently it would be held to be invalid. What we learn about the Treasurer is that he is a pig-headed, stubborn man who wants his way on all occasions and when he does not get it he will not only have a go at anyone in sight but also swing the guns around on his own colleagues as well. That is a pretty disgraceful performance.

The second point I want to make in respect of this matter is the Treasurer's attitude to the community at large. Mr Acting Deputy President, do you know that Australian consumers, taxpayers and the people in the gallery are paying higher prices now in the shops because the people who are selling them the goods anticipate that most, if not all,

of these taxes will be validated? Obviously if these taxes are validated the retailers are going to have to pay the tax, if they have not already paid this tax on the goods that have come in. They have to cover their costs. The last wholesaler is charging the tax to what is presumably the retailer and then the retailer is putting up his or her prices to cover that cost.

If any of these taxes are invalidated the Attorney-General has indicated, if we do not mind, that he understands that these taxes, if they are being collected now, are being collected invalidly. There is no power to collect these taxes. We have all heard the old saying 'No taxation without representation'. That actually means something.

This country is covered by the 1689 Bill of Rights which states that there is to be no taxation unless it is approved by parliament. We have allowed a practice to develop, which some have raised to the level of a convention, that once taxes are announced in the budget people will assume that they will become law and behave as though they are law. Of course this results in the sticky mess that the government has got itself into when it tries to introduce legislation by press release or budget. The government has to consider what happens when it all comes unstuck and people have paid these taxes in anticipation of the taxes being validated. Clearly some of these taxes are not going to be validated.

What does that mean? It means that people who bought a bottle of wine that was delivered after this budget was brought down have paid more for the wine than they otherwise would. They have no right to get that tax back. They have no obligation to pay the tax. The obligation falls on the wholesaler.

If the tax is not validated and the wholesaler does not have to give the tax to the government, the wholesaler will keep the tax he has collected and the people who have bought a bottle of wine since the budget have got two chances of getting a refund—Buckley's and none. That applies to every other tax that is at risk. That is the situation that we are faced with. This fiscal uncertainty has been created because of a Treasurer who decided that the best way to proceed was to

bully the Senate and try to lock packages in so that the Senate had to take it all as a whole.

Some members opposite might think that is smart, a good idea and politically and tactically sensible. But when the time comes, as it inevitably will, when the government is on the other side of this chamber, it will have a different view. When the time comes to answer to someone as to why government members bother to collect a salary if they are not prepared to do any more than simply rubber stamp what comes from downstairs, they might have some embarrassment. I would have some embarrassment taking my salary if I thought my only job was to sit in this chamber and say, 'Yes sir, no sir' to whatever comes from the other place.

We see day after day in this place examples of where the other place messes it up, where the people with the majority take no notice of detail, shove bills through with speed, guillotine 40 or 50 bills in a week and then send them to the Senate for us to clean up the mess. If the attitude being taken on the other side is that it is all okay and the Treasurer wants it done this way and they want to be able to blackmail the Senate into all or nothing at all, then the people who are paying for the salaries of senators are wasting their money.

Mr Acting Deputy President, you may as well have the sack. We can send the Deputy Clerk somewhere else because she will not be needed. No-one else will be needed. We can get rid of half of this building that we have just spent over a billion dollars on, throw it all down the drain and go to a unicameral system.

The attitude is that we should give the government of the day that is elected on the cyclical fortunes of public will a complete carte blanche. I mean no disrespect to Mr Acting Deputy President because he is from the opposition party in Queensland, but my view is that there is no better example of the problems that a parliament can get into with a unicameral system than the state of Queensland. Anyone who wants to get rid of an upper house need only look there for the troubles that a parliament can get into when

it does not have a second house to query what the executive is doing—there is no effective brake on the executive.

So if Senator Chris Evans, Senator Cooney, Senator Bolkus and all government members think that the Senate is being obstructionist because it is doing its job, then they should give their preselections away and let someone else come in here who actually wants to do the job. We need a person who wants to do the job of reviewing what the executive of the day wants to do and who wants to have a real say and not just a token gesture of expressing a view and then leaving it up to the lower house to take any notice of it or not.

Senator Evans is only new in this place and I am astounded that he could be looking over with a frown as if to say he does not understand what his job is.

Senator Chris Evans—I don't understand your argument; you were complimenting us a minute ago.

Senator VANSTONE—It does not surprise me that Senator Chris Evans does not understand the argument. For his benefit let me repeat my argument in a very simple and short form. The argument is that if one wants to simply accept what comes up from the lower house and have no say in the benefits or otherwise of it and if one wants to accept it irrespective of its constitutional propriety or otherwise, then the question is raised of why we bother having a Senate. It follows that those on the other side who simply think they should do what their colleagues in the lower house want them to do should give up their preselection. They have no business being in this place and accepting taxpayers' money if they are not prepared to do the job.

I will conclude by summarising the two points that I have sought to make, which obviously have had little success with Senator Chris Evans. First, what we have seen is that the Treasurer is a petulant little man who behaves very badly when he does not get what he wants. Instead of accepting responsibility and trying to find an acceptable way through the problems, he stands on his heels, stamps his foot and threatens to get out of this place because he does not think that he is getting a fair go.

The Treasurer is a man who, when under pressure, attacks everybody else, including his colleagues and his mates. He expects his colleagues in this place to ignore the clear evidence that is put before them. He expects them not to flag a warning of the risks involved in legislation being packaged in a certain way, but wants them simply to toe the party line. I would say that means he expects them not to do their job, even though they are paid with taxpayers' money.

After all, we get paid a significant amount of money. As I understand it, when one adds up the cost of the rest of the services in this place, including office accommodation, it costs pretty close to \$400,000 a year to keep one person here. There are eight members of the committee and so it costs \$3.2 million a year to keep those senators going. However, the Treasurer cannot understand why the Labor members of the committee could possibly have reached the conclusion that they did. He has nothing kind that he can say about them. That tells us something as to what he thinks about the Senate.

The second aspect follows from the first. Having received this report, the Treasurer's total demeanour indicates that he would rather not have this place. He would rather be a little dictator who could simply say, 'This is going to be the budget. It doesn't matter whether it is constitutional or not. We'll take that chance. Brave us, the government, and we'll take the chance'. That proposition neglects the very important fact that the taxpayers are the ones on whom that chance has a significant effect. If the Treasurer had his way to proceed as he wished, the taxpayers are the ones who would be mucked up; they are the ones who are paying the higher prices; they are the ones who will have the fiscal nightmare; and they are the ones who will have the paperwork nightmare in seeking to resolve and unravel the problem.

I might have heard Senator Chris Evans incorrectly, but I thought he was interjecting that we could pass retrospective validating legislation.

Senator Chris Evans—Pass the legislation.

Senator VANSTONE—He might have been saying, 'Pass this legislation'. If he was,

he is caught by the same disease as that which afflicts the Treasurer. He is saying, 'Don't worry about all those things, just pass the legislation'. As a member of the committee, Senator Chris Evans must understand that if we pass this legislation which, if challenged, is then held to be invalid, that does not solve the problem. The seal of approval from this place does not make something constitutional. That is why this committee was being asked to advise on the risk of treating this as legislation that would be held to be valid. That was the whole point of the inquiry. That is what I thought Senator Chris Evans understood.

Senator Chris Evans—Current tax bills.

Senator VANSTONE—He now interjects in terms of current tax bills. Well, that is not at all helpful to the insights we get from Mr Dawkins's response to the tax bill that he proposed in the first place. I would simply say that we did the right thing in proceeding to inquire as to whether they were constitutional. If that bill was not constitutional and it was passed, I feel that London to a brick it would be challenged; there was a real risk that it would be held to be invalid. There was another way to package the bills which would still give the government its way, but that constitutional and fiscal uncertainty would not have been inflicted on taxpayers who are now paying higher prices in the expectation of these taxes being validated.

Last but not least, we have a test bill wheeled up to us. The government's idea is: 'Why not vote for something that you think is unconstitutional because then we can get the High Court to test it?'. I am not at all certain that the problem has been solved when I look at the repackaging of these bills. I certainly hope that it has been solved but my deep suspicion is that it has not. If I am right, it will tell us that yet again the Treasurer in a determined way is seeking to lock the Senate into accepting a number of options at any one time in order to push the government's view through this place. This would not allow the Senate to operate as a proper house of review. That would a very sad thing not only for the legislative process but also for the Treasurer because, hopefully,

if that is the case, those opposite would decide that his time has come, as mine has in this debate, and that he would have to go. (*Time expired*)

Senator COONEY (Victoria) (6.05 p.m.)—This is a report from the Senate Standing Committee on Legal and Constitutional Affairs given in response to a request made by this Senate on 31 August 1993 to consider a series of questions on the constitutional aspects of the Taxation (Deficit Reduction) Bill 1993. Senator Vanstone has spoken a bit about the background of this report. But she also said that my good colleague Senator Chris Evans should not be taking the Queen's shilling as a senator if he is not going to stand up to his party. On this occasion if anyone took a position independent of their party it was the four government senators on the committee. They did not make any additional remarks to the unanimous report. I am not condemning Senator Spindler, Senator Ellison, Senator O'Chee or Senator Vanstone for doing that, but if the proposition is to be put in this chamber that it is the senators on this side that somehow have crumbled under the pressure from their party, I submit that the evidence is quite to the contrary.

Senator Vanstone—That's not the proposition. It is what your Treasurer expects of you.

Senator COONEY—Whether the Treasurer (Mr Dawkins) expects that or not, the fact is that, in so far as this report is political, the political part of it did not come from the government senators who sat on that committee. Just as it is important for senators on this side to look at things apart from their political colleagues at times, so it is incumbent on those opposite to do the same sort of thing and they probably did. But if one looks at the evidence—that is, the additional remarks made by Senator Vanstone, Senator Ellison and Senator O'Chee and the additional opinion given by Senator Spindler—they were formulated in accordance with their respective parties' position. In exercising their independent minds, it was fortunate that they were able to do so in accordance with what their party wanted.

When suggestions are made in this chamber that senators ought to take an independent

approach and that they should not take the money they are paid unless they do so, it is to be remembered that in this particular instance it was the government senators, the Australian Labor Party senators, who on the evidence could legitimately say that they did that. The other senators on the committee could also say that but the evidence is not so strong on their behalf.

Senator Vanstone—I thought the evidence led to an obvious conclusion that everyone concurred in.

Senator COONEY—As far as I can see, the additional remarks made by Senator Vanstone, Senator Ellison and Senator O'Chee to the unanimous committee report do not speak about the necessity for this budget to be got through with integrity so that there is a balance between the spending and revenue collecting provisions of the budget. Honourable senators opposite might have come to the conclusion that the bill should be split, but if they had wished to give a balanced opinion, one hopes that at least they would have raised the issue of the necessity for the budget to be balanced. I do not see that issue addressed anywhere in those additional remarks.

The Treasurer has been taken to task. The Treasurer has the constitutional duty to bring forward a budget. He has the moral duty, the political duty and, indeed, the most responsible duty of making sure that the budget that is brought forward is balanced. If he is to be faced with a situation where his spending provisions—his spending legislation—are allowed through but his revenue collecting provisions are to be knocked over, then this country is in trouble. That is not addressed in the additional remarks.

The problem is in the constitution itself to a large extent. Section 55 introduces legal considerations into a part of the constitution which would otherwise be a set of provisions which allows for the political play between the two houses. Sections 53, 54 and 57—and 56, for that matter—talk about proposed laws. That simply means that bills, as distinct from statutes, shall be handled in a particular way. Those provisions set up a scheme for political play. That is what it is all about—the sorts of

things the Treasurer does, the sorts of things the opposition does, and the sorts of things they have done in this particular case, where there is a battle of wills, where political manoeuvres and mechanisms are used to get particular provisions through or to resist them. That has happened. So to that extent it is political.

Section 55 introduces a provision that allows the High Court—or requires the High Court, because the High Court might not want to take on this sort of exercise—to take on the examination of laws that allegedly impose taxation and which are challenged as being unconstitutional. That creates a lot of problems. That very problem was faced by Mr Isaacs, the then Attorney-General for Victoria, late last century. On 8 March 1898, in Melbourne, he raised this whole issue. He said that there was going to be trouble with that provision; he predicted the trouble that has occurred. He said that that provision would 'make this constitution, not a people's constitution, but a lawyers' constitution'. That has been proved very correct in this instance.

So the problems that have arisen in this instance should not be laid at the foot of the Treasurer in the way they have. They should be laid at the foot, if you like, of the constitutional provisions that were put in deliberately—against, may I say, the advice of a great lawyer and a great politician and, later, a great judge, Mr Isaac Isaacs, and also against the advice of Sir Alfred Deakin, one of the great liberals in the history of Australia, who said that there were some real problems with provision 55 as it was being put in the constitution. So there is, as it were, a tension within the provisions of the constitution which I do not think is a very creative tension at all. I think it is a tension which has caused the present problems.

It is obligatory on the Treasurer to get a budget through for the good of this country. It is proper for members of the Senate to examine those bills and to exercise their collective minds upon it. But, just as problems have been raised about the attempt, as it is said, of the Treasurer, of the government, to force a matter through the Senate, so there

is a problem with the way members of the Senate exercise their minds about it.

There is no doubt that the budget issues are being decided on party lines. If they are being decided on party lines, it is not correct to say that the Senate is reviewing the budget bills. The various parties may be reviewing the budget bills and they might introduce arguments into this house that oppose or support the budget bills, but it is wrong to say, in terms of the way this budget has been dealt with, that the Senate has subjected the bills to review. The Senate has provided a chamber in which various parties have been able to come in and put their position and threaten to stop the budget or certain provisions of it. But it is a wrong analysis to say that this is an attempt by the government to stand over the Senate as a senate.

As the Senate was originally put up in the 1890s it was a states house. It is a political decision to either accept or reject a budget, and the Senate can do that on two bases. It could say, as it has here, 'Our particular parties have made decisions about these budget bills, and so we will treat them in a particular way'. Or the Senate itself as a unit could get together and oppose what the House of Representatives has done. It was in that second sense that people were speaking in the 1890s about the Senate being a house of review and about the way it was to deal with money bills.

But it is wrong to say—I keep repeating this because it is a point that is very much worth making—in the sense that that expression, that concept, was developed in the 1890s, that the Senate has opposed the bills. Parties in the Senate have done that. Therefore, it has to be looked at in terms of the political give and take at a party political level, not at the political level of one house against the other.

It is up to the parties, if that is the position, to take a responsible approach to this budget, which has not happened in these circumstances. Members of the coalition have made up their minds to oppose the budget because, they say, of statements made during the election campaign. They have made up their minds, given the situation in this house, to

oppose the budget bills and it is on that basis that they do it. But that is not looking at the budget on its merit. If one says that the budget should be rejected because of promises made during the election campaign, that is punishing the Australian people—not necessarily the Labor Party—for something the government did then.

Senator Ian Macdonald—To keep you up to what you told them you were going to do.

Senator COONEY—Senator Macdonald quite properly interjects. But if it is better at this stage for a budget to be put through on a particular basis, it should go through on that basis. The budget either has integrity or it has not, as it stands alone. What is to the good of Australia, and the people of Australia, now in terms of budgetary programs? That is the question one should ask, not whether or not the government made a particular promise at the last election. The opposition can get up in this house and berate the government for not keeping perceived promises it had made and do all that sort of thing, but in the end the responsible position as far as the budget goes is to decide whether or not it should go through as it presently is.

I will say something about the way this present position arose. Section 53 of the constitution talks about proposed laws appropriating revenue or money or imposing taxation. Section 54 states:

The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Section 56 states:

A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

That is a scheme set up in the constitution to enable bills to be introduced into the House of Representatives because that is where governments are made. Then provision is made to handle a situation where those bills come up before the Senate and the Senate wants to do something about them.

The constitution states that money bills will not originate in the Senate and it cannot amend a money bill, although it can send it back with a request for the House of Representatives to amend it. To compensate for that, the constitution says that a law shall propose only one imposition of taxation in any one bill. So the scheme is that the bill introducing an imposition of taxation should contain that one imposition of taxation and that is all.

The constitution, in section 55, then says that laws imposing taxation shall deal only with the imposition of taxation. In dropping off the word 'proposed', the jurisdiction, as it were, of the parliament is taken away and given to the High Court. It was well put by Mr Holder on 8 March 1898 when he stated: A measure would be valid while it was a Bill, and invalid when it became a law.

Mr Isaacs said:

That is a very terse and correct way of putting it, and it proves the absurdity of the provision. We are, in my opinion, making the Senate too strong a body. To allow these matters to be carried into the Supreme Court—

that is what they were going to call the High Court at that point—

is to say that the Senate cannot protect itself, and that the states cannot protect themselves.

He goes on:

Surely that is not to be thought of for a moment. We want a people's Constitution, not a lawyer's Constitution. We shall be making the Supreme Court, not the master, but the tyrant of the Constitution, by inserting a clause of this kind.

As I said, the worst fears of Mr Isaacs have been realised. But the fact of the matter is that it is up to the High Court to make the decision. The High Court itself has decided some cases which would very much support the contention that the government puts forward, although there is no case which says that what the government contends for is correct.

The proposition is that we now have a situation where the Senate, the House of Representatives and the people of Australia are uncertain as to what the powers of this chamber are. It is true enough that we have to be cautious in passing legislation which may

later be found invalid, but we also need to know exactly what powers this Senate possesses. We need to know what power the government possesses in putting bills up.

Senator Vanstone says that in years to come there might be a change in who is in power in this chamber. That well might be so, but if for the next hundred years or the next millennium we are going to go ahead not knowing exactly what the powers of the Senate are, not knowing the way that bills can be put up, then we may well be denying ourselves powers that we should be exercising. If the constitution gives us these powers and we do not use them, then there is much to be worried about.

I think it is a very responsible position to get a bill and to create an occasion where that issue can be decided. How else are we to know, as I said before, what the jurisdiction of this chamber is, what the jurisdiction of the other is and what can or cannot be done, for the good of Australia, in years to come?

I think also the proposition that there should be a test bill is a good. Just as it may be that these bills were unconstitutional—the original bills, the ones that have now been withdrawn—it may also be that they were constitutional. Unless that issue can be decided at some stage, I do not think we can properly carry out our duties because we do not know what powers we have to carry them out. I do not think it can be said that the Treasurer is acting irresponsibly in putting forward a test case.

Debate interrupted.

Membership

The ACTING DEPUTY PRESIDENT (Senator Calvert)—Order! The President has received letters from the Leader of the Government in the Senate, Senator Gareth Evans, and the Leader of the Opposition in the Senate, Senator Hill, seeking appointments and variations to the membership of various committees.

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

That:

- (1) In accordance with the provisions of standing order 25, Senator Denman be discharged and

- Senator Zakharov by appointed to the Standing Committee on Community Affairs;
- (2) In accordance with the provisions of standing order 26, Senator Murphy be discharged and Senator Zakharov be appointed to Estimates Committee C; and
 - (3) In accordance with the resolution agreed to on 2 September 1993, Senators Calvert and Newman be appointed to the Select Committee on Public Interest Whistleblowing.

Legal and Constitutional Affairs Committee

Report

Debate resumed.

Senator COONEY (Victoria)—I would like to say something about the people who have given opinions in this matter. I think it might reasonably be said that depending on what view a particular lawyer took, he or she was taken to task by the other side. I suppose lawyers come in for a good deal of stick and no doubt at times it is earned, but in my view in this case all the lawyers gave what they considered to be an honest and well-researched opinion about the matter.

The question is asked, ‘Why can’t lawyers agree on a question like this?’. The reality is that they cannot agree on this because the High Court itself would not at this point know what it is going to decide, and that is properly so. Argument has not been delivered. There are arguments that can be put on both sides. The argument that the Treasurer relied on, I think very properly, was the argument put forward by Mr Dennis Rose QC, a person who has vast experience in arguing constitutional cases.

Sitting suspended from 6.30 to 8 p.m.

Senator COONEY—Before dinner I was speaking about the lawyers in this case and, prior to that, lawyers generally. In contrast to what is often said about them, I think that, by and large, they do a job of work conscientiously and honestly and that they are of great use to the community. In this case I declare all the lawyers to have been dedicated to the task of giving opinions that they thought were correct. Even though those opinions differed, it was a reasonable issue upon which to differ.

The system itself is a troublesome one. Nobody knows what is going to happen until the High Court makes a decision. That is the nature of judicial decision making. The court itself has handed down decisions in a number of cases, including the matters of Munro, Dymond, Air Caledonie International, Mutual Pools, and Northern Suburbs General Cemetery Reserve Trust, which would suggest that it was open and reasonable for the government to do what it did. Other suggestions have been made which are to the contrary. With the standard of advice that the Treasurer had, which was of the highest calibre, it was reasonable for him to take the course that he did.

This is an issue that must be treated politically, given the sort of chamber that this is and given the institution of parliament, which is a political body. It has been handled politically on all sides, except for the four government senators who contributed to this report, on the face of it. I think that is borne out by the report. I am not too sure that when Senator Chris Evans has his say we will be able to say that he has handled it in a non-political way, because it has now become a political issue.

In the circumstances in which this report has been brought to the chamber and with the issues surrounding it, the ultimate issue is the budget. Although we are all engaged in political exercises in this chamber, it does not mean that we are—or should be—engaged in irresponsible exercises. This budget must be put through for the good of Australia. This is a budget that comes from the government, as the constitution intended.

Senator Brownhill—It has come from the government, the ACTU, the caucus and half a dozen other people.

Senator COONEY—That is one of the problems we have in this case: it does not come from those bodies within the terms of the constitution; it comes from the government, as the constitution required. It is open to scrutiny—but to good and responsible scrutiny. The fact remains that we are charged with governing this country in the interests of all Australians, and that means that it ought

to be done responsibly and that the budget ought to be put through.

Senator SPINDLER (Victoria) (8.04 p.m.)—The Senate is debating the report of the Senate Standing Committee on Legal and Constitutional Affairs on the constitutional aspects of the Taxation (Deficit Reduction) Bill 1993. A fair amount of time has been expended in the chamber dealing with the reaction of the Treasurer (Mr Dawkins) to that report and his comments on the committee members, particularly the government members of that committee. I will address that issue only briefly. I find the comments of the Treasurer regrettable. They related to a committee which was doing its best to reconcile opposing opinions provided to the committee by legal and constitutional experts of note.

I would also like to put on record that I believe credit is due to the chairman of the committee, Senator Barney Cooney, and the other government members who devoted themselves to the task of finding the facts, the truth, of the matters before the committee. They did so without fear or favour. I believe it is useful to record that appreciation in a chamber in which party political considerations and party political behaviour very often take the upper hand.

I also find it regrettable that the Treasurer finds it necessary in the revised bill to again combine some bills, having been advised by the committee across party lines that there is a very real and significant risk, firstly, that the bill is imposing taxation; secondly, that the bill deals with one subject in section 39 which does not deal with taxation; and, thirdly, that it deals with more than one subject of taxation. Therefore, there is a very real risk, which is significant, that the High Court could find that bill to be invalid under section 55 of the constitution.

I believe it would be appropriate for the Treasurer, having received that opinion from the committee, to present the Senate with a separate bill on each topic of taxation and thus to allow the Senate to fulfil its duty of scrutinising legislation before the Senate on the basis of the content of that legislation and not to be pushed into a corner, not to be blackmailed, by considerations that various

taxation measures have been combined and that, if the Senate seeks to either amend or request an amendment, the whole package of bills would have to go back to the House of Representatives. I believe it is wrong. I believe it is contrary to the spirit of our constitution.

On reading the debates of our founding fathers, it becomes clear that our founding fathers gave considerable thought to this issue and determined that the Senate must not be restricted in its duty to scrutinise legislation that comes before it. Therefore, in section 55 of the constitution they inserted the prohibition of tacking.

The real issue in the report before the Senate and the substantive issue that we should address is that it was the clear intention of the government—admitted in almost so many words, certainly by implication, by both Senator Gareth Evans and the Treasurer—to provide a package which would put some pressure on the Senate to pass the package without amending parts of it. As I have said, that is against the spirit of the legislation. On this point, I cannot agree with Senator Cooney who tried to develop an argument that, in some ways, it is not the task of the Senate which is being pursued here but that it is the work of individual political parties that are engaging in this job of scrutinising the content of legislation which comes before us. I really fail to see how one can make that distinction.

Senator Cooney appears to be pursuing the argument that the Senate was established as a states house, that it is no longer a states house, that now it is basically voting along party lines and that political activity is organised along party lines, one cannot therefore say that the Senate as a whole no longer has the task to scrutinise legislation, to act as a house of review. It seems to me that the mere mechanical composition, or the process of activity that takes place, does not alter the thrust of the task that confronts the Senate.

Senator Cooney—It does it as a Senate of political parties, not a Senate of state parties—not a Senate where the states are the primary object.

Senator SPINDLER—I know that was the argument Senator Cooney was developing, but I find it difficult to accept; I am afraid it is a little too sophisticated for me. That could be because I have never been a practising lawyer. Senator Vanstone was kind enough to apply the designation of lawyer to me but let me confess that, while I enjoyed my law course at Melbourne University, I have never practised as a lawyer. That may well be the reason why I cannot follow the sophisticated distinction which Senator Cooney is drawing.

It seems to me that senators are elected to this House by various constituencies precisely to scrutinise legislation on behalf of their constituencies. Senator Cooney might recall senators voting, at times, on states' interests. It does not happen very often but it does happen occasionally. On most occasions they vote on the basis of the commitments and policies on which they were elected by their constituencies.

Senator Cooney—That was in answer to the accusation that we over here were blindly following our party leadership.

Senator SPINDLER—I have put on record that I believe Senator Cooney deserves credit for the fact—the obvious fact, it seems to me—that he and the other government members of the committee very carefully looked at the evidence that was brought before the committee and very carefully weighed the evidence that was before it. I was part of that process so I do not speak from hearsay. He reached his conclusion, as did other members of the committee—it was a unanimous decision—that the answer that was requested of the committee should be that there was a very real risk that was significant; that this was a bill that was imposing taxation, with everything that flows from that, including the fact that it was likely to be invalid.

The real issue in this debate is that the government has tried to put shackles on the Senate as a whole—not just on parties—to prevent it carrying out its proper function as a house of review. The government has been found out. When one looks at the evidence that the committee received, one wonders why the government actually took that risk. It seemed a very risky course indeed.

The report which is before the Senate, in the first instance, does what the committee was asked to do in the terms of reference, that is, answer the questions that were put to it on the legal character of the bill and its various components under the various sections of the constitution. It seemed to me, as it obviously did to other members of the committee, that one could not ignore the consequences that flow from that answer.

While the government members, strictly speaking, fulfilled their duty in answering those questions, it seemed appropriate for whoever chose to do so to add some statements on the consequences that this course of action which the government has embarked upon would lead us to. It is for that reason that we pointed to the financial confusion and the loss of confidence in the commercial world that would follow from a situation where people would have to expect that if a challenge were brought before the High Court, it would be likely to invalidate the bills. By the precedent it would set the Senate could be shackled in its duty to examine each and every bill on its merits and not be constrained by political machinations.

The basic decision of the government to withdraw the bill and to redraft it into eight components is to be welcomed but, as I indicated before, it does not go far enough. The Treasurer should stop playing games. We should have before us separate bills on each subject of taxation so that the Senate can address them in the proper manner.

Senator ELLISON (Western Australia) (8.17 p.m.)—I rise to support the sentiments expressed previously by Senator Vanstone. I congratulate Senator Cooney on the fine job he did as Chairman of the Senate Standing Committee on Legal and Constitutional Affairs. It is a shame he is not here to hear me make these comments but I do place them on record.

I take issue with Senator Cooney's remark that the actions of the committee members, save the government members, were political. I think he said that somewhat tongue in cheek. In my opinion, all members of that committee acted in a non-political fashion and addressed themselves to the task at hand; they

answered in a truthful, honest and diligent fashion the terms of reference which were put to them.

I believe the committee, in its deliberations, viewed this reference most carefully. In fact, I go so far as to say that this was perhaps one of the most important references made by the Senate to a standing committee in some time because it dealt with the relationship between the House of Representatives and the Senate in relation to financial bills as encompassed by sections 53, 54 and 55 of the constitution.

It might be perhaps pertinent for me to deal with some matter of history in relation to these sections that I have mentioned. The High Court has previously held in the case of Dymond that they should be read together. They come somewhat as a package. I am referring to sections 53, 54 and 55 of the constitution.

Briefly, those sections deal with what might be termed as bills relating to finance and the machinery for dealing with such matters between the two Houses. Section 53 provides, among other things, that laws imposing taxation shall not originate in the Senate. As such, the Senate cannot amend a proposed law imposing tax, although it can return such a proposed law to the other place requesting amendment. The Senate is also free to reject that proposed law or simply defer it.

Section 55 provides that laws imposing taxation shall deal with the imposition of tax and nothing else. Any other foreign subject dealt with shall be of no effect, so that if a bill deals with any foreign matter and that bill is passed, any matter other than taxation is completely invalid. But section 55 goes on to say that only one subject of taxation can be dealt with in a bill dealing with the imposition of taxation.

The reason for that is very clear. It is so that the Senate is not faced with an omnibus bill of the type it has just been faced with. It is that the Senate can then be faced with individual subjects of taxation and deal with them independently, so that we do not have good taxes—if there is such a thing—or a reasonable tax mixed up with a bad tax, so that the Senate is then given the option of either rejection or acceptance in toto.

This very point was debated in the constitutional conventions in the 1890s. In what was called the 'compromise of 1891' the more populous states formed a compromise with the less populous states that there would be some agreement in relation to the Senate's role in respect of taxation matters. Due to the fact that we have a responsible government and that the majority is formed in the other place, the less populous states wanted the Senate to have some ability to pick and choose in relation to matters of taxation—that is, the less populous states did not want the more populous states to foist unwanted taxes on them. They wanted the Senate, where each state had equal representation, to be able to consider each individual subject of taxation. That point was mentioned frequently in the convention debates in the 1890s; and here we are, 100 years later, debating this very issue.

It is not the constitution which is at fault. Again, I take issue with Senator Cooney's remark that that is what we should look at. I believe that the constitution has served this country very well for nearly 100 years and there is no need to go changing it just because one petulant Treasurer does not like it.

Whilst I am on the subject of the Treasurer (Mr Dawkins), I found it completely abhorrent that he should make a personal attack on members of the Senate Standing Committee on Legal and Constitutional Affairs, including those good members of his own party. As Senator Vanstone mentioned, the Treasurer could not find polite words to describe those members. It is much like a game of football where one sees the losing side starting to play the man instead of the ball. That is exactly what the Treasurer has been doing. In fact, in the *Australian* on 21 September 1993 the Treasurer described how feeble-minded senators must be. He implied that we could not deal with more than one subject at a time. That was just another aspect where this Treasurer made a personal attack on the Senate and played the man and not the ball.

He did that when he was questioned on the *7.30 Report* recently. He mentioned that the private practitioners who appeared before the committee and who made submissions to the committee should be treated with some

suspicion and that there was some question of their being paid. No doubt honourable senators read in the press what Tony Morris QC had to say about that. He was not paid. He devoted two days of his time to appear before the committee. He made an extensive submission and was of great assistance to the committee. In fact, after the Treasurer, Mr Dawkins, was threatened with a writ, he quickly retracted his comments in relation to Mr Morris QC.

I draw the attention of honourable senators to the report itself. I refer to the third paragraph in relation to terms of reference 2(i)(A). The report states:

The Committee puts on record its view that though it was faced with a range of opinions from highly qualified, highly competent and highly experienced men and women, they all gave an honest, candid and independent appraisal of the constitutional validity or otherwise of the bill.

That was a unanimous endorsement by the committee of the witnesses who appeared before it. That flies very much in the face of the Treasurer and the doubts and baseless slurs that he cast on those highly qualified witnesses who appeared before the committee. But I will not waste too much time on the Treasurer because, frankly, there are more important things to do than that, and we have the welfare of the country to consider.

Budget legislation is some of the most important legislation on the government's agenda. I am sure that Australian taxpayers would like to know that, in any approach to legislation dealing with their hard earned taxes, parliament exercises the utmost care and scrutiny. To do anything else would be irresponsible. The debate that we are conducting here today is not necessarily about the merits of the budget measures. That can wait for another day. That is not what we are debating here today; what we are debating here today is the question of the potential invalidity of this budget legislation.

In answer to the question in 2(i)(A)—whether the bill, if enacted, would be a law imposing taxation for the purposes of this section—the report stated:

The Committee takes the view that there is a real risk which is significant that the High Court would find the bill, if enacted, to be a law imposing

taxation within the meaning of section 55 of the Constitution.

The committee also went on to find that the bill covered more than one subject of taxation. If we add those two ingredients together, fellow senators, we come up with invalid legislation.

In fact, the committee told the Senate and the people of Australia that there is a significant risk that if this bill were passed in its present form, it could be struck down as invalid and unconstitutional by the High Court. Quite frankly, that is an untenable situation. I remember my days in private practice; if I had told someone, 'You have a real risk, which is significant, of losing this case', I can bet you London to a brick that they would not have pursued the matter. I can tell honourable senators right now, using layman's terms, that if you said to the average person, 'There is a real risk, which is significant, that we could lose this', they would not be in it. They would say, 'You're mad to risk it'. It is perhaps even more irresponsible to risk it when we are dealing with the budget legislation of this country. If the bill were to be passed and successfully challenged, the whole piece of legislation would be struck down. There is adequate authority from the High Court to say just that. The whole lot would go.

So what would happen then? There would be disastrous consequences for this country. It would result in nothing less than a fiscal nightmare. Can honourable senators imagine a situation where taxes had been collected, taxes had been paid unlawfully? Can they imagine the people of Australia accepting that? Can they imagine the international community seriously giving any credence at all to this country in which tax legislation had been passed and then struck down as invalid, so that taxes had been collected unlawfully? We would be the laughing-stock of the international community. We would not only suffer at home on our domestic front, but the exchange rate of the Australian dollar would also suffer. We might have won the right to hold the Olympics in the year 2000, but we would not be winning any financial Olympics.

What we have to look to is the question of whether this legislation risks the potential of being struck down as unconstitutional by the High Court. I can tell honourable senators that the Treasurer noted this; he knew he was on a losing argument, and that is why he played the man and not the ball. He then attempted, somewhat incompetently, to split these bills so that the legislation would not be dealing with more than one subject of taxation. However, although we have them split into five bills, each respectively dealing with one subject of taxation, we still have problems with the Taxation (Deficit Reduction) Bill No. 1 and the Taxation (Deficit Reduction) Bill No. 2 because those bills cover more than one subject of taxation and it can still be argued that they impose a tax.

The fringe benefits tax in the No. 2 bill deals with accommodation, travelling expenses and the like that can be claimed. What the government is saying is, 'Hitherto you weren't liable in relation to these taxes but henceforth you will be'. If that is not imposing a new tax, then I am a Dutchman. I think it is an absolutely plain proposition that anything which introduces a new burden on the taxpayer is an imposition. In fact, for that matter, anything which increases the burden is an imposition. Therefore, any increase in the rate of tax could be an imposition and anything which takes away an exemption so as to expose the taxpayer to increased liability could also be an imposition.

Those arguments were canvassed before the legal and constitutional committee and were given some support by eminent counsel, so the government is still not out of the woods. We still have two bills which, I put to the Senate, could risk invalidity. Remember, we are not here arguing about the merits of the measures; we are arguing about the legitimacy of the way that this legislation has been put forward and whether or not it could be struck down as unconstitutional.

In fact, the government has conceded the point in one case because it calls bill No. 2 its 'test bill'. I put it to the Senate and the people of Australia that any capricious suggestion that such an important piece of budget legislation be put forward as a test is entirely irre-

sponsible. In other words, we will use up the taxpayers' money by putting the bill through and then we will run a big challenge in the High Court just to see what the High Court will say; in the meantime, taxes will be collected and other measures taken, and we will see what the High Court says. We just cannot run a country that way and we just cannot introduce budget legislation in that fashion.

Senator Cooney mentioned that it was the constitutional duty of the Treasurer to pass the budget, and I could concede in some way that that is the case. But it is the constitutional duty of this parliament, of this Senate—

Senator O'Chee—To abide by the rules.

Senator ELLISON—To abide by the rules—I thank Senator O'Chee—and to make sure that the legislation which is passed is constitutional. Senator Vanstone stated previously that the Treasurer expected government members on the committee to toe the party line and not exercise any independent assessment of the matter. I do not think Senator Vanstone was saying that, indeed, the government members of the committee did so; I understood her to say clearly that they did not and that they, as did other members of the committee, approached this whole reference in an earnest and frank fashion and exercised their opinions independently.

Senator Sherry—As they always do.

Senator ELLISON—I have not dealt with them on other occasions; I can only tell the Senate of this one occasion. As a newcomer to the Senate, in no way was I jaundiced by the experience of going through this rather hectic analysis of a most important reference in such a short time. In fact, on the contrary, I was most impressed by the role that the Senate committee exercised and the way its members approached this. That committee exercised its duties most responsibly and not in any political fashion.

The additional comments which have been made by Senator O'Chee, Senator Vanstone and me are additional to the terms of reference and are related to the risk in passing what could be invalid legislation. That perhaps is a political point. Perhaps the only area

where the committee approached anything near a political question was as to whether drafting practice in the future should use an omnibus bill to cover several amendments to respective acts dealing with taxation. In the last two paragraphs the committee stated:

Provided a bill is in accordance with the Constitution it is for the political process to determine the shaping of legislation. However, it is essential to safeguard the Senate's capacity to properly consider and deal with legislation.

Honourable senators will see that there was a division in the committee as to the desirability of combining several amendments in the one bill. That was as close as it got to being political. The question was first, second and third, whether this legislation could stand up to any constitutional challenge in the High Court and the degree of risk that was involved.

The committee decided that there was a real risk, which was significant, that this bill could be struck down as unconstitutional. For my money, that is just too high a risk for Australia to take in any budget legislation and the safest way out for the government is to split the bill into respective subjects of taxation. As Mr Pat Brazil, a former attorney-general man who was a drafter himself, said before the committee, it would take a good draftsman half an hour to an hour to knock it into shape and there would be no question at all in relation to the constitutionality of that legislation.

But still this Treasurer is hell-bent on putting forward a test bill. I put it to the Senate that that is not in the best interests of this country. We are not in the business of running flags up the flagpole just to see what the High Court will say. There are 76 of us here with varied backgrounds and a lot of experience—a lot more than I. We are more than well equipped, with all our advice, to make determinations as to whether legislation could face any constitutional challenge. We do not need to put forward test cases to the High Court to see whether they will pass.

Therefore, I say that the committee's decision was a sound one. It is an excellent report and I commend it to the Senate. Unfortunately, the government has learned nothing from

it and still we are faced with uncertainty in the proposed legislation.

Senator CHRIS EVANS (Western Australia) (8.40 p.m.)—I intended to make a few comments on the report of the Senate Standing Committee on Legal and Constitutional Affairs, but I have been moved to expand my address because of the gratuitous praise government senators have received during this debate. If I were a bit more cynical, I might worry that it was a plot to ruin our political careers by receiving such praise from the other side of the house, but I am sure it is well-meaning, if not well directed.

I want to put a few remarks on record because I think this whole debate has been somewhat misrepresented. I commence by stating that I am not a lawyer. One of the great advantages I bring to this debate is that I was one of the few non-lawyers on the committee. As such I have not tried to anticipate the High Court's reasoning nor write amateur legal opinions on the question. I concur with the first decision of the committee—that it was a matter for the High Court to decide, and I think we all should bear that in mind.

My participation in this committee was limited. This problem stems from the tight deadlines set for the committee to report and the inability of a number of senators to attend all the hearings and the meeting day. I was not able to attend the meeting; I think that at the end there were only four members of the committee present. I think that is a problem in terms of Senate practice and the role of the committees which will have to be addressed. I will return to that later. This is my first experience of contributing to a committee report. Unlike Senator Ellison, I am quite jaundiced by the experience and quite concerned for the processes of the Senate.

In summary, I endorse the findings of the report. In hindsight, I would have worded the report differently. I can fairly be accused of being a bit naive in not really responding as we should have to some of the political issues that surrounded the report. The report errs on the side of being a little too legalistic and dispassionate and not political enough. Therefore, I think the government senators are

guilty of not having provided enough political support to the Treasurer (Mr Dawkins) and the government in reaching the conclusions they did. I say that not wishing to resile from the decisions of the report, but as to the way we phrased it and in the way we dealt with the politics of the release of the report. I will return to that in a moment.

The committee heard a range of legal evidence and, as with all legal evidence, crossed the whole divide of views on the matter. But essentially it can be summarised that we heard evidence that the bills were constitutional and we also heard evidence that they were unconstitutional. But neither side could provide any legal opinion of direct High Court support for their proposition. It was argued from other precedents—precedents which were vague and sometimes quite unrelated—that there was some sort of relevance to those opinions.

Essentially, the finding of the committee was that there was no High Court decision on this matter and therefore the question of what the High Court would decide was purely one for judgment. People would make an educated guess as to what the High Court would find on this matter and there were strong legal opinions on both sides of the issue, but no-one's legal opinion claimed to have direct authority from previous High Court judgments.

Given that, all witnesses agreed that there had to be some doubt as to what the High Court might do. Even the most ardent advocates on both sides agreed that it was a question of doubt. Therefore, it was possible for each side to sustain its argument and to mount a reasonable case. In my view, that left the committee with only one conclusion—that there was a real risk that the matter could be declared unconstitutional by the High Court. There was also a real probability that it could be declared constitutional by the High Court.

I think it is important to take people back to what the report of the committee actually said because that has been lost in the debate that followed. Certainly it has been lost very much in the debate tonight where opposition senators have tended to concentrate on the Treasurer and his remarks rather than the

substance of the issue. Recommendation 1.1 of the committee's report says that ultimately this is a matter for the High Court. The primary recommendation from the committee when stating its major finding was that it is a question for the High Court and one that can only be answered in the end by that High Court.

The committee's second conclusion was that, given the evidence before it, there was a real risk which was significant that the matter could be decided to be unconstitutional. I find those findings quite unremarkable. If we were operating in a non-political context, people would have said, 'Judging by the evidence, that is a reasonable conclusion for a parliamentary committee to come to', and we would have moved on. But it was not that sort of context. There was a massive political and media debate over the budget delay, over the whole question of the constitutionality of the bills and over a whole range of political interests involved.

In writing the report, government senators should have been a little more political and less legalistic. That is not to say that we would have changed our recommendation, but I think we should have expressed the view—certainly the view that I held—that on balance the bills will survive a test in the High Court. But again that is a matter of opinion. It is an opinion from a non-lawyer but I think one that is just as valuable as many of the other opinions expressed in this debate. In the end we will only know when the High Court rules on a case that comes before it.

I believe the Treasurer and the government were left to appear a bit unsupported by the government senators, and I think that is regrettable. Their position is defensible and it is a position that they were prepared to take, but on balance the committee's view was that there was a real risk.

The politics that surrounded the whole report have hidden the impact that should have occurred. Part of the reason for that flows from the position taken by the opposition senators in this report. The whole debate was played for all its worth. While I guess I should not be surprised by that, there were a couple of things that surprised me consider-

ably. First, the committee report was four pages long. I had seen the draft of the final report, but a couple of days after the committee reported I saw the final published version. I then found there were not four pages of report but 19. I wondered where the other 15 pages came from. It appears that an additional 15 pages were provided by the senators who had voted for the unanimous four-page report, including one by the mover of the motion that we endorse the report.

I am a bit new to this game but I wondered how that occurred. On a closer look, I found there were four pages of additional remarks by Senators Ellison, Vanstone and O'Chee, which went to a bit of political diatribe about the whole debate. This was somehow included as part of the committee's report. It was not a document that was shown to other members of the committee, but something that was included in the printed version. We then had seven pages of legal opinion from Senator O'Chee, an opinion which he preferred to those opinions made by the persons making contributions to the committee. We had four pages from Senator Spindler who also felt moved to make a contribution when he heard that the opposition senators were making a contribution. What was a unanimous four-page report became a 19-page report, 15 pages of which were a political contribution from those who had voted for the majority report.

I admit that I am new to this game and I suppose I should have checked the rules and procedures more closely, but I have never yet operated in a committee process where such behaviour is condoned or regarded as acceptable. It is a matter that I will be raising with the committee and with the Clerk of the Senate because I really want to know the procedure governing such reports. I understood that minority reports were acceptable, but we have legal opinions, additional remarks and a whole mishmash of additional views provided by senators who supported the majority report. That raises a question that needs to be looked at.

Unfortunately, that was only one of a couple of unsatisfactory aspects of the report. I am not seeking to put all of the blame for

that on the opposition senators. The short timetable for the reference to the committee was unfortunate. It meant that the committee really did not get to grapple with the issue as it should have. I think that is reflected in what is a rather inadequate report, but that report is a preliminary report and it reflects the fact that the committee was not able to produce all its documentation and finalise the report in time to meet the deadline.

One problem that needs to be addressed is the pressures that mean that not all senators can attend the meetings when reports are finalised. I am not saying that it was a problem only for members on this side; it was a problem that we all experienced. There is also a question about whether such highly politicised references should be the role of the Senate committees. I have already referred to my concerns about the practice of issuing additional remarks.

The time is right for us to move on. The government has responded by splitting the bills. The opposition had called for that approach, and it now has it. It now has to deal with the real politics; that is, whether or not it will support the principle that the government is allowed to frame its own budget. That is the real question at issue here and that is what the Senate will have to deal with.

The government's approach in splitting the bills but also providing for a test of the principle at issue is a good one, because it is a matter that needs to be resolved. I refer again to the primary finding of the committee, which was that the matter was one for the High Court to determine. No amount of pseudo-legal opinion by members of this chamber will alter that fact. It is a question for the High Court and, until it makes a judgment, we do not know what the outcome will be.

I understand the opposition is now searching for further legal opinions designed to frustrate the government's new approach to the issue and is trying to argue that there are still some problems with the new split bills. From what I have seen, the only problem so far has been that the shadow spokesperson does not understand and does not have a

grasp of those bills, as evidenced in his television interview. Senator Vanstone's gratuitous support for the government senators, in light of the way the politics around this was played, is particularly galling and regarded by government senators as fairly offensive and totally unnecessary.

I cannot conclude without mentioning the comments about the Treasurer, as it has been such a focus. I am not such a delicate flower that a few off-the-cuff comments by the Treasurer unduly concern me. Having spoken to my colleagues, I do not think they seem unduly concerned either. I had the pleasure of working on John Dawkins's first campaign when he was elected to the parliament in 1974. It was my political baptism. I look forward to working on his 1996 campaign, which should then allow him to complete 15 years as a minister in a Labor government. The heart of the issue is the opposition's inability to come to terms with the fact that it lost the election and its inability to grant the government the right to frame its budget and govern in the best interests of Australians.

Senator O'CHEE (Queensland) (8.53 p.m.)—I draw a sporting analogy: politics is a bit like cricket. When we play cricket, there are rules that govern how the game is played. Every side tries to win but, at the end of the day, we have to abide by the rules. Politics is about competing ideas and competing viewpoints. But in politics, as in cricket, there are rules that govern our conduct and behaviour. There are rules that say we can do this but we cannot do that.

This whole issue in relation to the tax bills was about a man from one of the two sides of the cricket team who decided that he did not like some of the rules and was therefore going to ignore them. In this case, the rules were sections 53 to 55 of the constitution. The constitution is a particularly special document because it is not like any other rules that we play by. The constitution is the body of overriding rules. The constitution is not like any of the other rules that we deal with in this chamber every day when we pass legislation, amend this or that and put a new set of rules into place there. The constitution governs how we should conduct the political process.

To hear some of the cavalier views from the other side of the chamber this evening—and certainly to hear from the Treasurer the very cavalier view that 'I don't care what the constitution says; I want to do it anyway'—is wholly unsatisfactory. If we say that sections 53 to 55 of the constitution are not important, then what portion of the constitution will we find unimportant tomorrow? What portion of the constitution will we disregard next week? Once we put the smallest hole in the dike, the rest of the water follows. The Treasurer was attempting to put a hole in the dike so that he could create a flood of action by the government which sought to disregard the constitution.

Senator Chris Evans has just told us that he believes that this is ultimately a matter for the High Court. Ultimately, if this bill were to have been passed, it would have been a matter for the High Court because there is no doubt that this matter would have been challenged; there is no doubt that matter would have led to days, weeks or maybe even months of legal argument in the High Court; and there is no doubt that there was the very real risk that all of the tax that the government had purported to collect would have been ruled invalid and this money would have been plucked from the taxpayer's pocket with no hope at all of return or refund.

In that sense, it was ultimately a matter for the High Court. But that is not to say that this chamber has no capacity to express a viewpoint; it is not to say that it is for the High Court alone to look at these matters. It is very clear that the High Court has probably at best very limited capacity to look at a bill before it has been passed by the parliament. Those powers given to the High Court in the constitution are in respect of acts of parliament that have already been passed. Earlier in the constitution, in sections 49 and 50, the parliament is given express powers to have committees, to have inquiries and to decide its own procedures and privileges.

If a bill is brought to the Senate and the government says, 'We want you to pass this', and there is some concern as to whether the bill would be valid if it became an act of parliament, then of course it is for the Senate

to look at these matters. Otherwise, the government is saying, 'Look, we'll bring anything that we like to you—no matter how legally ridiculous, no matter how constitutionally invalid, no matter how dangerous it might be. Don't bother looking to see whether or not it is valid—just vote on it'. We would be pretty poor at our job if we took that sort of slapdash attitude. We would be particularly poor in this chamber, as the guardians of the rights of Australian citizens, if we passed legislation that could ultimately be invalidated and, more particularly, if we passed legislation that had the very clear risk of ultimately being ruled invalid.

What sort of chamber would this be if every week we passed legislation whose validity we had real doubts about but said, 'Leave it for somebody else to fix. Leave it for the High Court to fix'. What about us? Our role is supposed to be to fix defective legislation, to point out to the government that here or there a problem exists and to say, 'For this matter to be dealt with properly, this is what must be done'. That is our role and that is what this committee inquiry was all about.

Senator Cooney's viewpoint from the other side is, 'Oh, well, we need to challenge these things to get a very clear ruling. We need to send the matter off to the High Court and have a protracted legal battle about it to decide it'.

Senator Ellison—It would keep the lawyers in business.

Senator O'CHEE—It would keep the lawyers in business, but would it keep the country in business? Would it be aiding the political process and the good government of this country if we decided to create a piece of legislation which looked on its face to be bad and invalid and passed it through? It could be legislation which purports to validate the collection of millions, if not hundreds of millions, of dollars of taxation. What if we said, 'But, look, we are only doing this for a bit of jolly because we want it to go to the High Court so that it can make a decision on it'? That would be ludicrous.

It is for us to look at the legislation. It would now be poor of us—this is my very real belief—to go and take the Taxation

(Deficit Reduction) Bill No. 2, the test bill, and pass it so that the whole matter can be decided by the High Court. We are saying, 'Here is a report from this Senate committee which says that, on the face of it, the original bill is invalid or runs a real risk of being invalid. Here is a bill which is almost a mirror image of the first bill. We did not agree to the first one, but we will agree to the second one with the same constitutional flaw in it'.

When in his press release the Treasurer announced the changes to the tax legislation and the splitting of the bill, he said, 'If the original bill were to have been invalid, the test bill will also be invalid'. So it is not as though the government has said, 'Okay, we accept what the Senate and the committee have said, we accept that there is a real risk, and therefore we are going to modify our behaviour accordingly'. Instead the attitude is, 'Fine. They said in a unanimous opinion that there was a real risk it was invalid, but we are going to push through with this nonsense anyway'. That is what we are getting from the government.

Was there any benefit to be gained in putting through this so-called test bill? Was the lumping of the two subjects of taxation in the test bill going to ease the passage of the bill through this parliament? Surely if some honourable senators agreed with one half of the test bill but disagreed with the other half of it, lumping the two provisions together would make it more difficult rather than less for that bill to gain passage through this chamber. If there is an objectionable piece in that bill which honourable senators here do not wish to pass, it means that the other portion must also fail.

The Treasurer said that he is concerned with fiscal responsibility and that is why he wants these bills passed. But if he is so concerned with fiscal responsibility, why has he brought before this chamber a bill which he knows will be more difficult to pass than a bill split into two separate parts? What is the rationale for what the Treasurer has done? There is no rationale here that is based on the good governance of this country or the interests of good parliamentary procedure.

The test bill is an effort by the Treasurer to say, 'Look, I do not care what you think, this is my viewpoint anyway. So we are going to spend millions of dollars debating this. We are going to create all sorts of mayhem just so that I may have at best a 50 per cent chance of proving a point'. It is my very firm belief that, just as the Senate would have been doing this nation a grave disservice in agreeing to the first bill because of its constitutional flaws, this Senate would be doing this nation the same disservice by agreeing with the test bill, with its same constitutional flaws. That point needs to be recognised by people on both sides of this chamber.

I now wish to move on to some other comments that have been made tonight. It is very clear that the Treasurer, Mr Dawkins, has behaved in a grossly immature way in dealing with this whole matter. He has been petulant and badly behaved.

Senator Brownhill—And badly advised, too.

Senator O'CHEE—He has also been badly advised. He was particularly badly advised in attacking the integrity of people who brought honest opinions before the committee. Everybody on the committee would agree that the viewpoints which were brought before us were honestly held and argued. Those who came before the committee gave their evidence in the best manner they possibly could. We had constructive and intelligent debate in the committee hearings.

However, the Treasurer did not like the way that things were going, so he made a grossly improper personal attack on the people who sought to give the committee advice. Let us remember that that grossly improper personal attack was designed to intimidate people from coming before Senate committees and arguing a viewpoint which is contrary to that of the government and of the Treasurer.

All wisdom does not reside within the walls of this building. It does not reside in the Senate, in the House of Representatives or even in the two houses put together. It is our task to look at the wisdom which resides outside these walls and, when somebody can give us advice, to say that it is good and worth listening to or that a particular individ-

ual makes a point which could aid us in our decision making. That is what good government is all about. But the Treasurer made a wholly regrettable personal attack which was designed to intimidate people and discourage them from giving evidence.

At the end of the day, all that serves to do is not make the task of the committee, government or parliament easier; all it serves to do is make our task more difficult, because the next time there is a problem people may be reluctant to come forward and offer their honestly held views, whatever those views may be. The Treasurer really did himself a disservice in the way that he conducted himself.

We have also heard from Senator Chris Evans this evening who said that he is concerned at the process. I know that Senator Chris Evans is newly arrived in this chamber and we all go through a learning curve. Senator Chris Evans has to understand that those of us who added advices or opinions in the report of the committee did so so that those viewpoints, which were our personal viewpoints, were not seen as Senator Chris Evans's viewpoint, Senator Cooney's viewpoint or Senator McKiernan's viewpoint.

I do not know that I necessarily always agree with what Senator Spindler says, but I respect his right to put his view. That is the process. If Senator Chris Evans was upset that there was a personal viewpoint, or more than one personal viewpoint, in the report with which he did not agree, perhaps he should ask himself why we went to the trouble to do so. We went to the trouble so that Senator Chris Evans would not be obliged to agree with a matter in respect of which he disagreed. We did so so that we could have a unanimous opinion of the committee. We could then also express additional viewpoints. But the unanimous opinion of the committee was just that—it was unanimous. That is the point.

Rather than Senator Chris Evans complaining that somehow he felt ambushed—there was certainly no ambush because I understand the matter had been discussed at a committee meeting—perhaps he should be grateful that those of us who recognised the position in which he may have found himself were

willing to keep in separate parts of the report those comments with which he would not agree, so that they could be attributed only to us and not to him. I hope that he understands that now; I hope that he understands what the process is all about.

I say in conclusion that the constitution is a remarkable document. In 1897, when the work was being done to draft these sections, our founding fathers could foresee the danger to this nation which might arise if a government sought to take a small attractive tax measure and lump it in with a series of unattractive and punitive tax measures. Our founding fathers saw very clearly the need for the Senate to maintain its independence in scrutinising properly the operations of government. It saw that the Senate and the Australian people should not be held to ransom. That is why the constitution, those guiding rules, require governments of all political persuasions to deal with tax matters separately.

I would hope that this whole saga serves not just to add to the good governance of the country but, more importantly, to remind Australians of what a wonderful legal and constitutional system we have and what wonderful protections there are for the liberties and freedoms of Australians. Any government, no matter what its political viewpoint, which seeks to ride roughshod over the constitution does a disservice not just to the members of this chamber but to this nation and to the people of Australia who have to suffer the consequences of arrogance, egotistical behaviour and, most importantly, an outrageous disrespect for the interests of the nation as a whole.

The ACTING DEPUTY PRESIDENT
 (Senator West)—Order! Before I call Senator McKiernan, I would like to draw the attention of the chamber to the presence in the gallery of former senator Pat Giles. I welcome Pat back to Canberra and wish her well in her visit here.

Senator McKIERNAN (Western Australia) (9.14 p.m.)—I am going to refrain from picking up and commenting on the remarks of Senator O'Chee. I will only say that it would have been better if the good senator had put in the work during the two days in which we

heard submissions and the two days of deliberations rather than waiting and doing a bit of grandstanding at this time. Senator O'Chee, who is leaving the chamber, attended for part of the first day. Apart from that, we did not hear from him until we got some opinion faxed to us on the last day of the committee's consideration and deliberations. This is a pity.

I think the Standing Committee on Legal and Constitutional Affairs was actually quite a good committee. Members of the committee worked extremely hard and extremely well together, despite the fact that each of us was coming from a different perspective in addressing the questions that the Senate put to us. We all realised the seriousness of the matter that the Senate had referred to us.

The constitution was mentioned on a number of occasions by previous speakers. I was not able to hear each and every speaker because of other commitments I have in this place. The constitution was referred to by the last speaker as a magnificent document. It would be even a more magnificent document were it able to be picked up by a person in the street, read and very clearly understood. I do not think that can happen in the case of the Australian constitution, and that came out quite clearly in the committee's deliberations on the matters that were before it.

The constitution is a very complex document. I am not being critical of the founding fathers who put the words together 100 years ago. What I am saying is not a criticism of them at all. One has to admire their foresight in constructing things the way they did. Perhaps they foresaw the difficulties that the parliament is in at the moment, or was in last week.

I do not want to be too controversial tonight. I think there has been far too much controversy about this issue. Like my colleague Senator Chris Evans, I will talk about the process. Unfortunately, I was not able to hear all that he had to say and contribute to this debate.

We are allegedly talking about a committee report. But we are not actually talking about the full report; we are talking about half a report because the committee was not able, in the stupid time frame given to it by the

Senate, to do justice to the job that was given to it. We have put in a third, or maybe even a quarter, of a document. We all agree that that is inadequate. There will be more to come.

The committee's report has attracted criticism and perhaps part of the reason is that it is not a complete report. As such, some of comments made in the report by all of the committee members are not able to be referred back to in the evidence that the committee heard over two very long and very difficult days of taking evidence in Canberra and in Melbourne.

I might make comment about the conditions in which we had to take evidence in Canberra. We had to use the government party room in the Senate. We worked in very cramped and difficult conditions. It is an indictment of this place that better facilities were not available to a parliamentary committee because of commitments to the Inter-Parliamentary Union conference. These were not good working conditions for the people serving on the committee, for the people supporting the committee or for people recording the processes of the committee. That should be borne in mind next time plans are made to hold such a conference in this building. There has to be some priority given to the work of this parliament. Consideration must be given to the facilities that are available to committees and also to the availability of personnel who serve committees so that the work of parliamentary committees can continue.

I called this reference a stupid decision of the parliament. On 31 August the Senate referred a series of questions to the Senate committee. It gave us a particularly restrictive reporting deadline of 15 September. When I heard about this at our first meeting, I objected and was able to get an extension of five days to 20 September. That was not enough—I think every member of the committee would agree that it was not enough. The subject matter that we were charged to investigate required a much longer time frame than that. I think the Senate has to take that into consideration in future when it refers matters of this seriousness to committees..

Not only was it difficult for the committee but it was also difficult for the general public. As I recall it, an advertisement appeared in one of the major Australian newspapers advertising the terms of reference of the inquiry and inviting submissions. I think that advertisement appeared on either 3 or 4 September, with a closing date of 10 September—a week to prepare very complex arguments on a very complex subject. Again, that is not enough. The date was just picked out of the air. We need to keep that in mind for the future.

I certainly for one, being a non-lawyer on the committee, enjoyed the process because it was a real learning experience for me to participate in. It was also a difficult experience because the issue was highly complex and detailed and many skilled and reasonable people appeared before us. It was particularly difficult to meet the deadlines that were imposed by the Senate.

I also found this to be a ground breaking committee. I have been in this place over eight years and I have been a member of a large number of committees. Some of them divide on political lines from time to time, but more often than not they come around and reach unanimous or near unanimous opinions. I have never participated in a committee where a unanimous decision is reached but then later on, without even the chairperson being informed until the last minute, additional comments are attached to the committee's report. I have not personally experienced that before.

That procedure, which was adopted on this occasion by my opposition colleagues and by Senator Spindler, concerns me greatly. A great deal of goodwill exists in the committees—not only in the Senate committees but also in the joint committees. If there is not trust on one side or the other when decisions are reached, I would suggest that the committee system could break down at some future time.

I had a real feeling of concern on Monday of last week when I was informed from Canberra that additional matters were going to be attached to the committee report from member colleagues of that committee. I did

not see the additional comments until after the report had been presented to the Temporary Chairman of Committees, Senator Childs. It was E-mailed across to me while I was on my way out to yet another parliamentary committee back in my home city of Perth. That procedure concerns me in respect of the future operations of any committee that I may be involved in. After this I would suggest that my colleagues on this side of the house will be very wary in future when they go through the process of committee deliberations after taking evidence, considering draft reports and then agreeing on the report. They will ask: will we be dry-gulched again by colleagues who, whilst agreeing with the majority report, want to add in other bits?

I have already expressed my concerns on this matter. Obviously, I will take it into consideration as I continue with the committee work of this place. I made a public comment yesterday that I am a member of seven committees of this place; it is actually eight. That is one heck of a workload for any individual to sustain. However, all of my backbench colleagues on this side of the chamber carry an equally heavy workload.

We do not need this additional element of mistrust placed upon us because it will make it more difficult for committees to reach consensus decisions. There are many issues that the parliament refers to committees for investigation on which consensus can be reached. From my personal experience I could point my finger to a number of examples where committees have actually aided the process of government and the parliament and in turn helped the people of Australia, which is what we are elected to do.

In conclusion, I want to recapitulate some of my public comments about the processes that have been engaged in and the criticism by the Treasurer (Mr Dawkins) of the government senators on the committee. I will not repeat what I said, but I am certainly not running away from my public comments made in anger in response to what I suggest were comments by the Treasurer that were also made in anger. Again, it is a learning experience for each and every one of us. It was never my intention to enter into a donny-

brook with the Treasurer over this or any other matter. He and I have disagreed in the past, but we have agreed more often than we have disagreed. There is a tendency in my race for one not to automatically turn the other cheek when one gets smacked. Unfortunately, on this occasion I did not do that. But this is not the first time that I have been known to not meekly accept something and turn the other cheek.

That is a problem for me, but it is also a problem for government ministers. I think that Mr Dawkins should have had that in mind when he made those comments the other day. He has certainly known me long enough to know that I would not meekly accept the admonishments that he was handing out; that is, I would not just pack them in a nice little satchel, run off and say, 'Thank you very much, John'. It is not in my nature to do that, as he would be very well aware. I am certain that if the roles were reversed, if I were Treasurer and he were a member of the committee, knowing John the way that I do know him, he in turn would have reacted similarly to me, but I suggest that he probably would not have been quite as restrained as I was last week.

I do not want to canvass the matter again. It is unfortunate when these things happen in this process that we are involved in. It does not add to good government when one has the back bench coming out criticising senior government ministers—ministers whom one holds in very high regard in normal day to day activities. I regret the fact that I was forced into the circumstance of making some criticisms about the Treasurer.

I conclude by again drawing attention to the processes and procedures that we experienced on this committee. I think it was very bad form for my opposition colleagues and Senator Spindler to put in their additional comments in the manner in which they did, without even having the decency of letting us have a copy of the comments beforehand. While we were deliberating in the committee everything was out on the table; we each in turn argued our points, scored some and lost some as we went through. But this was very bad form. It is something that will be remem-

bered, certainly by me, in future committee deliberations that I may be involved in.

Senator Ellison—Madam Acting Deputy President, I raise a point of order. I think those last comments made by Senator McKiernan misrepresent the situation. I believe that I am entitled to make some explanation to gainsay that. There was a discussion in Senator Cooney's office, and Senator Spindler was there, on the Friday before the release of this report as to the additional comments by the respective parties involved.

The ACTING DEPUTY PRESIDENT
(Senator West)—Senator Ellison, are you attempting to make a point of order? Would you like to come to the point please?

Senator Ellison—Yes, I believe that I have been misrepresented because Senator McKiernan is saying that the opposition members ambushed the government members by bringing in these additional comments without notice. That was not the case at all. They were only printed at the last minute because of the time constraints in any event.

Senator McKIERNAN—The normal convention is that the committee is told formally when the vote is taken that there will be a dissenting report—and that is effectively what additional comments are. The additional comments were not put in the form of a dissenting report, which is the normal procedure.

The committee agreed to a report which was called a unanimous report. When we picked up the report on Monday, after it had been formally presented, we saw the words that our colleagues had put together in the form of additional comment. They are to all intents and purposes dissenting from the main report. It really is bad form. Perhaps there were a lot of pressures around at the time.

It is possible that, had I or another of the government committee members presented a draft copy of the report to senior people on this side of the chamber, I or my colleagues might have been put in the same position; we too could have been forced to put in additional comment. But it was not the case. None of our colleagues had seen our report until it was

presented to the President and to the Acting Deputy President.

I suspect from the public comment on the report as it was still being developed that that might not have been the case with all of our opposition colleagues. There was an article in, I believe, the *Australian Financial Review* on the Thursday about what we were going to do. Certainly on the weekend there were further newspaper articles on the matter. Those comments did not come from this side of the chamber. Consequently we, in turn, were not put under any severe pressure from our superiors to put in additional comment.

Senator HILL (South Australia—Leader of the Opposition) (9.31 p.m.)—I wish to speak to the motion of my Senate colleague Senator Vanstone that the Senate take note of the report by the Standing Committee on Legal and Constitutional Affairs on the constitutional aspects of the Taxation (Deficit Reduction) Bill 1993. This inquiry by the Senate Standing Committee on Legal and Constitutional Affairs commenced with the motion that I moved in this chamber that the committee should look at the constitutionality of various parts of the government's taxation package, in particular, the omnibus tax bill, which it seemed to me was very likely to be unconstitutional.

The government objected to that process. Nevertheless, the Senate very wisely sent to its committee consideration of the matter. It is history now that the committee unanimously reported that there was considerable risk in pursuing the legislation on the basis that it be presented to the Senate by the Treasurer (Mr Dawkins).

The motive of the Government, I think, is undisputed. The government sought to link a series of taxation matters with other matters in order to make it more difficult for the Senate to vote for and against certain tax measures. That was a strategy adopted by the Treasurer. Instructions were specifically given to the draftsman to that effect. The fact that the political objective of the government was likely to run counter to the constitutional requirements for legislation was simply ignored by the government. The government and, in particular, the Treasurer then clearly

failed in their responsibility by seeking to pursue a very important piece of legislation in this chamber in a form that was very likely to be unconstitutional. Not only was that an offence to the Senate, but it was a highly unwise course of action for the government to have taken because, as was advised by a number of the constitutional experts, the chances were that the whole bill would fail upon subsequent challenge in the High Court.

So all of the new taxes that were being imposed, the additional taxes that were being raised, and some benefits that were being given would, somewhere down the road—perhaps next year—have been lost. The result in this nation would have been total turmoil. But that consequence to the nation apparently was disregarded because the government saw some short-term political advantage in pursuing its objectives in this way.

The Senate can certainly be proud of the contribution that has again been made by its Standing Committee on Legal and Constitutional affairs, chaired very ably again by Senator Cooney. It has done the job well. It has advised the Senate of the legislative danger of what was being put to it. It has in effect advised the government of the folly of its proposed course of action. I regret that, instead of the Treasurer graciously accepting the advice of the Senate committee, putting the bill in a form that was clearly constitutional and avoiding the difficulties that were previously presented, he has not been prepared to act in that way.

In fact, what he has put to the parliament and what has been introduced in the House of Representatives today would appear to contain considerable constitutional doubt, at least in relation to the first and second bills, and possibly the third bill as well. In regard to the second bill, the Treasurer has acknowledged that there is a constitutional doubt. What he has sought to do is to ask the Senate, notwithstanding the previous experience, to pursue and pass that piece of legislation with the constitutional shortcomings in order that it might be tested in the court. That is in my opinion, and I put to you, Mr Acting Deputy President, improper parliamentary practice. It is wrong—

Senator McMullan—What childish nonsense.

Senator HILL—It might be the way that Senator McMullan thinks the parliament legitimately functions; I do not think it is. He is saying that it is proper for a government to pursue a piece of legislation that most likely is unconstitutional in order that the Treasurer might somewhere down the track be able to prove a point or fail in his point. I do not think that is good parliamentary practice and I am sure Senator McMullan does not think so either. But he is, of course, locked into the particular role being played by this Treasurer in his last days, probably, in office. It is an embarrassment to his government and to him and he should not have been part of it. Nevertheless that is what is being put before us. I hope that the Senate will reject that course of action.

In addition to that, as I said, it seems that the first bill that the government has introduced and which it does not refer to as a so-called test bill also deals with more than one imposition of taxation and is also, therefore, very constitutionally doubtful. Why has the government gone down the same track again? Why has it not learnt from its experiences of the last few weeks? Why is it putting its own program in jeopardy to try to win some cheap political point? It is a very hard question to answer. The most likely answer is that the Treasurer is simply not adequately coping with the process. We saw it in the way he abused his own colleagues on the committee for only doing their job.

Even worse, we saw it in the way he abused the outside advisers who gave of their time to help the parliamentary process. Learned counsel from around Australia, people like Tony Morris QC, David Jackson QC, Stephen Charles QC and others, gave of their time and effort in order to help this parliamentary process and deal with a difficult constitutional question. What thanks did they get from the Treasurer of this nation? They got a mouthful of abuse. That is simply not good enough. It demonstrates that the Treasurer is not coping. That is presumably why he has brought back to the parliament today a set of bills which in

part appear very likely to be constitutionally flawed.

The third area in which there is still some doubt relates to the third bill. This is yet to be clarified in full, but the question is whether the linkage of the tax cuts contained in the third bill with other bills in the package in itself breaches section 55 of the constitution. That is a question yet to be addressed.

Where should the Senate now go as a result of this poor legislative practice by the government? What I put to the Senate tonight is that, in relation to the so-called test bill, the Senate should certainly send it back to the Treasurer and say, 'We will not deal with it in this form. You should withdraw and redraft it in a form in which it is clearly constitutionally valid'. That is not an unreasonable thing for the Senate to expect and, in fact, demand. The Treasurer should have learnt his lesson from what has occurred over the last month or two and he should be putting legislation to this parliament that is constitutionally valid. Therefore, I move:

At the end of the motion, add:

";and that the Senate:

- (a) calls on the Treasurer Mr John Dawkins to heed the conclusions of the report, in particular the finding that "there is a real risk which is significant that the High Court would find the Taxation (Deficit Reduction) Bill 1993, if enacted, to be a law imposing taxation within the meaning of section 55 of the constitution";
- (b) deplores the Treasurer's proposal to present, in the Taxation (Deficit Reduction) Bill (No. 2) 1993, a so-called "Test Bill" containing a mixture of provisions identical in nature to those which, in the Committee's view, give rise to a real and significant risk of constitutional invalidity;
- (c) calls on the Treasurer to redraft the so-called "Test Bill", due to be introduced into Parliament today, in a form that is unambiguously valid under the terms of the constitution; and
- (d) calls on the Treasurer to desist from the constitutionally irresponsible and provocative behaviour of asking the Senate to consider and pass legislation which a multi-party committee has unanimously concluded is of highly questionable constitutionality".

I have had a sentiment of support from Senator Spindler on behalf of the Australian Democrats. I remind Senator McMullan that

Senator Spindler said in this place, 'The Treasurer should stop playing games'. It is good advice to this government. I am pleased that the Democrats have given an indication of support to this amendment. I hope that the Greens and Senator Harradine will do likewise because in supporting it the Senate will be asserting its position in a proper way and telling the Treasurer that we are not going to be treated in this way.

The Treasurer has a responsibility in government to bring in his legislation, but he has a responsibility to bring it to us in constitutional form. We are not some form of constitutional guinea pig. We should not be treated in that way. It is so easy for the Treasurer to correct the doubt that exists in this test bill. He can simply split the taxes that are included within it and then there will be no constitutional doubt at all and the Senate will deal with the bills as it is obliged to deal with them under and in terms of the constitution. That is what the Treasurer should do. He should take it back, get it right and bring it back finally to the Senate in the proper form in order that it might be then dealt with here in this place.

Senator ALSTON (Victoria—Deputy Leader of the Opposition) (9.44 p.m.)—I know Senator McMullan wants to go through all these shenanigans and pretend that somehow this is not a proper course to follow. There was a time when Senator McMullan could address these matters objectively. In that earlier life, I would not have thought he would have much more difficulty than did his own Senate colleagues on the Standing Committee on Legal and Constitutional Affairs in coming to what is an irresistible conclusion on the facts; that is, that there is a significant risk that the original bill would be found to be unconstitutional.

In the release put out by this petulant Treasurer (Mr Dawkins) on 21 September last, in the course of blaming us for everything, he said, 'The obstructive actions of the opposition in the Senate continue to create uncertainty'. We have heard the level of disparagement that he has constantly indulged himself in in blaming every messenger in the country. Apart from those sorts of disparaging

and probably defamatory remarks about everyone in the country who has got it wrong except the Treasurer, he said, 'My responsibility is to act in the community interest to remove that uncertainty'.

What we now are faced with is spelt out very clearly towards the end of this very same press release. In explaining why he has embarked upon this, to use Senator McMullan's term, 'childish' course of action in deliberately putting forward a bill which everyone else in the country believes is constitutionally invalid—

Senator McMullan—You know that is not true. You know there has been significant legal advice to the government to the contrary. Don't mislead the Senate.

Senator ALSTON—Who from?

Senator McMullan—The Attorney-General's Department.

Senator ALSTON—In-house advice.

Senator McMullan—That is a terrible slur on Mr Rose.

Senator ALSTON—I have the greatest sympathy and respect for Mr Rose, put in an impossible position.

Senator McMullan—You do not have a single fact to base that on. That is an entirely unfair slur on him.

Senator ALSTON—If the government was fair dinkum it would have asked Mr Rose for his advice before the event and not afterwards.

Senator McMullan—Do you think perhaps we did?

Senator ALSTON—If the government did, Senator McMullan has lied to this chamber because we have put down a requirement for the government to provide all the advice it had received and I recall Senator McMullan interjecting and making it clear that it was advice that Mr Rose gave after the bill had been introduced.

Senator McMullan—Me?

Senator ALSTON—Yes. The fact is that Senator McMullan has made it clear that there was no such request for advice before the event; Mr Rose was simply put in the very

difficult position of having to validate the actions of the Treasurer. The government has had every opportunity over recent weeks to put—

Senator Hill—The Treasurer had obviously said they were all worried about it.

Senator ALSTON—There is no objective commentator, and the government has put Mr Rose to one side. Imagine what would happen if we got up and said, 'Senator Hill has got a lawyer on his staff and he holds a very strong view on this subject. He studied constitutional law at university and it is his view accordingly'. What would those on the government side say? Even if he were the most eminent silk in the country, even if we got Daryl Williams to put an opinion on the table of the Senate, would the government have treated that as the opinion of a former Federal Court judge, as the Chairman of the Law Council of Australia? Of course not. Those opposite would have said, 'What do you expect? That is what we get from your side of politics'.

Poor old Senator Cooney found himself having to argue that virtually everyone in the place was being political except the four members of the committee. I take off my hat to them as well because they did their job in the only way they could have done it. They came to the only conclusion that was open to them on the evidence. As a result, this government finds itself in very big trouble.

The question that arises in my mind is whether Mr Dawkins ever bothered to inform himself about progress in that committee because we had the most inept performance on the part of both the Treasurer and Senator Gareth Evans, if they were seriously wanting to get this Bill through. They let the cat out of the bag on day one. They admitted that this was a political stunt. They admitted that it had no legal justification. This was being done for the very purpose that the constitution says is not to be permitted. In other words, you cannot tack. You cannot have a clutch of bills designed to put improper pressure on people who might otherwise want to vote against one on the merits and for another on the merits. You cannot compromise them in that way.

With all the supposed legal skills that Senator Evans constantly self-proclaims in this chamber, he was not even able to come up with the slightest legal justification. In other words, he made it clear that this was a naked political ploy. Of course the Treasurer, who I think is still only a law student and probably ought to concentrate more on attending constitutional law lectures than he seems to have done at the present time, made abundantly clear in his submission to the committee that this was again a naked political exercise. He went on to say in his release that the test bill, which the government believes is consistent with section 55 of the constitution, allows the bill to be tested in the High Court. The deficit reduction bill (No. 2), the test bill, would be regarded as invalid by all those who have argued that the current bill is invalid.

One does not have to be too smart to work out that the government backed down, humiliatingly, after two weeks of pretending that there was some sort of magical interlocking, that it could not separate any of these bills without disturbing the fundamental integrity of the package, and that somehow they were all perfectly above board and beyond challenge, for the simple and obvious reason which it now acknowledges: there is a significant risk. Otherwise, why is it playing these current splitting games? It has done it simply because it has to acknowledge the inevitable. In those circumstances it is simply outrageous for the Treasurer to go off on a frolic of his own to offer some poor, unfortunate litigant the opportunity, presumably at his or her own expense, to go to the High Court to establish what, as the Treasurer and everyone else seems to acknowledge, is a flawed bill.

As Senator Hill says, there is a very simple way out of all this. It is for the Treasurer to take heed of all the objective and impartial advice that has been available and the quality of submissions that have been made to the committee from those with no axe to grind—people who were not in any way chasing publicity or wanting to earn money, as Mr Dawkins quite outrageously suggested; people who simply felt compelled by the very nature of the actions of this government to spell out

what they saw as the proper legal interpretation. They spelt it out in no uncertain terms, to the point where we had—as we often do in constitutional law matters, particularly when there is no authority right on the point—conflict between the experts.

Putting aside Mr Rose, for the obvious reason that he does not fall into the category of impartial, independent experts, we are faced with a very one-sided contest—in fact, a no-game. The government, with all its resources, was not able to marshal even one independent practitioner to come along and support its case. In those circumstances, one can only draw the inevitable conclusion that it backed off for the very obvious reason that there would have been chaos and uncertainty on a continuing basis until the inevitable result had been handed down by the High Court. The logic of that decision has to be that the same approach ought to be adopted in this case. If it is not, the government and the Treasurer will be on a hiding to nothing, and deservedly so, because they are not in any shape or form required to take the action they have. It is simply, to use Senator McMullan's term, a childish political response to what ought to be a very serious legal issue.

One can understand that the Treasurer might be under all sorts of pressures, but the fact remains that he ought to have had the opportunity to get impartial advice from experts, who I suggest would have come to only one conclusion: what we are proposing tonight is the proper way to go. The sooner the Treasurer acknowledges that, the sooner he will minimise the obvious continuing uncertainty that he himself has created, and that will obviate the necessity for this ludicrous proposal for test cases to go before the High Court.

The High Court is not in existence to provide advice to those who might seek it on a whim or to those who might be playing political games; the High Court is there for when there is a genuine and obvious matter of constitutional importance to be determined. That is clearly not the case here. All the actions of the government indicate that it acknowledges the force of the opinions that have been made public. In those circum-

stances, it ought to do the decent and honourable thing and cave in to reality as quickly as possible.

Senator McMULLAN (Australian Capital Territory—Minister for the Arts and Administrative Services) (9.54 p.m.)—I apologise for taking up a very brief amount of the Senate's time on a matter that has already wasted a substantial amount of it. I am not talking about the debate on the report of the Senate Standing Committee on Legal and Constitutional Affairs. That was a legitimate report, debated by all the members of the committee. I am talking about Senator Hill's amendment and Senator Alston's speech in support of it. If people have a powerful view about whether or not this bill should be proceeded with, the matter will be brought in here and it can be debated then. All these points will be made and rehashed. In this instance, the words 'ad nauseam' are quite appropriate.

We have a situation in which the government received advice from a very reputable Australian whose integrity is genuinely well regarded and who is considered respectable by Senator Alston, in his honest moments, and by most people. But suddenly, because he does not agree with Senator Alston, he is obviously just a hired gun and his opinion has to be denigrated and his integrity has to be denigrated. Every public servant who provides advice that the opposition does not like is in that situation at the moment. This is the first time I have heard Senator Alston stooping to that level. Some of his colleagues do it more often, but this is the first time I have heard him do it, and I regret it.

The government has the view that the initial proposal was valid but that if we were to proceed along that course, where there would undoubtedly be a challenge about matters which have immediate revenue implications, there would be a significant risk to the revenue. There are no immediate revenue implications with regard to the test bill. That is why those two proposals have been put in that bill. It provides the opportunity for it to be adequately tested without any of the risks.

Senator Hill—Why won't you divide it and avoid the issue?

Senator McMULLAN—Why is Senator Hill so desperate to avoid the High Court?

Senator Hill—So you will not answer the question.

Senator McMULLAN—I am trying to tell Senator Hill, if he will listen.

Senator Alston—It is not a High Court issue.

Senator McMULLAN—Senator Alston really is thick.

Senator Alston interjecting—

The ACTING DEPUTY PRESIDENT (Senator Calvert)—Order! There has been too much chitchat across the chamber tonight.

Senator McMULLAN—You are absolutely correct, Mr Acting Deputy President, but I enjoyed that interjection because it proved that Senator Alston does not at all understand the point that I was making previously, which is quite clear. If the original bill were to be challenged, that would lead to delay and uncertainty about matters with immediate revenue implications, but the test bill does not have any.

Senator Alston—So it does not matter, even if it is invalid, because it doesn't cost money? Is that what you are saying?

Senator McMULLAN—No. I am saying that the opportunity to test it exists without—

Senator Alston—Why does it have to be tested?

Senator McMULLAN—I know that Senator Alston is the world's most eminent authority and that, if he disagrees with us then we have to abandon it, but we do not share his view. It is still a democracy and we are entitled to disagree with him.

Senator Alston—You can do whatever you like, mate. You have the right to think for yourself.

Senator McMULLAN—We are proceeding to act accordingly, despite this childish attempt to wave around silly amendments. Lots of bills will come into this place—they have and there will be plenty more—and people will express profound views about the constitutionality or otherwise of those bills. I hate to say it, but sometimes some honourable

senators are wrong about the views they express. Historically, right through the Whitlam government period, the opposition has asserted that bills were unconstitutional.

Senator Alston—We are not just asserting it. We have three of the most eminent constitutional lawyers in the country.

Senator McMULLAN—And they often did then, and they were often wrong. And sometimes they were right. There is no harm in allowing the High Court to establish this principle. It does no harm. It does substantial good—at no risk to the revenue and with no generation of uncertainty about the passage of legislation. It seems to me to be a very reasonable course of action. It seems to me to be understood by the overwhelming majority of Australians. I actually think that the opposition understands it, too. It is a terrible waste of time to debate this stupid amendment. We will debate it when the bill comes up. That is when we will deal with it. Obviously, no sensible person could agree with the amendment.

Amendment agreed to.

Motion, as amended, agreed to.

DOCUMENTS

Auditor General's Reports

No. 4 of 1993-94

The ACTING DEPUTY PRESIDENT (**Senator Calvert**)—In accordance with the provisions of the Audit Act 1901, I present the Auditor-General's report No. 4 of 1993-94: *Payments under out-sourced service contracts*.

Senator PARER (Queensland) (10.01 p.m.)—by leave—I move:

That the Senate take note of the document.

The report by the Auditor-General, who, as honourable senators would know, is the watchdog of expenditure of taxpayers' money in Australia, was brought about because of a question asked by me in Estimates Committee D. I asked the Auditor-General whether the Australian National Audit Office had noted any increase in fraud involving government finance and activities over the past 12 months. The Auditor-General responded by saying:

We have detected a very significant fraud which we have drawn to the attention of the Commonwealth police. For jurisdictional reasons, it then brought in the New South Wales police. We had been working with a New South Wales state instrumentality to get the evidence. It then was passed again, for jurisdictional reasons, to the Victorian police who, I think within the last three or four weeks, have taken sledgehammers and crowbars and knocked down their final doors and opened their final safes. . . . The Victorian police have appeared on television and said it is the biggest fraud they have ever seen.

It appears that the federal government and at least two state governments have become the victims of this major fraud. According to the evidence given by the Attorney-General, it was so widespread that it needed the resources of the Australian Federal Police, the police in Victoria and the police in New South Wales to unravel it. Because of the complexity of this scam and the staggering amounts involved, those investigating it took the unusual step of letting it continue for some three months so that solid evidence could be gathered.

It was quite apparent during the estimates committee that, for legal reasons, the Auditor-General could not or would not identify the area of service involved. The first detection, as I mentioned earlier, was based on services to New South Wales. The Auditor-General said that with further investigation and with the cooperation of victims—to use his words—it became evident that other governments, particularly the Victorian and federal governments, were involved. According to the Auditor-General, the scam had grown like a mushroom because no-one was watching or checking that contractual agreements were being met, particularly in relation to the type of servicing; whether it was being done and whether the bills being submitted—these are the accounts being submitted—were in fact correct. There were indications that some clients found themselves unable to assess the standard of service and merely paid up.

The tactics involved included threatening by writ the Auditor-General himself because of some sort of a release that got into the newspapers. When someone—apparently from the audit office—appeared on television and said no more than, 'I cannot understand how our

letter was leaked to the media', this prompted the threat of a writ by a solicitor. As far as I know, no writ has ever emerged.

It appears from what the Auditor-General has said that there is little doubt that the end result will involve criminal charges being laid. However, the most pressing problem for the government was to review management procedures to ensure there was proper scrutiny and approval of accounts before any bills were paid. I think that is the crux of the matter. This shows that, while the government has been playing around with silly things like republicanism and flags and all this other red herring stuff, if it actually directed its attention to the management of government, to the management of taxpayers' funds, it would be more productive.

In conclusion, I refer to a part of the Auditor-General's report which I think is particularly frightening. Item 13 under the heading 'Implications for risk management' states:

The ANAO believes that the shortcomings revealed in the check of payments for this service may be only an indication of wider problems where functions previously carried out in-house are outsourced. The daily dealings with contractors and the integral relationship of the work to an agency's operations can induce an environment in which there is an unrealistic assessment of risk in certification of payments. The Victoria Police Fraud Squad also has advised that this case highlights 'the need for people to institute appropriate audit systems'.

I suppose this report will inevitably ask a lot more questions than it answers because, at this stage, all the Auditor-General has done is put out a preliminary report as a result of the interest shown in this particular significant fraud case during the estimates committee hearing. I suppose questions will be asked that I do not know the answers to, and I suppose it is best that we do not know the answers to some of these questions until the charges are laid. Where apparent fraud to this extent is carried out, it is important that those people involved be charged and brought to trial.

Yet again, we have an instance which shows the importance of the Auditor-General in the whole concept of government and its

operation. The Auditor-General has a record of producing excellent reports, not only in regard to this sort of thing but also with respect to efficiency of government operations. It is generally thought—the scuttlebutt around the place is—that the Auditor-General feels that there are parts of government that really do not appreciate the attention he gives, but it is attention that is absolutely vital if we are to have accountability of government, proper government and proper management of the economy of this country.

Question resolved in the affirmative.

COMMITTEES

Estimates

Program Performance Statements

Senator McMULLAN (Australian Capital Territory—Minister for the Arts and Administrative Services)—I table the corrigendum to the program performance statement of the Department of Veterans' Affairs. Copies of this document have been distributed to members of Senate Estimates Committee B and other interested senators. Additional copies are available from the Senate table office.

CUSTOMS TARIFF AMENDMENT BILL 1993

Report of the Industry, Science, Technology, Transport, Communications and Infrastructure Committee

Senator CHILDS (New South Wales)—I present the report of the Standing Committee on Industry, Science, Technology, Transport, Communications and Infrastructure on the Customs Tariff Amendment Bill 1993, together with a transcript of evidence.

Ordered that the report be printed.

BICENTENNIAL PARK, HOMEBUSH BAY

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

That, in accordance with paragraph 42(1)(b) of the Lands Acquisition Act 1989, the Senate resolves that the acquisition by the Commonwealth of a leasehold interest in a site in the Bicentennial Park, Homebush Bay, NSW, for the purpose of taking over 2UW's AM facilities in the radio transmitter located at the site, may proceed without

the holding of an inquiry under section 11 of the Environment Protection (Impact of Proposals) Act 1974.

ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported, informing the Senate that His Excellency had, in the name of Her Majesty, assented to the following laws:

Nuclear Non-Proliferation (Safeguards) Amendment Act 1993 (Act No. 33 of 1993)

Nuclear Safeguards (Producers of Uranium Ore Concentrates) Charge Act 1993 (Act No. 34 of 1993)

Primary Industries Legislation Amendment Act 1993 (Act No. 35 of 1993)

Social Security Legislation Amendment Act 1993 (Act No. 36 of 1993)

Aboriginal and Torres Strait Islander Commission Amendment Act (No. 2) 1993 (Act No. 37 of 1993)

Murray-Darling Basin Act 1993 (Act No. 38 of 1993)

COMMONWEALTH BANKS AMENDMENT BILL 1993

First Reading

Bill received from the House of Representatives.

Motion (by Senator McMullan) agreed to:

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

Bill read a first time.

Second Reading

Senator McMULLAN (Australian Capital Territory—Minister for the Arts and Administrative Services) (10.10 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Mr President, this bill will give effect to the government's decisions, announced in the "Investing in the Nation" statement: to reduce the Commonwealth's shareholding in the Commonwealth Bank; to provide a capital injection and a continuing subsidy to the Commonwealth Development Bank and; to amend the Commonwealth Development Bank's charter to expand its lending activity.

The main purpose of this bill is to amend the Commonwealth Banks Act 1959 to facilitate a reduction in the Commonwealth's equity in the Commonwealth Bank from around 70 per cent to a minimum of 50.1 per cent. This will not affect the government's guarantee of the Bank's liabilities.

Originally, it was announced that the sale would proceed in the 1994-95 financial year. However, as the Minister for Finance announced on 2 July 1993, the proposed sale has been brought forward to the 1993-94 financial year. This decision enables the government to mitigate the impact that the postponement of the Qantas float would otherwise have had on this year's Budget.

At current share prices, the sale of this portion of the government's equity in the Commonwealth Bank is expected to raise around \$1500 million.

I shall now outline briefly the measures contained in this bill.

The amendments contained in Part 2 of the bill provide for the Commonwealth to reduce its shareholding in the Commonwealth Bank and stipulate that the Commonwealth cannot reduce its shareholding to below 50.1 per cent. This ensures that the Commonwealth will continue to retain majority ownership of the Commonwealth Bank.

The sale of shares in the Commonwealth Bank could leave the purchasers of equity liable for certain State and Territory taxes and charges, in particular stamp duty. In the absence of any action, this would depress the expected returns to the Commonwealth (and hence to all taxpayers) from the sale of these assets and would benefit only the taxpayers in the particular State or Territory where the taxes are paid. It would also complicate the sale process.

To avoid these issues the bill provides that the sale of the shares in the Commonwealth Bank and related transactions to the sale are to be exempted from State and Territory taxes and charges.

Further, the bill facilitates the government's decision to expand the role of the Commonwealth Development Bank by providing a one-off capital injection of \$30 million in 1993-94 to allow the Commonwealth Development Bank to expand its lending, and to provide a continuing subsidy of \$20 million per annum, to begin in 1993-94.

The capital injection will be in the form of an issue of Commonwealth Development Bank shares to the Commonwealth. The value of the shares will be determined by agreement between the Treasurer and the Commonwealth Bank Board. As a result, the Commonwealth, as beneficial owner of these shares, will be able to receive dividends from the Commonwealth Development Bank. The bill also amends the Commonwealth Banks Act so that the

Commonwealth Development Bank is empowered to accept the subsidy from the Commonwealth.

The capital injection and the continuing subsidy to the Commonwealth Development Bank will aid lending to the small business sector.

The bill also amends the Commonwealth Banks Act to extend the Commonwealth Development Bank's charter to enable it to meet the full credit requirements (including refinancing) of small and medium size business customers. In the past, the charter has restricted the Bank to providing only part of these credit requirements in most instances. This change will ensure that the Bank is no longer largely restricted to providing supplementary finance.

Mr President, the amendments contained in this bill will benefit a wide cross section of the Australian population. Taxpayers will benefit from the proceeds of the sale, while the wider Australian public has a further opportunity to buy shares in one of Australia's premier financial institutions. And the general economic recovery will be assisted by the provision of additional funding opportunities for small and medium businesses.

Full details of the amendments are contained in the Explanatory Memorandum being circulated to honourable senators.

Mr President, I commend the bill to the Senate.

Debate (on motion by Senator O'Chee) adjourned.

DEVELOPMENT ALLOWANCE AUTHORITY AMENDMENT BILL 1993

Second Reading

Debate resumed from 27 May, on motion by Senator Faulkner:

That this bill be now read a second time.

Senator SHORT (Victoria) (10.11 p.m.)—The Development Allowance Authority Amendment Bill proposes another set of amendments to the flawed One Nation Development Allowance Authority. That authority was established as part of the One Nation proposals. These amendments—and they are the second set of amendments in just 12 months—propose further broadening of the eligibility for the development allowance in line with Labor's election promises to include some printing production and motor vehicle projects. These amendments reopen applications for these now eligible areas. The cost of these amendments is estimated by the government at \$9 million this year, extending to \$14

million by 1996-97 by which time the projects are required to have been commenced. The coalition will not be opposing this bill.

In May 1992 when the development allowance was introduced into parliament the coalition criticised a number of aspects of the proposed administration. The Senate will recall that that proposed administration was a one man, \$1 million authority. We also criticised the restrictive nature of the allowance. It was restricted to projects over \$50 million. Therefore, a vast bulk of those medium order range of projects that are so necessary to get this economy going again were excluded. We also questioned very carefully the inclusion of an unclarified test that was called a world competitiveness test.

That latter inclusion was all the more odd because it was waived for initial applicants. To this day we still do not have any idea what world competitiveness means in this context. As I understand it, no applications have been rejected on this ground. So the minister may provide an answer to this question to the Senate and the community in due course. It sounds like yet more of the Keating hyperbole and rhetoric. Since the original legislation in May of last year, the government moved amendments in September 1992 to broaden the scope and flexibility of the allowance and now the further election motivated commitments to fix unnecessary restrictive problems.

When this authority was first debated in May 1992, I said three things on behalf of the coalition about the proposal. I said first that the legislation was a very shoddy piece of work; secondly, that it was a bureaucratic solution being imposed on investment decisions; and, thirdly, that the proposed list of projects smacked of little more than a political stunt. Nothing that we have seen in the now near 18 months since then has led me to any other view.

The first point in relation to the shoddiness of the original legislation has been shown to be true by the major amendments introduced both shortly after its initial passage and again today in the bill that we are now debating. The second point—namely, that a very bureaucratic solution was being imposed on

investment decisions—is a far more serious criticism, certainly when one looks at the overall national interest. Private investment has failed to recover from the depths that it sank to during the recession. Last year private business investment, as illustrated in the budget, fell by a further 3.8 per cent and that was after a fall of 15.3 per cent the year before and falls in the two preceding years before that. So we have had a continual progressive fall in the level of private business investment in this nation over a period of at least four years. There is precious little sign of any significant or sustainable recovery in that investment level.

Whilst private business investment continues to languish the way that it has for so many years, there is no hope that we will see a sustainable and strong recovery in the economy, an improvement in job creation and a reduction in the appalling unemployment figure that we have seen for far too tragically long now. This year private business investment is forecast to rise but by a minuscule one-quarter of one per cent—in other words, really no change at all. That figure is so small that it could be put down simply to statistical error.

The government has failed to realise that investment does not occur because the Prime Minister says it should or will occur or because some bureaucratic authority is established to process it. Business investment only occurs if the climate is right. The continued absence of investment and the further run down of Australia's productive capacity are matters of serious concern for all public policy matters. As I said, without it there can be no sustained economic recovery, no improvement in living standards, no hope of any reduction in unemployment and no chance of reducing the crippling current account deficits and associated foreign debt.

It is at the core of our economic problems and a key to solving our social problems that we get investment rising again. Instead, we find that the economy, in so far as some of the vital statistics are concerned, is going from bad to worse. This year the government is forecasting a further worsening in our current account deficit to the rest of the world

back to \$18 billion—a 50 per cent increase over the deficit of just two years ago—at a time when the Prime Minister of Australia tells us that the budget will whirr back into balance and exports will go gang busters and so on. His very same budget documents show that far from exports going gang busters, what is going bust is the Australian economy with a further massive increase in our external deficit.

As a result our dollar will continue to weaken which in itself, increases our foreign debt—a gross debt now well in excess of \$200,000 million, a net foreign debt in excess of \$170,000 million. Far from those figures improving, and by that one would have to mean reducing, they are all going the other way, the wrong way—and not just in terms of our indebtedness to the rest of the world, but this government is going into increasing debt as well. This year we will not have an improvement in the budget deficit.

For the last several hours and weeks we have been talking about what the government calls a tax deficit reduction bill. That is a misnomer. Now we have seven or eight tax deficit reduction bills. The truth is that this year the deficit will not be reduced; it will blow out by another \$1½ billion from last year's already huge figure of \$14.5 billion or thereabouts to a figure of \$16 billion this year. That estimate is based on pretty shonky projections in terms of growth and some of the other economic parameters which have been used. Indeed, there is every probability that that figure of \$16 billion will prove to be a gross underestimate. In arriving at that figure, the government has used what can only be called some highly creative accounting. So we have a climate in which the government is fundamentally doing nothing at all to stimulate or encourage sustainable private investment, and we all know the consequences of that.

The third point of criticism that I made when this authority was established last year was that the proposed list of projects that was touted around at the time by the government smacked of little more than a political stunt. The One Nation exercise was politically motivated. One Nation was going to save the

world. It sank without trace within a matter of weeks or months and the economy has continued to sink. One Nation was intended to provide a list of investment proposals that the Prime Minister could boast about in the context of an election, and boast he certainly did as the months ran through from the middle of last year to the election in March of this year.

Honourable senators will recall that the Prime Minister hailed the coming of an investment avalanche. He said, 'We'd better watch out or we'll get knocked over along with the budget whirring back into balance'. Indeed, he had the hide to claim that, as a result of the development allowance in particular and associated proposals, there was \$130,000 million worth of investment projects under way.

Right from the start there was no way that that was going to be anything other than yet another election lie. There was never \$130,000 million worth of projects ready to go. Never for one single second was there a project list totalling that amount. That development allowance proposal was designed to draw out ever wilder and more fanciful schemes just in case it ever came off the drawing board. Possible projects to a value of \$100,000 million might have been submitted for approval. Have we ever seen the evidence of that? The answer is no. There is no evidence that they were even submitted for approval. Certainly, the number of completed projects proves that the whole thing was a monstrous furphy.

The recent report of the Development Allowance Authority for the year to 30 June 1993 states:

... the total capital value of all projects registered to date is of the order of \$14.5 billion —

I stress the word 'registered'. That is approved but not necessarily commenced projects; there is no guarantee that they will commence. Even those figures—projects worth less than \$15 billion, and 18 months after this initial proposal was announced—are light years away from the Prime Minister's wild, unsubstantiated assertions of a \$130,000 million pot of project gold. It is incomprehensible how any person could face the electorate

and say with any degree of veracity that there was such a pot of projects in the pipeline. It can only be put down to yet another of the cynical, deceitful lies that the Labor government engaged in during the run-up to the last election.

So, 18 months or more after the grand release of the One Nation statement by the Prime Minister, the Development Allowance Authority lies tattered and completely discarded. In that time, Australia's investment ailment that One Nation was supposed to cure has gone from serious to critical. Investment is in need of intensive care. But this government seems intent on ignoring meaningful, worthwhile real solutions to the problems that face us.

That situation, of course, will hurt and damage Australians even more than it has in the past. One million Australians are unemployed and another million are underemployed or have dropped out of the work force in despair. That is a tragedy that lies at the feet of this government. It is a tragedy that will only be solved by a change of government and a complete change of policy direction in this nation of ours. The proposals that are contained in the Development Allowance Authority Amendment Bill, whilst we do not oppose them, will never start the serious process of providing the real solutions that we so desperately need to our problems.

Senator MARGETTS (Western Australia) (10.27 p.m.)—The stated purpose of the original bill, the Development Allowance Authority Amendment Bill 1992, was to enable corporations to aggregate two or more joint venture projects. That really meant that subsidised expenditure in the long term would lead to certain new capital. But why? Employment creation was not a criteria. Expenditure in a new productive facility or expanding, improving or upgrading an existing productive facility was its stated aim. A condition was that the project was not in an industry which had an effective rate of assistance of more than 10 per cent. This, as I looked further, became more and more ludicrous as a criteria in relation to the kind of industries which were chosen for this allowance. Who calculated this effective rate of assistance and on

what basis? Were royalties, electricity and water tariff subsidies and infrastructure provided at the public expense included? Obviously not.

The One Nation statement of the Prime Minister (Mr Keating) in February 1992 provided for the acceleration of depreciation of plant and equipment to give Australia a more competitive investment environment. That was for projects which offered particular benefits for Australian competitiveness on world markets. The development allowance was to be at the rate of 10 per cent and allowed when plant was first used or installed ready for use. But it came with a series of selection criteria, including the absence of any substantial assistance or protection; positive facilitation by state and local governments in relation to such matters as project approval processes; where appropriate, the economic and efficient pricing of inputs under the control of public utilities and statutory marketing authorities—unfortunately, in Western Australia this means subsidised tariffs for many of those aspects—and similar or complementary action at a Commonwealth level.

Employers and employees committed to management and industrial relations arrangement—

ADJOURNMENT

The PRESIDENT—Order! It being 10.30 p.m., under sessional order I put the question:

That the Senate do now adjourn.

Prime Minister: Comments in France

Senator McGAURAN (Victoria) (10.30 p.m.)—I rise to speak about the comments of the Prime Minister (Mr Keating), as reported in the media, whilst he was overseas. The *Sydney Morning Herald* of 27 September 1993 stated:

The Prime Minister attacked the French, asking whether the tens of thousands of Australia's war dead buried in France meant anything to the French. He said, 'I was there with the names of 11,000 Australian servicemen and women engraved on the wall of that place'.

Mr Keating was referring to the Australian War Memorial at Villers-Bretonneux when he said 'that place'. Referring to Australia's trade

links and trade possibilities in Europe, Mr Keating went on to say:

And yet in Paris on a matter of international decency and fair play . . . you're flat out getting your view point registered.

Again, he stressed:

Did it mean anything to them?

That is, Australia's contribution in World War I. The linking of Australian graves that lie in France along the Western Front to an attack upon the French and France's current economic policies by our Prime Minister deserves the utter contempt of Australians. I say this with the deepest conviction and I say it with the qualifications to do so. Belonging to the National Party, representing the rural sector of Australia, I know only too well the lack of advantage given to our efficient farmers by European trade walls. I am on record in my time in parliament for stepping forward and condemning the French many times for their nuclear testing in the southern Pacific.

So misused and destructive have been the Prime Minister's comments upon the honour and glory of young Australians who lie in the graves along the Western Front that I am personally prompted to write to the Ambassador of France regretting the comments of the Prime Minister and hoping that the exceptional feeling between the two nations in the matter of the First World War will endure during and beyond this Prime Minister's term.

When the Americans visit their Lincoln memorial they see a nation forged from a tragic civil war. In many respects, they see the soul of America. I quote from that movie classic *Mr Smith goes to Washington*:

Mr Lincoln, there he is, looking straight at you as you come up the steps. Just sitting there, like he was waiting for somebody to come along.

When Australians visit the white crosses of the Western Front they see looking straight at them those forever young Australians representing the then young nation, just waiting there for somebody to come along. In many ways those visitors see the soul of Australia—the touchstone of our nationhood. But when this Prime Minister walked up to those white crosses he took the opportunity to desecrate their memory and to forge a lie—that their sacrifice meant nothing to the French. It is a

lie because there is no doubt that between the Australian people and the French, and the Europeans generally, the worth of the Australian sacrifice has not been forgotten from generation to generation. As issues such as trade wars come and go, this memory shall remain as a constant link between Australia and Europe.

On 11 November this year Australia will bring home the remains of an unknown soldier from a French battlefield to be reburied at the National War Memorial to honour the thousands of Australians who have no known grave. On this day today's Australians will again mark their respect for past Australians and acknowledge that they formed our national character. The French government has bestowed its highest prize—the Legion d'Honneur—on Australia's unknown soldier as a symbol of thanks for the courage and sacrifice of the diggers on the Western Front. At a reception for the veterans at Bullecourt memorial, Mr Jean Letaille, the mayor of Bullecourt, said:

I would like to tell Australians that we do not forget and we hope it will be the same for other generations.

I, too, seek to recognise the 75th anniversary and the homecoming of the unknown soldier.

The town where Australia is most remembered is that of Villers-Bretonneux. Four Australian soldiers won Victoria Crosses in the battles which defended this town and the greater strategic target of Amiens from German occupation. A British brigadier-general later described the Australian contribution in this battle as perhaps the greatest individual feat of the war. It is said that the locals were in the process of fleeing the village of Villers-Bretonneux when the Australian 9th Brigade of the Third Division arrived, and the villagers had so much faith in the Australian soldiers that they stayed. The school in this village is called L'école Victoria and was paid for by the money donated by Victorian school children.

If Australians should ever doubt the respect in which they are held in France and the rest of Europe, let them also know that in this quiet township of Amiens, which was protected and preserved from destruction by the

Australian soldiers at Villers-Bretonneux, one can enter a quiet and picturesque chapel dedicated to the Australian diggers who so gallantly defended the township. In neighbouring Belgium in the cemetery of Ypres six buglers play the *Last Post* every evening at 8 o'clock, and have done so since 1929, to mark the sacrifices of those Australian soldiers who are buried there.

In 1918, towards the end of the war, the key position of the German line was the hill known as Mont St Quentin. The Germans regarded the hill as impregnable but Lieutenant-General John Monash thought of a strategy with an unconventional flair which succeeded in capturing the hill and sending no fewer than five German divisions into retreat. Between 1916 and the end of the war Australian forces had opposed 39 enemy divisions on the Western Front and defeated all of them and forced six to disband. They had also held or captured several of the most significant strategic locations.

I mention this roll call of honourable and heroic deeds not to glorify the war but to pay tribute to those who sacrificed their lives for the sake of others and who, in doing so, gave Australia an honourable place in the annals of European history.

The World War I veterans also won for themselves an honourable place in Australian history and this should not be forgotten at a time when there is much public discussion about the contours of our national identity. The return of the diggers to Somme and Belgium has served as a reminder to us of the nobility of our history and the depth of their contribution to it and to our sense of national identity. In his play *The Fire on the Snow* the Australian writer Douglas Stewart said of physical and spiritual endurance that it survives after death as a 'pyre to hearten our children, a thing burning and perfect'. It is the capital that future generations live on or are inspired by. That is what we will remember on 11 November 1993.

Population and Development Conference

Senator PATTERTON (Victoria) (10.38 p.m.)—I rise this evening to say a few words about the answer given by the Minister for

Immigration and Ethnic Affairs (Senator Bolkus) in response to a question asked by Senator West this afternoon in Question Time. The minister was all too pleased to tell us about the representative nature of Australia's committee on the UN conference on population and development. However, he failed to mention that not one of the government appointees to the committee is a woman. While at least three of the non-government organisations will be sending female representatives and there is scope for certain departments to select women to represent them on the committee, to this point the government has seen fit to exclude women from the national body which will consider important population issues.

I find this very disturbing, as no doubt have many others who have contacted my office about it. I am also surprised that no women were specifically appointed to the committee by the government when the government has set as its goal a requirement that a minimum of a quarter of all members of committees should be women. As I mentioned earlier, I was alerted to the fact that no women were appointed by the government and that all the government appointees were male; therefore, I have put a number of questions on notice about this issue. I am particularly interested to know whether the register of women was used when the government appointed the members and the chair to the committee. If no reference was made to the register, I will be even more interested to know the reason why the government decided not to refer to it.

The acting head of the Office of the Status of Women has recently stated that Australian women's participation on the register of women makes a significant contribution to their part in the decision making process in this country. I would like to believe that was true. However, I find it difficult to believe that the register makes a significant contribution to the appointment of women on government boards and committees when it is rarely used by government departments. The answer which I will table later shows exactly that.

In an answer to one of my questions, the Department of the Prime Minister and Cabinet has revealed that in 1993 only 29 searches on

the register of women were requested by departments. In fact, the Department of Social Security has never requested a search on the register of women since its inception. This is hardly a glowing record, and I suspect that it is not likely to improve in the near future. I often have people say to me, 'I've been on that register of women and have never been contacted'. We can well understand why when we see the answer that has been given to my question.

The register of women was set up with a great fanfare. In 1987 former Senator Ryan said that it would make a great difference and that the number of women participating in committees would increase because of that. If one looks at the document I will table later, one will realise why it has not been as successful as perhaps former Senator Ryan and many women who put their names on the register would have hoped. In October 1987, Senator Ryan announced the upgrading of the register. In the year after the review only 44 searches on the register of women were requested by departments.

The reality is that this government has been very good at lecturing and berating sections of the community—and that includes state governments and business—about their treatment of women, but it has not practised what it preaches. It has failed to encourage departments to use what could be a very useful tool for advancing Australian women's participation in the decision making process.

I seek leave to table the answer to my question in estimates which lists, quite clearly, the number of times various departments have used the register of women.

Leave granted.

Senator PATTERSON—As I said, one department has never used the register; a couple of departments have managed the wonderful score of two in the whole time since it was revamped in 1987; a couple managed 13 consultations; some managed 15; another one used it seven times; and another one used it five times. That is not a very good record of using the register of women.

I hope that issue will be addressed by departments and at least by Senator Bolkus in

his answer to Senator West's question today. I could see why there was consternation on that side of the chamber when he answered that question, because members opposite obviously have had representations, as I have, that he would address that issue with Senator Crowley. I hope the government will do that because its record does not match its rhetoric.

Question resolved in the affirmative.

Senate adjourned at 10.44 p.m.

DOCUMENTS

The following documents were tabled pursuant to sessional order agreed to on 18 August 1993.

1. NATIONAL BOARD OF EMPLOYMENT, EDUCATION AND TRAINING AND ITS HIGHER EDUCATION COUNCIL—Preliminary Advice—Planning for the 1994-96 Triennium—section 30 of the Employment, Education and Training Act 1988.
2. UNIVERSITY OF CANBERRA—Annual Report 1992—including the Auditor-General's report—section 39 of the University of Canberra Act 1989.
3. ADVANCE TO THE MINISTER FOR FINANCE—AUGUST 1993.
4. SUPPORTING APPLICATIONS OF ISSUES FROM THE ADVANCES TO THE MINISTER FOR FINANCE—AUGUST 1993.
5. REPORT OF THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON TRANSPORT, COMMUNICATIONS AND INFRASTRUCTURE—Inquiry into Ship Safety, "Ships of Shame"—Government Response.

The following documents were tabled by the Clerk:

Australian Meat and Livestock Corporation Act—Orders—1993 No. M60/93.

Australian Postal Corporation Act—Regulations—Statutory Rules—1993 No. 238.

Christmas Island Act—

Casino Control Ordinance—

Appointment of Deputy Casino Controller and revocation of earlier appointments, dated 6 September 1993.

Appointment of members of the Casino Surveillance Authority, dated 13 July 1993.

Instrument of delegation, dated 3 August 1993.

Notice of Approval, dated 6 September 1993.

Ordinances—1993 Nos 7-9.

Regulations—

1993 No. 1.

Statutory Rules 1993 No. 236.

Civil Aviation Act—Orders—Parts—

40—dated 13 September 1993.

92—dated 13 September 1993.

100—dated 13 September 1993.

95—dated 9 September 1993.

105—dated 3, 15(2), 17(2), 21 and 22 September 1993.

Cocos (Keeling) Islands Act—

Ordinances—1993 Nos 6-8.

Regulations—Statutory Rules 1993 No. 237.

Copyright Act—Regulations—Statutory Rules 1993 No. 228.

Defence Act—Determinations—1993 Nos 20 and 31-33.

Disability Services Act—Orders—1993 DSA 1. Employment, Education and Training Act—Declaration—1993—T69.

Fisheries Act—Fisheries Notices—1993 Nos NPF 29-NPF 32 and TEC 10.

Fisheries Management Act—Determinations—1993 GAB 1.

High Court of Australia—Rule of Court, 17 August 1993.

Higher Education Funding Act—Determinations—1993 Nos T64-T68 and T70.

Migration Act—Regulations—Statutory Rules—1993 No. 235.

Mutual Assistance in Criminal Matters Act—Regulations—Statutory Rules—1993 No. 233.

National Health Act—

Declarations—1993 No. PB 14.

Determinations—

1993 Nos 24 SH 3, INS 19, INS 21 and PB 15. 1993-94 No. 1.

Principles—1993 No. NHP 4.

National Health and Medical Research Council Act—Regulations—Statutory Rules—1993 No. 239.

Olympic Insignia Protection Act—Regulations—Statutory Rules—1993 No. 234.

Privacy Act—Determination under section 11B—1993 No. 1.

Public Service Act—

Determinations—1993 Nos 18, 80-83, 155, 156 and 206-213.

Parliamentary Presiding Officers' Determination—1993 No. 4.

Remuneration Tribunal Act—Determinations—
1993 No. 10.

Seafarers Rehabilitation and Compensation Act—
Guide to the Assessment of the Degree of
Permanent Impairment, dated June 1993.

Notice of Approval, dated 17 June 1993.

Notice of Declarations and Specifications, dated
25 May 1993.

States Grants (Petroleum Products) Act—
Amendment of schemes—1993 No. 3.

States Grants (TAFE Assistance) Act—
Determination—1993 No. TAFE 28.

Telecommunications Act 1991—Technical
Standards—1993 Nos TS 011, TS 021.1 and TS
021.2.

ANSWERS TO QUESTIONS

The following answers to questions were circulated:

Attorney-General: Media Releases

(Question No. 27)

Senator Alston asked the Minister representing the Attorney-General, upon notice, on 30 March 1993:

(1) Does the department routinely disseminate or circulate all or some of the media releases of its responsible Minister or Ministers, to organisations apart from national media organisations; if so, for what reasons are Ministerial media releases circulated by the department, and to how many individuals or organisations.

(2) For each, and which, Ministerial media release circulated in the past 18 months, what was the estimated cost of printing and circulating the releases, and how many copies of the release were circulated.

(3) Does the department circulate copies of some or all of the speeches made by the Minister; if so, for each of those circulated in the past 18 months, what was the estimated cost of printing and circulating the speech and how many copies of the speech were circulated.

Senator Bolkus—The Attorney-General, Mr Michael Lavarch, has provided the following answer to the honourable senator's question:

(1) Yes, to fulfil public access and information responsibilities, the department forwards all media releases to a mailing list of law libraries, academics and individuals. All addressees on the list have requested that they be sent copies of releases. There are 246 addressees on the list.

(2) One hundred and fourteen releases have been issued in the last 21 months to 246 individuals and organisation on the mailing list. The estimated total cost of the photocopying is \$1009. Postage is saved by using IDES (the interdepartmental mail service) and posting releases to non-government recipients in batches of 6 or 7. Expenditure on postage is approximately \$2804. Therefore the expected expenditure on photocopying and posting is around \$3813.

(3) Members of my staff and the Department occasionally put speeches in the Parliament House Press Gallery media boxes.

Also from time to time, summaries of Ministerial speeches appear in Departmental newsletters. On most occasions when this occurs, readers are advised that a complete copy of the speech can be obtained by contacting the Department. Speeches on topical issues are occasionally sent to Departmental clients such as other government departments.

The Department does not maintain records on the frequency of the distribution of copies of particular speeches, and it is not practical to isolate the specific costs, which would not be significant, from general administrative costs.

Defence Force: Homosexuals

(Question No. 101)

Senator Chamarette asked the Minister for Defence, upon notice, on 10 May 1993:

(1) What specific actions have been taken by the following persons, and on what date or dates, to give effect to the new policy on homosexual members of the Australian Defence Force (ADF): (a) the Minister and his office; (b) CDF or his office; (c) HQADF; (d) Navy office; (e) CNS or his office; (f) Army office (g) CGS or his office; (h) Air Force office; (i) CAS or his office; and (j) any other relevant office or person.

(2) In each of the ADF services, how many military police or equivalents were engaged in surveillance or investigation of possible homosexual ADF personnel and what was the total cost of all such surveillance or investigation operations on each of the following occasions: (a) on or about 1 January 1992; (b) on or about 30 June 1992; (c) on or about 31 December 1992; and (d) on or about the date at which notice of this question was given.

(3) To what purpose will the resources saved by discontinuing surveillance and investigation of ADF homosexuals be put.

(4) Have all files and other material held by Service police or similar investigative authorities pertaining to homosexual activities by ADF members, other than activities covered by the instruction Unacceptable Sexual Behaviour by Members of the ADF, been destroyed; if not, why not and when will this material be destroyed.

(5) Have Service recruitment procedures, standards and assessments been varied to take account of the new policy; if so, what are the details; if not, why not.

(6) How many breaches by allegedly homosexual members of the June 1992 instruction, Unacceptable Sexual Behaviour by Members of the ADF, have occurred since the Cabinet decision pertaining to ADF personnel who are homosexual.

Senator Robert Ray—The answer to the honourable senator's question is as follows:

(1) On 23 November 1992, the Prime Minister issued a statement advising the Government's decision to end the policy of discriminating against homosexuals in the Australian Defence Force (ADF). It was therefore unnecessary for my office to issue a separate policy statement.

On 24 November 1992 the Chief of the Defence Force issued a general message to the Defence Force advising the Government's decision revoking the 1986 ADF policy on homosexuality and re-affirmed the 1992 policy on unacceptable sexual behaviour by members of the ADF as promulgated in Defence Instruction General Personnel 35-3. Headquarters ADF staff monitored actions undertaken by each Service.

The following actions have been taken by the Chief of Naval Staff (CNS) and Navy Office:

The CNS released a message on 24 November 1992 revoking Defence Instruction Navy Personnel 40-10 (Homosexual Conduct) and advising of the intended series of presentations by a Navy Office team on the policy change. This team completed a total of 35 presentations in February 1993.

The CNS released a message on 25 November 1992 advising of the intention to implement a more comprehensive non-fraternisation policy which would address all sexual behaviour between members onboard RAN vessels as well as RAN establishments.

The development on 18 January 1993 of supplementary guidance of the new policy, for inclusion into command and ships standing orders.

The engagement of consultants, to assist in the development of a proposal for the review of policies and programs on interpersonal relationships in the RAN, and to develop training and education programs, and the establishment of a project team titled 'Good Working Relationships' to undertake the review of current training, education and awareness programs.

The commissioning of a film on 22 March 1993 to be produced by 'Film Australia' to highlight unacceptable workplace attitudes.

Negotiations on the production of the film began in early February.

The posting of a female officer on 31 May 1993 as a member of the Personnel Liaison Team. This team regularly visits Naval units to give presentations on policy matters and an awareness of this new policy is included in all presentations.

The following action has been undertaken by the Chief of the General Staff (CGS) and Army Office:

On 25 November 1992, CGS discussed the change in policy with his principal Commanders and Divisional Heads at a meeting of the CGS Advisory Committee. He directed them to implement immediately the new policy on unacceptable sexual behaviour. Subsequently, briefings were conducted throughout the Army through the functional chain of command.

The following action has been undertaken by the Chief of the Air Staff (CAS) and Air Force Office:

Air Force Office has ensured that all initial RAAF training institutions provide awareness training from January 1993 in the policy associated with unacceptable sexual behaviour. This was undertaken to coincide with the beginning of the training year.

(2) The Naval Service Police were not engaged in surveillance or investigation of possible homosexual personnel. Any investigation of possible homosexual personnel is limited to the investigation of alleged service offences.

The Army Military Police did not conduct any surveillance of alleged homosexual behaviour during the periods in question. During October 1992 one investigation was undertaken as a result of a complaint involving alleged homosexual advances in a unit area, and resulted in an Army member being charged with assault. This investigation involved two interviews which, including preparation and subsequent report writing, involved approximately 35 manhours at an estimated cost of \$2065.

Between 1 January 1992 and 23 November 1992, the Army conducted two security investigations into alleged homosexual behaviour of a number of soldiers who held high level security clearances. These investigations involved four interviews which, including preparation and subsequent report writing, involved approximately 50 manhours at an estimated cost of \$2950.

Within Air Force there have been no RAAF Police surveillance or investigations of possible homosexual personnel during the specified period or any other period during 1992/1993. Therefore no funds were expended for surveillance purposes.

(3) As no resources have previously been employed in the surveillance or investigation of possible homosexual personnel, there has not been a need to re-direct resources within Navy.

Within Army the resources used for surveillance or investigation of possible homosexual members were not significant. There has been no requirement for specific re-direction of resources.

As no RAAF Police resources were expended in the surveillance or investigation of alleged homosexuals, no spare manpower or monetary resources were available for redistribution to other duties.

(4) No express files pertaining to homosexual activities by Naval personnel are held by any Navy authority. Before the change of policy, Commanding Officers were required to report allegations of homosexual conduct for security reasons. These were held on the member's Personal Security File. Following the change of policy, all references to homosexual conduct, apart from a reference to conduct which was subject to either Service disciplinary or criminal action, have been removed from Personal Security Files and destroyed. However, cases of any sexual conduct which results in either disciplinary or civil criminal action continues to be recorded in Personal Security Files.

Within Army the files relating to investigations are considered 'Commonwealth Records' in terms of the Archives Act 1983, and should not be destroyed. They would not, however, be available for public access as they would be considered to be an 'exempt record' in terms of Section 33(l) (g) of the Archives Act 1983.

All files pertaining to homosexual activities by RAAF members have not been destroyed. Air Force considers that no authority for such destruction exists, and indeed to do so may contravene Section 24 of the Archives Act 1983, which makes it an offence to destroy commonwealth records. However, those remaining files are afforded appropriately sensitive treatment.

(5) Recruitment procedures have not permitted, nor do current procedures permit, questions to be asked of an applicant which will refer to the applicant's sexual preferences. Before enlistment, applicants are made aware of the ADF policy on unacceptable sexual behaviour by members of the ADF.

(6) Within Navy, four allegedly homosexual personnel have breached the policy on unacceptable sexual behaviour since its introduction.

Army have had no breaches since the introduction of the new policy.

Air Force also, have had no breaches of the new policy.

Tax File Numbers

(Question No. 125)

Senator Watson asked the Minister representing the Treasurer, upon notice, on 13 May 1993:

With reference to the fact that where a taxpayer lodges a tax return without a tax file number (TFN) it is the practice of the Australian Taxation Office (ATO) to hold that return and send an application for a TFN to the taxpayer, that the ATO regards the return as not being lodged in the meantime and if the taxpayer fails to reply to the request or refuses to complete an application for a TFN, the return is sent to audit for appropriate action:

(1) If the taxpayer later replies to the request for information applicable to a request for a TFN, is the ATO able to impose any penalty for 'late lodgment' of that return.

(2) If that can be done, under what authority can a penalty be imposed, taking into account the fact that the taxpayer has lodged the return.

(3) Is there any legislative authority for the Commissioner to refuse to accept the return even though all information necessary to raise an assessment has been given.

(4) What legislative authority exists for the Commissioner to demand that an application for a TFN be supplied and is there any legislation which requires a taxpayer to have a TFN.

Senator McMullan—The Assistant Treasurer has provided the following answer to the honourable senator's question:

(1) Yes, where any revenue has been deferred.

(2) Under Section 222 of Part VII of Income Tax Assessment Act because Regulation 34 of Part 4 of the Income Tax Regulations states in part:

'A return shall not be deemed to have been duly furnished to the Commissioner unless and until:

(a) the proper form signed as required by the Act and Regulations and containing a full, true and complete statement of all matters and things required to be stated therein by the Act and Regulations, the Commissioner, and the form itself; and

(b) . . . have at the place where under these Regulations the return is to be furnished, been received by an officer authorized by the Commissioner to receive returns.'

When a taxpayer receives a penalty through circumstances beyond his/her control, the Commissioner will generally use his remission powers to ensure that the taxpayer is not unduly disadvantaged.

(3) Yes. Regulation 15(1) of Part 4 of the Income Tax Regulations states in part:

'Except as otherwise prescribed, every return under the Act shall—

(a) be made and furnished in such of the forms provided by the Commissioner for the purpose as is applicable;

(b) contain the information and particulars mentioned or referred to in that form.'

A TFN is used by the ATO with other information, such as name and address details, to determine the identity of a taxpayer. A return without a TFN may not have all information necessary to raise an assessment because the identity of the taxpayer has not been previously established.

(4) There is no legislative authority to demand that an application for TFN be completed, nor is there legislation requiring a taxpayer to have a TFN. The consequence of not having one is that the Commissioner is not obliged to accept the 'incomplete' return for lodgment, as per Regulations 15(1) and 34.

Company Tax

(Question No. 285)

Senator Parer asked the Minister representing the Treasurer, upon notice, on 24 May 1993:

(1) Has a concession been made for the initial payment of 85 per cent of notional or estimated company tax by 28 July to 28 September yearly.

(2) What are the years in which this practice was followed.

(3) Is the concession to apply for payment of notional or estimated company tax for tax instalments due on 28 July 1993.

(4) What is the estimate of the cost to business and industry if the government abandons the concession and requires payment as per section 221AP of the legislation on 28 July 1993.

Senator McMullan—The Assistant Treasurer has provided the following answer to the honourable senator's question:

(1) No.

(2) Since the present payment arrangements for companies and certain other entities (relevant entities) were put in place for the 1989-90 and subsequent years, there have been a number of extensions granted in relation to the due date for payment of the initial payment.

For the 1991-92 income year, June balancing relevant entities with notional or estimated tax in the range of \$1,000 to \$399,999 were granted an extension for payment of their initial payment from 28 July 1992 to 28 September 1992. For the 1990-91 income year, the same group of companies was

granted an extension from 28 July 1991 to 15 September 1991.

For the 1989-90 income year these companies were given the choice of either making one payment on 15 December 1990 or paying an initial payment on 28 July 1990 and a final payment on 15 March 1991.

(3) No.

(4) Allowing relevant entities an extension of time to pay their initial payment is a concession which has been granted by the Government on a year by year basis. No estimate has been made of the cost to business of not providing this concession in respect of the 1992-93 year of income.

Superannuation: Tax Concessions

(Question No. 415)

Senator Patterson asked the Minister representing the Treasurer, upon notice, on 15 July 1993:

What was the amount of forgone revenue as a result of tax concessions on superannuation in the financial years, (a) 1991-92; and (b) 1992-93.

Senator McMullan—The Assistant Treasurer has provided the following answer to the honourable senator's question:

(a) A preliminary estimate of the tax expenditures through retirement and other employment termination tax concessions for the 1991-92 financial year was \$4,965 million. This figure is contained in the Treasury publication "Tax Expenditures Statement" published in December 1992.

(b) A preliminary estimate of the tax expenditures through retirement and other employment termination concessions for the 1992-93 financial year will be available later this year.

Opera House

(Question No. 444)

Senator Patterson asked the Minister representing the Minister for the Environment, Sport and Territories, upon notice, on 20 July 1993:

(1) What measures have been taken to develop a World Heritage Nomination in conjunction with the New South Wales Government for the Sydney Opera House

(2) Will the nomination be completed within the 1993-94 financial year.

Senator Schacht—The Minister for the Environment, Sport and Territories has provided the following answer to the honourable senator's question:

(1) I have written to the Hon Robert Webster MLC, New South Wales Minister for Planning informing him that a meeting of experts has been held to evaluate whether the Opera House meets the criteria for a World Heritage nomination. Discussions will now be held with the New South Wales Government to determine how the nomination will be produced.

(2) It is too early in the process to know whether the nomination will be completed within the current financial year.

Tobacco Advertising

(Question No. 462)

Senator Bell asked the Minister for Health, upon notice, on 27 July 1993:

(1) Does section 21 of the Tobacco Advertising Prohibition Act 1992 allow for exemptions to the prohibition of outdoor tobacco advertising after 1 July 1993.

(2) What are the penalties for each tobacco advertisement displayed in breach of the Act where a section 21 defence was not filed prior to 1 July 1993.

(3) To whom do the penalties apply: the owner of the property on which the advertisement is displayed; the advertising company; the tobacco company; or some combination of these.

(4) How many advertisements in each State and Territory were the subject of section 21 defences filed prior to 1 July 1993.

(5) How many advertisements in each State and Territory have been exempted from the prohibition by section 21 defences filed prior to 1 July 1993.

(6) How many advertisements in each State and Territory have been displayed since the 1 July 1993 prohibition without having been exempted by section 21 defences filed prior to 1 July 1993.

(7) In cases where outdoor tobacco advertising has occurred since the 1 July 1993 prohibition without having been exempted by section 21 defences filed prior to 1 July 1993, what are the plans to initiate prosecution.

Senator Richardson—The answer to the honourable senator's question is as follows:

(1) Section 21 provides a defence to a prosecution for publication of a tobacco advertisement where the advertisement is under a sponsorship contract or arrangement entered into before 1 April 1992.

Section 22 provides a similar defence in relation to outdoor tobacco advertising.

(2) Section 15 of the Act provides for a penalty of \$12,000 for publication of an advertisement (and

for authorising or causing such a publication) in breach of the Act.

(3) The penalties apply to anyone successfully prosecuted for publishing a tobacco advertisement. Section 10 of the Act defines the meaning of 'publishing a tobacco advertisement'.

(4) 127 section 21 defences were lodged before 1 July 1993. Of these, 51 were lodged by organisations based in New South Wales, 33 by organisations based in Queensland, 18 by organisations based in Victoria, 15 by organisations based in Tasmania, 2 by organisations based in South Australia, 7 by organisations based in the Northern Territory and 1 by an organisation based in the Australian Capital Territory.

(5)-(6) Advertisements are not exempted under section 21. As noted in (1) above, section 21 provides a defence to a prosecution.

(7) Prosecution may be initiated by any member of the public in respect of any advertisement displayed in contravention of the Act. The Director of Public Prosecutions may also initiate prosecution on the advice of the Department of Health, Housing, Local Government and Community Services.

Mr Gregory Symons

(Question No. 472)

Senator Coulter asked the Minister representing the Minister for Justice, upon notice, on 29 July 1993:

(1) Was Mr Gregory Symons sentenced to 10 years jail in the Marshall Islands in March 1993 for an admitted immigration scam and will he spend 90 days in prison before entering a probation period.

(2) Is it true that in this probation period he is not free to leave the Marshall Islands until arrangements with the Australian Government regarding an extradition treaty are finalised.

(3) Is the Federal Director of Public Prosecutions still considering whether to lay charges against Mr Symons over possible breaches of the Australian Immigration Act; if so, when will the Director complete his investigations and when will an extradition treaty with the Marshall Islands be concluded.

Senator Bolkus—The Minister for Justice has provided the following answer to the honourable senator's question:

(1) I am advised that on 19 March 1993 Mr Gregory Symons entered into a 'plea bargain' with the Marshall Islands' authorities in relation to 15 counts of forgery arising out of his alleged involvement in a scheme to obtain Marshall Islands' citizenship for Taiwanese nationals in exchange for money. I am further advised that the result of the plea bargain was that Mr Symons was effectively

sentenced to 10 years imprisonment suspended on the following conditions: first, that he spend 90 days in imprisonment on the Marshall Islands; second, that he repay the Taiwanese nationals over the next ten years the monies he received from them; third, that he make a public apology to the Marshall Islands in relation to the matter, and fourth, that he not leave the country until extradition arrangements are in place between Australia and the Marshall Islands.

(2) I am advised that, in accordance with the above plea bargain, the Marshall Islands authorities will allow Mr Symons to leave the country after extradition arrangements are in place with Australia. I am advised that this aspect of the plea bargain was a matter for the Marshall Islands' authorities and Mr Symons and did not involve any undertakings or assurances from the Australian Government.

(3) I am advised that the Office of the Commonwealth Director of Public Prosecutions has completed its consideration of this matter and has advised the Australian Federal Police that Mr Symons should not be prosecuted for an offence under the Migration Act 1958. I am further advised that Australia and the Marshall Islands do not need to conclude an extradition treaty because both countries enjoy a non-treaty extradition relationship based upon reciprocity. The relationship is based upon each country's ability to extradite to the other in the absence of a treaty. Australia became aware that the Marshall Islands could extradite to Australia when the Marshall Islands extradited a person to Queensland for murder in 1990. Since then, Australia has been seeking to establish a non-treaty extradition arrangement with the Marshall Islands. This arrangement, for Australia, was put in place when Australia's extradition law was applied to the Marshall Islands on 30 June 1993. The recent application of Australian extradition law to the Marshall Islands is not specifically related to the matter of Mr Gregory Symons or any other criminal matter pending in either country, nor has the Australian Government given the Government of the Marshall Islands any undertakings or assurances in relation to Mr Symons' or any other individual's possible extradition.

Labour Market and Training Programs (Question No. 474)

Senator Alston asked the Minister representing the Minister for Employment, Education and Training, upon notice, on 29 July 1993:

(1) Is the department currently making payments under the CRAFT Apprenticeship Training Incentive Program, the Australian Traineeship System, the Jobstart program or any other labour market or

training program to any and which of the following companies:

- Olympia Industries (Manufacturing) Pty Ltd
- Olympia Refrigeration (Sales) Pty Ltd
- Olympia Interiors Pty Ltd
- Rincraft Pty Ltd
- Brown and Hatton Group Pty Ltd
- Euphron Pty Ltd
- Jensay Pty Ltd
- Brown and Hatton Rural Pty Ltd
- Brown and Hatton Wholesale Pty Ltd
- Belesdan Pty Ltd
- Pleuron Pty Ltd
- Danpork Australia Pty Ltd;

if so, what payments have been made to each and which company and under which program since 30 November 1992.

(2) What payments were made to each and which of these companies from 1 January to 30 November 1992.

Senator Robert Ray—The Minister for Employment, Education and Training has provided the following answer to the honourable senator's question:

(1) The department is not currently making any payments to any of the named companies under the CRAFT Apprentice Training Incentive, the Australian Traineeship System, the Jobstart program or any other labour market or training program.

Since 30 November 1992, the following payments have been made:

\$264 has been paid under Jobstart to Brown and Hatton Group Pty Ltd to subsidise the employment of a Piggery Attendant (person placed had been registered with the CES since October 1992 and was placed as especially disadvantaged due to a disability);

\$3,000 has been paid under the CRAFT Apprentice Training Incentive to Olympia Industries (Manufacturing) Pty Ltd: \$1,500 for the recruitment of an apprentice Refrigeration Mechanic; and a \$1,500 completion payment for an apprentice 1st Class Sheetmetal Worker and/or 1st Class Welder who successfully completed his apprenticeship; and

\$3,000 has been paid under the CRAFT Apprentice Training Incentive to Olympia Refrigeration (Sales) Pty Ltd as completion payments for two apprentice Refrigeration Mechanics who successfully completed their apprenticeships.

(2) During the period 1 January to 30 November 1992 the following payments were made:

\$3,916 to Brown and Hatton Rural Pty Ltd under Jobstart to subsidise the employment of a Labourer/General Hand (person placed had been registered with the CES since 19 April 1991—long term unemployed);

\$1,500 to Olympia Industries (Manufacturing) Pty Ltd under the CRAFT Apprentice Training Incentive for the recruitment of an apprentice 1st Class Sheetmetal Worker and/or 1st Class Welder; and

\$6,000 to Olympia Refrigeration (Sales) Pty Ltd under the CRAFT Apprentice Training Incentive as completion payments for an apprentice Refrigeration Mechanic, two apprentice 1st Class Sheetmetal Workers and/or 1st Class Welders, and an apprentice Draftsperson (Architectural) who successfully completed their apprenticeships.

Medicare: Pharmaceutical Benefits Scheme

(Question No. 476)

Senator Lees asked the Minister for Health, upon notice, on 2 August 1993:

(1) Has the Health Insurance Commission (HIC) been restrained from further consultation with community representatives with respect to legislative reforms addressing the need to improve the legislative framework for the investigation, prosecution and penalising of wrongful claims against the Medicare and Pharmaceutical Benefits Schemes, raised by the Australian National Audit Office (ANAO) in its December 1992 report and by Mr Harvey Bates in his report of June 1992; if so, why has the HIC been so restrained.

(2) Does the Minister intend to pursue legislative reform as called for in the reports by the ANAO and Mr Bates; if not, on what basis will the Minister rely to address the concerns raised by these two reports.

(3) Does the Minister intend to provide the HIC with adequate audit powers to ensure the integrity of the Medicare and Pharmaceutical Benefits Schemes, as recommended in the reports by the ANAO and Mr Bates; if not, what powers will the Minister provide to the HIC to enable it to investigate and prosecute for fraud and overservicing under the Medicare and Pharmaceutical Benefits Schemes.

(4) Has the Minister excluded, or is the Minister proposing to exclude, HIC representatives from discussions or negotiations involving representatives from the Australian Medical Association and the Commonwealth Department of Health in relation to fraud and overservicing under the Medicare and Pharmaceutical Benefits Schemes; if so, what is the basis for the HIC's exclusion.

(5) Will the Minister guarantee that the integrity of the Medicare and Pharmaceutical Benefits schemes will be maintained in the face of public concern at apparent widespread fraud and overservicing, as highlighted in the reports by the ANAO and Mr Bates and the report of the Victorian Auditor-General's Office into visiting medical officer arrangements, and that this integrity will not be compromised by a reliance upon peer review as the principal means of addressing the concerns raised by these reports.

(6) Will the Minister guarantee that the Government will introduce legislation as soon as possible in order to provide the HIC with adequate powers to detect, prosecute and seek appropriate penalties in respect of fraud and overservicing under the Medicare and Pharmaceutical Benefits schemes.

Senator Richardson—The answer to the honourable senator's question is as follows:

The Government is firmly committed to dealing with excessive servicing.

It should be noted that the causes of unnecessary servicing are varied and hence various approaches are needed.

For example, the recent restructuring of pathology has produced savings in both Government outlays and in activity levels of over \$100 million a year. This included restructuring items to reduce any incentive to order unnecessary tests.

The activities of the HIC in dealing with Fraud and Overservicing are an important part of the process for dealing with excessive servicing.

The Government is giving a high priority to dealing with those aspects. It is, however, essential that measures be cost effective and pay due regard to privacy considerations and the fact that Medicare Benefits is a program entitling patients to receive benefits.

The Government will be dealing with this matter in streams:

Overservicing where legislation is planned for introduction this session;

Medicare Audit where procedures are being developed but which will not involve giving the HIC access to clinical records;

PBS Audit where the HIC will be introducing measures;

Fraud where the Government is considering measures to strengthen the HIC's capacity to identifying and prosecuting fraud; legislation will be introduced later in the Budget Session and is expected to lie on the table until the Autumn Session.

Double Dipping by Visiting Medical Officers where the Australian Health Ministers' Council has agreed in principle to share information

subject to satisfying Commonwealth and State privacy concerns. A working party of senior Commonwealth and State officials is to report to Health Ministers.

In relation to the specific issues raised by Senator Lees:

(1) Yes. The HIC was asked to suspend consultations on its proposals pending the Government deciding on the approach it wished to adopt.

(2) The Government will be pursuing legislative reform. While it will take note of the points made by the Auditor-General and the consultant Mr Bates the Government will exercise its own judgement to determine an appropriate and effective package.

(3) The Government intends to provide the HIC with adequate audit powers. Again the points made by the Auditor-General and the consultant will be considered but the Government will exercise its own judgement. As mentioned above the Government will not endorse the HIC having access to clinical records to conduct audits. While an Audit function may identify some cases of fraud or overservicing an Audit function is a separate activity.

(4) Consultation with the AMA on these matters at officer level involves both the HIC and the Department of Health, Housing, Local Government and Community Services. Detailed development of the proposals will be carried out by the HIC with the involvement of the Department and the AMA.

(5) The Government intends to maintain the integrity of the Medicare and Pharmaceutical Benefits Schemes. The Government believes that the peer review proposals are far reaching and that they will enable people to have confidence in the integrity of the programs. Others will be able to judge this when the legislation is introduced. Similarly, measures covering Audit and dealing with Fraud will be brought forward in due course.

(6) Legislation will be introduced as soon as possible.

Tasmania: Coastal Development (Question No. 495)

Senator Bell asked the Minister representing the Minister for Resources, upon notice, on 13 August 1993:

(1) Would alterations to the Break O'Day Fingal Planning Scheme on Tasmania's east coast rezone an area of protected and undeveloped coastline to permit inappropriate ribbon development.

(2) Is the Minister aware of strong community opposition to this proposal which is seen as totally inappropriate because it is not based on integrated management and principles of ecologically sustainable development as called for in the draft

report of the Coastal Zone Inquiry by the Resource Assessment Commission (RAC).

(3) Did a recent biologist's survey indicate this area to be very fragile and easily destabilised; if so, has this survey been referred to the RAC.

(4) Is the Coastal Zone Inquiry by the RAC currently addressing ways of safeguarding coastal zones from inappropriate development.

(5) When will the final report and the findings of the Coastal Zone Inquiry be brought down.

(6) Will a moratorium be placed on coastal zone development in Tasmania until the findings of the Coastal Zone Inquiry are handed down and implemented.

Senator Sherry—The Minister for Resources has provided the following answer to the honourable senator's question:

(1 & 2) The Tasmanian Government has endorsed the National Strategy for Ecologically Sustainable Development, and hence the ESD principles. Beyond this, it is my understanding that the Tasmanian Government recognises the need for integrated management of coastal areas and that this theme was to the forefront in its 1991 Coastal Management Discussion Paper Footprints in the Sand. I am informed that objections to the proposed alterations to the Break O'Day Fingal Planning Scheme have been lodged with the Tasmanian Commissioner for Town and Country Planning and that hearings on the matter are likely. Apart from the issues raised by the honourable senator being within the jurisdictional responsibility of the Tasmanian Government, it would be inappropriate to comment on the matter while it is before the Commissioner.

(3) I am unaware of any recent biological survey of the area and am informed that no such survey has been referred to either the relevant authorities in Tasmania nor to the Resource Assessment Commission (RAC).

(4, 5 & 6) The terms of reference of the Resource Assessment Commission's Inquiry into the Coastal Zone are to:

examine and report on the future use of Australia's coastal zone resources with particular reference to the integrated management of building, tourism, mariculture and associated development, particularly outside metropolitan areas;

examine and report on the use, including potential use, of regulatory and economic instruments and institutional arrangements to promote integrated coastal zone management.

The RAC has been asked to report to the Prime Minister by 25 November 1993. The Inquiry's recommendations will be of significant interest to

all governments and the Commonwealth Government in particular will carefully consider them. The question of whether a moratorium on coastal development in Tasmania should be put in place until the findings of the RAC Inquiry are known, is a matter for the Tasmanian Government.

Chronic Fatigue Syndrome

(Question No. 506)

Senator Bell asked the Minister for Health, upon notice, on 18 August 1993:

(1) Is the National Health and Medical Research Council currently undertaking a review of Chronic Fatigue Syndrome; if so, what are the terms of reference of the review.

(2) When did the review commence.

(3) What is the intended completion date.

(4) Have public submissions been invited; if not, why not.

Senator Richardson—The answer to the honourable senator's question is as follows:

(1) No.

(2),(3) & (4) Not applicable.

HMAS Sydney

(Question No. 507)

Senator Chamarette asked the Minister representing the Prime Minister, upon notice, on 17 August 1993:

(1) Did Mr John Doohan of 21 Bartlett Street, Willagee in Western Australia, write to the Prime Minister (Mr Keating) on 28 June 1993 referring the Prime Minister to the answer to Senate Question on Notice No. 237 (*Senate Hansard*, 20 May 1993, p.1059).

(2) Did Mr Doohan's letter refer to the sinking of HMAS Sydney in November 1941 and seek the Prime Minister's confirmation about the following matters: (a) that from early November 1941 until 19-20 November 1941 the Nazi German raider HSK *Kormoran* was 'tracked' along the West Australian coast by secret high frequency direction finding equipment installed by Amalgamated Wireless Australia and the Department of Civil Aviation at the Rose Bay Qantas Empire Airways flying boat base, Ingleburn and Holsworthy Army Remount Depots (all in New South Wales) in conjunction with similar equipment installed at RAAF Station Pearce, Western Australia; (b) that Australian intelligence authorities were aware that the vessel being tracked was a German raider and that HMAS *Sydney* was travelling south to intercept and deal with the raider; (c) that late on the night of 19 November 1941, an identified Australian Navy Signalman at HMAS Leeuwin Naval Depot,

Fremantle, received a signal, relayed via Applecross radio, from HMAS *Sydney* which read 'RRRR v Sydney', that is, that *Sydney* had come across an enemy war vessel; (d) that as the senior naval officer was unaccountably absent from his HMAS Leeuwin post that night, the signalman immediately conveyed to the Duty Chief Yeoman the signal from HMAS *Sydney*; (e) that a signal from HMAS *Sydney* contained in a file labelled 'HMAS *Sydney*' was examined in 1945 by RAAF Serviceman Gordon Laffer while he was on the staff of the Intelligence Section, Perth, Western Australia; (f) that the signal in that file read '*Sydney* calling Darwin. One fire fore and aft. Preparing to abandon ship'; (g) that the said file is now said to be 'lost'; (h) that the raider *Kormoran* carried, as main armament, a 'midget' motor torpedo boat with the official German Navy designation 'LS3'; (i) that the 316 German survivors of the *Kormoran* concealed the existence of a motor torpedo boat on board their vessel throughout their interrogation; and (j) that the existence of the motor torpedo boat was never publicly made known in the official version of the HMAS *Sydney* sinking.

(3) Is the information provided by Mr Doohan correct; if not, what is the basis for this conclusion.

(4) Has Mr Doohan sought clarification about the operation of Commonwealth secrecy provisions concerning the sinking of HMAS *Sydney*, namely: (a) that, while the Australian public has been consistently informed since 1941 that no secrecy exists in relation to the sinking of HMAS *Sydney*, the then Minister for Justice (Senator Tate) advised the Senate on 14 December 1992 that 'a definite opinion could not be offered' as to the operation of secrecy provisions applying to this matter; (b) that Senator Tate warned 'the full force' of section 70 of the Commonwealth Crimes Act 'might be brought to bear upon' any Public Service or Defence Force members 'and their legal advisers' who may reveal matters concerning the loss of HMAS *Sydney*.

(5) Is the exposure of any aspect of the loss of HMAS *Sydney* prohibited by secrecy provisions or other laws; if so, what is the authority for such advice.

Senator Gareth Evans—The Prime Minister has provided the following answer to the honourable senator's question:

(1) Yes.

(2) Yes, Mr Doohan's letter referred to the sinking in 1941 of HMAS *Sydney* and made a number of assertions about the circumstances of its loss.

(3) I am unable to comment on the correctness of Mr Doohan's assertions and do not intend to

divert Departmental resources from their proper duties to check such historical information. Members of the public are able to seek access to historical material held in Government records. Access will be allowed unless exemptions have been granted in accordance with the laws of the land, and in particular the Archives Act.

(4) This was the subject of your Question on Notice No. 2420 of 9 November 1992, to which the Government responded on 10 December 1992 (Senator Ray) and 14 December 1992 (Senator Tate).

It is not correct for Mr Doohan to claim that the Australian public has been consistently informed since 1941 that no secrecy exists in relation to the sinking of HMAS *Sydney*. I understand that the Minister for Defence, Senator Ray, informed Mr Doohan in a letter of 8 October 1992 that records relating to the loss of the *Sydney* for which exemptions have been granted under the Archives Act would be recorded at, and available through, the Australian Archives. Senator Ray also explained to Mr Doohan that he could apply, through the Archives, for access to any documents he has identified which are not currently available for public access.

(5) There is no specific legislation which prevents the release of official information relating to the loss of HMAS *Sydney*. In general, the Crimes, Archives, and Freedom of Information Acts deal with the release or non-release of official information.

Burma: Trade Delegation

(Question No. 510)

Senator Chamarette asked the Minister for Foreign Affairs, upon notice, on 18 August 1993:

With reference to the recent visit of a Burmese trade delegation to Australia:

(1) Did the Minister meet with the delegation.

(2) Did the Minister relay the Australian Parliament's abhorrence at the State Law and Order Restoration Council's continued abuse of the most fundamental human rights and freedoms.

(3) On what basis did the Minister approve a visa for the leader of the delegation, a Major Ngwe Tun, a high-ranking intelligence officer after the recent refusal of a visa for Lieutenant-General Chainarong Noonpackdi of the Thai army on the grounds of his apparent involvement in the massacre of pro-democracy demonstrations in Bangkok in 1992.

Senator Gareth Evans—The answer to the honourable senator's question is as follows:

(1) A five member delegation of Burmese officials visited Australia from 29 July—8 August

as part of a three month international tour which also took in Austria, Germany, the United States, the United Kingdom and Japan. The delegation was led by U Win Pe, a member of the Myanmar Historical Commission. Major Ngwe Tun of the Burmese Defence Ministry did not lead the delegation, but acted as secretary for the group. The tour was an attempt by the Burmese State Law and Order Restoration Council (SLORC) to explain its position and policies to expatriate Burmese, academic forums, governments and the media. I met with the delegation on 6 August in Canberra.

(2) I met with the delegation on the basis that this offered an opportunity to express once again Australia's strong views on the parlous political and human rights situation in Burma. During the meeting I stressed to the delegation that Burma was widely perceived to be out of step with the broader regional trend towards more participative systems of government and that Burma's acceptance into the regional and international communities was unlikely until there had been meaningful political and human rights reforms. I reiterated Australia's call for the SLORC to release all remaining political prisoners, implement genuine political reform and commence a political dialogue with detained opposition figure Daw Aung San Suu Kyi.

(3) The decision to approve visas for the Burmese delegation, including Major Ngwe Tun, was made on the basis that the delegation's exposure to the strength of feeling in this country about the situation in Burma would send a clear signal to the SLORC that greater international acceptance for Burma is contingent on the SLORC implementing genuine and tangible political and human rights reforms. These circumstances did not apply in the case of the proposed visit of Lieutenant-General Chainarong Noonpackdi, who was refused entry into Australia in May this year because his visit was assessed as not meeting the public interest criteria as set out in our migration regulations.

Unemployment Benefit: Sickness Benefit

(Question No. 511)

Senator Ian Macdonald asked the Minister representing the Minister for Social Security, upon notice, on 17 August 1993:

(1) Have any instructions been issued in the past 12 months to regional Department of Social Security offices requesting that people receiving unemployment benefits be asked to complete forms which are then signed by medical practitioners, advising that they have a chronic sickness and therefore should be on sickness benefits and not drawing on unemployment benefits.

(2) What is the total number of unemployment benefit recipients and what was the corresponding number 12 months ago.

(3) What is the total number of sickness benefit recipients and what was the corresponding number 12 months ago.

Senator Richardson—The Minister for Social Security has provided the following answer to the honourable senator's question:

(1) No.

(2) The total number of Job Search and Newstart Allowance recipients (unemployment benefits) as at June 1993 was 913,770. The corresponding number for June 1992 was 851,831.

(3) The total number of Sickness Allowance recipients as at June 1993 was 46,579. The corresponding number for June 1992 was 44,172.

Aborigines: CDEP Funds

(Question No. 515)

Senator Panizza asked the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 18 August 1993:

(1) Is the Minister aware of a front-page lead article in the Perth *Sunday Times* of 8 August 1993 headlined 'Phantom Camps Cost Millions' in which some Aboriginal groups allege that other Aboriginal groups are accepting community development and employment projects (CDEP) funds from the Aboriginal and Torres Strait Islander Commission in respect of pastoral properties which are seldom occupied and used basically as 'holiday camps'.

(2) Is the Minister aware of a special editorial carried in the same issue of the *Sunday Times* which calls for a public inquiry into this matter to prevent expensive rorts from hitting taxpayers' pockets and what action does the Minister plan to take to ensure that CDEP funds are properly used for their intended purpose which is to provide a real reward for real work.

Senator Collins—The Aboriginal and Torres Strait Islander Commission (ATSIC) has provided the Minister for Aboriginal and Torres Strait Islander Affairs with the following answer to the honourable senator's question:

(1) I am aware of the article in the Perth *Sunday Times* headlined 'Phantom Camps Cost Millions'.

I am advised that Aboriginal people are unable to reside at the Mowanjum outstations of Kandjiwal and Marunbabidi because of health and safety reasons. Kandjiwal and Marunbabidi are based on the traditional lands of Aboriginal people who have been living at the Mowanjum community close to Derby. The two outstations, located in the remotest and harshest terrain of Western Australia, are currently under development to allow traditional

owners to reside there on a more permanent basis. The present condition of access roads to the outstations make residency impossible during the wet season.

All CDEP funds for Mowanjum community members are allocated under a strict 'no work—no pay' policy. These members are able to work at Mowanjum when not resident on the outstations. It should be noted that the wage payments represent entitlement to Social Security benefits.

(2) I am also aware of the special editorial in the same edition of the paper calling for a public inquiry into this matter. I do not intend to initiate such an inquiry.

ATSIC's national monitoring procedures require all CDEP projects to be reviewed within a three-year cycle. Review teams comprise representatives from ATSIC and the DSS and are sometimes accompanied by members of the local ATSIC Regional Council. This review process commenced in 1991-92 and to date, 30 out of 67 projects in Western Australia have been reviewed.

ATSIC advises that reviews have generally been positive and have found that communities are complying with funding conditions. ATSIC is following up those matters where there have been a breach of these conditions.

In addition, ATSIC and DSS staff are currently undertaking a census of CDEP participants throughout Australia. This census aims to verify the identity of all participants and the accuracy of the relevant participant schedules which are used as a basis for funding. At this stage, the census of approximately 102 communities has been completed and indications are that the census should be completed on schedule by 30 November 1993.

From data received to date, ATSIC is confident that it will be able to verify that the participant schedules provide an accurate basis for funding, within the bounds of acceptable risk management.

Aboriginal and Torres Strait Islander Commission

(Question No. 517)

Senator Panizza asked the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 18 August 1993:

(1) Is the Minister aware of a report in the *Kalgoorlie Miner* of 15 July 1993 in which it was stated that the former Aboriginal and Torres Strait Islander Commission (ATSIC) chairman (Mr Greg Stubbs) was found guilty of imposition by making a false statement on an ATSIC travel form in November 1991 and that he was placed on a \$1000, 12-month good behaviour bond and ordered to pay restitution of \$782 and costs of \$3149.50.

(2) Will Mr Stubbs remain as a regional councillor of ATSIC.

(3) Will Mr Stubbs continue in his ATSIC-funded position as Aboriginal medical service director.

Senator Collins—The Aboriginal and Torres Strait Islander Commission has provided the Minister for Aboriginal and Torres Strait Islander Affairs with the following information in response to the honourable senator's question:

(1) I was advised by The Aboriginal and Torres Strait Islander Commission (ATSIC) on 15 July 1993 that Mr Greg Stubbs, a former Chairperson and current member of the ATSIC Wongi Regional Council and Director of the Kalgoorlie Aboriginal Medical Service, had been found guilty of imposition upon the Commonwealth. The brief included a copy of the *Kalgoorlie Miner* newspaper article of 15 July 1993 which stated that Mr Stubbs had been placed on a \$1,000—12 month good behaviour bond and ordered to pay restitution of \$782 and costs of \$3,149.50.

(2) There is no provision in the ATSIC Act to remove a Regional Councillor under such circumstances and Mr Stubbs will remain as a member of the Wongi Regional Council.

(3) Mr Stubbs has remained employed as the Director of the Kalgoorlie Aboriginal Medical Service. ATSIC's conditions place restrictions on the use of Commission funds to employ staff who have been convicted of certain offences. However, there is no provision in the current ATSIC Act or in its terms and conditions of grant funding to remove an employee of an ATSIC funded corporation where no conviction is recorded.

Unemployment: Horsham, Victoria

(Question No. 518)

Senator Ian Macdonald asked the Minister representing the Minister for Employment, Education and Training, upon notice, on 18 August 1993:

(1) What are the official unemployment figures for the Horsham, Victoria, statistical district.

(2) What are the actual unemployment figures for the 1992 September quarter.

(3) What does that number represent as a percentage of employment in that statistical region for the same quarter.

Senator Robert Ray—The Minister for Employment, Education and Training has provided the following answer to the honourable senator's question:

(1) Department of Employment, Education and Training estimates show that in the December quarter 1992 the Statistical Local Area of Horsham City had 695 unemployed persons and an unemployment rate of 11.1 per cent. These figures are the latest available for Horsham City and are intended to be consistent with ABS figures which are not published at the Statistical Local Area level.

(2) Department of Employment, Education and Training estimates show that in the September quarter 1992 Horsham City had 534 unemployed persons and an unemployment rate of 8.4 per cent.

(3) Department of Employment, Education and Training estimates show that the number of unemployed persons in Horsham City in the September quarter 1992 represented 9.2 per cent of total employment.

Publications: *Pesticides, Synonyms and Chemical Names*

(Question No. 519)

Senator Bell asked the Minister for Health, upon notice, on 19 August 1993:

(1) Was the publication entitled *Pesticides, Synonyms and Chemical Names* produced by the department.

(2) Was publication of this book stopped; if so, when and why.

(3) Will it be updated and published again.

(4) Will it be regularly updated.

(5) Will future editions state what each proprietary product contains as well as the main or active ingredient.

Senator Richardson—The answer to the honourable senator's question is as follows:

(1) Yes.

(2) The most recent publication of this book is the eighth edition of 1987. It has not been updated and published again since that time due to changes in priorities and availability of resources for pesticide-related activities within the Department.

(3), (4) & (5) Decisions on future publication of this book will be contingent on priorities and resources.

Defence: Pitch Black Exercises

(Question No. 520)

Senator Kernot asked the Minister for Defence, upon notice, on 19 August 1993:

(1) Why was low-altitude formation flying over densely populated areas considered a necessary part of the 1993 Pitch Black exercises.

(2) What armaments were carried by RAAF F/A-18 and F-111 aircraft during the 1993 Pitch Black exercises.

(3) How many RAAF F/A-18 and F-111 aircraft have been lost during training.

(4) Were contingency plans in place in case of aerial accident during Pitch Black; if so, what is the:

- (a) title
- (b) author(s)
- (c) date; and
- (d) summary of the content of each such plan.

(5) Has the possibility of:

(a) reducing the noise pollution from Pitch Black; and

(b) relocating future aerial exercises to non-residential areas, been studied; if so, what were the conclusions.

Senator Robert Ray—The answer to the honourable senator's question is as follows:

(1) Aircraft flying over Darwin will be in transit to or from exercise areas. Any flights near the city involving formations of aircraft are conducted for necessary practice or for air traffic control related to the efficient recovery of the aircraft to the base or departure to the exercise area. Flying in pairs actually reduces disturbances because it halves the number of passes over a particular area for the same traffic volume. Nevertheless, in all cases, separation requirements are designed to ensure safety and prevent conflict between aircraft. Minimum altitude requirements over populated areas are comparable to those applying to civil aircraft which are designed to permit aircraft to fly clear of populated areas to the maximum extent possible, in the event of any mishap. In fact, when military aircraft are in the airfield environs they fly at a higher altitude than the minimum allowed in aviation publications.

(2) Live weapons are not carried on exercise aircraft unless their employment is necessary for the exercise. This essential practice will relate to live firing in suitably safe locations: safe as to both the ground or water over which it occurs and the management of airspace in conjunction with the Civil Aviation Authority to ensure compatibility with civil aviation or at air weapons ranges with strict controls applied. Most practice is carried out with inert weapons with no high explosive content. Advanced technology and extremely stringent maintenance standards make any possibility of accidental release of weapons virtually impossible. Protective mechanisms are engaged in any flight over populated areas.

(3) Since coming into service in 1975 a total of seven F-111 and, since 1985 four F/A-18 aircraft

have been lost in training accidents with the loss of eleven aircrew. In all cases, there was no significant property damage and no civilian casualties on the ground.

(4) There are two documents which detail contingency plans in the event of an aircraft accident involving military aircraft at Darwin. The documents are generic and are not specific to a particular exercise. The documents are Darwin Formation Standing Orders: Operations—Airfield Emergency Orders published by the Commander RAAF Northern Area in February 1991; and DI(AF)OPS 7-4 RAAF Flight Safety Manual issued by the Director of Air Force Safety on 19 June 1992. This second document is the RAAF policy document which details the three phases of accident response: Preparatory Phase, which includes the evaluation of hazards and resources, the preparation of plans, training and the regular practice of emergency arrangements by emergency services; Emergency Phase, which includes the alerting and dispatch of emergency services to the accident site, extinguishing of fires, rescue/recovery, treatment and removal of casualties, and the command and control over emergency services operations; and Recovery Phase, which includes the security of wreckage, inquiries by the Director of Air Force Safety (now retitled to the Director of Flying Safety—Air Force) and formal investigations, salvage and disposal of wreckage, care and disposal of survivors, casualties and cargo, and the administrative aspects of aircraft accidents. The Darwin Airfield Emergency Orders are a subordinate document specific to accidents in the Darwin area.

(5) (a) Comprehensive Noise Reduction Plans were published and all Exercise Pitch Black 1993 participants were briefed about strict observance of the procedures. Details of the plans are attached.

(b) Darwin was the base from which the Strike (Orange) aircraft operated and attacked simulated targets 150 miles south west of Darwin, including Delamere Air Weapons Range and RAAF Base Tindal. Darwin was not a target in Exercise Pitch Black 1993.

NOISE REDUCTION PLANS

To minimise aircraft noise generated by military aircraft during pitch Black 93 (PB93), the following procedures will be set in place:

Pitch Black 93 targets have been limited to Delamere Air Weapons Range and RAAF Tindal area. Darwin is the operating base for Orange (attacking) aircraft. There will be no attacks by Blue (defending) aircraft against any facilities in the Darwin area. Orange aircraft will be required to adhere to these restrictions in the interests of minimising potential noise complaints.

Air Traffic Control procedures at Darwin will minimise local noise but overhead patterns will be

permitted with a circuit height of 1500 feet and air speed of less than 350 knots. Aircraft of visiting forces will comply. As a general rule, circuit training will not be conducted.

Supersonic flight restrictions have been covered in the Air Headquarters and supporting Operations Orders and no change to these procedures is envisaged.

Exercise timing is planned so that flying operations in the Darwin area are completed by 2230 hours local. The engine run curfew is set at 2200 hours local (subject to confirmation with participants).

All exercise participants and visitors will be briefed by Exercise Control and local Air Traffic Control on the noise reduction plan and the consequences of generating adverse publicity.

A pro-active Public Relations program will be developed involving senior exercise participants in talking to the media (both accredited and non-accredited) emphasising the activities, importance, location and activity schedules involved in Pitch Black 93.

Defence: Recruitment Centre, Hobart

(Question No. 523)

Senator Bell asked the Minister for Defence, upon notice, on 18 August 1993:

(1) What is the cost of the new Department of Defence recruitment centre currently being built in Hobart.

(2) What is the purpose of this new centre.

(3) Why was a new building required.

(4) Is this the best use of the department's funding or is this expenditure primarily a job creation scheme.

Senator Robert Ray—The answer to the honourable senator's question is as follows:

(1) \$1.3 million.

(2) The purpose of the building is to conduct testing and processing of applicants to the Navy, the Army and the Air Force and to manage Australian Defence Force recruiting in Tasmania.

(3) A new building was required to collocate the permanent and reserve recruiting organisations following their rationalisation into the one Australian Defence Force Recruiting Unit. The lease on commercial premises for the permanent element has expired and the Army Reserves are accommodated in temporary leased accommodation pending completion of the building.

(4) The building will result in savings of \$206,000 per annum in leasing of commercial premises and will enable rationalisation of administration of the unit. Although the project has gener-

ated employment in Hobart this was not the justification for the project.

Australia Post and OTC: Compensation

(Question No. 529)

Senator Bell asked the Minister representing the Minister for Industrial Relations, upon notice, on 25 August 1993:

(1) Has the Comcare Commission approved the surveillance policies of Australia Post and the Australian and Overseas Telecommunications Corporation (AOTC); if so, when; and what are those policies.

(2) Do AOTC and Australia Post comply with these policies.

(3) What is the number of reviewable decisions reviewed by the Administrative Appeals Tribunal (AAT) for both Australia Post and the AOTC in the period to 30 June 1993.

(4) How many of these decisions were affirmed by the AAT for Australia Post and AOTC.

(5) Where the AAT decision supports the employee, what is the obligation on the self-administering authority to implement the decision.

(6) When will the performance reports as described by the Notice of Determination of Conditions of Licence which was published in Gazette No. GN46 of 18 November 1992, for Australia Post and AOTC for the year ending 30 June 1993, be published.

Senator McMullan—The Minister for Industrial Relations has provided the following answer to the honourable senator's question:

(1) Yes, on 14 April 1993, Australia Post's policy complies with the Privacy Commissioner's Covert Surveillance Guidelines. While Telstra (formerly AOTC) is not bound by the terms of the Privacy Act 1988, its policy also follows the Privacy Commissioner's guidelines. A copy of the policy for each corporation has been provided to Senator Bell.

(2) As a condition of licence, Australia Post and Telstra have been required to satisfy the Commission that they can comply with the Commission-approved surveillance policies. Comcare has commenced a field evaluation program which, among other matters, will evaluate compliance with the approved surveillance policy. At this early stage of the program there is no evidence of non-compliance with the policy.

(3) In the year ended 30 June 1993 the AAT reviewed 61 reviewable decisions made by Australia Post and 101 made by Telstra.

(4) The AAT affirmed 37 or 61% of decisions made by Australia Post and 57 or 56% of decisions made by Telstra.

(5) If the AAT determines a matter in favour of an employee, the AAT may either vary or set aside the decision under review. If the determination is to set aside the decision under review, the AAT may make a decision in substitution for the original decision which the licensed authority must comply with. Alternatively, the AAT may remit the matter to the licensed authority for reconsideration, in which case the licensed authority must take into account and give effect to any directions given by the AAT.

(6) Both Australia Post and Telstra have provided performance reports as required. Copies of the reports have been provided to Senator Bell.

Defence Force: Indonesia

(Question No. 536)

Senator Chamarette asked the Minister for Foreign Affairs, upon notice, on 30 August 1993:

With reference to the Indonesian Government's treatment of the people of East Timor:

(1) What is the justification for considering the increased training of Indonesian special forces by the Australian Defence Forces and reciprocal training of Australian Special Air Service troops in Indonesia to be an appropriate form of co-operation.

(2) How will this increase in co-operation further Australia's attempts to protect and promote human rights in our region.

Senator Gareth Evans—The answer to the honourable senator's question is as follows:

(1) Australia's security is closely bound up with that of our region. An active defence relationship with Indonesia is an important element of our overall bilateral relationship and assists the development of a substantial security dialogue. This contributes to the confidence building process which enhances the security of all regional countries.

Our defence relations with Indonesia include a wide range of cooperative activities, including some limited training and exchanges between the Australian and Indonesian special forces. Australian training for Indonesian military personnel aims to enhance Indonesia's self-defence capability and is not directed to the Indonesian Armed Forces internal security function, whether in East Timor or elsewhere in Indonesia.

(2) The Australian Government monitors closely human rights observance in Indonesia, and particularly with regard to East Timor, and regularly

engages the Indonesian Government in dialogue on a range of human rights issues, including allegations of abuse by the armed forces.

One aim of our defence cooperation with Indonesia is to reduce the potential for human rights violations by the Armed Forces through enhancing their professionalism and awareness of internationally accepted standards of military behaviour.

Aborigines: Benefits and Allowances

(Question No. 547)

Senator Ian Macdonald asked the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 31 August 1993:

(1) Does the Minister have details of areas where Government benefits, allowances and welfare that are available to Aboriginal and Torres Strait Islander Australians, but not to other Australians; if so, can these details be provided.

(2) Could the Minister also indicate for transmission to constituents, the reason why some Australians receive these special benefits, allowances and welfare which are not available to other Australians.

(3) Is any such discrimination based on one's racial origin; if not, are the special benefits based on degree of disadvantage; if so, why are these benefits not available to non-Aboriginal and Torres Strait Islander disadvantaged Australians.

Senator Collins—The Minister for Aboriginal and Torres Strait Islander Affairs has provided the following answer to the honourable senator's question:

(1) Information on Commonwealth Government programs specifically for, or of particular relevance to, Aboriginal and Torres Strait Islander people, are contained in the Paper "Social Justice for Indigenous Australians 1993-94" which was tabled in the Parliament on 18 August 1993.

I draw the honourable senator's attention to page 31 of this Paper, where it is pointed out that:

"A large portion of the funding under specific Aboriginal and Torres Strait Islander programs provides services which other Australians access through mainstream programs and entitlements. For example, about two-thirds of the total expenditure on ATSIC's largest program, Community Development Employment Projects (CDEP), substitutes for entitlements for unemployed persons."

A similar situation exists in relation to some other programs which are, in effect, alternative mechanisms for delivering services which Aboriginal and Torres Strait Islander people, because of their economic and social circumstances, would be eligible to receive through mainstream programs.

Thus the fact that funds are earmarked for housing for Aboriginal and Torres Strait Islander people under the Commonwealth-State Housing Agreement (CSHA) does not of itself mean that any additional demand has been created for public housing. By the same token, ATSIC's funding for rental housing relieves the need for funding through other public sources. Funding for programs such as ABSTUDY, and Aboriginal health and legal services, are further examples of assistance that would otherwise be available, in varying degree, through mainstream programs.

Separate programs arise from the desire of Aboriginal and Torres Strait Islander people to ensure that services are delivered in ways that reflect their cultural preferences. Many such services are delivered, not directly by ATSIC or other Commonwealth bodies, but through incorporated Aboriginal and Torres Strait Islander organisations. There are now over 2,700 organisations of this kind throughout Australia.

Further information on the programs of the Aboriginal and Torres Strait Islander Commission is available in its Program Performance Statements and its Annual Report, both of which will be available to the honourable Senator. I am advised by the Commission that, apart from the information contained in "Social Justice for Indigenous Australians 1993-94", it does not have comprehensive information on the extent to which programs operated by other Commonwealth departments and agencies may provide benefits to Aboriginal and Torres Strait Islander people on a different basis to that available to other Australians through mainstream programs and entitlements.

(2) Since the amendment of the Constitution in 1967 gave the Commonwealth, by an overwhelming majority, power to make laws for Aboriginal people, successive Commonwealth Governments have undertaken programs and activities designed to overcome the disadvantage suffered by Aboriginal and Torres Strait Islander people, as a result of their dispossession and dispersal and their treatment since European colonisation. It remains beyond question that Aboriginal and Torres Strait Islander people are still, as a group, the most disadvantaged of Australians.

Commonwealth policies to help overcome this disadvantage have been strongly supported by other parties within the Parliament, and in the wider Australian community.

See also the answer to (1) above.

(3) See (1) and (2) above.

Finance: Caucus Committees

(Question No. 557)

Senator Alston asked the Minister representing the Minister for Finance, upon notice, on 1 September 1993:

For each officer of the department who, within the last 12 months, has been outposted to Parliament House or whose services have been made available in any, and in what, capacity to assist one or more Labor Caucus committees, or members thereof, in the preparation of reports and other like material:

- (1) What was the name of the officer.
- (2) What was the salary classification of the officer.
- (3) To which caucus committee was the officer principally attached or to which committee was assistance provided.

(4) For what period (including uncompleted periods) did the officer provide any, and what, assistance to the caucus committee or its members.

(5) At whose request did the department make the officer available to the caucus committee and who approved the outposting or the provision of assistance.

Senator McMullan—The Minister for Finance has provided the following answer to the honourable senator's question:

- (1) Nil response
- (2) N/A
- (3) N/A
- (4) N/A
- (5) N/A

Arts and Administrative Services: Caucus Committees

(Question No. 566)

Senator Alston asked the Minister for the Arts and Administrative Services, upon notice on 1 September 1993:

For each officer of the department who, within the last 12 months, has been outposted to Parliament House or whose services have been made available in any, and in what, capacity to assist one or more Labor Caucus committees, or members thereof, in the preparation of reports and other like material:

- (1) What was the name of the officer.
- (2) What was the salary classification of the officer.

(3) To which caucus committee was the officer principally attached or to which committee was assistance provided.

(4) For what period (including uncompleted periods) did the officer provide any, and what, assistance to the caucus committee or its members.

(5) At whose request did the department make the officer available to the caucus committee and who approved the outposting or the provision of assistance.

Senator McMullan—I have been advised that the answer to the honourable senator's question is as follows:

No officers of my department have been made available to any Labor Caucus committees or members thereof, in any capacity, for the preparation of reports or other like material. Consequently, parts (1)—(5) of Senator Alston's question do not apply.