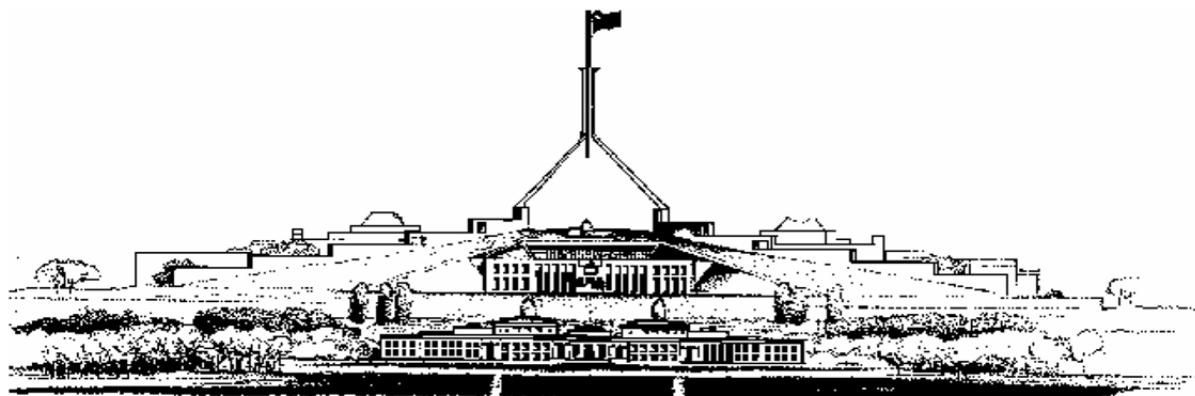




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**Senate**  
**Official Hansard**

**No. 171, 1995**  
**Thursday, 8 June 1995**

THIRTY-SEVENTH PARLIAMENT  
FIRST SESSION—SEVENTH PERIOD

BY AUTHORITY OF THE SENATE

# **THIRTY-SEVENTH PARLIAMENT**

## **FIRST SESSION—SEVENTH 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. Michael Beahan

*Deputy President and Chairman of Committees*—Senator Margaret Elizabeth Reid

*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, Hon. Margaret Reynolds, Baden Chapman Teague, John Odin Wentworth Watson and Suzanne Margaret West

*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
Abetz, Eric <sup>(4)</sup>	Tas.	30.6.99	LP
Alston, Richard Kenneth Robert	Vic.	30.6.96	LP
Baume, Michael Ehrenfried	NSW	30.6.99	LP
Beahan, Hon. Michael Eamon	WA	30.6.96	ALP
Bell, Robert John	Tas.	30.6.96	AD
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 <sup>(2)</sup>	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, Jacinta Mary Ann <sup>(8)</sup>	Vic.	30.6.99	ALP
Collins, Hon. Robert Lindsay <sup>(1)</sup>	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 <sup>(3)</sup>	Tas.	30.6.99	ALP
Devereux, John Robert	Tas.	30.6.96	Ind.
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
Forshaw, Michael George <sup>(7)</sup>	NSW	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
Macdonald, Ian Douglas	Qld	30.6.96	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 <sup>(1)</sup>	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
Neal, Belinda Jane <sup>(6)</sup>	NSW	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 <sup>(1)</sup>	ACT		LP
Reynolds, Hon. Margaret	Qld	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
Spindler, Siegfried Emil	Vic.	30.6.96	AD
Tambling, Grant Ernest John <sup>(1)</sup>	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
Wheelwright, Thomas Clive <sup>(9)</sup>	NSW	30.6.96	ALP
Woodley, John	Qld	30.6.99	AD
Woods, Robert Leslie <sup>(5)</sup>	NSW	30.6.96	LP

(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 Valentine, resigned.

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

(4) Chosen by the Parliament of Tasmania vice Brian Roper Archer, resigned.

(5) Chosen by the Parliament of New South Wales vice Bronwyn Kathleen Bishop, resigned.

(6) Chosen by the Parliament of New South Wales vice Hon. Kerry Walter Sibraa, resigned.

(7) Chosen by the Parliament of New South Wales vice Hon. Graham Frederick Richardson, resigned.

(8) Chosen by the Parliament of Victoria vice Alice Olive Zakharov, deceased.

(9) Chosen by the Parliament of New South Wales vice Stephen Loosley, 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, AM

*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, Minister for Finance and Leader of the House	The Hon. Kim Christian Beazley
Leader of the Government in the Senate and Minister for Foreign Affairs	Senator the Hon. Gareth John Evans QC
Minister for Trade	Senator the Hon. Robert Francis McMullan
Deputy Leader of the Government in the Senate and Minister for Defence	Senator the Hon. Robert Francis Ray
Treasurer	The Hon. Ralph Willis
Minister for Housing and Regional Development	The Hon. Brian Leslie Howe
Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science	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 Employment, Education and Training	The Hon. Simon Findlay Crean
Minister for Primary Industries and Energy	Senator the Hon. Robert Lindsay Collins
Minister for Social Security	The Hon. Peter Jeremy Baldwin
Minister for Industrial Relations and Minister for Transport	The Hon. Laurence John Brereton
Attorney-General	The Hon. Michael Hugh Lavarch
Minister for Communications and the Arts and Minister for Tourism	The Hon. Michael John Lee
Minister for the Environment, Sport and Territories and Manager of Government Business in the Senate	Senator the Hon. John Philip Faulkner
Minister for Human Services and Health and Minister Assisting the Prime Minister for the Status of Women	The Hon. Carmen Mary Lawrence

**(The above ministers constitute the cabinet)**

## **Second Keating Ministry—*continued***

Minister for Resources	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	Senator the Hon. Rosemary Anne Crowley
Assistant Treasurer	The Hon. George Gear
Minister for Justice	The Hon. Duncan James Colquhoun Kerr
Minister for Small Business, Customs and Construction	Senator the Hon. Christopher Cleland Schacht
Minister for Administrative Services	The Hon. Francis John Walker QC
Special Minister of State, Vice-President of the Executive Council, Assistant Minister for Industrial Relations and Minister Assisting the Prime Minister for Public Service Matters	The Hon. Gary Thomas Johns
Minister for Veterans' Affairs	The Hon. Concetto Antonio Sciacca
Minister for Defence Science and Personnel	The Hon. Gary Francis Punch
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. Janice Ann Crosio MBE
Parliamentary Secretary to the Minister for Industry, Science and Technology	The Hon. Eamon John Lindsay RFD
Parliamentary Secretary to the Minister for Transport	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 Prime Minister and Parliamentary Secretary to the Minister for Human Services and Health	The Hon. Andrew Charles Theophanous
Parliamentary Secretary to the Treasurer and Parliamentary Secretary to the Minister for Communications and the Arts	The Hon. Robert Paul Elliott
Parliamentary Secretary to the Minister for Housing and Regional Development	The Hon. Mary Catherine Crawford
Parliamentary Secretary to the Minister for Defence	The Hon. Archibald Ronald Bevis

# **THE COMMITTEES OF THE SESSION**

**FIRST SESSION: SEVENTH PERIOD**

## **MEMBERSHIP**

(As at 30 June 1995)

### **STANDING COMMITTEES**

**APPROPRIATIONS AND STAFFING**—The President (*Chair*), the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, Senators Bourne, Childs, Colston, Crichton-Browne, Denman and Harradine.

**HOUSE**—The Deputy President (*Chair*), Senators Beahan, Jacinta Collins, Crichton-Browne, Minchin and Reynolds.

**LIBRARY**—The President (*Chair*), Senators Denman, Christopher Evans, Gibson, Harradine, Herron and Foreman.

**PRIVILEGES**—Senator Teague (*Chair*), Senator Reynolds (*Deputy Chair*), Senators Childs, Coates, Ellison, Kernot†, McKiernan and Woods.

†Leader of the Australian Democrats (Senator Kernot) appointed an additional non-voting member for the committee's inquiry into the Parliamentary Privileges Amendment (Enforcement of Lawful Orders) Bill 1994, pursuant to the resolution adopted by the Senate on 12 May 1994.

**PROCEDURE**—The Deputy President (*Chair*), the President, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, Senators Bourne, Coates, Crichton-Browne, Faulkner, Ray and Teague.

**PUBLICATIONS**—Senator McKiernan (*Chair*), Senators Calvert, Jacinta Collins, Sandy Macdonald, Neal and Woods.

**SELECTION OF BILLS**—The Government Whip (*Chair*), the Opposition Whip, the National Party Whip, the Australian Democrats Whip, and Senators Calvert, Coates, Foreman and Herron.

**SENATORS' INTERESTS**—Senator Minchin (*Chair*), Senators Abetz, Bourne, Brownhill, Jacinta Collins, Colston, McKiernan and Reid.

### **LEGISLATIVE SCRUTINY STANDING COMMITTEES**

**REGULATIONS AND ORDINANCES**—Senator Colson (*Chair*), Senators Abetz, Jacinta Collins, Minchin, O'Chee and Wheelwright.

**SCRUTINY OF BILLS**—Senator Troeth (*Chair*), Senators Bell, Colston, Cooney, Ellison and Forshaw.

### **GENERAL PURPOSE, LEGISLATIVE AND REFERENCE STANDING COMMITTEES**

**COMMUNITY AFFAIRS (Legislation)**—Senator West (*Chair*), Senator Lees (*Deputy Chair*), Senators Jacinta Collins, Herron, Neal and Patterson.

*Participating members:* Senators Abetz, Baume, Boswell, Brownhill, Chamarette, Denman, Harradine, Knowles, Margetts, O'Chee, Tambling, Troeth, Woodley and Woods.

**COMMUNITY AFFAIRS (References)**—Senator Herron (*Chair*), Senator West (*Deputy Chair*), Senators Jacinta Collins, Knowles, Lees, Minchin, Neal and Patterson.

*Participating members:* Senators Carr, Chamarette, Denman, Margetts and Woods.

**ECONOMICS (Legislation)**—Senator Childs (*Chair*), Senators Chapman, Christopher Evans, Gibson, Murphy and Spindler.

*Participating members:* Senator Abetz, Baume, Boswell, Brownhill, Burns, Chamarette, Coulter, Crane, Ferguson, Harradine, Hill, Kemp, Ian Macdonald, McGauran, Margetts, O'Chee, Parer, Panizza, Patterson, Short, Tambling and Vanstone.

**ECONOMICS (References)**—Senator Ferguson (*Chair*), Senator Childs (*Deputy Chair*), Senators Chapman, Crane, Christopher Evans, Murphy, Panizza and Spindler.

*Substitute members:* Senator Coulter to substitute for Senator Spindler from 8 December 1994 for the committee's inquiry into the impact on industry, employment and the community of telecommunications developments up to the year 2000 and beyond. Senator Burns to substitute for Senator Christopher Evans for the committee's inquiry into the impact on industry, employment and the community of telecommunications developments up to the year 2000 and beyond. Senator Woodley to substitute for Senator Spindler for the committee's inquiry into the proposed Eastlink high voltage powerline.

*Participating members:* Senators Burns, Chamarette, Margetts, Short and Watson.

EMPLOYMENT, EDUCATION AND TRAINING (Legislation)—Senator Denman (*Chair*), Senators Tierney (*Deputy Chair*), Bell, Carr, Forshaw and Troeth.

*Participating members:* Senators Abetz, Baume, Boswell, Brownhill, Campbell, Chamarette, Colston, Crane, Harradine, Hill, Kemp, Ian Macdonald, Margetts, O'Chee and Tambling.

EMPLOYMENT, EDUCATION AND TRAINING (References)—Senator Tierney (*Chair*), Senator Denman (*Deputy Chair*), Senators Bell, Carr, Crane, Forshaw, Teague and Troeth.

*Participating members:* Senators Chamarette and Margetts.

Senator Spindler appointed for the duration of the committee's inquiry into the education and training of people in Australian correctional and juvenile justice facilities in the context of the National Training Reform Agenda.

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS (Legislation)—Senator Carr (*Chair*), Senator Michael Baume (*Deputy Chair*), Senators Coulter, Ferguson, Reynolds and Wheelwright.

*Participating members:* Senators Abetz, Alston, Boswell, Brownhill, Calvert, Campbell, Chapman, Chamarette, Colston, Crane, Crichton-Browne, Harradine, Kemp, Ian Macdonald, Margetts, O'Chee, Panizza, Parer, Tambling and Tierney

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS (References)—Senator Coulter (*Chair*), Senators Abetz, Baume, Calvert, Carr, Ferguson, Reynolds and Wheelwright.

*Participating members:* Senators Chamarette, Colston, Crane and Margetts. Senator McGauran appointed for the duration of the committee's inquiry into the role of national sporting coaches in the international transfer of Australian players.

*Substitute members:* Senator McGauran to substitute for Senator Calvert for the committee's inquiry into arts and cultural education in Australian educational institutions. Senator Chapman to substitute for Senator Calvert for the committee's inquiry into the role of national sporting coaches in the international transfer of Australian players.

FINANCE AND PUBLIC ADMINISTRATION (Legislation)—Senator Coates (*Chair*), Senator Minchin (*Deputy Chair*), Senators Bell, Christopher Evans, Foreman and McGauran.

*Participating members:* Senators Abetz, Baume, Boswell, Brownhill, Campbell, Chamarette, Colston, Gibson, Harradine, Hill, Kemp, Lees, Ian Macdonald, MacGibbon, Margetts, Newman, O'Chee, Panizza, Short and Tambling.

FINANCE AND PUBLIC ADMINISTRATION (References)—Senator Bell (*Chair*), Senator Coates (*Deputy Chair*), Senators Campbell, Christopher Evans, Foreman, Kemp, Minchin and Watson.

*Participating members:* Senators Chamarette, Harradine, Margetts and Short.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Legislation)—Senator Jones (*Chair*), Senator MacGibbon (*Deputy Chair*), Senators Burns, Teague and West.

*Substitute member:* Senator Murphy to replace Senator Carr on from 6 p.m. on 15 February 1995 for the remainder of the committee's estimates hearings.

*Participating members:* Senators Abetz, Michael Baume, Boswell, Brownhill, Burns, Carr, Chamarette, Chapman, Ellison, Harradine, Hill, Kemp, Sandy Macdonald, Margetts, Newman, O'Chee, Tambling, Troeth and Woods.

FOREIGN AFFAIRS, DEFENCE AND TRADE (References)—Senator Woods (*Chair*), Senator Jones (*Deputy Chair*), Senators Burns, Chapman, Sandy Macdonald, Teague and West.

*Participating members:* Senators Carr, Chamarette, Margetts and Woodley.

LEGAL AND CONSTITUTIONAL (Legislation)—Senator Cooney (*Chair*), Senator Spindler (*Deputy Chair*), Senators Ellison, McKiernan, Neal and O'Chee.

*Participating members:* Senators Abetz, Michael Baume, Boswell, Brownhill, Chamarette, Chapman, Harradine, Kemp, Knowles, McGauran, Margetts, Short, Tambling and Vanstone.

**LEGAL AND CONSTITUTIONAL** (References)—Senator Ellison (*Chair*), Senator Cooney (*Deputy Chair*), Senators Abetz, McKiernan, Neal, O'Chee, Spindler and Vanstone.

*Participating members:* Senators Chamarette, Margetts and Short.

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT** (Legislation)—Senator Burns (*Chair*), Senator Brownhill (*Deputy Chair*), Calvert, Forshaw, Murphy and Woodley.

*Participating members:* Senators Abetz, Baume, Boswell, Chamarette, Chapman, Crane, Ferguson, Harradine, Hill, Kemp, Ian Macdonald, Sandy Macdonald, MacGibbon, Margetts, Newman, O'Chee, Panizza, Parer, Tambling, Tierney and West.

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT** (References)—Senator Brownhill (*Chair*), Senator Burns (*Deputy Chair*), Senators Calvert, Crane, Foreshaw, Murphy, Troeth and Woodley.

*Participating members:* Senators Chamarette, Margetts and West.

### **SELECT COMMITTEES**

**ABC MANAGEMENT AND OPERATIONS**—Senator Alston (*Chair*), Senator Bourne (*Deputy Chair*), Senators Carr, Chamarette, Chapman, Forshaw and Tierney.

**AIRCRAFT NOISE IN SYDNEY**—Senator Parer (*Chair*), Senator Bourne (*Deputy Chair*), Senators Forshaw, Sandy Macdonald, Neal, West and Woods.

**AUSTRALIAN LOAN COUNCIL, FUNCTIONS, POWERS AND OPERATION OF**—Senator Coulter (*Chair*), Senators Burns, Carr, Gibson, Sherry and Short.

**COMMUNITY STANDARDS RELEVANT TO THE SUPPLY OF SERVICES UTILISING ELECTRONIC TECHNOLOGIES**—Senators Reynolds (*Chair*), Senator Tierney (*Deputy Chair*), Senators Bourne, Burns, Cooney, Harradine Herron and Wheelwright.

**LAND FUND BILL**—Senator Campbell (*Chair*), Senator Chamarette (*Deputy Chair*), Senators Cooney, Ellison, Lees, Reynolds and Troeth.

**PAY TELEVISION TENDERING PROCESSES, MATTERS ARISING FROM**—Senator Cooney (*Chair*), Senators Alston, Bourne, Loosley, McKiernan and Tierney.

**PRINT MEDIA, FOREIGN OWNERSHIP DECISIONS**—Senator Alston (*Chair*), Senator Kervin (*Deputy Chair*), Senators Carr, Ellison, Loosley, Sandy Macdonald, Minchin, Murphy and Sherry.

**RADIOACTIVE WASTE, DANGERS OF**—Senator Chapman (*Chair*), Senator Foreman (*Deputy Chair*), Senators Burns, Coulter, Ferguson, Margetts and McGauran.

**SUPERANNUATION**—Senator Watson (*Chair*), Senator West (*Deputy Chair*), Senators Childs, Christopher Evans, Ferguson and Woodley.

**UNRESOLVED WHISTLEBLOWER CASES**—Senator Murphy (*Chair*), Senator Herron (*Deputy Chair*), Senators Abetz, Chamarette, Denman, Sandy Macdonald and Woodley.

*Substititue member:* Senator Forshaw to substitute for Senator Denman on 16 March 1995.

**WHISTLEBLOWING, PUBLIC INTEREST**—Senator Newman (*Chair*), Senator Murphy (*Deputy Chair*), Senators Calvert, Chamarette and Denman.

### **JOINT SELECT COMMITTEE**

**FAMILY LAW ISSUES, CERTAIN**—Mr M. J. Evans (*Chair*), Senator Reid (*Deputy Chair*), Senators Brownhill, Carr, Neal and Spindler and Mr K. J. Andrews, Ms Henzell, Mr Price and Mr Williams.

### **JOINT STANDING COMMITTEES**

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

**FOREIGN AFFAIRS, DEFENCE AND TRADE**—Mr Price (*Chair*), Mr Halverson (*Deputy Chair*), Senators Bourne, Brownhill, Chapman, Childs, Crichton-Browne, Denman, Harradine, Jones, Margetts, Reynolds, Teague and West and Mr Atkinson, Mr Campbell, Mr Duffy, Mr Ferguson, Mr Fitzgibbon, Mr Gibson, Mr Grace, Mr Hawker, Mr Hicks, Mr Hollis, Mr Horne, Mr Jull, Mr Langmore, Mr Lieberman, Mr L. J. Scott, Mr Simmons, Mr Sinclair and Mr Taylor.

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

NATIONAL CAPITAL AND EXTERNAL TERRITORIES—Mr Chynoweth (*Chair*), the Deputy President, the Deputy Speaker, Senators Bell, Coates, Colston, Crichton-Browne and Ian Macdonald and Mr Langmore, Mr McLeay, Mr Sharp and Mr Smyth.

#### JOINT STATUTORY COMMITTEES

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

BROADCASTING OF PARLIAMENTARY PROCEEDINGS—The President, the Speaker, Senators Coates and Knowles and Mr Cameron, Mr M. J. Evans, Mr Hicks, Mr Knott and Mr Price.

CORPORATIONS AND SECURITIES—Mr Smith (*Chair*), Senator Gibson (*Deputy Chair*), Senators Cooney, McGauran, Neal and Spindler and Mrs Bishop, Mr Humphreys, Mr Sinclair and Mr Tanner.

NATIONAL CRIME AUTHORITY—Mr Cleeland (*Chair*), Senator Vanstone (*Deputy Chair*), Senators Jones, Spindler, Troeth and Wheelwright and Mr Filing, Mr Quick, Mr Snow and Mr Vaile.

NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—Senator Christopher Evans (*Chair*), Senator Campbell (*Deputy Chair*), Senators Chamarette, Ellison and Reynolds and Mrs Gallus, Mr Knott, Mr Latham, Mr Nehl and Mr Quick.

PUBLIC ACCOUNTS—Mr L. J. Scott (*Chair*), Senators Cooney, Forshaw, Gibson, Neal and Woods and Mr Brown, Mr Beale, Mrs Easson, Mr Fitzgibbon, Mr Griffin, Mr Haviland, Mr Somlyay, Mr Taylor and Mr Vaile.

PUBLIC WORKS—Mr Hollis (*Chair*), Senators Burns, Calvert and Murphy 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

*Thursday, 8 June 1995*

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**The PRESIDENT (Senator the Hon. Michael Beahan)** took the chair at 9.30 a.m., and read prayers.

### PETITIONS

**The Clerk**—A petition has been lodged for presentation as follows:

#### Sex Guide

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

The petition of the undersigned citizens of Australia respectfully sheweth that:

1. We are opposed to the sex guide endorsed by Ms Lawrence, Minister for Health in the Keating Government, and published in the December issue of Cleo.
2. We believe that the sex guide encourages dangerous sexual practices which could have serious medical and moral effects.

We call on Ms Lawrence to withdraw her endorsement of this sex guide and for the Prime Minister, Mr Keating, to indicate his disapproval.

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

by **Senator Herron** (from 326 citizens).

Petition received.

### NOTICES OF MOTION

#### CSL Ltd

**Senator COULTER** (South Australia)—I give notice that, on Wednesday, 21 June 1995, I shall move:

A motion to provide that several aspects of the conduct of the Commonwealth Serum Laboratories (CSL) and circumstances surrounding the privatisation of the CSL be referred to the Community Affairs References Committee for inquiry and report.

#### Sales Tax on Building Materials

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

That the Senate regrets that thousands of small joinery factories around Australia will be affected by the unfair financial impact of the extension of the Government's hardware sales tax.

### Tertiary Education

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

That the Senate notes—

- (a) the claim by the Minister for Employment, Education and Training (Mr Crean) that additional tertiary places have been funded on a national basis 'without any redistribution of existing places from other States';
- (b) that this claim is a sleight of hand since, although there have been no cuts for the 1995-96 financial year for Victoria, so-called 'pipeline' places for 1997-98 have been reduced by 463 places;
- (c) that Victorian universities already have the highest number of qualified applicants unable to gain entry to tertiary studies;
- (d) that Victoria is dependent upon education and research to switch from labour-intensive manufacturing to higher technology and service industries; and
- (e) that the Minister should review his decision and reinstate the tertiary education places for Victorian universities he now proposes to cut for 1997-98.

### Banking: Maternity Leave

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

That the Senate—

- (a) notes the decision by the Westpac Banking Corporation to introduce paid maternity leave for its 18 000 female employees;
- (b) acknowledges that this decision will considerably improve gender equality in the workplace, as well as providing additional support for the family; and
- (c) congratulates Westpac and the Finance Sector Union for coming to this agreement and extending the concept of paid maternity leave to one of the private sector's biggest employers.

### Aboriginal and Torres Strait Islander Commission

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

That there be laid on the table, by the Leader of the Government in the Senate (Senator Gareth Evans), on or before 4 p.m. on 20 June 1995:

(a) all notes, briefing papers, minutes and like documents, including drafts of such written or typed matter, that are not items of Cabinet-in-confidence nature which are in Department of Prime Minister and Cabinet file:

- (i) No. 94/1826,
- (ii) No. 94/2415,
- (iii) No. 94/3082,
- (iv) No. 94/3824,
- (v) No. 94/3862,
- (vi) No. 94/5279, and
- (vii) No. 94/5965;

including the full text of documents that were tabled in the Senate on Tuesday, 6 June 1995, which were partially censored or had parts of the text obscured or a signed statement from the Leader of the Government in the Senate stating the reason for the manner of presentation of such documents; and

(b) a statement by the Leader of the Government in the Senate providing the name and current employed position, if in the Commonwealth Public Service, of the writer of the handwritten notes of the meeting of 16 June 1994 between the Prime Minister (Mr Keating) and Aboriginal and Torres Strait Islander people on the draft Land Fund Bill that were tabled in the Senate on Tuesday, 6 June 1995.

#### **Prime Minister: Piggery**

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

That the Senate—

(a) notes that:

- (i) documents presented, in a liquidation action, to the New South Wales Supreme Court reveal that, in a memorandum of understanding, 3 days before the Prime Minister (Mr Keating) sold his shares, the Indonesian purchaser of Mr Keating's half-ownership of his piggery group agreed to the issue of an option to purchase one-third of the piggery's capital within 10 years, so that ownership would end up evenly divided at 33.3 per cent each between the Indonesians, Mr Constantinidis and the option holder,
- (ii) the person who is entitled to exercise that option is not named and is to be nominated by Mr Keating's piggery partner, Mr Constantinidis, or, failing him, by Mr Coudounaris,

(iii) Mr Coudounaris is the secretary of Mr Keating's family company, Pleuron Pty Ltd, and had been Mr Keating's nominee on the board of the piggery holding company,

(iv) unless the Indonesian half-ownership of the Keating piggery knows who really will have the right to exercise the option, it faces the prospect of being locked into a commercial 'blind date', and

(v) Mr Keating has not indicated any continuing interest of any kind in his former piggery group in his declaration of interest; and

(b) calls on the Prime Minister to assure the Parliament that there is no agreement or understanding of any kind under which he will, directly or indirectly, be offered the right to repurchase a one-third interest in his piggery, in view of his advice to the Parliament that he had disposed of his interest and recognising that an agreement to exercise a purchase option represents a material interest in a company.

#### **Small Business**

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

That the Senate—

- (a) condemns the Minister for Small Business, Customs and Construction (Senator Schacht), who is washing his hands of this small business crisis with lame excuses that he has no power to provide solutions at the Federal level, for his continuing failure to instigate immediate reforms to the Trade Practices Act;
- (b) reminds Senator Schacht that he has the power to amend the Trade Practices Act to stop the abuse of market power and unconscionable conduct by large chain stores, but is refusing to act with urgency to assist small family businesses; and
- (c) acknowledges that local government zoning issues and State Government trading hours regulations, which are also harming small retailers, can be addressed without legislative changes, whereas it is this Federal Minister who must draft urgent changes to the Trade Practices Act to help stem the increasing flood of business failures in the Hunter region and around Australia.

### **Universities: Aboriginal and Torres Strait Islanders**

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

That the Senate—

- (a) notes that Aboriginals and Torres Strait Islanders in north Queensland plan to build a university for their people, initially as part of James Cook University;
- (b) congratulates those involved in proposing this facility; and
- (c) calls on the Government to seriously consider ways in which this proposal could be brought to fruition.

### **Great Barrier Reef**

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

That the Senate—

- (a) notes:
  - (i) moves by the Federal Government over the past year to extend the reef tax on commercial operators to recreational users of the Great Barrier Reef Marine Park, and
  - (ii) the overwhelming opposition to the extension of this tax in the North Queensland community; and
- (b) congratulates the Great Barrier Reef Marine Park Authority for deferring any decision on the implementation of such a tax for at least the 1995 calendar year to allow extensive community consultation; and
- (c) expresses concern that the Great Barrier Reef Ministerial Council is moving to establish its own investigation into the extension of the tax, separate from that of the Authority, increasing speculation that the tax will be extended by the Federal and State Australian Labor Party Governments despite community opposition.

### **ORDER OF BUSINESS**

#### **Government Business**

Motion (by Senator Sherry) agreed to:

That the following Government Business orders of the day be considered from 12.45 p.m. till not later than 2.00 p.m. this day:

- No. 5—Overseas Missions (Privileges and Immunities) Bill 1995

Overseas Missions (Privileges and Immunities) (Consequential Amendments) Bill 1995

No. 6—Defence Legislation Amendment Bill 1995

No. 9—Human Services and Health Legislation Amendment Bill (No. 1) 1995.

### **Ku-Ring-Gai Council: Energy Efficiency Program**

Motion (by Senator Margetts) agreed to:

That general business notice of motion No. 1573 standing in the name of Senator Margetts for this day, relating to energy efficiency in housing designs, be postponed till the next day of sitting.

### **Rural and Regional Affairs and Transport References Committee**

Motion (by Senator Jones, on behalf of Senator Murphy) agreed to:

That business of the Senate notice of motion No. 1 standing in the name of Senator Murphy for this day, relating to the reference of a matter to the Rural and Regional Affairs and Transport References Committee, be postponed till Tuesday, 27 June 1995.

### **COMMITTEES**

#### **Rural and Regional Affairs and Transport References Committee**

##### **Extension of Time**

Motion (by Senator Brownhill) agreed to:

That the time for the presentation of reports of the Rural and Regional Affairs and Transport References Committee be extended as follows:

- (a) the report on the impact of assets tests on farming families' access to social security payments and Austudy, to 24 August 1995;
- (b) the report on a review of Landcare policies and programs in Australia, till the last sitting day in 1995; and
- (c) the report on value-adding in agricultural production, till the last sitting day in 1995.

### **MR JAMES PENG**

Motion (by Senator Sandy Macdonald) agreed to:

That the Senate—

- (a) notes:

- (i) with concern, the abduction of an Australian citizen, Mr James Peng, from Macau in October 1993, and his removal against his wishes to the People's Republic of China, and

- (ii) that Mr Peng has remained in detention since that time, and that he was without access to his family until July 1994, and to his lawyer until November 1994;
- (b) expresses deep concern at the prolonged detention of Mr Peng owing to a lack of evidence sufficient to convict him;
- (c) notes that the repeated return of Mr Peng's case to the Procurate for supplementary investigation raises serious doubts that the charges against Mr Peng can be substantiated; and
- (d) calls on the Chinese Government to allow Mr Peng to go free unless the evidence is now sufficient to convict him.

## CHEMICAL WEAPONS CONVENTION

Motion (by Senator Jones) agreed to:

That the Senate—

- (a) notes that:
  - (i) Australia has been among the countries most active in support of the chemical weapons convention,
  - (ii) the convention, which has been open for signature since 1993, is one of the most comprehensive disarmament treaties ever negotiated, banning the development, production, acquisition, stockpiling, transfer and use of chemical weapons,
  - (iii) although the convention was signed by 159 countries, only 28 countries have so far ratified the convention,
  - (iv) the convention will not come into force until after it has been ratified by 65 countries,
  - (v) the United States (US) and Russia, the largest possessors of chemical weapons, have so far not ratified the convention,
  - (vi) a number of signatory countries are waiting on ratification by the US before confirming their own commitment to this treaty by ratifying it themselves, and
  - (vii) successive American Administrations, since President Reagan's, have supported the successful conclusion of the chemical weapons convention; and
- (b) urges the US and other major powers to give priority attention to the convention to ensure its early ratification.

Notice of motion altered on 7 June 1995 pursuant to Standing Order 77.

## EMPLOYMENT, EDUCATION AND TRAINING AMENDMENT BILL 1995

### Report of Employment, Education and Training Legislation Committee

**Senator DENMAN** (Tasmania)—I present the report of the Employment, Education and Training Legislation Committee on the Employment, Education and Training Amendment Bill 1995, together with the submissions received by the committee.

Ordered that the report be printed.

### COMMITTEES

#### Foreign Affairs, Defence and Trade Legislation Committee

##### Report

**Senator JONES** (Queensland)—I present the report of the Foreign Affairs, Defence and Trade Legislation Committee on proposed expenditure in respect of the year ending on 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

#### Employment, Education and Training References Committee

##### Report

**Senator TIERNEY** (New South Wales)—I present the report of the Employment, Education and Training References Committee on its inquiry into the accountability in Commonwealth-state funding arrangements in education, together with the submissions received by the committee and the transcript of evidence.

Ordered that the report be printed.

**Senator TIERNEY**—I move:

That the Senate take note of the report.

I am pleased to table this report of the Senate Employment, Education and Training References Committee on accountability in Commonwealth-state funding arrangements in education. The Commonwealth has become increasingly involved in school education since 1960. The states do retain primary responsibility for school education services but the Commonwealth is now a significant player and is encouraging more of a national approach to education across all sectors. With

the Commonwealth contribution totalling now around 20 per cent of total public expenditure on schools, accountability is a significant issue.

The committee has felt somewhat frustrated in its attempt to get a clear picture of exactly where Commonwealth money is spent and to what effect. This is partially the result of a lack of data but more particularly it is the result of an absence of any coherent published documentation of data which enables an easy tracking of what happens to the Commonwealth dollar and how different states expend their education funds.

Accountability is not just about where the dollar went but about what is actually being achieved. The available data relates almost exclusively to inputs to our education system, with almost nothing about outputs. Even retention rates in schools, which are touted as measurements of outcome, are input measures. The committee believes that there is an urgent need not necessarily for more data but for a rethinking of the kinds of data we need and the way we present it to make more transparent the activities which the data is supposed to represent. Documents such as the *National report on schooling* move some way in this direction, but it remains largely an input driven document and often does not report data in a sufficiently disaggregated way to convey meaningful information, nor does it facilitate useful and important comparisons between states and, more importantly, regions or particular groups within the student population.

Accountability is time consuming and it is important to strike the correct balance between the demands we place on those who receive Commonwealth money and the amount of money involved. For example, the Commonwealth national equity programs represent a very small proportion of Commonwealth outlay, yet they have quite sophisticated accountability mechanisms, many of which are exercised at the local and school level. On the other hand, state systems receive large recurrent grants from the Commonwealth and are not expected to enter a comparable accountability relationship for those large sums of money.

We have sought to balance things out by proposing clear requirements between the Commonwealth and states concerning specific-purpose payments and encouraging small grant programs to be managed in line with best practice guides produced by the Auditor-General. Education outcomes lie at the heart of true accountability to our community for the public funds which are expended on school education. It is imperative that education outcomes are described in meaningful ways which properly reflect the many important things which we want our schools to achieve.

The committee is concerned that the present COAG-sponsored Industry Commission exercise on performance indicators, which is still largely drawing upon input measures, may produce performance indicators for education which prove quite unhelpful, and probably quite damaging, when it comes to planning for and funding school education and assessing schools' educational effectiveness. We have recommended that the Ministerial Council on Employment, Education, Training and Youth Affairs establish a project of national significance involving all of the key players in the school area—both professional and community—to develop well thought-out, meaningful and relevant outcome measures which serve both state and national needs.

We have also looked at the Commonwealth-state relationship in the area of post-compulsory schooling, particularly in the area of vocational education and training. States must provide for this aspect of schooling as a legitimate and necessary part of the school curriculum and each state's educative responsibilities. Schools need access to the Australian National Training Authority growth funds if they are to provide for students the pathways to TAFE and other vocational destinations. Vocational pathways lag severely behind the clearly established academic pathway to university education. We have made some recommendations which should strengthen the place of schools and state training profiles and improve the quality of vocational education available in the post-compulsory years.

The committee also considered the problem of alleged substitution of Commonwealth moneys for state, but it proved exceedingly difficult to judge the validity of those claims. This highlights the lack of transparency in existing accountability mechanisms and suggests that a horizontal accountability at the local level is a more appropriate way of ensuring that funds are spent according to their proper purpose. It is simply not possible to track such expenditure through various departments and tiers of government.

We have made some recommendations concerning the criteria for the establishment of new schools. We note that the government has instituted a review of the new schools policy, and we support that move. However, we thought it important to place on the record the views of those who came before the committee. I expect that these views and the recommendations which flow from them will be taken into account by the government's review.

There are a number of other recommendations which we hope will assist both the state and Commonwealth education authorities, as well as the students they serve. I commend the report to the Senate.

**Senator CARR** (Victoria) (9.50 a.m.)—This report of the Employment, Education and Training References Committee is important insofar as it deals with an issue of great concern to a whole generation of Australians. If we look we will see that there are some three million students involved in Australian schooling today—three million Australians whose aspirations and expectations of a strong and vibrant understanding and capacity to contribute to our country depend very largely upon the level of support that is provided in their educational years by governments in this country. What we have seen in recent times right across Australia is governments cutting back their commitment to education. On the other hand, we have seen that the Commonwealth contribution has grown substantially.

This report arose out of growing concerns about the way in which state education has been administered across this country. It comes at a time when vast numbers of teachers are being sacked by state authorities,

where class sizes have risen dramatically, where retention rates have declined and where teachers in many states are involved in quite bitter industrial action. We have seen a marked deterioration in the level of educational provision across this nation. We have seen state governments undertake actions which are completely contrary to the national goals and programs that this parliament has sought to establish. A submission from the Australian Education Union stated:

The education needs of those currently at school and in their pre-school years are greater than any previous generation for a variety of economic, social and cultural reasons. At the same time they are growing up in an environment which is becoming more and more miserly in its attitude to the provision of education.

This report also comes at a time when, in spite of the tight budgetary environment, the Commonwealth is spending unprecedented sums of money—over \$3 billion across the nation. The Commonwealth is prepared to take a leading role in ensuring education is provided on a basis of supplementing state efforts. More and more that need is being demonstrated. The Commonwealth's role, as we understood it, is far from being complete and, in terms of accountability mechanisms, it is quite apparent that it is extremely difficult to trace how those Commonwealth dollars are being spent and how adequately they are being spent in terms of the guidelines that they are provided on.

This is an extraordinary contrast with the sorts of programs the national Labor government has undertaken. We saw just two days ago the programs announced by the Prime Minister (Mr Keating) in terms of the school based citizenship program. We have seen the Commonwealth provide some \$25 million in educational programs to provide a higher level of understanding of citizenship responsibilities. We have seen educational institutions adopt a series of information programs such as the quality education program, the early literacy program, the gifted and talented student program, the LOTE program and a wide variety of other nationally based initiatives which are in sharp contrast to the way in which the states are operating. So the

Commonwealth is providing leadership in education.

It is disturbing that this inquiry was not really able to establish how those funds were being spent and, in the broadest terms, to demonstrate whether or not the accountability mechanisms were being followed. Our view, and my view particularly, was that it is important that there be an improvement in the accountability mechanisms. Again, the Education Union's submission to the committee stated:

The AEU believes the Commonwealth is entitled to expect the high level of goodwill towards its initiatives, based on a common concern for the quality of teaching, learning and social justice by all involved in the education process. This is not always forthcoming from State Governments.

If we look at specific areas, we can see that there are quite considerable gaps in the way in which Commonwealth funding arrangements have been entered into, specifically with regard to specific purpose payments. We could look at the question of professional development of teachers. We can see where the increasing Commonwealth contribution has not been matched by the states and where the Commonwealth contribution in some areas now constitutes almost 100 per cent of the effort in terms of teacher education.

The report talks about the need to measure outcomes not just on the basis of the 'Let's give the kids a quiz' approach adopted in some states, particularly in my own of Victoria. Through the COAG exercises on performance indicators we have seen that the approach taken by state educational authorities is totally inadequate.

We need to understand that, in vocational education, the Commonwealth now is almost alone in providing the growth funds for vocational education. Yet the states remain static and, in administrative arrangements, in total control. So, while the Commonwealth accepts greater and greater financial responsibility for education in this country, it has been unable to ensure adequate administrative and accountability mechanisms to protect that investment in Australia's future.

With regard the so-called new schools policy, there is a minority report from the

Labor senators on this committee which goes to the current review by the minister of that policy. This policy is the vehicle by which funding arrangements are entered into to protect the various public and private sector relationships in this country.

We were concerned that proposals in the report for changes to the minimum school size and locality requirements in the establishment of new private schools would effectively undermine the viability of the state education system. That concern was also expressed by the Catholic Education Commission in its submission to the committee which indicated its commitment to maintaining the viability of the state education system in this country.

**Senator Kemp**—It was you who undermined it in Victoria. It was your policies.

**Senator CARR**—Senator Kemp says that it was my policies in Victoria that undermined it. It is Jeff Kennett that sacked 6,000 teachers and saw the removal of 9,000 students and the closure of 300 schools. If you want to talk about education policies, talk about Jeff Kennett and the way in which he has destroyed the education system in Victoria. That policy has now been followed in Tasmania and South Australia. It is the sort of reckless abandon which the education institutions have followed under Liberal leadership in the states, undermining national programs, undermining commitment to national objectives and undermining the future of this country.

So when we talk about Commonwealth contributions to education and accountability, we should also talk about the way conservative governments have destroyed the education system in this country in such a short time. Why do they do that? It is an ideological commitment to and an ideological hatred of the public sector. That is reflected in the dramatic decline in the percentage of outlays by conservative state governments. As a priority education don't rate with the conservatives. Education don't rate in Victoria. Education as a percentage of state outlays has dramatically dropped. But you want to put money into racing, into your friends on the grand prix or the casinos and your Liberal Party treasurers and their connections with the business community. Education does not rate.

**Senator Panizza**—Mr Acting Deputy President, on a point of order: the speaker is making serious reflections on the Victorian government. You should get him to withdraw, bring him to order and get him back to the relevance of the debate.

**The ACTING DEPUTY PRESIDENT (Senator Childs)**—There was no reflection on an individual, so there is no point of order.

**Senator CARR**—Thank you very much, Senator Kemp, for your interjection; I do appreciate it because I was a bit flat there this morning—it was early.

This is a good report insofar as it provides a basis for future work and an examination. I trust that these matters will be taken up seriously within government and within the state sector. I trust that DEET will have a very good look at these arrangements and bring back recommendations to the government and that, ultimately, the government itself will make positive recommendations regarding this report.

**Senator KEMP (Victoria) (10.00 a.m.)**—I was not planning to speak on this important report, but Senator Carr made some of the most outrageous comments that I have ever heard in this chamber. I did agree with Senator Carr on one thing, that he was flat. Senator Carr, you are absolutely correct; you were a dead bore and I am glad I came in to put a bit of curry into this debate.

We can stand here and we can throw insults across the chamber at each other and make attacks on people. All I want to say to you, Senator Carr, is that I am not going to quote a Liberal, National, Democrat or a Green about you. On the weekend I happened to read John Cain's book. In that book he made it very clear that there was one person responsible for the disaster in Victoria, the man who had the—

**Senator Sherry**—On a point of order: is this relevant to the report that is being considered before the Senate at the moment?

**The ACTING DEPUTY PRESIDENT (Senator Childs)**—I think education covers a multitude of sins, but Senator Kemp was straying from the topic. Could you come back to the report before the chamber?

**Senator KEMP**—Thank you for your advice. I was going to refer to John Cain's complaints about the advice he received from Senator Carr on a wide range of issues including, of course, the education policy of the Cain and Kirner governments. I understand Senator Sherry standing up and wanting to protect you, Senator Carr, because of the clear complaints that people in your own party have made about the sorts of policies which you advised the Cain and Kirner governments to follow in relation to education, health, and law and order: you, above all, are the individual that John Cain has pinpointed as the man who has caused so many problems for the Labor Party in his state.

If you measure education in terms of the amount of money you put into education, Senator Carr, you are entitled to do so. But let me tell you that I am a parent of children who went through the Victorian education system during the radical changes that you advised Mrs Kirner to bring in. You never asked the parents whether they wanted these changes; but for ideologically-driven reasons you brought these changes in.

I will tell you what the Victorian parents did. Why did the Labor Party get such an utter hammering in Victoria? One reason is that the government lost billions of dollars but, secondly, people were fed up with the relationship between the Labor Party and trade unions in that state. They were fed up with John Halfpenny and you, Senator Carr, trying to run the state. That is why they were fed up. But can I speak to you about—

**Senator Forshaw**—As a point of order, could you please ask Senator Kemp to get back to the issue of education? I do not really think the discussion about John Halfpenny and all the other ideological tripe he is trying to bring into this debate is really relevant.

**The ACTING DEPUTY PRESIDENT (Senator Childs)**—I think Senator Kemp could return to the education report.

**Senator KEMP**—One of the reasons for this massive landslide against the Kirner government in Victoria was because parents were fed up with the education policies being followed in that state. They were fed up with the ideologically-driven VCE concept which

Senator Carr developed and about which he never bothered to ask parents. He never bothered to check with the parents whether they wanted these radical changes.

Because you did not check with them, Senator Carr, when the day of accounting came you and your ilk were chucked out in the greatest landslide in Victorian history. I can tell you, Senator Carr, you are the last person who should come into this chamber to debate education policy because you above all, in conspiracy with Joan Kirner, did more to destroy the standing of education in our state of Victoria than any other individual.

All you do Senator Carr is look at the amount of money that has been poured in. What we are interested in as parents is the quality of education that has been given to our children—and the outcomes. You never speak about outcomes, Senator Carr. You are concerned about the power of teacher unions. That is why you sold out the education system in our state. We as parents are concerned with outcomes, with the quality of the teaching and the courses being taught in our schools. That is one of the reasons why you got such a hammering at the last state election and why Victorians will never forgive you and your ilk for what you tried to do to Victorian schools during your time in office.

Question resolved in the affirmative.

**Public Accounts Committee  
Reports**

**Senator GIBSON (Tasmania) (10.06 a.m.)**—On behalf of the Joint Committee of Public Accounts, I present two Finance minutes on the following committee reports: *Report No. 332: The Australian government credit card* and *Report No. 333: The sale of Aussat*. I move:

That the Senate take note of the reports.

The first report stemmed from two audit reports into the use of credit cards by Commonwealth employees and contained 11 recommendations aimed at ensuring a more prudent use of the card by cardholders and facilitating more effective management of credit card operations within agencies.

The committee is pleased to note that the Finance minute contains responses from some 20 Commonwealth agencies which in the main support the committee's findings. There are some aspects of the Finance minute which the committee intends to consider further and will report back to the Senate in due course.

I note that a new contract for the provision of credit card services to the Commonwealth has been awarded. I understand that the committee's recommendations about flexible management of the contract and the ability to incorporate future technical innovations have been incorporated into the new contract. I am also pleased to report that many Commonwealth agency heads have amended their guidelines on the use of credit cards as a result of the committee's report.

The second report stemmed from an audit report into the sale of Aussat and contained four recommendations. These recommendations were aimed at ensuring that appropriate mechanisms are in place to monitor the performance of obligations arising from the Aussat sale in the years leading up to the termination of the telecommunications duopoly in 1997; and to draw lessons from the sale process to develop more effective procedures and controls for the benefit of future sales of government assets and business enterprises. I believe the committee's recommendations have made a valuable contribution in these areas and it is pleasing to note the generally positive responses contained within the Finance minutes. I commend the Finance minutes to the Senate.

**Regulations and Ordinances Committee  
Report**

**Senator COLSTON (Queensland) (10.07 a.m.)**—I present the 101st report of the Standing Committee on Regulations and Ordinances on the rules of the Industrial Relations Court.

Ordered that the report be printed.

**Senator COLSTON**—I move:

That the Senate take note of the report.

The regulations and ordinances committee does not examine delegated legislation in terms of the policy incorporated in that legis-

lation but rather in relation to the four principles which are outlined in the Senate Standing Orders. These principles are, first, that it is in accordance with the statute; second, that it does not trespass unduly on personal rights and liberties; third, that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal; and, four, that it does not contain matter more appropriate for parliamentary enactment. It is the responsibility of the committee to be alert to the transgression of any of these principles when it scrutinises delegated legislation on behalf of the Senate.

Among the various forms of delegated legislation which are tabled in the parliament are rules of court. These rules are scrutinised by the Regulations and Ordinances Committee in the same way as all other delegated instruments. Subjecting rules of court to scrutiny in no way suggests the parliament is usurping the powers of the courts. The courts have been given the power by the parliament to implement their own internal legislation.

The process of scrutiny, however, ensures that legislation which is developed by the courts does not transgress the principles which the Senate has decided must be present in all forms of delegated legislation. In 1994 the Regulations and Ordinances Committee scrutinised new rules of the Industrial Relations Court. The committee considered that these rules, as presented, were unacceptable and persisted with its scrutiny.

The committee's action and persistence in this matter resulted in a set of court rules being made which are of clear and unambiguous validity and which conform with the usual high standards of parliamentary propriety. The report which I have tabled outlines to the Senate the committee's actions in relation to these rules. I commend the report to the Senate.

Question resolved in the affirmative.

#### **COMMONWEALTH ELECTORAL ACT AMENDMENT BILL 1995**

Message received from the House of Representatives acquainting the Senate that it had

agreed to the amendment requested by the Senate to the bill.

#### **CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL 1995**

##### **First Reading**

Bill received from the House of Representatives.

Motion (by Senator Cook) agreed to:

That this bill may proceed without formalities and be now read a first time.

Bill read a first time.

##### **Second Reading**

Senator COOK (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (10.12 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

This bill contains a range of measures announced in the Budget to amend the provisions of the Customs Act 1901 and the Excise Act 1901 relating to the Diesel fuel Rebate Scheme.

The amendments are principally designed to tighten the eligibility criteria for rebates of customs or excise duty which have been paid on purchases of diesel fuel, so that the integrity of the Scheme as it was introduced in 1982 to assist those engaged in mainstream primary production and those engaged in mainstream mining operations, can be maintained.

During the last year in particular, as a result of a series of legal challenges, eligibility definitions in the Scheme have been subjected to considerable expansion. This has pointed to ambiguities in the interpretation of these definitions, which demand urgent remedial attention so as to prevent the exploitation of the Scheme and a consequential drain on the public purse.

The four principal changes to the Scheme proposed by the bill involve:

- (i) the abolition of the 'residential premises' category from rebate eligibility, from 1 July 1995;
- (ii) the confirmation of the definition of 'agriculture' in the Customs Act 1901 to exclude from rebate eligibility activities

which might loosely be described under the phrase 'amenity agriculture', from 1 August 1986;

- (iii) the narrowing of the definition of 'minerals' in the Customs Act 1901 so as to exclude from rebate eligibility diesel fuel used in the mining for minerals, where those operations simply involve the extraction of sand, sandstone, soil, clay, granite, water and the like, from 1 August 1986; and
- (iv) the amendment of the definitions of 'agriculture' and 'mining operations' in the Customs Act 1901 to specify a clear list of activities in which the use of diesel fuel is to be eligible for the payment of rebate, from 1 August 1986.

**(I) Abolition of the category of 'residential premises'**

The purpose of this amendment is to reduce Government outlays by limiting rebate eligibility to diesel fuel used for residential premises on agricultural properties and in mining operations.

The Government has been mindful that the removal of rebate eligibility for this category may present an additional financial burden on the operation of farming properties and on individuals engaging in mining operations. For these reasons, rebate will continue to be paid on diesel fuel purchased for use for domestic purposes:

- at residential premises on the farms of individuals engaging in agriculture; and
- at residential premises of individuals engaging in mining operations

In proposing this amendment, the Government has also been mindful of the adverse effects the abolition of this category would have on indigenous communities in Australia. As a result, separate compensation arrangements in the order of \$1.8 million per year will be put in place to ensure that indigenous communities are not disadvantaged by the change.

The proposed abolition of the category of 'residential premises' and the introduction of the new and related categories under 'agriculture' and 'mining operations' in items 1, 2, 3, 5, 6 and 9 of Schedule 1 to the bill are proposed to have effect in respect of diesel fuel purchased on or after 1 July 1995. Diesel fuel purchased before 1 July 1995 will continue to be rebateable under the current legislative provisions.

Recurring savings as a result of these measures are in the order of \$11.8 million per year.

The remaining 3 amendments proposed by the bill are intended to clarify the ambit and integrity of the Scheme as it was introduced in 1982. The Government is firmly of the view that the Scheme was never intended to pay rebate on diesel fuel used in

activities that might only loosely be described as encouraging mining operations or primary production in a general sense. Rather, in the Government's view, the Scheme was designed to pay rebate to primary producers who use diesel fuel in the act of growing and gathering in of crops, or the rearing of livestock, and in other activities that are sufficiently connected with agriculture or, in relation to mining operations, to pay rebate for fuel used in the act of exploring or prospecting for minerals, and their subsequent mining and beneficiation, or in the liquefaction of natural gas or the production of common salt. The series of 3 amendments described below proceed on that basis, as follows:

**(II) Confirming the scope of the definition of 'agriculture'**

Last year, an appeal was heard by the Administrative Appeals Tribunal against a decision of the Australian Customs Service to refuse the payment of rebate on diesel fuel used to carry out 'amenity agriculture', such as the mowing of lawns and sports grounds and the maintenance of golf courses. In September 1994, the Tribunal decided that the decision of Customs to not pay rebate was correct, but the matter is currently on appeal to the Federal Court. Items 4 and 10 of Schedule 1 to the bill are proposed to remove any doubt that these kinds of activities are intended to fall outside of the act's definition of 'agriculture', and thus are not to be given the benefit of rebate.

These particular amendments will ensure the continuation of rebate payments for diesel fuel used in carrying out agricultural activities for the purposes of a business undertaken to obtain produce for sale. At the same time, they will ensure that amenity agriculture of the type carried out by Local/State Governments, parks and gardens organisations and sporting clubs and individuals is excluded from the definition of 'agriculture' in the act.

Because these issues have arisen as a result of efforts by users of diesel fuel to broaden the scope of the Scheme well beyond what the Government believes was intended, the Government is proposing that this amendment be made retrospective to 1 August 1986, in order to protect the revenue. It is from this date that purchases of diesel fuel made after that date can be claimed.

Without such retrospectivity, there is a likelihood that claims which are pending the outcome of a Federal Court appeal will result in the payment of rebate of up to \$40 million. In addition, recurring savings in the order of \$15 million per year are anticipated from this change.

**(III) Narrowing the definition of 'minerals'**

Until recently, the Administrative Appeals Tribunal and the Federal Court have held the view that the term 'mining for minerals' in the act's definition of

'mining operations' introduced a purposive test requiring a rebate claimant to demonstrate that the purpose of the claimant's operations was to obtain a mineral or minerals embedded in the material that was extracted.

For instance, there was a clear distinction between the extraction of sand per se and the extraction of sand with a view to obtaining from it minerals such as rutile, zircon or almandite.

The meaning of 'mining operations' was therefore considered to be reasonably well settled until a recent decision of the Administrative Appeals Tribunal on the issue of extracting sand for use in the making of concrete or for use as bedding sand in the construction industry. The Tribunal decided that the extraction of such sand was eligible for rebate. Claims have also been received for rebate on diesel fuel used in the pumping of ground water to be supplied as drinking water to towns.

These are, in the Government's view, uses well beyond the intent of the Scheme, which was and is to deliver an assistance measure to mainstream mining pursuits. Accordingly, in item 7 of Schedule 1 to the bill, the Government has proposed to amend the definition of 'minerals' to exclude sand, sandstone, earth, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel, limestone or water. The exclusion is consistent with the principal mining legislation of the States and would bring about a transparent distinction between mining for minerals and operations that cannot, in the ordinary sense, be regarded as mining. Where these materials are extracted for the purpose of recovering a mineral, the extraction will remain eligible for rebate.

The Government is proposing that this amendment be made retrospective to 1 August 1986, in order to protect the revenue. Without such retrospectivity, there is a likelihood that the claim which is pending the outcome of a Federal Court appeal will result in the payment of rebate of up to \$16 million. In addition, recurring savings in the order of \$5 million are anticipated from this change.

(IV) the amendment of the definitions of 'agriculture' and 'mining operations' to specify a clear list of activities in which the use of diesel fuel is to be eligible for the payment of rebate

In the existing legislation, both the definition of 'agriculture' and the definition of 'mining operations' employ what are known as 'sweeper clauses', which have the effect of making other operations connected with agriculture or mining eligible for the payment of rebate. The interpretation of these 'sweeper clauses' has been a main source of contention over the years, and has generated most of the litigation in the lifetime of the Scheme.

The amendments proposed in Items 4 and 8 of Schedule 1 to the bill are to remove the subjectivity associated with the 'sweeper clauses', and replace those clauses with an objective list of activities that are eligible for rebate. This has been done with a view to giving claimants certainty as to the actual activities that are eligible for rebate, and thereby avoiding the costly litigation concerning eligibility circumstances which has plagued the Scheme in recent years.

It should be noted that although the proposed amendments will necessarily narrow the range of activities for which rebate is payable, farmers and miners will generally be unaffected. The intention of these amendments is to put beyond doubt that the Scheme is not meant to provide rebate eligibility for activities which are not sufficiently connected with mining or agriculture; for instance, the provision of a service or utility to a farmer or miner, such as electricity through a grid, or the building of a dam which is intended to supply water to, amongst others, farmers, or the operation of a garbage tip on a former mine site by someone other than the miner, where the resultant filling of the mine site is said to be the rehabilitation of a mine site, and thus connected with a mining operation.

Because claims of these kinds have sought to broaden the Scheme well beyond what it should be, the Government is proposing that these amendments be made retrospective to 1 August 1986, in order to protect the revenue. Without such retrospectivity, there is a likelihood that claims which are pending the outcome of several Federal Court appeals and one High Court application will result in the payment of rebate of up to \$30 million. In addition, recurring savings in the order of \$7 million are anticipated from these changes.

It is noted with regard to the 3 proposed series of amendments which I have outlined and which it is proposed have a retrospective commencement, that any rebates that have been paid since 1 August 1986 are to remain intact, and are to be treated as validly paid. This is explicitly stated in Clause 5 of the bill.

#### Financial Impact Statement

The amendments proposed in this bill are expected to result in the following savings to the Revenue, in present dollar values;

(i) abolition of the category of residential premises

savings for 1995-96 of \$13.6 million, offset by compensation arrangements to the value of \$1.8 million;

(ii) confirming the scope of the definition of 'agriculture'

one-off retrospective savings of \$40 million on claims under review or unpaid; savings for 1995-96 of \$15 million;

(iii) narrowing the definition of 'minerals' one-off retrospective savings of \$16 million on claims under review or unpaid; savings for 1995-96 of \$5 million;

(iv) amendment of the definitions of 'agriculture' and 'mining operations' to remove the 'sweeper' clauses one-off retrospective savings of \$30 million on claims under review or unpaid; savings for 1995-96 of \$7 million.

I commend the bill to the Senate.

Debate (on motion by Senator Panizza) adjourned.

#### **NATIONAL COMPETITION POLICY**

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science)—Mr Acting Deputy President, I table the inter-governmental agreements for the Competition Policy Reform Bill 1995 which were executed at the Council of Australian Governments meeting on 11 April 1995, namely the conduct code agreement, the competition policies, the competition principles agreement and the agreement to implement the national competition policy and related reforms.

#### **COMMITTEES**

##### **Community Affairs Legislation Committee**

###### **Report**

**Senator FOREMAN** (South Australia)—I present the report of the Community Affairs Legislation Committee on proposed expenditure in respect of the year ending on 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

##### **Economics Legislation Committee**

###### **Report**

**Senator CHILDS** (New South Wales)—I present the report of the Economics Legislation Committee on proposed expenditure in respect of the year ending on 30 June 1996.

Ordered that the report be printed.

#### **Employment, Education and Training Legislation Committee**

###### **Report**

**Senator DENMAN** (Tasmania)—I present the report of the Employment, Education and Training Legislation Committee on proposed expenditure in respect of the year ending on 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

#### **Environment, Recreation, Communications and the Arts Legislation Committee**

###### **Report**

**Senator CARR** (Victoria)—I present the report of the Environment, Recreation, Communications and the Arts Legislation Committee on proposed expenditure in respect of the year ending on 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

#### **Finance and Public Administration Legislation Committee**

###### **Report**

**Senator FOREMAN** (South Australia)—I present the report of the Finance and Public Administration Legislation Committee on proposed expenditure in respect of the year ending 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

#### **Legal and Constitutional Legislation Committee**

###### **Report**

**Senator FOREMAN** (South Australia)—I present the report of the Legal and Constitutional Legislation Committee on proposed expenditure in respect of the year ending 30 June 1996, together with the transcript of evidence.

Ordered that the report be printed.

#### **Rural and Regional Affairs and Transport Legislation Committee**

###### **Report**

**Senator FOREMAN** (South Australia)—I present the report of the Rural and Regional

Affairs and Transport Legislation Committee on proposed expenditure in respect of the year ending 30 June 1996.

Ordered that the report be printed.

**Joint Standing Committee on Publications Report**

**Senator FOREMAN** (South Australia)—I present the 20th report of the Joint Standing Committee on Publications.

Ordered that the report be adopted.

**QANTAS SALE AMENDMENT BILL 1995**

**Second Reading**

Debate resumed from 7 June, on motion by **Senator Schacht**:

That this bill be now read a second time.

upon which **Senator Kernot** had moved by way of amendment:

At the end of the motion, add:

'but the Senate deplores the failure of the Government:

- (a) to respond to the recommendations of the first report of the Senate Select Committee on Certain Aspects of Foreign Ownership Decisions in Relation to the Print Media; and
- (b) to have put in place new procedures for the Foreign Investment Review Board with a stronger assessment of whether a proposed investment is contrary to the national interest and whether an equal Australian bid is available, prior to consideration of any application for foreign investors to purchase part of Qantas'.

*(Quorum formed)*

**Senator MICHAEL BAUME** (New South Wales) (10.19 a.m.)—We are debating the Qantas Sale Amendment Bill 1995, and this is almost a continuing saga that appears, quite frankly, to be never-ending. Maybe this bill will bring about the resolution of this matter that has been going on and on. In fact, when I was looking back at past debates on this issue, I saw that on 6 June 1989 Senator Short brought forth the following subject for debate:

The need for the Government to ensure the future of Qantas and Australian Airlines by their sale to

the public, as suggested by the Minister for Transport and Communications and supported by the Prime Minister.

That was because the opposition took the strong view, as we still do, that privatisation was the only way to get real efficiency and competition and to maximise the resources and assets of the airline. It was not just to raise money, but that is what this government is all about.

There is no philosophy, no genuine Labor policies, involved in the government's selling Qantas. What is involved is phoneying up the budget figures yet again. The proceeds of the sale of Qantas have been put in the budget figures for the last several years. The sale has not taken place but it makes the budget look prettier, or worse, depending on how you look at it.

It is a tragedy that back in 1989 when the now Treasurer, Mr Willis, and the present Leader of the Government in the Senate, Senator Gareth Evans, along with former Senator Button and former Senator Peter Walsh agreed totally with what the opposition was saying—that there was a need to privatise Qantas for those particular reasons—the left wing of the Labor party would not let them do it. That is why, six years later, we are still debating the same issue.

At least now the left wing has realised that because of the need for money, unless the government sells Qantas it will not have enough money to spend on the things that the left wing wants the government to spend money on. As I say, the government has sold out its philosophic position in order to make money and for no other reason. There is no question about it: the government believes, as we do, that there are sound and specific reasons for Qantas, along with some other government business enterprises, being privatised.

As former Senator Bishop, now Mrs Bishop, the honourable member for Mackellar, said in this debate in the other place, the attitude of the government and the opposition to privatisation is an entirely different philosophic one. She said that the first aim of privatising business rests with the ability of the private sector to provide the same goods

and services more efficiently and effectively, including allowing for any special objectives for community service obligations. Secondly, it should be used for the reduction of public sector indebtedness. Again and again, those on this side of the chamber have made that point.

The third reason is the expansion of the number of Australians who are investing in Australia. That is absolutely central to our policy on privatisation because in this way we can increase private savings in a vehicle which is different from the government's very narrow vehicle of compulsory superannuation. By privatising Qantas, we allow Australians to participate in the ownership of a company which at present is truly government owned in the sense that the government is the beneficiary, not the Australian people.

If Qantas is the 'people's airline', just as the Commonwealth Bank is supposed to be the 'people's bank', surely it should be owned directly by the people and not be under the control of the government. We have seen quite clearly that this government is not necessarily the most efficient or competent government in running things. On the contrary, it is quite a disaster. Back on 30 November 1994, in this chamber, Senator Short, when talking about the initial Qantas Sale Amendment Bill 1994, said:

This bill would never have been necessary if the government had handled the sale of Qantas with even a modicum of administrative ability. It was not just the way it approached the actual sale, but those who were involved in the sale were frustrated at every stage by continual changes in the government's transport policy, particularly in the area of aviation. It was going to sell Australian—that is, Australian Airlines—

then it was not going to sell Australian. It was going to put Australian with Qantas, then it was not going to put Australian with Qantas. On and on it went, to the great frustration of all those concerned and, in particular, to the great frustration of the process of the sale.

It is also interesting to note that, at that time, Senator Short warned that the arrangements then being made to float off the remaining 75 per cent could not work. In November, he said quite clearly that if there was to remain a 35 per cent maximum limit on the total

shares to be held by foreigners, only 10 per cent of the remaining float could be sold to foreign shareholders. A total of 75 per cent was to be sold. Therefore, 65 per cent of it—about six-sevenths of what was to be floated—had to go to Australian shareholders, otherwise the foreign ownership provisions of the Qantas Sale Act would be breached. In other words, it has clearly made it impossible for the government to reap its biggest financial reward without altering the arrangement as to this 35 per cent. That is what this bill is all about.

The bill increases the foreign ownership limit for Qantas from 35 per cent of issued capital to 49 per cent, but restricts foreign airlines to holding no more than a combined 35 per cent of the issued share capital. All we have to say to the government is, 'We told you so. You were wrong again. You messed it up again. You just do not know what you are doing.' The government does not know what it is doing because it has no philosophical interest in privatisation. It is simply selling Qantas for the sake of the money. It needs the money.

This bill is all about money. It is estimated that the government may well get \$300 to \$350 million more by allowing a greater foreign shareholding than if it stuck by its arrangements of November 1994. In other words, it ain't the principle of the thing; it is the money. That is unfortunately the truth in this situation.

This government has an obsession with money in its preparedness to allow icons to be sold overseas. It is taking a significant role in this case. Under this government, so many Australian icons are now foreign owned. The list is extraordinary. It might be a good idea for the Senate to one day debate the disaster that has befallen Australia because of the lack of adequate savings in Australia that has resulted from appalling government economic policies. As a consequence, there are inadequate levels of savings in Australia to be able to buy not only these government companies that the government wants to boost its budget with by privatising, but also longstanding Australian companies that have now gone overseas.

We all know about Vegemite and a range of biscuits. Almost all the Australian icons, such as Aeroplane Jelly, have gone to overseas ownership under this government, which has no interest in doing anything to encourage a level of private savings that is necessary to keep Australian companies in Australia. Here we have a government company with 49 per cent of its issued capital having to be sold overseas in order to get a decent return for the government.

If ever there was an example or tangible evidence of this government's incompetence in encouraging any kind of decent level of domestic savings, it is shown in this bill. There is an admission that the government cannot sell off Qantas; it cannot raise the money needed unless it allows 49 per cent of the issued capital to end up in foreign ownership.

It is no good the government belatedly saying after 12 years, 'We have this new super deluxe superannuation scheme which will force people to save in superannuation funds under the administration, in some instances, of some union officials.' We need incentives for private sector saving. We have to encourage Mr and Mrs Australia to save their money rather than spend it. There are no taxation incentives to do so. On the contrary, there are taxation disincentives against saving. Until we have a reasonable savings ratio in Australia—as I think Senator Parer pointed out yesterday—we will find more and more of Australia's icons totally owned, majority owned or significantly owned from overseas. This will be aided and abetted not only by the government's direct sales, like the Qantas sale, where it is handing over 49 per cent of Qantas to foreigners, but also by the indirect impact that the government's negative, ridiculous economic policies are having by encouraging Australian corporations to be owned by foreigners. It is about time that we had a government in Australia which provides incentives to savings so that this bill would not be necessary. This bill is aimed at raising money for the government and, as a result, Qantas has to be sold overseas.

Qantas is already 25 per cent owned by British Airways. I am not critical of that, nor

am I critical of the arrangement undertaken which finally has approval by which Qantas and British Airways will have a rationalisation of the kangaroo route to England. It is very depressing that we now have to get rid of another 24 per cent of Qantas to foreign interests—only another 10 per cent of which can go to foreign airlines. If Australians are not capable and do not have sufficient savings to buy Australia at a price which is reasonable, then it is dramatic evidence of the failure of government policy.

I do not know if we will ever see a situation in which this government will do the right thing. The government has acknowledged its inability to sell Qantas domestically. The sale of Qantas has appeared in every budget for the last five budgets. The government has been including in budgets the receipts of the sale of Qantas, which has never taken place. This phoney filling up of the budget to make it look good, dressing it up and making it cosmetic, will come to an end if this bill involves the sale of Qantas. At least this may well be the last budget in which the same sale has been put over, again as a way of dressing up the budget figures. Hopefully that cosmetic role of Qantas will be turned into a practical role.

The sale of Qantas is not opposed by the opposition. In fact, we have been proposing it for quite some time. The reasons we want Qantas privatised are to make it even better. I know technically, in terms of its safety record, you could not make Qantas better. It is first rate, and we recognise that. In terms of its commercial capacity and its ethos of competition, there is no doubt that privatising Qantas will give a potential for improvement.

The dead hand of government is not the sort of hand that we need in a highly competitive and tough international atmosphere such as international airlines. This privatising proposal is sound. It is just a great shame that the only motivation for this and the only reason the government is now increasing the potential for foreign ownership to 49 per cent is the money, not the principle. That is not a surprise because this government does not have any principles.

**Senator IAN MACDONALD** (Queensland) (10.36 a.m.)—I wish to make a fairly short contribution to this debate. I do not intend to go over the matters that my colleagues Senator Parer and Senator Calvert very concisely and precisely went through in dealing with the Qantas Sale Amendment Bill 1995 on behalf of the coalition. I concur with my colleague Senator Baume and the other speakers from this side on the points that they have made in addressing this bill. I want to highlight a couple of aspects, mainly from my position as the coalition spokesman on regional development and infrastructure matters. I want to add to my colleagues' concern an expression of my concern at the way the proceeds of this privatisation are being spent.

The Qantas business enterprise has been built up over many years. In fact, I have what I consider to be a fairly tenuous but personal connection with the founding of the Queensland and Northern Territory Aerial Service. When my late mother was a young girl she worked in McGilvray's agency office in Cloncurry in the early days of this century. That firm was the Cloncurry agent of the Queensland and Northern Territory Aerial Service when it first started operating. She knew some of the early pilots well.

**Senator Parer**—Hudson Fysh.

**Senator IAN MACDONALD**—She was associated with Hudson Fysh, as Senator Parer rightly reminds me.

**Senator Calvert**—A Tasmanian.

**Senator IAN MACDONALD**—He may have done the right thing by Tasmania by leaving and going up to the better country in the north and north-west of Queensland. The airline has a very close association with north-west Queensland from its formative days.

It is very distressing to see that the Australian public—the taxpayers—eventually became the owners of that airline and invested quite a lot of money in it over the years and built up a capital asset. This mob of financial vandals then came along in 1995. What did it do with that asset—the family silver that had been saved for and built up over so many years? They sold the family silver to pay this week's grocery bill. That is what distresses

me so much. If you were selling Qantas, as we on this side have always said we would do, and putting the money back into some capital asset that would make a major contribution, which would be a real investment in Australia's long-term interest, in my view that would be an appropriate and proper use of the proceeds of the privatisation.

To simply use the proceeds of those capital assets for this year's budget to get this mob of financial vandals out of their problem in a pre-election year is just a disgrace. It really shows how the Labor Party has thumbed its nose at the Australian people—those people who have built up those assets and acquired the family silver, the silver candlesticks, over a long period of years.

The Labor Party deserves contempt and condemnation for being so without policies, so without management skills, so without anything at all going for it as we approach this election, that it is prepared to sell the family silver just to get a headline budget this year, in the hope of giving itself some possibility of some sort of show in the next election. I think that is a disgrace. It requires condemnation and I am quite confident that, for this reason and for many others, the Australian public will show their disgust in the next election.

As my colleagues have said, if you are privatising a capital asset, something that the Australian taxpayer has built up over many decades, that money should be used for very worthwhile long-term purposes. As my colleagues have indicated, most of the proceeds of privatisation should be put to paying off some of the huge borrowings, the huge debt, that this government particularly has incurred in its 12 miserable years in office. That is what we would be doing with a lot of the proceeds of capital assets that we would be privatising.

As well as that, the coalition has announced that some of the proceeds of privatisation would be used by the next coalition government to reinvest in capital infrastructure projects which give a return to the nation. What portion of those moneys would go to that is something that will be announced at the appropriate time. What capital assets we

would be investing in is also something that will become clear in the fullness of time, at a time of our choosing.

This mob of financial vandals have run down Commonwealth investment in public infrastructure projects over the last 12 years. It used to be that about 7.6 per cent of GDP was invested in public infrastructure. Under this government that has fallen to 4.2 per cent of GDP in the 1994 year. That is because it simply finds it easier to spend all of its money on buying votes, often in areas where it is starting to lose votes. It forgets about the capital infrastructure and lets it go by; it does not think there are many votes in that. It does not care about what happens in the future; it lives for today, not caring about the children or the grandchildren and the type of Australia that they will inherit. So our capital infrastructure spending has fallen quite dramatically under the Labor Party. It has been indicated that the coalition will be embarking upon the long-term goal of trying to reverse that.

It is not for me to speculate, and I certainly will not, but because we are talking about Qantas and north-western Queensland it brings to mind the enormous need there is in inland Australia for capital infrastructure projects. I attended, a couple of weeks ago in Longreach, which also has an association with the founding days of Qantas, a meeting of the Federal Inland Development Organisation, FIDO, which has as its goal the development of inland Australia. Speaking at that conference was Mr Ernie Bridge, who is a Labor member of the Western Australian parliament.

Mr Bridge has some fairly visionary and very long-term—some might say not yet feasibly proved—goals for water storage in inland Australia and for turning coastal rivers inland. If my memory serves me correctly, Mr Bridge will be in Sydney tomorrow, Friday, 9 June, announcing the formation of a water strategy foundation or something like that.

I am not saying that the Commonwealth should be spending money on that—that is something that the coalition will be looking at in the fullness of time—but these are the sorts of visionary projects that these moneys, these capital proceeds, should be considered for. Instead of just spending the money on

this year's budget, it is those types of infrastructure projects that deserve some reinvestment of the nation's capital wealth.

It is a bit ironic that Qantas started in Longreach, Cloncurry and other parts of inland Australia but now does not even fly to those areas. It still bears the name Queensland and Northern Territory Aerial Service, but, regrettably, it does not serve Longreach, Mount Isa or any of those western areas. I appreciate that a private company, or even a corporatised government company, has to look at its bottom line and cannot always service every area. But, in some cases, I think there is a case for community service obligation assistance from the government. I simply mention in this context that the people of Mount Isa, Longreach and those areas of western Queensland are pretty poorly served by airline services at the present time.

I do not want to delay the debate any more, but I again emphasise that privatisation is—as my colleagues have quite properly pointed out—the right way to go. It is something that the coalition has been calling for for some time, because we see no purpose in governments getting involved in business enterprises—governments are there to govern; business is there to run business enterprises. We have always been of that view. But, having had that capital asset built up by the taxpayers, it distresses me and many Australians that the capital proceeds are simply being squandered on balancing this year's budget.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (10.47 a.m.)—We are debating the Qantas Sale Amendment Bill 1995. The list of speakers contained five names; it has now blown out to nine. Obviously, coalition speakers have had a chance to consider the issue and several of them have entered the lists beyond what was posted. I do not wish to suggest that this a filibuster, but there is a quite unexpected sudden interest from the benches opposite in this bill. The government welcomes all interest in this bill.

The debate in this chamber has ranged far and wide. It has been about the principles and desirability of privatising in general, as a

concept, and about the history, through Liberal Party eyes, of the privatisation debate in the Labor Party. It has ranged as a proxy for foreign ownership issues generally. Senator Kernot addressed us on issues related to the print media inquiry. Last evening, it even got to the stage in which the memoirs of a failed Minister for Finance, Senator Walsh, got trotted out from the Liberal Party side in an effort to bolster a debating point.

**Senator Parer**—Did you say ‘failed Minister for Finance’?

**Senator COOK**—No, I am saying that the title of his book is *Confessions of a Failed Finance Minister*. He happens to be a friend of mine; in no way do I regard him as failed. But that is the bar he placed on his career and the judgment he makes—I think somewhat ironically. All I am saying is that references in his book were trotted out to bolster a point. This debate has not concentrated on the bill directly but, as second reading debates often do, ranged widely. Opposition senators have said, ‘Of course we support the legislation, but the government has bungled the application of it.’ That is their words and judgment, not ours.

In summary the outcome of this debate is that the coalition, as I understand from Senator Parer, who is leading on behalf of the coalition, will support the passage of this legislation. I am not entirely clear about the position of the Australian Democrats, represented by Senator Kernot. I thought they were wavering in their support for the legislation, but that is not certain. The Greens are opposed to the legislation. That was made clear by Senator Margetts. In summary, the bill will pass and will pass with a number of observations having been made.

Therefore, in replying to the debate, I simply wish to reiterate a number of points and perhaps pick up one or two things said in the debate by honourable senators opposite. The first point is that it is the government’s view that Australia should have a national airline and that that national airline should be our flag carrier. The view the government takes, though, is that the airline does not need to be in public ownership to achieve that. We recognise that Qantas is, and quite rightly

justifiably by every test, an icon in Australia and that that status should be preserved. This bill will continue to ensure that is the case.

This bill will provide that there is a majority of Australian ownership, Australian citizens or Australian companies owning this airline; that the name of Qantas will be preserved; that the headquarters for this airline will be located in Australia; that two-thirds of the board that runs this airline will be Australian citizens; and that the chairman of the board will be an Australian. This bill provides that foreigners can own up to 49 per cent of the airline but no more than that. The government’s second reading speech states:

Therefore, the Government proposes in this bill to increase the overall foreign ownership limit for Qantas from 35 to 49 per cent and to restrict foreign airlines to holding no more than 25 per cent individually and 35 per cent in total of Qantas.

In other words, a foreign airline can hold no more than 25 per cent of the show and foreign airlines can hold no more than 35 per cent of the show. The national interest provisions of the Qantas Sale Act would remain unchanged as would the existing 25 per cent limit on individual holdings of foreigners. The bill, therefore, preserves Australian ownership.

A fair bit of debate has been devoted to the timing of this and references to the sale of Qantas in previous budgets. I do not propose to go blow by blow on all of those allegations that have been made—they are too numerous—other than to comment in answer to that general body of argument. It is the government’s view, and we believe a widely publicly supported view, that once you have made a decision to provide for private ownership of an airline such as Qantas, a major national asset, the return on that sale should be at the optimum level. We ought not sell it at bargain basement prices; we should get premium prices for it.

So timing in terms of the sale is related to the state of the market—a judgement about when market opportunity is at its optimum so that the sale of the airline will attract the best possible price and Australian taxpayers will get the best possible return for their assets. It is for those reasons that the timing of this bill is now and that the Minister for Finance (Mr

Beazley), who is in charge of this process, has said that the sale of the next tranche will take place some time between mid-May and mid-July. It is appropriate that on this day, 8 June, we should decide this matter. In terms of the timing argument, while a lot of sport has been had by the opposition about this issue, the government's position is that timing is important, and important in order to see that the Australian taxpayer gets the best possible return.

One of the other issues raised in the debate concerned the matter of what will be the provisions for employee participation in the ownership of this airline. Perhaps I should say one or two words about that. The government has indicated its support for the introduction of an employee ownership plan at the time of the float consistent with its broader commitment to employee involvement in businesses. We have that general commitment. Planning for the Qantas public share offer is proceeding on the basis that the offer will allow for an appropriate level of equity participation by employees based on a fair and equitable employee share ownership scheme.

Qantas has developed such a scheme which was incorporated in Qantas's enterprise bargaining agreement certified by the Industrial Relations Commission in December last year. The scheme is based on the provisions of the current Taxation Laws Amendment Bill and involves the issue of free shares worth \$500 for all employees at the time of the float, with further free shares worth \$500 about a year later, subject to Qantas meeting certain performance targets.

In addition, the enterprise agreement provides that up to five per cent of the shares issued in the float will be made available in a priority offer to all staff at market prices. And, in addition to planning the Qantas public share offer to include an appropriate level of employee participation, the government will also be endeavouring to give value to buyers and to maximise the return to taxpayers from the Commonwealth's remaining 75 per cent ownership stake while at the same time taking into account the rights of the other existing shareholder, British Airways, as established under the trade sale agreement. It will also be

necessary to comply with the Australian Stock Exchange requirements for listed companies. So there will be provision for employee participation and free provision of shares to employees and a preservation of part of the offer for employees to purchase shares off their own bat at market prices.

Before voting on the second reading and moving to the committee stage, we have an amendment to the second reading from Senator Kernot of the Australian Democrats. It has been circulated in the chamber. The government does not support this amendment, not because it is critical of us but because we do not believe that it is an appropriate amendment.

The first part of the amendment refers to something not related to this bill, the Senate Select Committee on Certain Aspects of Foreign Ownership Decisions in Relation to the Print Media. This is the Qantas bill. The Fairfax inquiry or whatever we call it—

**Senator Kernot**—The Foreign Investment Review Board is involved in both.

**Senator COOK**—Yes. But while the Senate has conducted that inquiry and lodged its report and its report is public, the government's standard rule here is to respond to such reports within, I think, 90 days and that period will elapse by the end of this month. I have been advised by the office of the Treasurer (Mr Willis), that it is the Treasurer's intention to respond to that report before the 90-day period expires and that is, in all probability, in the next fortnightly block of sittings in the second half of this month. So that is the appropriate response there. The recommendations will be responded to in the context of that inquiry.

The other part of the amendment is new procedures for the Foreign Investment Review Board. One can argue about that, but I do not think it is an appropriate amendment, so we will not support it.

I commend this bill to the Senate. I acknowledge from the speeches given by senators opposite this bill will carry. I congratulate you and thank you for that and I look forward to participating in the committee stage of this bill and then in the third reading.

**Senator PARER** (Queensland)—Mr Acting Deputy President, I seek leave to make a brief statement on the Democrats' amendments. I did not have the opportunity to do so when I spoke in this debate because I saw them only when I came into the chamber.

Leave granted.

**Senator PARER**—The coalition will not support the Democrats' amendments, and I will speak only briefly about it. We did not have, really, a lot of time to look at them.

**Senator Kernot**—Oh, come on! That is not true.

**Senator PARER**—Senator Kernot, I did not see them until I came in here yesterday for the second reading debate and I expected the debate to be completed by last night. However, I will make the following observation: firstly, this is one of those rare occasions that I agree with the government on this—I really had difficulty seeing any correlation between the print media and the sale of Qantas.

With regard to (b), I would have thought the legislation itself spelt out that foreign ownership will be permitted to go as high as 49 per cent. Whether it actually hits 49 per cent I guess only time will tell. I will ask a few questions in the committee stage about that. But it would seem to me that if we go down that track—and I understand the reason for the increase in foreign equity is to broaden the market—it may well send the wrong signals to some of the potential foreign investors overseas which may in turn affect the price of Qantas shares.

**Senator KERNOT** (Queensland—Leader of the Australian Democrats) (11.01 a.m.)—by leave—I will deal with part (a) of the amendment first. Both the Minister for Industry, Science and Technology (Senator Cook) and Senator Parer said that it is not related, but that is a very convenient argument. The fact of the matter is that the Foreign Investment Review Board is the link. We are talking about foreign investment applications which come before the Foreign Investment Review Board. The Senate committee looked at print media, and that is true in a specific instance, but it looked at the whole operation

of the Foreign Investment Review Board and its role in processing applications—not just for media, but applications generally.

The second point I make is that coalition members of that select committee, even given that they have different views on how strict a foreign investment policy ought to be, were unanimous in their views, as were government members, on the need for reform of the Foreign Investment Review Board. We are about to embark upon the sale of another very important asset. It is not a matter of whether or not there can be a certain percentage of foreign investment; it is a matter of who is making the bids and whether a particular bid is contrary to the national interest or not.

Mr Howard, the Leader of the Opposition, made a big deal about the national interest in his so-called headland speech on Tuesday night. I am very surprised that the opposition would think that there could be no circumstances in this Qantas bid where the FIRB might have to take the national interest into consideration. I think it is very important.

Senator Cook explained technically why the government has not yet responded. We all know that there was a lot of toing-and-froing about what constituted the major report and the final report of that committee, and we all know that the actual body of recommendations made by the committee has been in existence for over a year now and that the government has had plenty of opportunities to address those recommendations and to have a draft response ready.

So I am very disappointed. I can understand the government's reluctance, but I am very disappointed and surprised that the opposition cannot see fit to support this particular amendment. The national interest is equally important in the sale of Qantas as it was in the sale of Fairfax. That was the coalition's position then; it ought to be so on Qantas.

Question put:

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

The Senate divided. [11.06 a.m.]

(The President—Senator the Hon. Michael Beahan)

Ayes .....	9
Noes .....	44
Majority .....	35

## AYES

Bell, R. J.  
Chamarette, C.  
Kernot, C.  
Margetts, D.  
Woodley, J.

## NOES

Abetz, E.  
Beahan, M. E.  
Brownhill, D. G. C.  
Calvert, P. H.  
Chapman, H. G. P.  
Coates, J.  
Cook, P. F. S.  
Crowley, R. A.  
Evans, C. V.  
Forshaw, M. G.  
Herron, J.  
Kemp, R.  
Macdonald, S.  
McKiernan, J. P.  
Murphy, S. M.  
O'Chee, W. G. \*  
Patterson, K. C. L.  
Sherry, N.  
Tambling, G. E. J.  
Tierney, J.  
Vanstone, A. E.  
West, S. M.

Bourne, V. \*  
Coulter, J. R.  
Lees, M. H.  
Spindler, S.

Baume, M. E.  
Boswell, R. L. D.  
Burns, B. R.  
Carr, K.  
Childs, B. K.  
Colston, M. A.  
Cooney, B.  
Denman, K. J.  
Ferguson, A. B.  
Gibson, B. F.  
Herron, J.  
Kemp, R.  
Macdonald, S.  
McKiernan, J. P.  
Murphy, S. M.  
O'Chee, W. G.  
Patterson, K. C. L.  
Sherry, N.  
Tambling, G. E. J.  
Tierney, J.  
Vanstone, A. E.  
West, S. M.

\* denotes teller

Question so resolved in the negative.

Question put:

That the bill be read a second time

The Senate divided. [11.11 a.m.]

(The President—Senator the Hon. Michael Beahan)

Ayes .....	44
Noes .....	9
Majority .....	35

## AYES

Abetz, E.  
Beahan, M. E.  
Brownhill, D. G. C.  
Calvert, P. H.  
Chapman, H. G. P.  
Coates, J.

Baume, M. E.  
Boswell, R. L. D.  
Burns, B. R.  
Carr, K.  
Childs, B. K.  
Colston, M. A.

## AYES

Cook, P. F. S.  
Crowley, R. A.  
Evans, C. V.  
Forshaw, M. G.  
Herron, J.  
Kemp, R.  
Macdonald, S.  
McKiernan, J. P.  
Murphy, S. M.  
O'Chee, W. G.  
Patterson, K. C. L.  
Sherry, N.  
Tambling, G. E. J.  
Tierney, J.  
Vanstone, A. E.  
West, S. M.

Cooney, B.  
Denman, K. J.  
Ferguson, A. B.  
Gibson, B. F.  
Jones, G. N.\*  
Knowles, S. C.  
MacGibbon, D. J.  
Minchin, N. H.  
Neal, B. J.  
Parer, W. R.  
Reynolds, M.  
Short, J. R.  
Teague, B. C.  
Troeth, J.  
Watson, J. O. W.  
Wheelwright, T. C.

## NOES

Bell, R. J.  
Chamarette, C.  
Kernot, C.  
Margetts, D.  
Woodley, J.

\* denotes teller

Question so resolved in the affirmative.

Bill read a second time.

## In Committee

The bill.

Senator CALVERT (Tasmania) (11.16 a.m.)—I want to ask the minister a couple of questions about the matters he raised during his speech regarding the availability of a share scheme for employees of Qantas. First, how many Qantas employees would be interested in participating in this scheme? If it is five per cent of the number of shares which are on offer, my calculations show me that it is something like 37.5 million shares. That would equate to roughly \$100 million, I guess, if you took the price that was quoted of about \$2.66 per share. Second, I just wondered, if that is the case, whether there are enough Qantas employees willing to take up the share offer that has been proposed at five per cent.

Senator COOK (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.16 a.m.)—I am advised that there are approximately 27,000 Qantas employees—it is a big work force. The second part of your question is: are there enough and

will they take it up? That is to be seen, I think. I understand that there is a great deal of interest among Qantas employees in grabbing a slice of the action in the airline, and the expectation is that a number of them will move to take up the offer.

**Senator CALVERT** (Tasmania) (11.17 a.m.)—As I pointed out yesterday in a speech I made on privatisation, the workers at the Tilbury docks took up shares at £1 each and they are now worth something like £7, and that was over a period of 18 months. So, certainly, it would be a great thing for Qantas employees, being so proud of the airline, to be able to participate in that share float. I was just interested to know how many there were. I did not realise there were so many employees—27,000. Then again, you have to remember that Qantas now takes in all the domestic carriers. Even so, 27,000 employees would still have to find a fair amount to make up \$100 million. I just wonder whether they will be taking out overdrafts on their bank accounts to buy shares.

**Senator PARER** (Queensland) (11.18 a.m.)—I just want to follow up on that point with respect to the 27,000 employees. Under the enterprise agreement reached in Qantas, that means that, on the basis of your explanation in the second reading debate, staff or employees of Qantas would be given an initial \$500 worth of shares, followed up by another \$500 worth within 12 months under certain conditions. That, in itself, at 27,000 employees, means \$27 million out of the float. Is that correct?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.19 a.m.)—I do not have a brief on that, but the adviser here, who is a specialist on it, is nodding in the affirmative. So I would have to say that the answer is, yes, in the approximate.

**Senator PARER** (Queensland) (11.19 a.m.)—It depends on the number of employees. It works out at \$1,000 per employee, which is \$27 million. With regard to foreign equity, I would like to ask the minister why it was necessary to increase the level of foreign equity from 35 to 49 per cent.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.19 a.m.)—Qantas has an enviable international reputation, one that every Australian can be proud of. As a consequence, there is a great deal of interest among foreigners and other airlines in participating in the float. Going back to the foundation principle—that after a decision to sell a public asset has been made, the next question is how to get the best price for it—the government had two considerations.

Firstly, that Qantas should remain majority Australian owned, which the 49 per cent provision ensures. Secondly, on the question of getting the best price in the market and getting international interest in Qantas, the judgement we have made is that there is strong interest from many international investment houses and other airlines, and that that will encourage stronger domestic interest. Both factors working together should ensure the desirable outcome, from a taxpayer point of view, that the best price is obtained.

**Senator PARER** (Queensland) (11.21 a.m.)—How much additional revenue do you think the government or the taxpayer will obtain by expanding the foreign ownership provision from 35 to 49 per cent?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.21 a.m.)—That would be speculative. I do not know and I am not sure I can answer. I will check this answer in half a tick but I do not think I can answer in any case because, as you would know, we would not be saying publicly what we thought the global amount was that the float might bring. That is for the reason that, often, if you do reveal those figures, telling people what your price is, you will either get just that or less than that. I think it is in the public interest here not to disclose that figure. Certainly, we have a figure in mind but we would try to do better than that. As I said earlier, allowing an additional foreign participation should encourage and involve domestic investors to pick up the slack.

**Senator PARER** (Queensland) (11.22 a.m.)—I presume from the latter part of your answer that you would like to withdraw the first remark you made when you said that you thought it would be speculative—otherwise, why would you do it? It certainly would not be speculative.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.22 a.m.)—Perhaps I have not expressed myself well. If I answered your question—which I took to be how much extra money we think we will get through extended foreign participation—I would be speculating and I did not want to engage in speculation.

**Senator PARER** (Queensland) (11.23 a.m.)—Quite obviously, the reason for the increase was to broaden the market. Does that not indicate that the market here is too narrow and this reflects the lack of domestic savings available to take up Qantas? I think everyone in the community would like to see all Australians owning Qantas. The necessity to expand that market and to allow foreign investment in order to maximise the price—to which I do not object—is simply because we have among the lowest domestic savings in the world.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.23 a.m.)—I take this as a question aimed at inviting a debate on the level of our domestic savings. That debate's time will come in this chamber but I do not want to engage in it now, so I decline that implicit offer. However, I do say that, even if you had the view that you have just expressed, you would also have to agree that if we get stronger domestic participation people will be drawing on their savings and will meet that. So it is a sort of circular argument. I will refuse the hurdle at this stage.

**Senator PARER** (Queensland) (11.24 a.m.)—I will change the subject. A report in today's *Australian Financial Review* states that the federal government plans to indemnify Qantas against a potential payout of more than \$100 million to the Australian Taxation Office and that this figure of \$100 million

was disclosed by directors at the release of the December half-year results for Qantas in March. I understand that it relates to the potential liability of tax on aircraft financing transactions. Will the government indemnify Qantas against the potential payout of \$100 million to the Taxation Office?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.25 a.m.)—I also saw this report in the *Australian Financial Review* this morning. I thought that it would be a report on which I might get a question today in the committee stage of this bill or in the regular slot reserved for question time. I cannot comment on this. This is a matter between the airline and the Australian Taxation Office. It is on foot; it is current; it is not resolved either way, as I understand it. It is therefore not appropriate for me to engage in commentary on it.

**Senator PARER** (Queensland) (11.26 a.m.)—The minister pointed out that the first tranche of the float was due to be completed by the end of July, so it is pretty material. It leads to this question: if the government will not make a statement about whether it will indemnify Qantas on this \$100 million, when will this matter be resolved with the Australian Taxation Office?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.26 a.m.)—Obviously we would want to attend to this matter quickly. We would need to resolve it by the time the prospectus is issued. My understanding is that that will be around 22 June.

**Senator PARER** (Queensland) (11.27 a.m.)—Presumably, if this matter is not resolved by the Australian Taxation Office by 22 June, the government will be put in a position where it will have to indemnify the \$100 million. Is that right?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.27 a.m.)—It is our intention to resolve it by 22 June.

**Senator CALVERT** (Tasmania) (11.27 a.m.)—I do not know whether the minister is in a position to give an answer to this question. I mentioned in a speech yesterday that one casualty of the sale of Qantas in the five budgets that we have been trying to sell it in is the proposed open skies policies with New Zealand, or the Ansett-Air New Zealand deal. It was called off at the 11th hour because it would have affected the sale of Qantas. Can we expect that open skies policy to be revisited after the successful sale of Qantas is out of the way?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.28 a.m.)—I was not in the chamber when Senator Calvert made his speech, so I apologise for not hearing him saying that. Now that he has put his question to me directly, let me say that the government has made a decision about airline regulation in relation to what he has dubbed the open skies policy. That is our position. I do not see any immediate prospect of it changing.

**Senator ELLISON** (Western Australia) (11.28 a.m.)—I am a frequent customer of Qantas who travels to and from this parliament in the course of parliamentary duties. I have had a number of conversations with various flight crew. They have expressed to me a concern that by surrendering further ownership of Qantas to foreign interests we might in some way be lessening the aspect of safety; that is, we would be releasing control over servicing overseas and matters of maintenance. It is a matter about which they have expressed concern to me. I do not know whether it might be a misapprehension. I have undertaken to a number of them to ask this question when this matter arose. With the increase in foreign ownership, would anything impact on the question of safety in a deleterious sense?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.29 a.m.)—I acknowledge that Senator Ellison is a frequent patron of the airline. I have seen him sitting up the front on some of those long flights from Perth that we

sometimes both have to endure in the service of this nation. I did not know that the small talk he was engaging in with the flight attendants and the other staff was about the issue.

I too have heard expressions of views from the flight attendants and from other Qantas staff. I must say that they are all taking a very close interest in this process. Certainly, from the government point of view, there is no intention whatsoever to create a set of circumstances in any way that would harm Qantas's international and justifiably good record on safety. That is fundamental and absolute. We see nothing in these proceedings which would open the airline to an accusation or a concern about that. Safety is one of the premium virtues of Qantas. People around the world see Qantas as the world's safest airline. It is one of the reasons why nervous airline travellers fly on Qantas.

**Senator O'Chee**—Dustin Hoffman.

**Senator COOK**—Indeed, when he is in *Rain Man* and hopefully at other times.

**Senator O'Chee**—All the time.

**Senator COOK**—All the time? Perhaps we should have an ad, 'We call Australia home, including Dustin Hoffman.' That is fundamental to the reputation of the airline, and the operational side of Qantas is fully seized of that as a major marketing issue. More importantly than simply image, it is a major requirement and obligation on them. I believe that the insistence of a two-thirds Australian board membership and an Australian chairman, which is contained in this bill, will also ensure that the operational side of the airline has a board which is fully seized of this issue.

**Senator ELLISON** (Western Australia) (11.32 a.m.)—Minister, is there anything in the terms of purchase that requires any foreign purchaser to abide by the high safety standards that the airline presently enjoys?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.32 a.m.)—I am reminded again that it is a public share offer. I do not know how appropriate it would be in such a public share issue to stipulate conditions of that nature. My understanding is that it is not

appropriate. People who are buying these shares are buying that record too. When they buy shares of the airline, I am sure they want to preserve it.

**Senator PARER** (Queensland) (11.33 a.m.)—What advice has the government received from the Attorney-General's Department concerning the 49 per cent foreign ownership? Will the government have to take any special measures to ensure that Qantas is still considered to be an Australian airline for the purposes of our air services agreements?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.33 a.m.)—I am advised that the terms of the articles of the company empower the directors to ensure that the 49 per cent is not transgressed against. That goes to the extent of disempowering shareholders, if necessary. The other part of your question concerned airline agreements.

**Senator Parer**—Air services agreements.

**Senator COOK**—Yes, air services agreements. Qantas has a special position in the market because it is the Australian flag carrier. The nature of its nationality being Australian determines, to some extent, the right of its recognition under those agreements. Therefore, one of the reasons the share ownership level should be as it is proposed in this bill is that of a level in which we can balance, on one hand, getting the best possible price for the taxpayer and, on the other hand, maintaining the airline and majority Australian ownership. If it were not a majority Australian ownership, it may be—I would put it no higher than that—that people would call into question whether it was an Australian airline and entitled to recognition under those agreements.

**Senator PARER** (Queensland) (11.35 a.m.)—I understand that it is a fairly grey area, which is why I asked about the Attorney-General's Department. From memory, at one time the figure was around the 35 per cent mark to qualify. Your advisers might be able to give you a little more information on that. I think that was changed because of KLM or one of the airlines.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.35 a.m.)—Looking at the behaviour of airline ownership around the world, we see that the 49 per cent level has become more of the norm in terms of judging whether an airline belongs to a national flag or not. Because of that acceptance of that type of level, we think we are within our rights here.

**Senator Parer**—Does IATA have a position in respect of that?

**Senator COOK**—I can confirm that there is a bit of a grey area here. You asked whether IATA has a particular view. My understanding is that that sort of thing is for negotiation. We believe that we are within the common practice at 49 per cent.

I also understand that these questions were canvassed by Mrs Bishop in this debate in the House of Representatives. She said—I will have to check the *Hansard*—words to the effect that she had investigated this herself and was satisfied that these provisions were appropriate.

**Senator PARER** (Queensland) (11.37 a.m.)—I would like to raise a question concerning the Qantas subsidiary, Australia Asia Airlines. As you know, Qantas is not currently able to fly to Taiwan due to Australia's one-China policy. Is it anticipated that Qantas will absorb Australian Airlines once it is completely held by the private sector? Presumably once it is totally privatised, it will have the freedom to go to Taiwan if it wishes.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.38 a.m.)—I do not have any specific briefing on this point. I can make an offer that we will investigate it further and provide you with a fuller answer. My answer in the meantime must be seen against the background of not having that full brief. My understanding, if I might hazard an opinion in order to try to help you, is that the recognition of one-China—the People's Republic—is government policy and not the Republic of China on Taiwan.

As a consequence, our flag appearing in Taiwan on a Qantas tail would be seen as a breach of recognition of the People's Republic one-China policy. As a consequence, there is this subsidiary, Australia Asia Airlines. Whether that would change still depends on whether government policy remains firm rather than the commercial operating requirements, but I will check that point in providing you with an answer.

**Senator PARER** (Queensland) (11.39 a.m.)—I do not really want the minister to come back and respond but I understand that once New Zealand became privatised, it was free to do it, irrespective of government policy. I wish to ask one final question. The FAC has announced plans, which appears in today's paper, to relocate Qantas maintenance either at Sydney airport or maybe even to Brisbane or Melbourne. Is it expected that this announcement would have any effect on the Qantas float? Does the government have any view as to where this maintenance centre will be relocated?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.40 a.m.)—We see it as an operational issue, an issue in which the management of Qantas is making decisions about how best and most efficiently to administer their maintenance services to the airline. We respect their obvious managerial judgment in doing that. I do not know the details of this, Senator Parer, but they are the management of the airline. If it makes their airline more efficient, it ought to make it more attractive for people who might wish to buy shares in it.

**Senator O'CHEE** (Queensland) (11.41 a.m.)—I have a number of very brief questions for Senator Cook. One relates to the domestic services currently available. As Senator Cook would be aware, places like Cairns, which are out-of-the-way tourist destinations but which depend heavily on domestic trade as well as international, have enjoyed to date some fairly good service from Qantas. One of my concerns is that if a large stake were taken in Qantas by a foreign airline, that foreign airline may choose, for its

own reasons to do with its own international routes rather than the volume of domestic traffic, to cut back on the domestic services between, say, Sydney and Cairns, Brisbane and Cairns or elsewhere. What consideration has the government given to this matter? What guarantee do tourism operators in Cairns or elsewhere in North Queensland have that services will not be cut back if a large stake in the airline is taken by a foreign airline, which, of course, has a different agenda?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science)—The limit on a single foreign airline under this bill in terms of Qantas ownership, as you will appreciate, is 25 per cent. No single foreign airline can own more than 25 per cent of Qantas. One foreign airline, British Airways, owns that now and I do not imagine that it would wish to surrender that. Therefore, the scope for further foreign airline ownership, which can be up to 35 per cent, is the remaining 10 per cent. I think there are prudential limits on what foreign airlines, with other agendas, might have in directing the operations of Qantas.

In relation to the trade sale part of the Qantas privatisation, when we sold 25 per cent to British Airways, certainly, in the discussions that I was privy to, there was some concern that we sell it to an airline which has got a congruent type of agenda to Qantas's; not to an airline that might want to buy a stake in order to close the show down and grow its own airline to replace it. With British Airways, we are strongly of the view that its agenda is consistent with ours in this.

The other observation I make is that where airlines fly depends on the nature and strength of the market. The particular centre which Senator O'Chee has expressed a view about, Cairns, is one that I visited recently. I came across his office but I did not go in because it was late at night.

**Senator O'Chee**—I am glad.

**Senator COOK**—I thought I might surprise you.

**Senator O'Chee**—Going in late at night might have been a bit strange.

**Senator COOK**—Exactly, but it is my habit to sometimes walk in on the offices of members and senators and surprise the hell out of them. But you were not there and I did not expect you to be there at that hour. That is an aside to this debate.

**Senator Parer**—You must have been lost.

**Senator COOK**—It is in an arcade, isn't it? The point I make is that there is strong tourist growth in Cairns. All the projections of the Cairns Port Authority, which owns the airport in Cairns, are for strong and continuing tourist growth. The airlines fly there if their customers want to go there and on every test, I think, that will improve and increase in Cairns, rather than diminish. I do not expect that there is any need for a community service obligation to direct the airlines to fly to Cairns. The market will be like a magnet and will draw customers, both domestic and foreign.

This may be wrong, but when I was in Cairns I heard that it is expected that Cairns will soon be the second largest airport in Australia—after Sydney—for aircraft movements, which indicates that it is a prime international destination in its own right, as well as a desirable domestic destination. The airline system in Australia is competitive, and I believe that competition will ensure that service, price and frequency are key elements to ensuring the slice of the market that airlines need to deploy their fleets most effectively. Based on that, I do not anticipate any diminution in service.

**Senator O'CHEE** (Queensland) (11.46 a.m.)—My other question to the minister relates to a current dispute involving Cathay Pacific and traffic into, out of and through Hong Kong. As the minister would be aware, Cathay commenced some legal action relating to this, and Qantas has incurred the displeasure of the Hong Kong government. What impact is this dispute likely to have on the value of Qantas at the float, and what consideration is being given to the speedy resolution of this matter?

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.46 a.m.)—International airline arguments arise, as a matter of course, with a frightening degree of frequency, which indicates how competitive this whole market is. As of today, I do not have an up-to-date brief as to where this dispute is at.

I passed through Hong Kong, coming back from Beijing, about two or three weeks ago. I met Cathay Pacific senior management on another matter entirely. We never discussed the dispute. At that stage my background briefing in case the matter was raised was that the expectation was that there would be a possible solution to this dispute in the very near future. I would certainly hope that the dispute could be resolved without in any way injuring Qantas's rights or standing. I think that is probably a necessity before the float.

If we are being held out to dry—and I do not for one minute make that charge against any principle issue in order that we might capitulate to get the best price in the float—that would be an undesirable development, but one that I can understand in a marketplace. I am sure that the Minister for Transport, Laurie Brereton, is well and truly alive to that possibility and will deal with it in an appropriate way in the national interest.

**Senator O'CHEE** (Queensland) (11.47 a.m.) I ask whether the minister would be willing to give an undertaking to update his brief and advise later as to what efforts are being made to achieve a speedy resolution of the matter. In that way, we need not delay the chamber any further.

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science) (11.48 a.m.)—I certainly undertake to contact the minister to give you a state of play current situation report on that dispute. Do you want it in *Hansard*, or can I do it direct?

**Senator O'Chee**—Direct.

Bill agreed to.

Bill reported without amendment; report adopted.

### Third Reading

Bill (on motion by Senator Cook) read a third time.

### HUMAN RIGHTS LEGISLATION AMENDMENT BILL 1994 [1995]

### Second Reading

Debate resumed from 7 December 1994, on motion by Senator Faulkner:

That this bill be now read a second time.

*(Quorum formed)*

**Senator VANSTONE** (South Australia) (11.52 a.m.)—In contributing to the resumption of the second reading debate on the Human Rights Legislation Amendment Bill 1994, there are a number of points that I wish to raise. Honourable members and senators may well remember that this bill started off seeking to amend the Human Rights and Equal Opportunity Commission as a consequence of some suggestions put forward by a working party to review the operation of the commission. I do not think there was any dissent resulting from the proposed changes to be made in that respect. I think that was some time last year.

Prior to the bill being dealt with, the Brandy decision was handed down by the High Court, throwing into complete chaos the government's then still to be considered new arrangements with respect to HREOC. I think the bill was postponed so that some further amendments could be tacked on to it to try to, at least in the short term, remedy the problem that was created by the Brandy decision. Others would say that it was the problem that was resolved by the Brandy decision. Nonetheless, it did create a problem for the existing arrangements.

The problem was that the government—as I understand its views—wanted to find a way to make it cheaper and easier for people to resolve human rights concerns that were taken to the commission and that it was seen as very expensive to go to conciliation, to have that not work, to then have some sort of hearing with a determination, to have that ignored and to then go off to the High Court. The cost of two hearings was ludicrous.

The simple answer to that should have been seen and was, in fact, presented by Senator O'Chee and myself—it is so long ago I cannot remember whether it was Senator Kemp then; it may well have been—who basically said, ‘Why don't you just recognise that the commission was originally set up to, and should, take on the role of an educator, facilitator and conciliator. But it is not a court and it is never going to be one. You can't just will it into being a court; you've got to turn it into one if you want it to be able to make binding decisions.’

The government was not happy to take the suggestion that we put forward when this matter went to the Standing Committee on Legal and Constitutional Affairs. Our suggestion was this: keep the commission; people go there with their problems to see whether they can get a conciliation. But if they cannot conciliate the matter—in other words, once you have got to the point where you absolutely know the parties cannot agree—then send it straight off to the Federal Court. That is a pretty simple solution; it is a very pragmatic approach to resolving the difficulties of the costs of two hearings.

The government, however, was not happy with that and decided to say, ‘We'll have hearings in the commission and you'll be able to register them as though, in a sense, they were a decision of the court.’ That is where it all came unstuck because you cannot, just by legislative fiat, work out a mechanism to make a decision of a body that is not a court binding as though it were made by a court—and that is the problem.

The government's response has been to simply turn the commission back to what it was before that legislation was passed in, I think, 1992. We are not unhappy with that because, obviously, you could not allow the situation as it was to continue. Something had to be done. The commission was working reasonably well in respect of that aspect, at least, up until that time. So we support the amendments that will now put the commission back to the 1992, I think it is, position and we will see what comes from there.

We just highlight two points: firstly, we suggested a better way to go that would have

saved the government from getting into this mess, costing itself and numerous other people plenty of money, and the government simply refused to listen; and, secondly, just because we are now back where we were, it does not mean everything is fixed. We still want to know how this matter is going to be resolved in the long term, because the government has clearly indicated that this is not the long-term resolution of the matter.

This is another classic example of a government getting an idea and being warned at the time—and that was the second time that we warned it that we thought this would be unconstitutional. The government said it had the best advice in the world that this would stand up to any challenge. On that basis we said, 'We are doubtful but we'll support you.' And look what happened.

Be that as it may, we put all that aside. We now want to know: what are you going to do? The warnings as to the unconstitutionality of this were made when the amendments were passed in 1992 and we are now in 1995. The government has had plenty of time to consider a suitable mechanism to put in place should it lose in the High Court, as it has. The government has had plenty of time. So it set up some sort of review and got a few people looking at it; but they have not been able to come to a decision, as best I understand, yet. I think they have some proposals and, if they have not subsequently made a decision, they are very close but they are not there. We do not have a public document that we can put out and discuss with a whole range of people as to what the government wants to do.

So here we are in the latter part of the winter sittings in 1995 going back to where we were in 1992 because we have a government that refused to listen at the time as to unconstitutionality, refused to listen at the time as to an alternative means of giving a cheaper and more efficient resolution of these matters. We are fixing it up, going back to 1992 and we have not got anywhere to look forward. The government has had since 1992 to think about what to do and we have yet got nowhere to go to look forward to resolve this matter.

I would be interested to hear what the government has to say as to its complete and manifest incompetence in this respect. As I pointed out at the time, we thought these matters were unconstitutional, but the government said, 'No, no; we have legal advice.' We have a problem, shared by the Democrats, the Greens and Senator Harradine, that the government makes available the advice it chooses to make available, but not necessarily all the advice.

I have the view—I may be wrong and I would be happy to be advised that I am wrong—that when some advice is to be tabled in parliament, the person giving the advice is requested to prepare advice that says, 'This is constitutional.' I do not believe this government says to a legal adviser, 'Please prepare advice to parliament which not only makes the case out for this being okay, but also outlines the alternative case.'

I will be interested to hear what Senator Spindler has to say in this respect. I know we have similar views with respect to the independence of the Privacy Commissioner in the sense that we do not have the opportunity to get that advice once it has been given to the government to therefore consider in a parliamentary sense whether what the government wants to do is right or not. I think similar arguments apply to the legal advice we are offered.

If we could get an absolute guarantee that there is no alternative legal advice in the Attorney-General's Department, perhaps we could be more comfortable in relying on what the government tells us, but I do not think we will get that guarantee. I think the truth of the matter is—a phrase I hate to use because Senator Gareth Evans, who thinks he has some sort of proprietorial control over the truth, uses it almost every day, usually when he is in some trouble: 'The truth of the matter is', claiming righteousness for himself—that when this government has advice prepared it requests the barrister preparing the advice that it be so structured as to ensure that the advice that might be released publicly just puts one side, the more positive side.

On that basis, why should we ever rely on what the Attorney-General's Department tells

us? I would be very happy if the minister in responding is happy to indicate that that is not the case. I would also be happy if he gave an undertaking—in respect of any areas in the life of this government, and the previous one—that all of the advice available to the government, including the constitutional risks, has been made available when it has been requested. We would not expect a government to cough up information arguing against its case if it is not asked to do so. I would not expect this government to do it. I think it would be an appropriate thing for governments, and a better thing for parliament, if perhaps it were done.

Lest anyone should think that this is labouring the point in terms of the degree to which this government is prepared to tell parliament what it is doing—to tell not just the truth but the whole truth and not just to say, 'We have an opinion that says this is constitutional'; that is, to tell the whole truth about the other opinions that canvass the risks involved—let me say that there is a reasonably short list, and I would not want to make an exhaustive one because I would be here forever and a day, of Labor legislation that the High Court has fairly recently found to be unconstitutional. There was the Copyright Amendment Act in 1989; the Migration Amendment Act in 1987 and subsequent Migration Act amendments, and the very famous Political Broadcasts and Political Disclosures Act in 1991 when Senator Bolkus stood over there and assured us that that act was not an excessive inhibition of free speech.

Senator Bolkus assured us that the High Court would uphold what was in his mind a righteous piece of legislation, and assured us that all the Attorney-General's advice was that this bill would stand up. I would like to believe that, but it does not speak volumes for the competence of the legal advisers in the Attorney-General's Department if what Senator Bolkus said was true.

Anybody going to a lawyer does not expect to be given only the rosy picture. That is what the shonks do. To the extent that there are shonks in the legal profession, they are the sorts of people who tell you that you have a case, take all the costs from you and then,

when you get to the door of the court, because they do not want to lose in front of their mates, say, 'Look, it is about time you settled.' Settlement at the door of the court generally happens because one or other side knows that it is not worth going on.

That should not happen because your legal adviser should give you all the warnings; not just the good news, but the bad news as well—the hurdles you are going to have to jump. I would have hoped that legal advisers in the Attorney-General's Department were doing that for the government, not just telling it what it wanted to hear; not just saying, 'Yes, we will marshall a case for the bill being constitutional,' but also saying, 'Here are the arguments against.' In that way, the government would be equipped to tell parliament the truth and the whole truth.

I understand that some people on the other side of this chamber—excluding you, Mr Acting Deputy President and a number of others—could not give a damn what parliament was told; they are not remotely interested. The government should perhaps take what is a very rash step for it and be truthful with the whole community. The government would then be prepared should there be any High Court challenge. I just canvass that point. I like to think that the people in the Attorney-General's Department are being full and frank in their advice to the government, letting it know when there are problems.

It seems extraordinary that time after time we are assured by the government, on the basis of its legal advice, that things are constitutional; but we later find out they are not. The political broadcasts and political disclosures were an obvious case for alternative arguments to be presented. In the end, while I understand the departments are there to serve the government of the day, the overriding purpose of serving the government of the day is to serve the nation. The nation is not well served if the government is offered poor, narrow, limited, misguided and incorrect legal advice.

Mr Acting Deputy President, you or I would not expect to go to a lawyer and not be warned of the pitfalls we were about to face. It seems inappropriate that an Attorney-General

al or a government goes to lawyers and is not warned. I am quite prepared to accept that people in the Attorney-General's Department are of very high calibre. That is indicated by the degree of poaching that has been going on lately by private firms which are hoping to reap great rewards from the commercialisation of the legal service.

Since I am prepared to believe that, the other side of the coin has to be that when ministers say here, 'We have given you the legal advice,' they are not telling the truth and the whole truth. That is clearly where any fault lies. I do not like to think for one minute that the department is not offering full and frank legal advice to the government. My belief is that the government, in not wanting to disclose that advice and not wanting parliament to make a decision on the basis of full and frank legal advice, is instructing people to prepare advice with very narrow terms of reference so the government can say, 'Here is the advice we have received.' It can then shut up about the rest.

In addition to the Political Broadcasts and Political Disclosures Act, there are the Industrial Relations Act of 1988, the Corporations Act, the Commonwealth Employees' Rehabilitation and Compensation Act and amendments to the Bankruptcy Act, where this parliament, in a rush to be seen to be doing something, tried to make a decision that was not a judicial decision. The government tried to turn it into one by allowing the decision to be registered in a court—as if that was all one needed to make it a judicial decision.

To conclude, the two key points I have sought to make—there are lots of points one could go on about in relation to this bill—are that the government was warned about the unconstitutionality of its amendments in 1992 and it refused to accept advice from the coalition as to the constitutional amendments it could make that would be seen to be, and would be, an improvement. In the government's pig-headed way, it proceeded and was caught out and found to be wrong.

We all make mistakes in judgement and we can forgive that. However, the government had good advice, not just from us but from people like Mr Morris QC who wrote an art-

icle in the *Australian Law Journal* of March 1994. If the government does not want to believe us, perhaps it can believe people from the independent bar. Having had that advice from an early stage, the government still refused to cover its back and have people turning their minds to what would be the appropriate way to handle the problem should it arise. If the government had done that it would have come out the next day and said, 'Here is plan B'. We are still fiddling around—still without a resolution from the government as to what it wants to do in this area. The government has been thinking about it since 1992.

It indicates to me a lack of focus and a lack of preparedness to consider that the government might be wrong. It indicates a failure to prepare an alternative plan in case the government is wrong. It is a single-minded attitude where, once you have won the confidence of the people in the lower house, whatever you decide to do is right and you do not have to listen to anybody else. In his article Mr Morris said:

In taking the risk—

that is, that the legislation is valid—

the government is gambling with the money and emotional wellbeing of those citizens most deserving of its protection, namely the innocent victims of unlawful discrimination. It is difficult to conceive of any more urgent instance calling for prompt legislative intervention.

Mr Morris makes a good point. This legislation is there to protect those most in need of parliament's protection. When the government was warned that it was unconstitutional and that it would not get its way, the government did not prepare an alternative plan B.

That obviously begs the question of the quality of the government's constitutional legal advice. The question is: is the government getting good constitutional legal advice and ignoring it, or is there something wrong in the Attorney-General's Department? One or the other has to be the case.

**Senator SPINDLER** (Victoria) (12.12 p.m.)—The Senate is debating the Human Rights Legislation Amendment Bill 1994. I believe that the first part of the bill with its substantive provisions has previously been

debated in this chamber, but for completeness I will run over the main provisions again.

The bill implements a number of the recommendations in the report of the committee set up to review the operations of the Human Rights and Equal Opportunity Commission. The bill makes a number of changes to the management and corporate processes of the Human Rights and Equal Opportunity Commission.

Firstly, it gives the Attorney-General the opportunity to make a full-time or part-time appointment to the position of president. Secondly, it removes the requirement that the human rights commissioner necessarily be a lawyer and replaces it with a requirement that the commissioner must have the appropriate qualifications and background. That is something that the Australia Democrats welcome. Further, it proposes that the act be amended to provide that the responsibility for the management of the commission be vested in the commission as a body corporate.

To this end it creates a new position of chief executive officer and requires the commission to prepare a corporate plan. Currently the responsibility for the management of a commission is vested in the human rights commissioner to the exclusion of other commissioners and the commission itself. This bill removes that obligation on the human rights commissioner and vests in the commission as a whole the obligation to manage the commission as a collegiate body. The commission now will set the corporate and strategic direction and allow a manager to exercise delegated power on its behalf.

A number of other issues were raised in the debate, and I wish to comment briefly on two of them. I cannot possibly agree with the proposition that was put forward by Senator Vanstone that the human rights commission should, essentially, confine itself to the educative function. Important though that is—and that is acknowledged by the Australian Democrats—the human rights commission has an effective and noble record of righting wrongs that have been experienced by people who have been discriminated against. It should not be beyond the wit of the government, or beyond the wit of this chamber of

parliament as a whole, to ensure that we have an effective mechanism to right these wrongs and an effective mechanism to ensure that whatever rulings are made by the human rights commission are implemented and are enforceable without undue delay, without undue cost and in a streamlined fashion.

I have obviously touched on the effects of the Brandy decision but, before I continue with that aspect of the bill, I will comment on one other point that was raised by Senator Vanstone; that is, the ready accessibility of parliamentarians to advice received by the government. This applies, in particular, to the advice that the government receives from statutory officers. I have had to move some amendments on a previous occasion, when the issue was whether rulings made by the human rights commissioner or by the privacy commissioner should, as of right, be available to parliamentary representatives. I believe they should.

Senator Vanstone takes it a step further and suggests that the legal professional advice on matters of constitutional law received by the government should also be made available to parliament. I believe that has a lot of merit. For one, it will ensure that the debate is informed and is conducted at a level which is likely to produce the best possible result.

I will turn now to the part of the bill which is a response to the recent High Court decision of *Brandy v. Human Rights and Equal Opportunity Commission*. This is the case that invalidated the enforcement provisions for determinations made by the Human Rights and Equal Opportunity Commission. The history behind the Brandy case began when the commission was granted the power to conciliate complaints of racial discrimination under the Racial Discrimination Act 1975. Originally this was its only power and, if conciliation failed, an action could be brought in the Federal Court.

Over the years, however, the commission has been given powers to inquire into complaints and make determinations that unlawful acts of discrimination have occurred and, further, to order that the respondent pay compensation, if that was appropriate; employ the complainant—in other words, take specific

action; or perform some other act of redress. Such findings might be said to be judicial but, up to 1992, when amendments were made to the act, the commission was not considered to be exercising judicial power because its determinations were not binding or enforceable. If a person refused to comply with the commission's determination, the complainant had to initiate an action in the Federal Court and the matter had to be heard *de novo*.

The fact that a complainant was often required to endure three investigations meant that the process was seriously flawed. It obviously imposed a heavy load in cost, time and energy. This led to an inquiry by the then Senate Standing Committee on Legal and Constitutional Affairs, and the human rights commission made a submission to the committee that its determinations should be registered with the Federal Court and take effect as if they were court orders, subject to the ability of the respondent to apply for a review by the Federal Court. The validity of this proposal was supported by an opinion of the chief general counsel, and the majority recommendation to follow this course of action was, in the end, adopted by the government.

Legislation implementing these recommendations came into force in January 1993. In October 1994 the legislation was challenged in the High Court by Mr Harry Brandy, and on 23 February 1995 the High Court unanimously held that these registration and review provisions were unconstitutional. The court held that the legislative provisions purported to give the commission, which is an administrative body, power to make binding and enforceable decisions and that this was contrary to the constitution, which exclusively confers judicial powers on the courts.

The consequence of this decision, therefore, is that the commission's determinations made under the Racial Discrimination Act, the Sex Discrimination Act 1984, and the Disability Discrimination Act 1992 are not legally enforceable if the respondent refuses to accept the determination by the commission. In response to this, the government is returning, in the second part of the bill, to the legislative scheme which existed prior to the 1992

amendments so that a new action will be needed in the Federal Court if a respondent fails to comply with a determination of the commission.

The Australian Democrats support this interim measure since there must be some avenue of enforcement for people who appear before the human rights commission complaining that there has been discrimination against them. The Federal Court, under the amendments proposed by the government, can then exercise its judicial power in making an adjudication. The Democrats have received assurances that this system is an interim measure only and that we will soon have a long-term solution to the problem of enforcing the decisions of the Human Rights and Equal Opportunity Commission as, indeed, in the Democrats' view, they should be.

To this end, the Attorney-General (Mr Lavarch) has established a committee of inquiry, chaired by Mr John Basten QC, to draft a response to the decision of the High Court in the Brandy case—in other words, to propose a system and procedures which can overcome the difficulty that has been created. The objective of the committee is to create an accessible and cost-effective mechanism for resolving human rights complaints. Certainly, we will be awaiting the report of Mr Basten's committee with great interest.

There is another section in the new amendments which should be mentioned briefly. The second part of those amendments, clause 7A, allows the president of the commission to delegate power to review a decision of the commissioner not to pursue a complaint. The president has recently complained that too much of his time is tied up second-guessing the decisions of his fellow commissioners in cases that often lack merit. This amendment is intended to allow the delegation of that task to a member of the commission or certain other officials of the commission. The Democrats regard this as a sensible reform and will not be objecting to the amendments.

I want to make a brief comment on the amendments that have been circulated by Senator Chamarette. The first amendment seeks to add a sunset clause to the interim enforcement scheme so that these interim

arrangements do not, through legislative inactivity, become the long-term scheme for the enforcement of the commission's decisions. The Democrats understand the reasons for this amendment and believe it is worthwhile, but we believe that the cut-off date of 1 November 1995 does not provide enough time. I would suggest to Senator Chamarette that if she were prepared to delete that date and insert the date of 1 May 1996—

**Senator Chamarette**—It should be September 1996, actually.

**Senator SPINDLER**—That is fine. I must have an earlier amendment. If it is September 1996, we will be supporting the amendment.

The Greens' second amendment allows applicants to the Human Rights and Equal Opportunity Commission to go directly to the Federal Court and bypass the interim step of going through the commission. The Democrats believe that this has an appealing simplicity but that it would be unwise to change the legislation in ways that were not conceived when the various pieces of legislation were drafted and ahead of the report from the Basten committee. At this stage, we would be prepared to support the amendment only if Senator Chamarette is prepared to accept a Democrat amendment that both parties must agree to that process. If the Greens' amendment is acceptable, we will be in a position to support it.

**Senator ABETZ** (Tasmania) (12.26 p.m.)—I welcome the opportunity to make a contribution to the Human Rights Legislation Amendment Bill 1994 [1995] and the government's proposed amendments. The initial bill basically deals with machinery matters that we on this side do not oppose. The bill seeks to implement some of the recommendations made in the initial report of the joint review of the Human Rights and Equal Opportunity Commission which was undertaken by the commission and the Department of Finance. Those machinery amendments are referred to in the second reading speech that has been presented. There is really no further need for me to elaborate on them.

However, there is also before the Senate a raft of 12 pages of government amendments to this bill. Those amendments are in response

to the so-called Brandy decision. The Brandy decision was a decision of the seven justices of the High Court of Australia in the case of Harry Brandy v. the Human Rights and Equal Opportunity Commission and others. Basically, the question that the High Court was asked to answer in that case was in consequence of the amendments embodied in the Sex Discrimination and Other Legislation Amendment Act 1992 and/or the Law and Justice Legislation Amendment Act 1993 as they affect the Racial Discrimination Act 1975. If there were any, it needed to be determined which provisions of part III of the Racial Discrimination Act were invalid.

The answer was yes in relation to sections 25ZAA, 25ZAB, 25ZAC and 25ZC; they were all considered to be invalid. Without going into the detail of the quite considered decision involving 27 pages of their honours, it is appropriate to try to summarise their decision. The fundamental point was to confirm that the judicial powers of the Commonwealth need to be exercised through the judiciary. Clause 71 of chapter III of our constitution, which deals with that very matter, states:

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction.

It is noteworthy to remember that, at the time this legislation was introduced, the opposition warned that it may well fall foul of that provision of our constitution. As I recall it, that warning was given in 1992. Colleagues of mine who served on the Senate Standing Committee on Legal and Constitutional Affairs before I arrived and the then shadow Attorney-General, the now Deputy Leader of the Opposition (Mr Costello), warned the government about the potential problems.

Whilst it can be accepted that the government would not necessarily fully embrace the opposition's views and interpretations in relation to the law—which subsequently have been shown to be correct—I would have thought it incumbent upon the government at that time to at least consider a contingency plan as to what ought happen in the event that the views expressed by the opposition and

others within the community were found to be correct. I believe it does not reflect well on the government that it simply sought to ignore that. It is typical of the arrogance and unwillingness of this government to listen to any ideas other than its own, especially on matters relating to our constitution.

We were told by the government that the 12 pages of amendments submitted to us by the government would be an interim response. That is something that, at the time the amendments were introduced, could have been considered as an appropriate response. It is worth noting that the government has now had some considerable time to resolve this matter on a more permanent basis, and it still has not been done. It ought to be remembered that the High Court decision was delivered on 23 February 1995. There have now been some 3½ months for the government to come up with a more detailed and permanent response. That is especially the case given that it was warned years ago about this very possibility. It is not something that came out of left field, completely unexpected by the government.

The government was warned many years ago about this possibility. It completely and utterly ignored that possibility and kept going blindly down the track of ignoring the quite cogent arguments contrary to its own particular point of view. When you lose a decision such as this seven nil in the High Court, I would have thought that those charged with the responsibility of determining how this sort of legislation should have been framed must have at least canvassed the possibility of this situation arising. If they had canvassed it, they should have had a contingency plan ready in case of an adverse decision—and adverse it was, seven nil.

The advice received by the government in relation to this matter and others does concern me. It appears as though the federal government has got it wrong regarding matters submitted before the High Court. I dare say that Minister Bolks is a classic example in that regard. He or his department has a unique capacity to get the legal advice quite wrong. The unfortunate thing is that it appears as though the government has run out of steam or impetus. It seems to be quite complacent

about the sort of advice proffered to it and is not willing to make even a contingency plan in the event that it is shown to be wrong. In relation to these 12 pages of amendments, we have an interim solution or a stopgap measure to put us back to the way the legislation stood prior to 1992.

I grapple with the whole issue of whether this human rights legislation ought to proceed into the area of making decisions, determinations and awards to people. I fully support the educational role and the importance of indicating to members of our community that all people ought to be treated equally and that all people are equal just by virtue of being people and as a result of being human beings. As a result, discrimination on the grounds of disability, gender or race clearly is not to be accepted within a civilised community. We should therefore be seeking to assist those of a different persuasion to alter their opinions and code of conduct.

If somebody is fined or an award is made against them under this legislation, it is a finding against them and something that they would have to carry with them. It is therefore appropriate that when those matters are determined, an appropriate judicial process be applied to ensure that there is procedural fairness, natural justice and equity afforded to persons who are having their matters determined by the commission.

I bemoaned the fact previously in my speech that this was only an interim solution. However, I suppose every cloud has a silver lining and, given that this is only an interim solution, I would like to take the opportunity to ask the government when it comes back with its—I was about to say final solution but that is not necessarily a good term—final answer to the Brandy decision that it consider other amendments to this legislation so that there is a greater degree of fairness for all the participants in the process.

The matters that I wish to raise relate to the questions of vicarious liability that the human rights commission will determine in relation to employers on the grounds of disability, discrimination, racial discrimination and sex or gender discrimination. As the legislation allows an employer to be taken before the

commission for breach of the provisions of the legislation on a vicarious basis, it is my view that it would be appropriate to require the person making the complaint to put that in some sort of formal way to the employer within a specified period detailing the behaviour complained about. Possibly something like the provisions that apply for workers compensation may be appropriate so that the employer is notified of the details of the matter as soon as possible after an alleged breach has occurred so that the employer has a reasonable opportunity to address the matters and deal with them in a way that will ensure that the behaviour complained of is not repeated within the workplace.

It is unfortunate that we can potentially have a situation where an employer is subjected to inappropriate behaviour at the workplace, that behaviour continues for some time and the employer need not necessarily become aware of it immediately, and then the employer finds himself or herself before the human rights commission on the vicarious liability aspects of the legislation trying to argue that he or she should have taken certain action. Under the vicarious liability sections the employer would have to indicate what reasonable steps had been taken to avoid the behaviour when in certain circumstances it may have been the case that the employer was not even aware that that particular behaviour was occurring in his or her workplace. I believe that that is an aspect that the government ought to address to give some degree of procedural fairness to the employer.

Another matter which is of concern to me is that the human rights commission does not have the capacity—it is not clothed with the power—to award costs. It is my view that frivolous and vexatious claims could well be avoided in the human rights commission if the commission was given a discretionary power in relation to the question of costs.

It would not necessarily be the exercise of awarding costs to follow the event as a matter of course. It would be in special circumstances where the commissioner may be of the view that the complaint made was made for malicious, vexatious or frivolous reasons, in circumstances where an employer has been

subjected to considerable time out from his or her employment, factory, business, or from the job, if it is a fellow employee; and, of course, the considerable legal costs that are occasioned should he or she seek to engage legal representation.

I am aware of situations where, because the complainant is funded by legal aid, the employer says, 'Well, this is going to take us five days before the human rights commission. Let's say, on a very cheap basis, \$1,000 a day. That's going to be \$5,000. I might as well offer the complainant \$4,000 just to get rid of it so I don't incur the costs. Even if I do win at the end of the five days I'm still \$5,000 out of pocket, so I might as well hand some money over and try to settle it on that basis.' Yet, the person who brings the complaint suffers no such financial penalty. I believe there needs to be some adjustment to the regime to ensure that there is equity for all sides.

Possibly, this is more of a matter for the committee stage. I understand that on page 2 of the government's amendments, proposed section 105B will allow for assistance to be provided before the Federal Court in relation to those people seeking to defend a claim as well. That is subject to the guidelines determined by the Attorney-General. It would be doubtful whether the legal aid commissions would allow funding for people who would seek to defend claims that are frivolous, vexatious or indeed malicious.

In relation to those suggestions I have just made, it would be fair to say that the vast majority of cases that come before the Human Rights and Equal Opportunity Commission would not be classified as malicious, frivolous or vexatious. They are properly grounded; the people have proper complaints to make. In those circumstances, and clearly in a minority of cases, I believe that the commission ought to be clothed, as should the Federal Court, with a capacity to award costs if they are of the view that they have been served with a tissue of lies or with a completely malicious case designed to hurt somebody and that there is no basis for it.

Indeed, when we look at the High Court decision of Brandy, it is noteworthy that in

determining the legal matters, just legal arguments, showing that the government was in fact wrong, the High Court awarded the costs of the plaintiff against the Human Rights and Equal Opportunity Commission. So the Human Rights and Equal Opportunity Commission, on a legal, technical point, had to pay the costs of Mr Brandy. If it were simply a vexatious and malicious claim, there would not be the possibility for Mr Brandy to recover his costs.

I believe that is something that the government ought to address when reconsidering the whole regime being covered by the human rights legislation. I look forward to further discussion of this matter in the committee stage.

**The ACTING DEPUTY PRESIDENT (Senator Herron)**—Order! It being 12.45 p.m., the Senate will now proceed to the consideration of government business order of the day No.5.

### **OVERSEAS MISSIONS (PRIVILEGES AND IMMUNITIES) BILL 1995**

### **OVERSEAS MISSIONS (PRIVILEGES AND IMMUNITIES) (CONSEQUENTIAL AMENDMENTS) BILL 1995**

#### **Second Reading**

Debate resumed from 29 March, on motion by Senator Crowley:

That these bills be now read a second time.

**Senator HILL** (South Australia—Leader of the Opposition) (12.45 p.m.)—The coalition does not oppose the Overseas Missions (Privileges and Immunities) Bill 1995 or the Overseas Missions (Privileges and Immunities) (Consequential Amendments) Bill 1995. The first is designed to extend certain consular privileges and immunity to trade and diplomatic missions within Australia from overseas non-state, self-governing or autonomous entities.

I understand that it is anticipated that a number of overseas trade missions might—I am told would—be established if such a status were available. The sorts of foreign territories, to use the language of the bill, that may be

able to establish missions in Australia as a result of this legislation would be places such as Hong Kong, New Caledonia and the Cook Islands.

The accompanying bill amends four existing acts so as to provide protection to the premises of and persons associated with designated overseas missions in the same way as is applicable to staff and property of diplomatic and consular missions and international organisations. The acts that are amended are the Australian Protective Service Act 1987, the Crimes (Internationally Protected Persons) Act 1976, the Diplomatic and Consular Missions Act 1978, and the Public Order (Protection of Persons and Property) Act 1971.

There are really only two areas of concern. It seems to us to be a sensible and logical reform that can help build our relations with foreign territories of the type that I have just mentioned. One concern relates to the costs that are associated with the change. The other concern is that, whenever there is an extension of immunity from criminal prosecution to a new range of persons, obviously that is something that must be addressed with great care.

On the issue of costs, I understand that the government claims that it is not possible to assess the additional costs to the taxpayer by this legislation. There may be some benefit to the taxpayer through facilitating trade and through other ways, but there will quite clearly be a cost—if only for the additional protective services that will need to be provided pursuant to the extensions that are included within this legislation.

We have raised the issue of costs with the government and have not received what is to us a satisfactory answer. As we on this side of the chamber are always interested in doing our best to protect the public purse, the taxpayers' money, I raise it again. The minister, in responding, might be able now to give us some better idea as to what additional costs will be incurred as a result of the passage of this legislation.

With regard to our second concern, that of the extension of immunity from prosecution, I note under the bill that that will be provid-

ed—as I read the bill—by regulation. The regulations may refer to the head of a designated overseas mission, or a member of the staff of a designated overseas mission or a member of the family of a person covered within the two categories that I have just mentioned where the family member is part of the person's household. I guess, therefore, we will learn the extent to which the government is planning to extend the immunity from prosecution when we get to see such regulations. So, at this stage, we simply flag it as an area of concern.

We caution the government to extend that immunity only with great care and after proper consideration. As I said, we will get some indication of the extent to which the government is planning to extend such immunity when we see the regulations that are going to be made under the act. Having raised those two areas of concern, we are nevertheless prepared to allow passage of the bills.

**Senator GARETH EVANS** (Victoria—Minister for Foreign Affairs) (12.52 p.m.)—I am indebted to the opposition for its support for this legislation, which is basically pretty straightforward. It is not really possible to quantify the revenue loss implications of this associated with the financial privileges and immunities that are involved, but I think they can be assumed to be pretty trivial in the scheme of things, certainly by comparison with the benefits.

It is anticipated, as I think probably the original speech made clear, that the first occasion for the application of this legislation will arise in the context of the proposed establishment of the Hong Kong economic and trade office in Sydney later this year to cover bilateral commercial issues between Australia and Hong Kong and multilateral trade issues arising from such forums as the WTO and APEC. The context makes clear the significant utility and benefit that will derive from having this representation in Australia.

I take the point that has been made about the extension of criminal immunity. It is not something you do cavalierly but, in all the circumstances here, it was felt that there were no grounds for particular concern about that and that, again, the benefits were conspicu-

ously self-evident. I thank the opposition for its support.

Question resolved in the affirmative.

Bills read a second time, and passed through their remaining stages without amendment or debate.

### DEFENCE LEGISLATION AMENDMENT BILL 1995

#### Second Reading

Debate resumed from 6 June, on motion by Senator Crowley:

That this bill be now read a second time.

**Senator WOODS** (New South Wales) (12.55 p.m.)—The opposition, whilst not opposing this bill, does have some concerns about the issues which it raises. According to the Minister for Defence Science and Personnel (Mr Punch), it is part of an ongoing process of improving and modernising the administration of the Defence Force. It is very unclear to us exactly how the Defence Legislation Amendment Bill relates to those aims. There does not seem to be any way in which efficiency and modernisation will increase as a result of this bill and the agenda seems to be more one of containment of costs. It really does nothing to improve the declining morale of members of the forces. It will not in any significant way improve management.

The changes to the military superannuation benefits part of the act are sensible and we have no real problem with those; but it does raise the question of why 17 people were left out in the first place. That can only be attributed to some degree of, at best, inefficiency and, at worst, incompetence. It ties in with the feedback that a number of us get from communications with various defence forces on how efficient they are at answering mail, at answering queries and finding messages and that cause some problems for people with their interactions with the forces. This, clearly, is going to be an ongoing problem.

Some of the changes to the disciplinary parts of the act will be welcomed. For example, the maximum penalty now for extra drill—if I remember rightly without checking any figures in front of me—is limited to three hours over a period of three days. I am sure

there are some in the forces who will benefit from that and welcome it. Certainly, it is a far cry from the days of the lash and keelhauling and those sorts of punishments. From that point of view, things seem to be improving very significantly.

But there are some queries about that. It is unclear whether it is possible to suspend somebody on a fairly arbitrary basis, particularly if they are in an isolated area, without having some sort of hearing first. I would like the reassurance that there will be some sort of process where an independent hearing can be held before somebody can be suspended, particularly without pay. That does not require a prejudgment of the issues, just simply that there is a genuine case to answer. They should be in a similar position perhaps to public servants where a number of prerequisites are in place to protect the positions of public servants. Although the situations are obviously somewhat different, the same principles, I think, do apply.

On the issue of the removal of the Governor-General's pleasure as a controlling factor, I am not really sure that that makes any real sense in improving the efficiency of the process. It may, indeed in some ways, have an impact upon the long-term career structures. The removal of the Governor-General's pleasure is ostensibly because of the workload involved. But, clearly, whoever does this—somebody has to do it—the Governor-General's workload, I am sure, is not over-extended by this particular aspect of it. If you associate this with the removal of the involvement of the Executive Council, then we do have some concerns.

The Executive Council is a grossly underrated body. In many people's eyes it is just as important a part of our democratic system as cabinet or other parts of ministerial responsibility: there always need to be at least three people present; it is possible for appointments to be questioned; it is possible for an independent person—the Governor-General or, if he is not present, the vice-president of the council—to pass judgment on the particular merit of a recommendation. When you remove that power and have the potential for a ministerial whim to replace it, then you do

not have a system which is better than the previous one—and I am rather concerned about that part of it.

There are some particular changes to particular issues. The unlawful discharge of weapons: we would all accept that that is an issue which needed to be dealt with and I am confident that the approach here is a reasonable one. But I am not so sure about the offence of refusing to submit to a medical examination or to supply a specimen. It is an interesting change.

In the general world, my view has been that although in superficial terms it might be advantageous to allow people to be compulsorily tested for AIDS, it was a major infringement of their privacy and, indeed, in practical terms would never work because AIDS positivity, to use an example, is simply an ongoing situation—it may well change month by month.

I am not sure exactly what is planned to apply in the forces here, but there does seem to be an element of intrusion into an individual's privacy. We accept that when people become part of the forces they do sacrifice some of those rights which might otherwise be theirs in the non-Defence Force world, but I am concerned that there does not seem to have been enough discussion and debate about this as an issue. I really do think that this needs more exposure to public discussion and debate in terms of what is, in effect, compulsory AIDS, hepatitis B or other testing.

One can understand, but not necessarily agree with, the underlying philosophy of the importance of this. Particularly in areas of war, where contaminated blood may be a particular problem, one can understand the concerns; but this needs greater airing and greater exposure to public discussion. There are a number of issues there.

One of the problems of this bill is that it really does nothing to improve the self-reliance of our armed forces, which is really what we all want to achieve. As I understand it, the personnel wastage rate in the navy is something like 13.5 per cent, the army has 13 per cent, and even the air force has seven or eight per cent. It is this loss of experienced

personnel which is one of the issues at the crux of the problems facing our Defence Force, and this legislation does nothing to address these. It is a vicious circle, because overworked personnel leave, particularly if they have less job satisfaction; and once they leave, the pressure on those who are left is greater, and they in turn leave.

As I understand it, the navy has real problems filling its submarine billets. The navy put out a public document saying 'submariners are a rare breed'. They are rare not only because of the special qualities required for life under the waves, but rare because only 650 of the 818 billets in the submarine squadron are filled. The navy has only 53 per cent of its required number of submariner communicators. To put it another way, if all of the six new Collins submarines, costing \$4½ billion, were put into the water now, three would remain tied up in dock because of the shortage of qualified crew members.

When we look at the RAAF, we find that there is a problem with air traffic controllers. When we look at the reserve personnel, we find that 11,000 out of 26,000 did not meet the minimum requirement of 10 days training in the last financial year, and yet 60 per cent of our combat forces are supposed to be drawn from the reserves. Effectively, close to half of our reserve forces seem to be in what might reasonably be described as an ineffective state. Clearly, those problems are going to get worse with the ending of the recession. As more jobs become available, people will vote with their feet. In the end, we are going to be losing experienced personnel.

Australia requires a well equipped and modern defence force, and our capital procurement program is not unreasonable. But we need to make sure we spend money at the sharp end: on the people who actually manage these operations, the people who are at the front end of battle, at the defences, or whatever it might be. As my colleague Jocelyn Newman said, the best defence hardware in the world is of little strategic value when it sits idle or is under-utilised for want of skilled personnel to use it to its optimum.

Although we do not oppose this bill, we point out a number of queries about it. We

point out that the underlying problems with the defence forces, which I have barely touched upon, will not be addressed by this bill in any way whatsoever.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

### **HUMAN SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (No. 1) 1995**

#### **Second Reading**

Debate resumed from 1 June, on motion by Senator Schacht:

That this bill be now read a second time.

**Senator HERRON** (Queensland) (1.05 p.m.)—The opposition will be supporting this legislation. I wish to refer to schedule 1 of the Human Services and Health Legislation Amendment Bill (No. 1) 1995. This schedule amends the Therapeutic Goods Act to allow lodgment by electronic means of applications to list certain goods. The minister will have been informed that the Proprietary Medicines Association of Australia has expressed some concerns about proposed paragraph 26A2(b) of the bill which will require applicants to certify that goods for listing are 'safe, for the purposes for which they are to be used'.

I understand that industry associations other than the Proprietary Medicines Association of Australia may be expressing similar concerns about this paragraph. The opposition has considerable sympathy for the view that this paragraph could be improved by amendment but we recognise that to do so could delay, unacceptably, passage of this legislation which has general industry support. However, we understand that the minister's department has indicated that, after the bill comes into effect and the new procedure has been in operation for, say, six months, this issue will be further examined in consultation with the association. I would be glad if the minister could tell the Senate that my understanding is correct.

**Senator LEES** (South Australia—Deputy Leader of the Australian Democrats) (1.06 p.m.)—The Australian Democrats do not

oppose the Human Services and Health Legislation Amendment Bill (No. 1) 1995. However, I do have to say, as I have said before, that I do not consider omnibus bills are necessarily the best way of presenting such legislation. There are several very important areas covered in this bill, the TGA area in particular. In general, the amendments we have before us are relatively straightforward, largely administrative and generally uncontroversial. However, there are two matters that I wish to comment on.

The first relates to the amendments covering exempt beds in nursing homes. Nursing homes with 'exempt bed status' are permitted to charge additional fees for providing a higher standard of service or accommodation. In other words, they are at the top end of the market. At the moment, there is no mechanism by which the exempt bed status of one of these nursing homes can be suspended or revoked if the home fails to meet the outcome standards set under the National Health Act. This is an anomaly which makes no sense at all. After all, it is clearly not in anyone's interest—not in the interests of the government and certainly not in the interests of residents or their families—to permit a nursing home to charge extra amounts for its so-called superior or luxury services when its level of nursing care is not up to scratch.

The amendments in this bill get rid of that anomaly and make it clear that, where the exempt bed status of a nursing home is suspended or revoked, a proprietor will be unable to charge the additional fees. Any decision to suspend or revoke exempt bed status will be subjected to review by the AAT. The minister has said that this power will only be exercised where there are serious breaches of the standards and I think this is a sensible approach to take. In my view, where these amendments are concerned, the government seems to have got it right and has acted relatively promptly to address this anomaly.

Most importantly, I wish to comment on the other section of the bill we are concerned about and that is the amendments to the Therapeutic Goods Act. Once again, generally, these amendments are fairly straightfor-

ward and are designed to improve the process of regulation of therapeutic goods. I believe the industry will generally benefit from these new streamlined processes for listing products on the Australian Register of Therapeutic Goods. This has been a vexed area for some time, and I know that many of my colleagues here have been contacted by manufacturers and importers, in particular, complaining about the delays in TGA approvals for their products. The government believes this new electronic lodgment process will reduce the time frame for approval from an average of five months to two weeks. If that goal is able to be achieved that will be a significant step forward.

I also welcome amendments which set up a mechanism to address shortages of critical drugs in emergency situations. This also is a sensible move. At the moment, only individual patients are allowed access to unapproved drugs in limited amounts—that sort of arrangement is obviously not going to be appropriate in all circumstances. For example, I think it makes sense to permit a company to bring in a particular product which is registered overseas, but not in Australia, when the company has run out of stock of that particular product. It makes sense to move beyond individual permits and allow the limited supply of drugs which have been approved in countries which we know have reputable regulation programs. That, too, is a step in the right direction and one that perhaps opens the door, further along the track, for even more streamlined processes of approval.

The bill also sets up a new accelerated process for listing certain therapeutic goods that are supplied for use in Australia. This will cover over-the-counter drugs including herbal and vitamin preparations. Once again, this should result in a speedier process with, hopefully, no drop at all in quality or standards. The amendments also move to clarify the definition of what constitutes a 'therapeutic good' in the light of confusion, and some legal uncertainty, about how 'food' fits into that definition. I accept the need for this clarification.

I now want to comment on fees and charges under the TGA because I believe that we have

a problem developing here. While I acknowledge that the industry was involved in negotiating the fee structure, I think it is fair to say that the impact of higher and higher fees was not recognised either by the industry or by the government. Looking at the figures over the past few years, it can be seen that the rise in fees goes hand in hand with a drop in registrations. When talking with the industry, people all say the same thing: listing charges are becoming so prohibitive, especially for those companies which hold multiple listings, that companies are not bothering to list goods which could be used in the Australian market—in other words, goods which could be of advantage to Australians.

One importer has assured me that his company is simply not making applications for listing in a number of areas because of the fees which he considers are too high. He argued that it was ridiculous to be paying such high fees for products which were already approved for use in countries such as Sweden, Britain and the United States. In his view, Australians were missing out on a range of products because more and more companies did not feel that they could afford the fees.

The figures would seem to bear out his claim and I think the minister needs to look very closely at these concerns. For example, when we look at the figures for evaluation fees, we see that as the fees have gone up the total revenue from fees is dropping dramatically. I think those figures should tell the government something. They at least should raise the possibility that fees and charges have already got to an unsustainable level, a level which is acting as a major disincentive to register products.

I ask the minister several questions here rather than waiting for the committee stages of this bill. Is the minister monitoring the impact of the increase in fees? Does the minister believe that the level of 50 per cent industry contribution to the TGA by 1996-97 is still a realistic goal? Can we please have provided for us—and I acknowledge that this may take a few days—full details of the level of fees over the last three years showing their increases, comparing that with the level of

total revenue and also with the level of total registrations? Given that the level is now only 37 per cent, and that registrations are apparently declining, I think there are some questions that need very careful consideration.

**Senator SCHACHT** (South Australia—Minister for Small Business, Customs and Construction) (1.13 p.m.)—Senator Herron asked me a question. I am advised that the answer to that is simply, yes. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

#### In Committee

The bill.

**Senator HARRADINE** (Tasmania) (1.14 p.m.)—I want to raise a number of questions, but I notice that the Minister representing the Minister for Human Services and Health (Senator Crowley) is not present. There are a number of questions that I want to raise that I am not sure the minister at the table, the Minister for Small Business, Customs and Construction (Senator Schacht) will be able to answer. He can have a go at answering them, I suppose.

The Human Services and Health Legislation Amendment Bill (No. 1) 1995 is an omnibus bill. It is one that was agreed was a piece of non-controversial legislation. As a matter of fact, when I was asked whether I would agree to this being treated as a non-controversial piece of legislation I looked at the specifics as they related to the amendments to the Childcare Rebate Act, in schedule 1. I had not seen the provisions relating to the TGA. I have asked a number of questions over a number of years in relation to the TGA and, frankly, I am not prepared at this stage to see this matter through this lunchtime debate until we have somebody here who is able to answer questions on that. I am not prepared to deal with this until I have had answers to questions on the TGA raised at the estimates committee.

Therefore, I would like to ask certain questions first of all in respect of page 4 of the legislation, where it is stated:

A child cannot be a dependent child unless he or she:

- (a) is aged under 13 years; or
- (b) has turned 13 but is aged under 17 and is a child to whom a determination under subsection (3) applies.

I want to go to the question of whether or not a child is a dependant only if that child is under the age of 13. I do not know how many people around this place would agree with that provision, that is in this amendment and also the principal act at the moment, as being valid.

Children who have turned 13 are still dependants—unless we are going to have a policy situation in which those children are to be latchkey teenagers. Surely to goodness, in respect of this child-care rebate system, recognition should be given to the need for some guidance, some care, some supervision sometimes, of children who happen to have turned 13 years of age. Yet the government is not providing a child-care rebate in respect of those children.

There are a number of families who have both parents working. Some of this is through choice; a lot of it is through absolute necessity, to make ends meet. A number of those parents want some care, some supervision, provided during the period from the end of school, say 3 o'clock or 3.30 p.m., until they get home, which in some of the capital cities, after the rush hour, is not until 7 o'clock if they happen to be working in a retail store. Under this legislation and under the principal legislation there is no recognition of that need. Those children are not regarded as dependants for some reason or another.

I would like to ask the minister: why is that the situation? I know this amendment is to give the minister the ability to make a specific determination about a child who has turned 13 but is aged under 17; I really would like to know from the government why it is continuing to adopt this particular attitude with respect to children—teenagers—who clearly are dependent in many situations and do need to have some sort of supervision.

**Senator SCHACHT** (South Australia—Minister for Small Business, Customs and Construction) (1.21 p.m.)—Can I say to

Senator Harradine that we will get him those answers as soon as we can. The bill is now proceeding. I see Senator Crowley, the minister who represents the Minister for Human Services and Health in this chamber, is here. She may care to answer or to take the question on notice and get the information to Senator Harradine later today.

**Senator HARRADINE** (Tasmania)(1.21 p.m.)—I thank Senator Schacht. I notice that the minister is here and I would like her to have a shot at answering that question. It is, I think, a very important question. It is one that is a very real question to parents of teenagers. Once children get to the age of 13, they do not suddenly become independent. I would remind the Senate that the Department of Finance trots this out on every occasion it can seize. It trots out the proposition that, for the purposes of family allowances, family payments and so on, people really have to look at whether a person is dependent. Cabinet ministers know, people in the Public Service know, that Finance trots out this proposition every chance that it gets to try to bring down the age of dependency so that the payments need not be made. To me, this is somewhat disconcerting. This is one of the reasons why I am raising it at this particular juncture.

**Senator Crowley**—Madam Chair, I have been brought down here and I am not quite sure what the state of play is.

**CHAIR**—At present, we are dealing with the Human Services and Health Legislation Amendment Bill (No. 1) 1995 in committee. Senator Harradine has raised some questions about one aspect of the bill which relates—if I can encapsulate it—to whether or not a child aged 13 should be regarded as independent. He has questions that he wants answered in relation to that, presumably by you as the relevant minister in the chamber.

**Senator CROWLEY** (South Australia—Minister for Family Services) (1.22 p.m.)—I have not been here to hear Senator Harradine's contribution on this matter, but I understand that it concerns whether or not a child regarded as dependent up to 13 is understood to be independent when over that age. That is a conclusion that I do not think

is necessarily able to be drawn. I am also advised that, as Senator Schacht said when I came in, further information dealing with the points Senator Harradine has raised could be provided to him later this afternoon. There is a preferment to proceed with the passing of this legislation if that provision of information later today is acceptable to Senator Harradine.

**Senator HARRADINE (Tasmania) (1.25 p.m.)**—In a way I understand the position that the minister is in, in that this was indicated to be a non-controversial debate during the lunch break. Unfortunately, this bill is an omnibus bill and deals with a whole range of matters which include the matter that we are dealing with now; a completely unrelated matter, the membership of the NHMRC; and another completely unrelated matter, the operation of the TGA. I fully appreciate that it has put the minister in an awkward situation and for that I apologise. But I must say that the question I asked was a policy question as to whether the government considers that, once a child has reached the age of 13, that child should continue as not being a dependant under the legislation.

I gave an example of parents, both of whom are working and who do not get home until 7 p.m. Unless we are going to have a culture of latchkey teenagers, some parents do feel that they need some sort of care, guidance or even supervision of teenagers. I have given, perhaps not here, the example of the possibility of that being done in association with the schools.

The present legislation provides that a minister may make a written determination that, in the circumstances specified in the determination, a child who has turned 13 but is aged under 17 can be a dependent child. I would like to know what that encapsulated. Is it only for children who have disabilities, or is it for anybody? For example, would the minister be able to decide that in the circumstances of the case that I described the minister might make a written determination that the child is a dependent child for the purposes of the cash rebate?

**Senator CROWLEY (South Australia—Minister for Family Services) (1.29 p.m.)**—The most important point is that this is a

definition, for the purposes of this legislation, of a dependent child for the purposes of the rebate. That is, as Senator Harradine says, the important point. I certainly have absolutely no dispute with the concern, regard and care for our children. I am not sure that we should spend too long discussing that, but it is a matter of the greatest concern that we do ensure that our children are provided for and that families are assisted in that fairly challenging task.

What we do have here is an enabling clause that will allow, under certain circumstances, children older than 13 to be eligible to receive the rebate. In particular, it is a provision that I have been very concerned to introduce regarding families with children who have a disability. They may be unable to get that kind of assistance and certainly do need that special kind of care outside school hours. So we are moving to enable that kind of care and continuity of care to be provided for children with disability.

It is not to be seen as open slather and it certainly would be on a case by case basis. There would be a number of cases of children with disability. I have had a number of letters from parents with children, particularly, with intellectual disability, who may not be equivalent to normal children of 13 or 14 years of age and would be particularly in need of that kind of supervisory care. It is very important that we have the opportunity to enable those children to continue to be able to be assisted in this way.

We are also very clear that many children over the age of 13 are not enthusiastic participants in outside school hours care. We have had a number of letters about that also. What we have got here is a matter of judgment, a matter of balance, to try and assist families in the best way we can. The clause in this legislation enables that little bit of flexibility, particularly when there is a very justifiable case, as in the case of children with disability.

**Senator HARRADINE (Tasmania) (1.32 p.m.)**—I thank the minister. This is a matter, really, that goes to the question of the adequacy or otherwise of family income and whether or not there is a true freedom of choice on the part of at least one parent to be able to be

there when the children come home from school. That is another debate; I acknowledge that and I thank the minister for her response.

Whilst I am on my feet I would acknowledge that in this legislation the government has taken up a matter that I raised in previous debates. That is, where families in which one parent has a work related commitment but the other parent is unable to look after the children due to extenuating circumstances such as a medical condition, the child-care rebate will be applicable. I acknowledge that the government has taken that on board and I appreciate that.

I turn to the proposed provision dealing with administrative amendments. One administrative amendment that is proposed in this legislation for the child-care rebate is to ensure that the rebate is not paid for child-care expenses which have been or will be reimbursed by another agent such as an employer.

Let us take a situation where a mother is working, where she has child-care expenses of \$70 a week and where the employer, in an enterprise agreement with the employees, has agreed that, for the people in that situation, there will be an extra payment made. Under those circumstances, the mother, who is the worker, pays the fees and gets a cash rebate. I will not go into how much that is, but there is a minimum threshold that she has to pay. The mother is paying tax on the \$70 that the employer pays to her, and she also gets a cash rebate.

A situation could exist where the employer says, 'Righto, here's a cheque. That is to be paid to your child-care centre.' If the employer does that, then, under this legislation, the employer has to pay fringe benefits tax at the higher rate of nearly 50 per cent. Under the previous situation, however, the worker paid 30 per cent and received a cash rebate. In this situation the company has to pay fringe benefits tax and she is denied the cash rebate.

As I understand it—correct me if I am wrong—that is the effect of the clause which is on page 3 of the second reading speech. The clause says:

Other administrative amendments are proposed to ensure that the rebate is not paid for child care

expenses which have been or will be reimbursed by another agent such as an employer.

I put it to you that that is a question that has been raised with me and, because of the taxation regime, it seems to be a somewhat illogical way to go.

**Senator CROWLEY** (South Australia—Minister for Family Services) (1.38 p.m.)—It is difficult to counter all the points that you have raised, Senator Harradine. However, in the example best known in this area of salary sacrificing, we could not approve or support that a parent whose child-care fees are paid by an employer is eligible for a cash rebate against fees that the parent did not pay. The first example that we have clarified in this area is that there is no rebate payable to parents for fees that they do not effectively pay.

This situation would also apply if the employer passes a parent a cheque and says, 'Take this cheque to the child-care centre and pay your fees.' I must say that, on all the evidence we have been given, an example like that is absolutely hypothetical. I have been provided with no real example of an employer providing an employee with a cheque with which to pay fees. Although I do know of examples of agreements between employers and employees to reduce the salary equivalent to the amount of the child-care fees, as I said, we do not judge it appropriate that people should get a cash rebate against fees that they have not paid. It is more in the realm of a hypothetical that you are raising, Senator Harradine.

The government is concerned that people are not denied eligibility for the rebate if they have properly paid their fees. At the same time, the government does not want to see the cash rebate being used by employers in an exploitative way or in a way calculated to get around the provision of fair wage justice and proper payment of their taxation obligations. The government has got it right here. If you know of any other examples, Senator Harradine, I should be pleased if you would provide them.

**Senator HARRADINE** (Tasmania) (1.40 p.m.)—The provision is on page 14 of the legislation. It reads:

For the purposes of this Division, if:

- (a) childcare rebate has been paid in respect of the provision of child care; and
- (b) either:
  - (i) a parental member of the family concerned is wholly or partly reimbursed in respect of that child care; or
  - (ii) that child care is wholly or partly paid for; by an employer of any parental member of the family, a person acting on the employer's behalf, or a person included in a class of persons specified by the Minister... .
- (c) the amount reimbursed or paid was not . . . fully taken into account in claiming the childcare rebate in respect of that child care;

the amount of childcare rebate that should have been paid is taken to be the amount of child care rebate that would have been payable if the reimbursement or payment had been so taken into account.

I am not suggesting that we should delay it, but I do ask you to consider this. If there is a salary sacrifice, and as a result of that salary sacrifice the employer actually pays the money to a child carer, as I understand it these provisions will deny a child-care rebate. Let me repeat that. You have a situation where there is a salary sacrifice, and let us say it is equivalent to the amount that the employee is liable to pay the child carer. The employer pays that amount direct to the child carer. Does clause 51 deny to that woman a rebate under the legislation?

**Senator CROWLEY** (South Australia—Minister for Family Services) (1.42 p.m.)—The answer is yes, Senator. A rebate is paid in respect of those parents paying fees. If the parents are not paying the fees then they are not eligible for the rebate.

**Senator HARRADINE** (Tasmania) (1.43 p.m.)—Thank you, Minister. That clarifies the situation. The employee is actually paying the fees, because it is a salary sacrifice. The interesting thing about it is that if the employer pays the fees, then that employer also has to pay fringe benefits tax on those fees at the higher rate. These are technical questions, but I think that perhaps you should take that on board and maybe give me an answer. I am not going to hold up the situation, but I would be grateful if you would take that into consideration.

It occurs to me that the government is going to do a bit of double dipping. You have got the employee sacrificing, say, \$70, because the employer pays that to the child carer. The employee does not have to pay tax on that \$70. But she might be paying a 28 or 30 per cent tax rate; while the employer is actually paying nearly 50 per cent on it, because he has got to pay fringe benefits tax on it, and the employee is not going to get the cash rebate. I think the government is actually double dipping on this one, but I just leave it for some other time.

**Senator CROWLEY** (South Australia—Minister for Family Services) (1.45 p.m.)—I am happy to take that on notice, Senator. I will answer the points that have been raised in more detail.

**Senator HARRADINE** (Tasmania) (1.46 p.m.)—Unfortunately, I have not studied this legislation as well as I might. The proposals that are contained in this legislation on Therapeutic Goods Administration give me some cause for concern, particularly as they relate to the acceptance of therapeutic goods from overseas sources without the sorts of checks that are involved in Australia, although those checks are not very strong these days. Over the last few years, I believe those checks have declined almost to the extent that a distrust is developing in the overall outcomes of therapeutic goods in Australia. The second reading speech, on page 11, says:

A new provision, section 19A, has been included in the Act to provide the Government with the means to deal with the means to deal with acute shortages of drugs supplied in Australia or that no longer are supplied here by their sponsors, or to temporarily allow into the Australian marketed drug that is not available in Australia but is required to address an emergency.

The Act as it stands allows individual patients to access unapproved drugs in limited circumstances. This entails prescribers to gain individual permission for each patient from Canberra, or for a prescriber to seek the status of an authorised prescriber under the Special Access Scheme.

Although both of these schemes are used with advantage to permit the supply of small volumes of unregistered drugs, they are too unwieldy and too slow to make available substitute drugs, or new drugs, on a larger scale to meet an unforeseen emergency or to permit interim supply of a product

registered overseas during the period of evaluation in Australia.

That is the area of some concern. The speech continues:

There are a number of reasons why approval may be sought and granted for the supply of drugs under this provision.

And it goes on. My concern is with what is stated in the following passage. It says:

... In this context, Australia has a number of arrangements in place for the interchange of information with reputable drug regulatory agencies around the world. These include the United States, Canada, Sweden, the United Kingdom and New Zealand. Through its membership of the PER (Pharmaceutical Evaluation Reports) Scheme, Australia is a position to deal with most European agencies and with South Africa.

My concern is that that is the thin end of the wedge. I have a letter on my desk from a physician from the UK who is currently living in Melbourne. He has suffered enormously as a result of the type of evaluation process that exists in the United Kingdom and I bring that to the attention of the government and of the chamber. What is happening here in Australia is disconcerting. We are fast-tracking drug evaluations to the extent that dangers signs are ringing. It is even happening in our own CTN programs—the clinical trial notification programs—and in the CTX programs.

The minister may not know, but people in this department will know, that an allegation was made at a recent AHEC workshop in Canberra that payments of between \$2,000 and \$6,000 have been made by some drug companies to medical practitioners for the recruitment of patients as human subjects for trials. Surely that is a matter of grave concern to anybody who is interested in the appropriateness, accuracy and safety of trials. Indeed, I have mentioned this to the department at estimates committees and I have indicated it to some institutional ethics committees.

Under the CTN program there was nothing else required of a sponsor for a new drug than to obtain the approval of an ethics committee. The Therapeutic Goods Administration has admitted in estimates committee that in respect of CTNs it is simply the post box—that it is only registered there and the TGA has nothing more to do with it. If an institu-

tional ethics committee gives the okay, then, that is it. That institutional ethics committee might indeed have a vested interest in the area. It might be an ideological vested interest, as in the case of the family planning ethics committee.

By the way, the manager of Family Planning New South Wales was an active member of the ethics committee which approved the trials of RU486, the abortion drug. Is that an appropriate situation to have occur in this country? It is certainly not arm's length. Indeed, that goes to the question of the ability of some of these ethics committees to make decisions. Bear in mind that it is on those decisions that approvals are given for clinical trials to proceed. So there is that ideological conflict of interest.

There could also be a financial conflict of interest. Incidentally, the allegations that I mentioned in relation to drug companies are not my allegations. They were made at a meeting convened by AHEC, in respect of IECs, in Canberra. The suggestion was that between \$2,000 and \$6,000 was being paid by drug companies to medical practitioners for the recruitment of patients as human subjects in trials.

**Senator Crowley**—I do not in any way wish to cut across Senator Harradine's comments here but I want to remind him that this is non-controversial legislation. As I understand it, if it is not passed by this time, we may not be able to get this piece of legislation back, and it would be very important that we do get it up in this session. This is how it has been listed, so I wonder if I could alert the senator to the time constraint on his comments.

**Senator HARRADINE**—I understand that. I thought I explained at the beginning, Minister. I do apologise for that, but I thought I explained at the beginning why this causes me a problem now as a non-controversial piece of legislation. I am sorry for delaying everybody but it is an omnibus bill and, to be quite frank, when I heard that it was coming on I thought that it was all to do with the child-care matter. I will be happy to get the child-care matter out of the road because that is the only one, it seems to me, to involve a

matter of urgency. I would be happy to get that out of the road and to split the bill so that that can be determined quickly. I would be happy to move for the division of the legislation so that the provision relating to the amendments to the Child Care Rebate Act can proceed.

**Senator Crowley**—As I understand it, that is effectively a notice of motion by Senator Harradine to allow passage of some part of this bill—or is he allowing the moving of it all?

**Senator HARRADINE**—I would be happy to move for the division of the bill so that the amendments to the Child Care Rebate Act can be determined right now. I think we would have to go into a meeting of the Senate to do that.

**Senator CROWLEY** (South Australia—Minister for Family Services) (1.58 p.m.)—With the greatest respect, Senator Harradine, the very clever counsel at table here is indicating to me that that is not effectively possible. I wonder if we could put the bill and, on the record, acknowledge your concerns about these matters of the TGA. It is not the first time you have raised them. I know how very seriously you hold your concerns. I would have to say to the senator that I hold very strong views, too, about the rights of people to know whether or not they are ever part of a clinical trial. But I would urge him to allow us to put this bill now before question time so that we can actually have passage of this whole omnibus health bill.

**Senator HARRADINE** (Tasmania) (1.58 p.m.)—There are specific questions relating to the TGA which I want to have responses to, and I think it is appropriate that I have responses to them prior to that part of the legislation proceeding. I am quite happy, at a future date, in accordance with the standing orders, to attempt to divide this bill so that the minister can get the child-care rebate aspect of the bill—it is an omnibus bill—before the chamber and we can settle it in a minute or two. But I am certainly not in a position to forgo my right to have responses to quite serious questions in respect of the TGA. I do not see any TGA officials in the advisers box.

**Senator Crowley**—They are here.

**Senator HARRADINE**—Perhaps we could go to direct questions in respect of the TGA. I really go to the question of the allegations of payments of between \$2,000 and \$6,000 that have been made by some drug companies to medical practitioners for the recruitment of their patients as human subjects for trials. If that is occurring in Australia, what is occurring in these countries—

**The TEMPORARY CHAIRMAN (Senator Herron)**—Order! It being 2.00 p.m., pursuant to order, I shall report progress.

Progress reported.

#### QUESTIONS WITHOUT NOTICE

##### Republic

**Senator HILL**—My question is directed to Senator Gareth Evans as Leader of the Government in the Senate. I remind the minister that Mr Keating announced last night that he believed states should be able to keep their current constitutional arrangements, including the monarch as their head of state, if Australia were to become a republic. I ask: how does that view accord with your statement on this matter in *Australia's constitution—time for change* that:

... since it would not be feasible to have a republic at one level of government and a monarchy at the other, six other constitutions also require alteration.

Minister, what has changed?

*Senator Robert Ray interjecting—*

**Senator GARETH EVANS**—On a better view, as Senator Ray reminds me—on a considered view, a more mature view—it is perfectly, technically feasible. I thought at the time and I still think now it is not politically feasible. I think it is bizarre, in fact, for that situation to occur. Nonetheless, if any one of the states is prepared to live with a continuation of a bizarre state of affairs, then it is up to them to make that particular decision.

Mr Kennett, in an interview that he did on the ABC radio this morning, readily acknowledges that there would in fact be an oddity about that. I am just trying to find the particular quote that refers to that issue. My attention was rather taken in that interview by his other

reported comments about the people's convention when he gave a gigantic bucket to Mr Howard's proposal for a people's convention, saying among other things:

They may argue they represent a greater number of people, but finally this is going to be decided by each and every one of us. A convention to me is just another committee.

Again:

There's not much point calling out 400 people out of a community of 18 million, sitting them down and saying: now what do you think about it?

That is Mr Kennett's view. And what indeed does the opposition think about their state Premier in Victoria dropping a God-awful bucket on that particular proposal? Here is the relevant bit about the states—you might just ponder the implications of that for the great convention proposal:

So it would mean changes throughout the States,— says Mr Kennett—

and I don't think Her Majesty herself would seek it appropriate to have a republic here in Australia, and some of the States still owing allegiance back to her.

So Mr Kennett obviously concedes the point that politically, practically and from any other point of view it is a bit of a nonsense. But nonetheless we are not seeking on this or anything else to shove anything down anyone's throats like feeding a Strasbourg goose. It is a matter for the Australian population to make their own particular judgment about what they want to do in this respect. They will make that judgment in a referendum. So far as individual states are concerned, if state by state they want to retain the capacity to go down some different path, then they are welcome to do so.

**Senator HILL**—Mr President—

**Senator Bolkus**—Not another one.

**Senator HILL**—I am interested to hear the concession that a logical consequence of your proposal could be a bizarre result or, to quote you, 'a bit of nonsense'; but that that is a logical consequence. What I really want to know therefore is, if your referendum is carried, would the states therefore be deemed

to have become republics, or would they have to amend their own constitutions?

**Senator McMullan**—What sort of an idiot are you?

**Senator GARETH EVANS**—It is not what he was reading last night; it was what he was smoking, I think. The truth of the matter is that the detailed provision has obviously not been drafted because we are going through a consultative process. We are going through a consultative process, and obviously detailed drafting will depend upon that.

What will be provided, on the model set out by the Prime Minister last night, is a provision saying that it is up to state legislatures, in accordance with their own constitutional processes, to make the necessary judgments about whether they, too, want to fall in behind the republican model that will, presumably—on these assumptions—be applicable federally, or whether they want to stay as they are. Each state has its own constitutional process, usually involving some special majority provisions in the state legislatures, rather than some form of referendum. That is another indication of how basically peculiar and undemocratic state constitutions are. That is the subject for a debate on another occasion. If the states want to continue behaving in a peculiar and undemocratic fashion, and stay outside the main stream, they are absolutely welcome to do so.

### Multiculturalism

**Senator McKIERNAN**—My question is directed to the Minister for Immigration and Ethnic Affairs. I note that tomorrow marks the 20th anniversary of one of the most significant milestones in Australia's history: the enactment of the federal Racial Discrimination Act. In view of the act's importance in building a harmonious multicultural society, and in light of the Prime Minister's vision for a 'full and unambiguous expression of Australia's national identity' in an Australian republic, can the minister outline how the government plans to enhance its agenda for a multicultural Australia?

**Senator BOLKUS**—I thank Senator McKiernan for drawing our attention to the fact that tomorrow is the 20th anniversary of the federal Racial Discrimination Act. The act has been of great benefit to Australians, not solely as a vehicle for redress for victims of discrimination, but also for setting acceptable standards of behaviour in our society. It has been particularly important in societies such as ours with such great diversity; and has been fundamental to us making a success of the diverse society we have.

Australians should be proud of the success we are having in weaving a relatively harmonious society. The recent Global Diversity Conference in Sydney proved international recognition of the fact. The government is keen to continue to build on that measure and to ensure that the act, some 20 years after its enactment, continues to be relevant. We will be taking measures to ensure we can build on it in that way.

The government is also very keen to ensure that Australian society continues to benefit from our multicultural diversity. As senators might be aware, the national agenda for multicultural Australia was set down in 1989. It has been revisited and updated with the objective of reflecting a changing and maturing society. The national Multicultural Advisory Committee's report on how to make the most of our multicultural diversity as we move to the 21st century will be made to the government on 27 June.

Both the Racial Discrimination Act and the multicultural agenda are central to this government's vision of an inclusive society. The rejection of racism in our laws, our inclusive migration and citizenship policies and the assurance of equitable access to services are important not only for how we develop our society but also for how we see ourselves and how the rest of the world sees us.

We believe, in the context of the global economy, that our economic, social and security interests can be enhanced only by our profile as a nation which is truly independent and non-discriminatory. In that, we recognise that our diversity is one of our major strengths. This is in stark contrast to the

beliefs of the Liberal Party. We recognise it as a reality.

In John Howard's so called headland speech the other night, there was no recognition of cultural pluralism. There was no recognition whatsoever of the benefits of migration, of the needs of non-English speaking background Australians or the contribution they are making to Australia's future as an independent, outward-looking nation in an ever contracting global economic environment. It is not surprising for those of us who might have been around in 1975 to reflect on the fact that one of the major opponents of the Racial Discrimination Act when it came in in 1975—

**Senator Alston**—Mr President, I take a point of order. This has to be blatantly and deliberately irrelevant. The question simply asked about the government's position. It had nothing to do with any invitation to distort and misrepresent the coalition's position. You ought to rule that part of it out of order.

**Senator McKiernan**—On the point of order, unfortunately Senator Alston was not listening. The minister has already done what Senator Alston accused him of doing; and he has moved on to further elaborate on the question I asked him.

**The PRESIDENT**—It would be better if he stuck to the point.

**Senator BOLKUS**—We will be building on the Racial Discrimination Act and we will be building on the national multicultural Australia agenda in such a way that recognises that diversity in our society. As I say, it is in stark contrast to the opposition which does not make one mention of it in its headland document.

**Senator Abetz**—Mr President, the minister is deliberately flouting your ruling or suggestion that he sticks to the point. I ask you to rule him out of order and direct him to stick to the point.

**The PRESIDENT**—I did not think I made a ruling but, Senator Bolkus, I would ask you to try and stick to the point of the question.

**Senator BOLKUS**—I have finished.

### Republic

**Senator ELLISON**—My question is directed to the Leader of the Government in the Senate, Senator Gareth Evans. In a Keating republic would a two-thirds majority of both Houses require bipartisan support to ensure that the head of state has the blessing of all major parties, as in 1975 when the coalition was within one seat of a two-thirds majority? If so, would the head of state, elected as Mr Keating suggests, be nothing more than a political appointment from one side of politics?

**Senator GARETH EVANS**—It remains the case that on no single occasion since the war has any single party commanded a coalition—

**Senator Alston**—What about before the war?

**Senator GARETH EVANS**—The voting system was different; even you might be able to remember that, Senator Alston. Let us assume what might be thought of as a worst case scenario. Let us assume that at the next election the Labor Party gets the landslide that it deserves and we do in fact finish with a sufficiently large majority in the lower House and a sufficient change in the composition here to get a two-thirds majority. What is the worst that could possibly follow from that? The worst that could follow from that is that we are exactly where we are at the moment where the Governor-General is, in effect, proposed by the government of the day without any parliamentary contribution. That is the worst that could possibly happen.

In a situation where there is no change to the powers of the President as compared with those of the present Governor-General, no great disaster could be expected to follow. The point about a two-thirds majority is that in many, many constitutions right around the world it is the balance that has been struck between the desire, on the one hand, to get a broad cross-party guarantee of support while, at the same time, not being so big a percentage requirement as to enable a small cantankerous minority of the kind that we are all too familiar with in this country to play a blocking role against something that is manifestly the will of the overwhelming majority.

There is an element of arbitrariness about a two-thirds majority—of course there is. With any numerical formula there always is. But two-thirds is a very familiar requirement and in the normal course of events—and in the course of events that has applied for the last 50 years since the end of the Second World War—it is reasonably to be expected that that situation will not be the case in practice and that cross-party support will be required.

**Senator ELLISON**—Mr President, I ask a supplementary question. Mr Keating said last night that the question of the Senate's powers over supply is an issue which deserves to be addressed, but not at the same time as the head of state. What is Mr Keating's intention in relation to the powers of the Senate? Does he at any stage intend to alter them? Is there a secret agenda for constitutional change once a head of state is chosen, which includes the voting system for the Senate? Does Mr Keating concede that it is simply a matter of legislative change to fundamentally alter the voting system?

**Senator GARETH EVANS**—You are getting a bit hard up for conspiracy theories over there; you really are. You are scraping the bottom of the conspiracy theory barrel. There is no secret about this side of politic's desire, if circumstances ever permit, to change the constitution so as to reduce the power of the Senate in relation to the blocking of supply bills. There is no secret about that. We have been saying it loudly and clearly for 20 years—since 1975. In fact, many of us have been saying it for a lot longer than that. There is no problem with that.

The truth of the matter is that we are all perfectly conscious, however, that there is not likely to be a readily obtained community consensus or political consensus on that basis, so there is no particular point in putting any such proposal on the agenda in the presently foreseeable political climate. Because that is not capable of resolution politically within the kind of foreseeable future that I can envisage, it does not make any sense against that background to try and embark upon a codification procedure which would be premised,

among other things, on resolving that particular issue.

There is no secret agenda here. The issues are all out on the table. We are happy for that and every other issue that you want to raise to be actively, openly and frankly debated in the next three years before a referendum.

### DISTINGUISHED VISITORS

**The PRESIDENT**—Order! I draw the attention of honourable senators to the presence in the President's gallery of the environment and resource protection committee of the Chinese National People's Congress led by the vice-chairman of the committee, Professor Yung. On behalf of all honourable senators, I have pleasure in welcoming you to the Senate and hope that your stay will be productive and informative.

**Honourable senators**—Hear, hear!

### QUESTIONS WITHOUT NOTICE

#### Services Sector

**Senator CHRIS EVANS**—My question is directed to the Minister for Trade. Minister, you would be well aware of the growth of Australian service industries as exporters. In my own state of WA, both education and medical service industries have experienced significant growth in recent years. What opportunities can be realised for other industries where we have a competitive advantage such as the one we have in financial and information services?

**Senator McMULLAN**—Senator Evans is right, which is a phrase I use often. Australia's services sector has become increasingly internationalised over the past decade. In fact, services exports were about \$19 billion in the last financial year—about a quarter of our total exports. I think it has been a rapid change that has gone unnoticed by many people, both domestically and internationally, because traditionally Australia has been a net importer of services, which has been a substantial contributor to our historic current account deficit. Current forecasts estimate that Australia will have become a net exporter of services by the end of 1995-96—a significant part of the strategy of changing the balance and profile of Australia's exports and

the medium-term strategy to do with the current account deficit.

While, of course, tourism is our largest service export industry, it is important to recognise the increasing role of higher value added services, and strong growth in one sector—like financial services to which Senator Evans referred—can generate successful export spin-offs for other sectors such as computer software. Exports of computer software and licence fees is actually one of Australia's hidden success stories. We have moved from deficit to surplus in this sector over the last five years, and our exports have grown to almost \$400 million in the last financial year.

This morning I was pleased to announce the sale by AMP of an insurance software package to South Africa's largest life insurance office. It is a very significant achievement for AMP, and it won it against strong international competition. AMP's excellence in insurance has led to this spin-off for information technology exports. This is its second and most important international sale of its ULTIMAAS superannuation software package. I think it is the start of an important new export earner. It is an example of new export strengths for Australia's firms and new market opportunities opening up for those firms in South Africa, which I know is a particular area of interest to Western Australian senators like Senator Evans.

The example of what AMP has achieved illustrates that it is important to focus not only on specialist computer firms when we are looking at export potential in IT. Many of our larger firms and our government departments and agencies have developed highly effective IT systems. They could follow AMP's example and show entrepreneurial flair and get out and sell some of those systems internationally as, of course, the Department of Social Security has done. They should look to see whether any of their internal management and administrative systems are commercially viable and whether they can be exported because that is the direction in which trade is going.

It is moving towards what I call the three i's: ideas, information and images. Those

three make up the growing area of world trade. Many Australian enterprises within the existing enterprise or some of the small specialist agencies have significant opportunities to succeed in this area, and I think the example with AMP, as I said, is a very important one. I congratulate AMP, for it will be followed by others and it will lead to more export successes in information technology and financial services.

**Senator CHRIS EVANS**—I thank the minister for his answer, but I am particularly interested in his reference to southern Africa. I have been approached by a couple of constituents—including a Mr Kitafuna, who is interested in expanding our trade links with southern Africa—and I wonder what opportunities exist to take advantage of those opportunities.

**Senator McMULLAN**—I cannot actually comment with regard to the particular constituent, but it is true that South Africa does present enormous export opportunities for our exporters. There are some important similarities between our economies, like mining and agriculture and, of course—from this morning's comments—superannuation. The skills and technologies we have developed to meet our conditions and challenges can potentially be relevant to and marketed in all of southern Africa, and I encourage Australian firms to explore these opportunities that change the nature of both our economies, presenting opportunities in education, telecommunications and high value added services. Instead of looking at these economies that are similar to ours as competitors, we should see how we can use those similarities to generate export opportunities. I thank Senator Evans for raising that important question.

#### Sales Tax on Building Materials

**Senator KERNOT**—My question is directed to the Minister representing the Treasurer. Minister, I think there is a question mark developing over the impact of the budget extending the sales tax on building hardware.

**Senator Kemp**—That's very astute.

**Senator KERNOT**—Unlike you, I do not oppose taxes on principle just because they are mentioned.

**The PRESIDENT**—Order! Address your remarks through the chair, please, Senator Kernot.

**Senator KERNOT**—My question is actually to you, Minister. Does the government concede that this tax is likely to increase rents paid by millions of Australians because the higher costs of repairs, maintenance and building faced by landlords will be passed on? Wouldn't this increase of about \$120 a year, according to the HIA, negate the extra \$2.50 a week which has just been granted in rental assistance for families? And as we are having a rather unedifying competition in this country over who best represents the battlers, does the minister concede that the higher rents and the lower public housing constitute a threat to those battlers?

**Senator COOK**—I did not think we were having an unedifying battle over who represents the battlers. I thought that had been won by a knockout blow by the Prime Minister in the House of Representatives last week. Indeed, if we had the same levels of taxation as the Libs had when they were in power, Australians would be paying \$9 billion a year more in taxation than they do now.

To Senator Kernot's question: first of all, the government's view is that the impact for renters from the budget with the change in wholesale sales tax on building supplies is likely to be minimal or negligible, whichever of those two words you prefer. We hold this view because it depends, obviously, on the repairs and maintenance activity that is undertaken by landlords and if landlords then pass that cost on to the renters. Indeed, many landlords are in receipt of negative gearing, so if you use that factor to offset, the actual pass-through impact would also be very low.

But if you look at the budget in its macro context, what is very clear is that in the broad settings of the budget the pressures are on bringing interest rates down, and that means that home affordability for most Australians would be enhanced. I think that is obviously a signal that rents are not likely to rise.

So, for those reasons, and because this is a true market, the budget should have overall a worthwhile effect on housing affordability and on the rental market.

As far as low income earners are concerned, the government, as always, is concerned about their situation and the social justice measures protecting their position. Can I just say that between 1983 and now, rent assistance for families with three or more children has increased from \$10 a week to \$44 a week, an increase in real terms of around 140 per cent. Over the same period, rent assistance for single people has increased by around 90 per cent in real terms, and for couples without kids by around 80 per cent in real terms.

The government has also extended rent assistance to unemployed people and to low income working families and removed waiting periods for rent assistance. So, taking your question about the impact, I return to my opening comment that we believe the impact will be minimal or negligible, whichever of those two terms you prefer.

**Senator KERNOT**—So does ‘minimal or negligible’ mean that it will not be the \$120 a year that the Housing Industry Association calculates? If it is, and it wipes out the effect of the rent assistance, is there something you would be prepared to do about it?

**Senator COOK**—I have not seen how the HIA calculated its \$120 a year. It would be interesting to see that because we are talking here about a range of variable factors that is so wide as to defy quantification. How do you quantify for size, for age, for how well the tenants look after a property, or how well a landlord has looked after a property, given the wide variety of housing stock for rental? If you can quantify that I would be interested to see it.

I know that Treasury has not been able to successfully quantify it. I raise a question about that \$120 per annum figure, if that figure is being put forward: on what basis is it calculated? It seems to me that it is impossible to calculate the figure.

#### National Accounts

**Senator BURNS**—My question is directed to the Minister for Industry, Science and

Technology. As senators will be aware, the March quarter national accounts were published on 31 May. They revealed a substantial growth rate of GDP of 3.7 per cent through the year to the March quarter. The national accounts also contain a great deal of data on production levels on an industry basis. Can the minister outline what the national accounts mean for production growth in the manufacturing and service sectors?

**Senator COOK**—I thank Senator Burns for his question. It is the case that the manufacturing and services production data contained in the national accounts tell a very good story about Australia’s industrial performance. Total Australian production grew by 0.7 per cent in the March quarter of this year. This takes total production to a record level of \$409.6 billion in the 12 months to the March quarter. That is expressed in 1989-90 dollars, so in real terms today it would be higher. Almost all the production growth in the latest quarter was due to rises in production by the services and manufacturing sectors. Combined, these sectors account for 83 per cent of GDP. Services account for 67 per cent and manufacturing accounts for 16 per cent.

I will go first to the manufacturing sector. March quarter growth was the 13th consecutive quarter of output growth. This is a growth phase unprecedented in both its strength and duration. The rise of 0.5 per cent in the quarter takes the year to March growth rate of manufacturing production to seven per cent. That is compared to 4.8 per cent growth for total production growth. That means that the manufacturing sector continues to grow at a faster rate than the economy overall.

Total manufacturing output was at an all time high of \$65.1 billion in the year to March, again in 1989-90 prices. Comparing 1994 manufacturing production with 1993 manufacturing production, we find that it has grown by 10.4 per cent. On this basis, the strongest growth was achieved by the printing, publishing and recorded media, non-metallic mineral product area and the machinery and equipment areas and other manufacturing. But, importantly—I know that senators follow this issue—the textile, clothing and footwear and leather industries recorded the

largest growth of the quarter, which is a growth of 13.4 per cent.

In the services sector, we see a record high of \$274.8 billion of output in the 12 months to March, again in 1989-90 prices. Services production this quarter was 6.2 per cent higher than in the corresponding period last year. As well as these strong, solid production figures, we have also seen strong export performances from the manufacturing and services sectors. All of this is no surprise to those people genuinely interested in the performance of the Australian economy and who watch developments as they occur. This performance is underpinned by good productivity improvements brought about by the sound industrial relations policies of the government.

We have presided over a 25 per cent growth in hourly labour productivity since taking office in 1983. Real unit labour costs have fallen by 6.3 per cent in this period while at the same time full-time adult ordinary earnings have increased in real terms by 8.7 per cent. Real household disposable income has increased by 40 per cent. Our competitiveness has increased by 40 per cent as well. Compare this with the Howard period of high inflation, high industrial disputation, low growth, low productivity, high tax and high interest rates.

#### Republic

**Senator MINCHIN**—My question is directed to the Leader of the Government in the Senate. Last night's republican statement from Mr Keating was silent on the issue of resolving any failure of a joint sitting of both houses to elect, by a two-thirds majority, the Prime Minister's nominee for president. As the government's proposed constitutional amendments will obviously need to provide for such a scenario, how does the government envisage that, if two-thirds of a joint sitting cannot agree on a candidate, its president will be chosen?

**Senator GARETH EVANS**—That is a perfectly straightforward situation. In the event that agreement cannot be reached for any particular purpose, and in the event that the existing president has already retired, the provisions will be in place for the appoint-

ment of an acting president to hold that position until such time as the position is the subject of agreement. On the subject of who is the acting president, the preference is for parliament to continue the current arrangement of appointing state governors to act, although limited to governors from republican states.

It would be quite incongruous for a president of the nation of a republic to be someone who was there simply as the delegate of the Queen. It would be inappropriate for an office holder appointed by and holding allegiance to a foreign authority to occupy, even temporarily, the highest office in an Australian republic. In the event that no state governor from a republican state was available either because they were unavailable or because there were not any republican states, and that is conceivable, under those circumstances a probable scenario would be for the President of the Senate to take the position.

I think it is worth bearing in mind what Mr Kennett had to say this morning on the whole process that we are now proposing to set in train. Not only did he decry in terms that I have already quoted as absolutely irrelevant to the decision making process the kind of people's convention that Mr Howard seems to have in mind and the mantra about which we will no doubt hear him chanting tonight, Mr Kennett said very clearly how welcome he thought last night's speech by Mr Keating was. Mr Kennett said this:

I think last night's speech—while it won't be agreed to by all—sets a blueprint for discussion. You've got to understand, a great number of this community are young people who do not have the same historical reference point back to the UK. We have a large number of ethnic community members who have come from republics—or in fact other sorts of societies—and I think there is a growing recognition that this issue is going to be resolved. Now, that will be done through a referendum—

**Senator Hill**—I never thought you would be talking up Jeff Kennett.

**Senator GARETH EVANS**—I did not think Jeff was terrible bright on most matters, but it just goes to show that you can always be wrong. He was good in his choice of football teams, he is good on this. I cannot think of anything else, but he is right on this. Mr Kennett further stated:

Now, that will be done through a referendum, and the public—each and every one of us—will be able to make our own decision.

That is your bloke, Jeff Kennett, Premier of Victoria, saying, 'Good, the debate has started. We've got a blueprint on the table, and that is what we need to have a debate going.' When that debate gets going, it will produce a solution which will be a lot more appealing to the great majority of people, particularly the younger people, including people coming into this country from other countries, than the present model.

Again, let me conclude by stating what Mr Kennett said about the people's convention. Referring to the people's convention idea, Jeff Kennett this morning said:

... whoever is drawn to that is only going to be able to really express their personal views. They may argue they represent a greater number of people, but finally this is going to be decided by each and every one of us. A convention to me is just another committee. We are now getting a defining by one side of politics—in his case last night by the Prime Minister—

by implication, he said that we will all have to wait a long time to get a defining on the other side—

of what a republic means to him, to he and to his side of the political agenda . . . There's not much point calling out 400 people out of a community of 18 million, sitting them down and saying: now what do you think about it? I think the best thing is to allow the debate to take place.

That is a very positive and helpful contribution. Let us hear it a little more positively and comprehensively from your side of politics.

**Senator MINCHIN**—Does your answer mean that a senator dumped by the Labor Party to an unwinnable position on the WA Senate ticket could end up acting president of the Commonwealth of Australia?

**Senator GARETH EVANS**—There is about as much chance as Noel Crichton-Browne bouncing back and occupying that particular position.

### Child Abuse

**Senator NEAL**—My question is directed to the Minister for Family Services. Can the minister inform the Senate of progress made on the implementation of the national child

abuse prevention strategy announced in last year's budget?

**Senator CROWLEY**—While it is true that most children in Australia are doing it well, there are certainly some who are victims of abuse. Even if it was only one, that is too many. That is why it is very remarkable and worthy of congratulations that last year the Commonwealth and the states managed to agree on a national prevention strategy against child abuse and neglect. The Commonwealth committed \$12 million in the budget over four years. The state and territory governments have also contributed a considerable number of dollars from their budgets for the next 12 months towards this prevention strategy. It is a very encouraging step in the right direction on behalf of the children of our society.

There are two components to the Commonwealth's part of this national prevention strategy. The Commonwealth has particular responsibility for national research into issues relevant to both child abuse and child protection. This will essentially be in association with the establishment of a national clearing house that was previously with the Institute of Criminology and now with the Australian Institute of Family Studies. As well, it has responsibility for a community education campaign. That will be launched some time later this year.

The states have continuing responsibility for the provision of services, particularly preventive services and networks in the community, to support families as much as possible and to anticipate rather than forever be patching up afterwards once this very abhorrent and unacceptable thing called child abuse occurs.

The other day I also approved \$100,000 as part of this national prevention strategy to the National Association for the Prevention of Child Abuse and Neglect for a campaign that it will be running during National Child Protection Week in September this year.

Yesterday I also released a report from Moira Rayner entitled *The Commonwealth's role in preventing child abuse*. I very much welcome Moira Rayner's report which addresses very important issues relating to the best care and protection of children. The

report highlights that the well-being of children is best advanced by their location in a well functioning family environment in an atmosphere of love and understanding. I think it is true to say that every parent will agree with that sentiment. For the majority of Australian children, their family and their home is their haven.

The report correctly states that the Commonwealth's most important role in preventing child abuse is its delivery of social security, employment, health, housing and other community policies and services. The federal government has a very proud record on all of those. That is highlighted by the release in this year's budget of the *Agenda for families*, committing the government and making clear that ongoing commitment on behalf of families. The report also makes a number of recommendations about how we can improve the assistance we provide by way of protection for our children. I will certainly be looking at that report and responding to those recommendations some time in the future.

The report acknowledges two other important areas, one being Aboriginal children in this community. It is important to remind the Senate of the inquiry that has now been established to look at the impact of removing Aboriginal children from their parents. That inquiry is long overdue. It is not something that will merely benefit Aboriginal families; it will also highlight the importance of that relationship between children and their families. I believe it will be a very significant inquiry. Under my own portfolio I have also taken steps to support the secretariat for the national Aboriginal and Islander child-care centres in developing a plan of action to deal with child abuse in communities. It is ongoing and very constructive information on this area. (*Time expired*)

### **Operation Wallah**

**Senator CHAPMAN**—I direct my question to the Minister representing the Minister for Justice. This week's *Bulletin* quotes former Queensland CJC Chairman, Rob O'Regan, QC, as confirming that the CJC briefed the National Crime Authority in February 1994 about certain Operation Wallah matters that

fell within Commonwealth jurisdiction and which warranted investigation. How does the minister explain that three months later, in May 1994, he told the Senate that in CJC Operation Wallah briefings to both the AFP and the NCA 'there were no possible Commonwealth offences disclosed' and hence no reason for either body to investigate these matters?

**Senator BOLKUS**—There is no inconsistency there at all. Senator Chapman knows that very well. The bottom line in respect of this case is that when the AFP was advised, they made an assessment. They got the advice from the DPP and a judgment was made. My advice at the time was that the NCA was of the view that I have represented in this place and nothing has changed in that respect. The other thing that has not changed is the fact that you, through an orchestrated question time organised by your leadership, are raising questions on a matter that really should not be raised in this place. The matter has been put to bed. People have been exonerated.

It is hypocrisy on your side, as an opposition, when John Howard talks about cleaning up the parliament and you are still grovelling in the gutter, as part of an orchestrated question time, organised by your leadership both here and there. That has not changed in this place. Until you desist from doing that, there is absolutely no way that you will have any credibility at all—you or John Howard—about intending to clean up this place. You cannot deny, Senator Hill, that you have not been party to this, nor can John Howard.

**Senator Alston**—Mr President, I rise on a point of order. This is a deliberate denigration of not only the Leader of the Opposition but also the coalition in general. It has nothing to do with the question. You ought to direct him to answer whether there is an inconsistency. He has not yet even attempted to explain his position. He ought to now take the opportunity to do so.

**The PRESIDENT**—Order! There is no point of order. When you lead with the chin in a question you must expect some response, I would have thought.

**Senator Alston**—I ask for clarification of that ruling. As I put it to you, the question

was simply, 'How do you explain what is an apparent inconsistency,' and you say that that question allows him to denigrate the Leader of the Opposition and other members of parliament. Quite clearly, the standing orders say that is not permissible. How can that possibly be overruled as a point of order?

**Senator Cooney**—On the point of order, what you are saying, Mr President, is this: if a course of conduct is pursued—

**Senator Alston**—How do you know what he's saying?

**Senator Cooney**—This is what he is saying. If a course of conduct is pursued which brings people's character into disrepute, which brings into disrepute the NCA and, by implication, the AFP—

**Senator McMullan**—And the Senate.

**Senator Cooney**—And the Senate and, by inference, the minister, if that course of conduct is pursued and is answered from this side, it is unfair that somebody will suddenly call a point of order on a matter that is in keeping with what has been set afoot. In other words, if a course of conduct is—

**Senator Abetz**—You are struggling, Barney.

**Senator Cooney**—I am not struggling at all. If a course of conduct is engendered then the people who engender that must expect a proper answer to be given and an appropriate response to that particular course of conduct.

**Senator Vanstone**—Mr President, before you answer that, I just ask you to take into account the point made by Senator Alston, that is, that you give a further explanation of your ruling. I am asking you to reconsider because all that is being asked of the minister is whether what he said on a particular day is now consistent with alternative reports and he is being asked to explain why, since the inconsistency is apparent on the face of it, he should not admit to misleading the Senate. If he has not misled the Senate, he should have an explanation. But if you are going to say that when someone puts two apparent inconsistencies together and gives the minister the opportunity to explain, and that in some way that is inviting a vicious response, then you have lost me and everybody else.

**The PRESIDENT**—Order! All I was saying was that in the normal cut and thrust of Senate debate, particularly at question time, there are going to be accusations made or implied about people on both sides. If that is imputing improper motive, that is quite a different thing. But there was no improper motive imputed here and there is no point of order.

**Senator Alston**—Mr President, I thought the minister regarded himself as the champion of high standards in this place.

**Senator Gareth Evans**—Is this a point of order?

**The PRESIDENT**—Are you raising a point of order?

**Senator Alston**—I am taking a point of order. Mr President, the point of order is that you should not allow Senator Bolkus to continue an attack which is not part of the cut and thrust. Even accepting your proposition that somehow you are entitled to give a bit back, how can that possibly provide a licence to Senator Bolkus to be particularly critical of people who are not in any shape or form the subject of the question? I simply ask you to follow through on your own logic and not allow him to continue down that path.

**The PRESIDENT**—There is no point of order. I make the general point that argument ad hominem is not a good way of dealing with things, either by the questioner or by the answerer. I do not agree with that at any time, but in this case I do not believe that it is out of order.

**Senator BOLKUS**—As I was saying, the NCA advised the government at the time that there was no Commonwealth offence of interest to it; that is, it had no inquiry running. The AFP is now of the view that there was no Commonwealth offence. The DPP is also of the view that no Commonwealth offence was involved. What I said then directly related to the advice that I had, and it stands now as it stood then.

**Senator CHAPMAN**—Mr President, I ask a supplementary question. There is a clear inconsistency between what the minister said in May 1994 and what Mr O'Regan has said was the briefing in February 1994. What the

minister is now suggesting is that the inquiry by the CJC—which was put together by a task force of financial analysts, lawyers, senior detectives and two Queens Counsel; and which adduced evidence of matters of Commonwealth jurisdiction which required Commonwealth investigation—was immediately ignored by the National Crime Authority, without any adequate or comparable investigation or consideration. That is what you are putting to us, Minister. There is a clear inconsistency; you clearly did mislead the Senate. There were clearly matters requiring Commonwealth investigations, which for one reason or another were ignored. Why did you mislead the Senate?

**Senator BOLKUS**—Any first grader in this area knows that the NCA has a charter under which it operates. Senator Hill knows that because he, with me, was responsible for legislation setting up the NCA. The NCA cannot work in areas unless it has a reference. The AFP can, and it pursued these matters and also found that there was no Commonwealth offence that needed following up.

Senator Chapman, when the NCA is making inquiries, it needs a reference. You should know that—if you do not know that, you are innocently misleading this place. But I think you know enough about this area to know that the NCA cannot be activated without a reference. You are the one who is misleading the Senate. The AFP and the DPP have together analysed these situations. They have also come to the conclusion that the bottom line is that, after thorough investigations, there is no Commonwealth offence to be pursued. If you came in here with a degree of honesty, you would realise that the NCA answer I gave at the time was the right one. The one with respect to the rest of your question was accurate as well. (*Time expired*)

#### Sugar Industry Package

**Senator WOODLEY**—My question is addressed to the Minister representing the Minister for Primary Industries and Energy. Much concern has been expressed in recent times about a serious threat to the survival of a species, the mahogany glider, due to the clearing of its habitat in areas of north Queensland. Is the minister aware that this

land clearing is being generated, at least partially, with the assistance of the Commonwealth-funded sugar infrastructure package? Does the government believe that all projects funded under the package are ecologically sustainable and consistent with best land management practices? What advice is being finalised by the Environment Protection Authority on projects in north Queensland under the sugar infrastructure package? Will the minister provide the Senate with copies of those advices?

**Senator McMULLAN**—I have got some information on the issues raised by Senator Woodley. The funding program to which he refers is undoubtedly the Queensland sugar infrastructure program. It is a four-year, \$38 million program, jointly funded by the Commonwealth and Queensland, which provides funding for transport, irrigation and drainage development in the sugar industry. There are two programs in the Herbert and Tully areas of north Queensland.

While some of the projects under this program will facilitate an expansion in the area of land under sugarcane, no funds are provided under this scheme for land clearing purposes as referred to in Senator Woodley's question. All projects approved conditionally under the sugar industry infrastructure program are required to undergo a detailed environmental analysis which must comply with the Commonwealth and state environmental assessment and approvable processes. The possible effects on habitat are taken into consideration during such environmental assessments.

Projects may be finally approved subject to a number of conditions, taking into consideration the environmental assessments and the requirement that projects should be ecologically sustainable and consistent with best land management practices. No funds are provided for infrastructure work in a particular project until the environmental assessment has been completed. (*Time expired*)

**Senator WOODLEY**—Will the minister tell us whether or not he is prepared to provide the documentation I asked for, particularly in its relationship to habitat clearing?

**Senator McMULLAN**—Mr President, I am quite sure that that last answer—eloquent as it was—was not four minutes long. The clock was not on for my answer or for the supplementary question and it is not on now.

**The PRESIDENT**—The clock was not set properly. There were three minutes to go for your answer. I will add that on to your time now, if you need it.

*Opposition senators interjecting—*

**Senator McMULLAN**—Aren't you lucky! I can now give you a four-minute answer. I only wish I had four minutes worth of extra information to give you. Advice has been finalised by the Environment Protection Authority for the cane railway component of the Murray Valley infrastructure and Riversdale water management project in the Tully region. The environmental assessment for the water management component of the project has not been completed and this part of the project therefore has not received final approval or funding for infrastructure work. Similarly, the environmental assessment for the project in the Herbert region has not been completed and therefore it has not received final approval. With respect to the last part of Senator Woodley's question, I will table the advice which he requested.

#### Longline Fishing

**Senator O'CHEE**—My question is directed to the Minister representing the Minister for Resources. On 15 June a government advisory panel, the East Coast Tuna Management Advisory Committee, will consider a proposal to effectively allow open slather longline fishing in an area off the coast of North Queensland known as TEC 4 area E. This area was closed off to longline fishing in 1980 to prevent the depletion of marlin and other billfish. Is the minister aware that the current proposal has been put to the board of ECTUNAMAC by one of its board members, Mr Mike Rowley, from New South Wales, who appears to have a massive conflict of interest? In his submission, Mr Rowley states:

The voluntary ban on the taking of black and blue marlin has almost certainly worked 100%. The industry deserves to be recognised for . . . the strict compliance observed by all industry members.

Has the minister seen and does he care to comment on this photograph I am now showing which clearly shows billfish being unloaded from one of Mr Rowley's boats in Cairns or this other photograph which shows a decapitated marlin being loaded into a bin marked with the name of one of Mr Rowley's boats? What action will the government take to ensure that Mr Rowley does not vote on his own submission and that this activity does not continue?

**Senator McMULLAN**—I thank Senator O'Chee for giving me at least some indication that he intended to ask a question in this subject area. I have sought a brief from the Minister for Resources on this matter. He is aware of Senator O'Chee's interest and, I think, involvement on the board of one of the affected bodies in the area. I have not been able to get a response to this matter from the Minister for Resources yet, but I am seeking it. As soon as I do, I will supply it to Senator O'Chee.

**Senator O'CHEE**—Does the minister acknowledge that this proposal to ensure that this would continue is opposed by the Queensland Commercial Fishermen's Organisation, the Cairns Professional Game Fishing Association, the Surfrider Foundation, the Independent Boat Owners Association and local tuna fishermen in North Queensland? Will the government give an undertaking to support the local industry and oppose any increase in the longline tuna fishing effort in TEC 4 area E, or will the government side with Mr Rowley, whose environmental and ethical standards are clearly questionable?

**Senator McMULLAN**—I am not sure that Senator O'Chee has exhausted all the possibilities of the ways in which the government might respond to the issues in question. But I will ensure that the two issues that Senator O'Chee has just outlined are among the range of options that the minister considers.

#### Salmon Industry in Tasmania

**Senator HARRADINE**—My question is directed to the Minister for the Environment, Sport and Territories, and I ask: is the minister aware that a very fine example of the clean green image of Tasmania is its salmonid

and trout fishing industries? If so, is he also aware of the concerns of these industries that they might be wiped out if imported unprocessed salmon from North America is introduced? Is he also aware that of the two dozen or so exotic diseases that are experienced in the industry in North America, about eight of those may indeed find their way into the marine environment in Australia with disastrous consequences not only for the industries and the employees but also for the environment including through the chemicals that will have to be put in them? What action has the minister taken, or will the minister and his department take, to ensure the protection of the marine environment in Tasmania?

**Senator FAULKNER**—I am aware of the image that Tasmania has in relation to these matters, Senator Harradine, and I am also aware of the concerns that have been expressed by a range of people in relation to these issues. My portfolio responsibilities relate to live salmon only, of course, and not salmon products.

The Wildlife Protection (Regulation of Exports and Imports) Act 1982 applies to the import of live fish except those species that are listed on schedule 6 of the act. Live salmon are not listed as exempt from the requirements of the act and, therefore, may only be imported in accordance with the permit that is issued under the act.

There have been no legal imports of live salmon since the act was implemented in 1984. The act does not regulate the import of fish products other than those species of fish listed under the convention on the international trade in endangered species. Salmon are not listed under that convention. The import of fish products is subject to separate regulation by the Australian Quarantine and Inspection Service to prevent the import of diseases.

Assessment of the risk from fish products and also the potential introduction of exotic disease and its possible risk for species of native fish are the responsibility of my colleague the Minister for Primary Industries and Energy. I understand that the importation of salmon products is presently subject to a consultation process that has been initiated by AQIS.

**Senator HARRADINE**—Mr President, I ask a supplementary question. The response by the minister was really not information to most of us. Most of us would have known that. My question is framed against the background of the responsibility of his own department, which he gave to us at estimates committees. Under the Department of the Environment, Sport and Territories, the environment program says:

Program objective: to advise on and implement policies and programs for the protection and conservation of the environment whilst ensuring its use is ecologically sustainable.

What advice have you given to the Department of Primary Industries and Energy and AQIS about the possible effects on the marine environment in Tasmania of the importation of unprocessed salmon? Particularly, what advice have you given to the department and what input will you have on the final decision?

**Senator FAULKNER**—I have tried to explain to you, Senator Harradine, what the role of the environment department is in this matter. You indicated that you felt my explanation was already known to you and on the public record. There is not a great deal more that I can add. I think you understand that this issue is one for the Minister for Primary Industries and Energy.

You are also, I think, well aware of the fact that there is a public consultation process that AQIS has initiated and is conducting at this moment. I think the appropriate course of action for you to take in this circumstance is for your views and concerns to be made known through that particular process. But I can assure you, Senator, that the environment portfolio takes its responsibilities in these matters seriously. We always have done so in the past and we will on this occasion. Fundamentally it is a matter for AQIS and Senator Collins. (*Time expired*)

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

#### Company Tax

**Senator COOK**—Yesterday Senator Hill asked me a question as Minister representing

the Treasurer regarding an OECD study called *Taxing profits in a global economy*. This is additional material to that answer. The effective tax rate calculations in the OECD study are an attempt to capture in a single number the impact of the tax system on new investments by companies in OECD countries. The calculations in *Taxing profits in a global economy* are out of date, being based on the tax systems that were in place at 1 January 1991.

The tax system in Australia and other OECD countries has changed since the study was undertaken. Notably, the Australian company tax rate is heading to 36 per cent; it is not 39 per cent, which was used in the study's calculations. Depreciation deductions for plant and equipment are now more generous as a result of the changes announced in the One Nation statement of 26 February 1992.

The effective tax rate on new company investments calculated for Australia was only above the OECD average under the assumption of no personal income taxes. This gave a misleading picture as it ignored the benefits of Australia's imputation system for investments by Australian companies. When the full system of company and shareholder taxation was included in the calculations the effective tax rate was shown to be below the OECD average. Not only are the results presented in the OECD study out of date, they were when first published.

It was only a very limited indicator of the attractiveness of Australia as a location for companies to invest. The study considered only investments in the manufacturing sector, about 16 per cent of the Australian economy. It covered income taxes only, ignoring indirect taxes and non-tax charges, and it of course did not cover the many non-tax factors which have the major bearing on location decisions.

### **Operation Wallah**

**Senator BOLKUS**—During question time today Senator Chapman asked me another one of those questions in regard to Operation Wallah. I have more information to add to my answer. The answer I gave stands as it was

given, but I refer the Senate to an answer I gave at the start of this week. It was in fact provided by the Minister for Justice in response to a series of questions, 26 in fact, by Senator Chapman to the Minister for Justice in regard to this inquiry.

During question time today I was asked whether Mr O'Regan said that the NCA was advised in February 1994 of possible Commonwealth offences and why I did not acknowledge that until a couple of months later. The advice from the NCA was provided to Senator Chapman at the start of this week. It is very clear that Senator Chapman asked about the specific date that the AFP and the NCA were first advised either informally or formally of allegations relating to possible Commonwealth offences involving the Queensland Operation Wallah investigation. A I said, the Minister for Justice provided the following answer:

The AFP was advised on 1 and 2 November 1994 of possible Commonwealth offences. The NCA has indicated that it first became aware of the allegations on 7 September 1994 that Commonwealth offences may have been committed.

**Senator Chapman**—You are calling Mr O'Regan a liar, are you?

**Senator BOLKUS**—This was information already provided to Senator Chapman. He is the one who once again is being deceptive.

**Senator Chapman**—You are calling Mr O'Regan a liar, are you?

**Senator BOLKUS**—I am calling you a liar.

**The DEPUTY PRESIDENT**—Order! Minister.

**Senator BOLKUS**—I withdraw.

### **Commonwealth Energy Use**

**Senator FAULKNER**—On Monday, Senator Kemp asked me what the baseline energy use was in 1992-93 in the department of the environment and the buildings it occupied.

**Senator Abetz**—You finally got it together.

**Senator FAULKNER**—I wanted to provide the following information to Senator Kemp. I am surprised he did not know it already with regard to electricity and gas usage.

**Senator Abetz**—Why don't you know it?

**Senator FAULKNER**—Everyone knows that the Canberra-based elements had 6,028 gigajoules. This does not include energy consumption associated with building services under the control of various building owners. That information is not available to the department. Everybody knows that in the Antarctic headquarters in Kingston, Tasmania, usage was 13,854 gigajoules. Antarctic operations used 54,001 gigajoules. The Bureau of Meteorology used 47,800 gigajoules.

I would like to reiterate that responsibility for the overall energy use by government departments is the portfolio responsibility of my colleague Senator Collins. I mentioned this when Senator Kemp asked me the silly question. Specifically, the Department of Primary Industries and Energy is responsible for the measure announced in the 1992 environment statement of the Prime Minister (Mr Keating) and for ensuring the collection of the 1992-93 baseline data. Other portfolios are responsible for the implementation of other elements of the statement.

### Republic

**Senator ABETZ** (Tasmania) (3.08 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Foreign Affairs (Senator Gareth Evans), to a question without notice asked by Senator Ellison this day, relating to the republic.

Madam Deputy President, you will recall that the question was about the statement by the Prime Minister (Mr Keating) in the House last night and some of the practical difficulties in dealing with the issues raised. The first point to be made, when discussing our constitution and changes to it, is that our constitution has served our country very well over the past 100 or so years. It has provided the bonds and fabric of our very successful, stable, democratic system of government which is the envy of many peoples of the world and, indeed, the envy of many people who live in republics.

It would be clear to any student of Australian politics that the Australian Labor Party is bitter and twisted; and has a very jaundiced view in relation to our constitutional structures. If it is not running a campaign to denigrate our flag, it is running a campaign to

denigrate our constitution. If it is not running a campaign to denigrate our constitution, it is running one to denigrate the states, upper houses or the Senate. The list goes on. The Prime Minister commented that our Australian constitution was written by the British Home Office. That is completely untrue. It has no basis in fact whatsoever, but it is repeated and repeated—on the classic Labor Party line that if you repeat something enough, it might get some semblance of truth.

The Prime Minister has called the Senate ‘unrepresentative swill’. It is part of Labor Party policy that the Senate ought to be abolished. The government now knows that it cannot abolish the Senate because the people of Australia love the institution and see the importance of it. What is the government trying to do? It is trying to neuter the institution of the Senate to ensure that it is not as effective as it otherwise might be. We have seen that in recent times with the cuts to the expenses available to Senate committees to allow them to pursue their proper functions.

The constitution is so fundamentally important that the view ought to be, ‘If it ain’t broke don’t fix it’. I repeat the line that the Prime Minister ran at the last election: ‘If you don’t fully understand it don’t vote for it’. Senator Ellison asked a very good question concerning the two-thirds majority. Only a matter of 20 years ago this country was in a situation where one political party was within one seat of having a two-thirds majority of a joint sitting and could have appointed a president of this country without needing to consult with the Labor Party or anybody else.

Is that the sort of system that is going to serve Australia so much better than the current system? What would be the situation at the moment if the Liberal Party or the Labor Party were to simply exercise their power of veto and say, ‘You serve up anybody but we will not accept that person’? We would then have a stalemate. Senator Minchin asked what would happen then. There was no answer. Senator Gareth Evans floundered around.

What happens if the matter is not resolved? Who decides? Out of the air Senator Evans

suggested that possibly the President of the Senate might decide. Where was that in the Prime Minister's speech last night? This is policy on the run. This was just plucked from the air to try to get Senator Gareth Evans out of a problem. That is not the way to formulate a constitution for this great country.

Unfortunately, that is what the Labor Party is all about. It has this jaundiced view. The Labor Party is bitter and twisted about the way that this very successful system of government is run within this country and so it is trying to destroy it. The Labor Party has not thought these issues through—(*Time expired*)

**Senator MURPHY** (Tasmania) (3.13 p.m.)—I rise on the same matter. It is amusing that, firstly, we had questions from the opposition about Australia becoming a republic and, secondly, the hypocrisy of Senator Abetz standing up to raise this matter when even the Liberal premier of his own state is very much in favour of Australia becoming a republic. The premier of Tasmania said that it is inevitable.

What does the opposition propose? It is going to pluck a few people from around the place, bring them all together and say, ‘What do you think about that?’ The opposition does not even have a position. The Leader of the Opposition, Mr Sneaky, does not have a position that he will take to a convention of any description because the opposition does not know what its position is.

**Senator O'Chee**—Senator Murphy should know full well by this time—he has been here long enough—that that sort of vituperative abuse against the Leader of the Opposition is unparliamentary and he should withdraw it.

**The DEPUTY PRESIDENT**—I am afraid I did not hear what was said on that occasion, but I was going to ask Senator Murphy to withdraw the word ‘hypocrisy’ that he used earlier. Perhaps he should withdraw anything else he said if it is inappropriate.

**Senator MURPHY**—I will withdraw the word ‘hypocrisy’. If there was something else I said, I will withdraw that also. Can I say I do believe it is very hypocritical—no, I cannot say it is hypocritical, can I? It really

would be amusing if it were not such a serious matter for Australia to become a republic. The approach of the opposition is just so stupid—it proposes to have a people's convention when it will not have a position to take to that convention to actually start the debate off.

Of course, you would have to ask yourself, ‘After the convention, what would happen?’ If there was a vote, if there was a straw poll—hands up those in favour; hands up those against—if it came out 60-40 or 50-50, what would be the opposition's position? Do we proceed to a republic or not? We still would not know. Of course, Mr Howard said himself that he may not take any notice of the convention anyway. That is your position. You do not have one. It is like Mr Kennett, the Premier of Victoria, said, ‘Well, you know, it is just like having another committee.’

You people are well practised in that because you have nothing to contribute to the Australian system of government. You have no capacity to come in here and debate the issues that are relevant to the Australian people. You came in here and raised Mickey Mouse things after the budget, and we have to debate a matter in a moment about the supposed tax problem confronting Australians. You have done nothing constructive in this place for the last six months in terms of dealing with legislation that affects the lives of Australians, and you have nothing to contribute in the debate on the republic. So what do you propose—refer it to a committee! You have been in opposition for so long that you have no other reasonable position to take.

I have to say that even the Liberal premier in your state, Senator Abetz, in my state, has said clearly that it is inevitable that we will become a republic. In fact, he supports it. I find it quite intriguing that you stood up here for five minutes and waffled on about what we thought about the constitution and the flag and everything else.

Let me tell you what the Prime Minister (Mr Keating) said last night. The Prime Minister said quite clearly that the constitution of this country has served us well. It has served us well with regard to the government

of this country. There is nothing wrong with that. There is nothing wrong with our ties with the UK. That is an historic tie that we should be proud of, but that does not mean that we should not move forward as a country, that we should not take the next step forward towards this country becoming a nation in its own right. That is exactly what we want to do.

Where are you at? That is what the Australian people want to know. Where are you really at? You are nowhere. You are in no-man's-land, with nothing to add and nothing to contribute. That is very unfortunate for the Australian public because they really do look towards having a system of government where you have an opposition that actually provides valued contributions to the debate of government in this country. That is what the Australian people want. They want somebody to contribute. But right now, it is a bit like the photograph that was in the *Australian Financial Review* which showed Mr Howard standing halfway out of the door. What the people would really like to know is: what is behind the door? What do you have in store for the Australian public? What do you have for them? Right now you have nothing.

**Senator ELLISON** (Western Australia) (3.18 p.m.)—At the outset let me say that we get criticised for not engaging in the debate on the republic and, when we do, we get criticised again. I would like to say to Senator Murphy that in 1975 the coalition was one seat short of a two-thirds majority. Under the proposed Keating republic, that would mean that the conservative side of politics could have chosen the president. As Senator Gareth Evans said to me, that is no different from the current system. If it is no different, why change? If there is no change, there is no need to change.

**Senator Kernot**—It is one seat short.

**Senator ELLISON**—Senator Kernot, you might recall that the Prime Minister's attitude to this chamber was well exhibited when he said, 'We can get rid of you lot, that little tin-pot show that you run over there.' That is exactly what the Prime Minister thinks about the Senate. My supplementary question to

Senator Evans was all about what this government wants to do with the Senate.

It was during last year that we saw mooted a change in the electoral system of the Senate so as to gut the representation of smaller groups and smaller parties in this country. It was on *Meet the Press* on 20 February last year that Senator Gareth Evans said:

... this is governed by legislation not the terms of the Constitution itself.

But whether of course, you get any legislation through the Upper House as presently constituted is another question. It would be more in the nature of a double dissolution.

That is why I asked him the question, 'What are you blokes up to? Are you planning to change the structure of the Senate? Are you planning to take away its powers?' Senator Evans last year said that it could be done by a method as simple as legislation, not even an amendment to the constitution.

That is why the Prime Minister, in his statement last night, said that it would be necessary at some time to look at the Senate's powers to block supply. Senator Gareth Evans, in his answer to me today, admitted that this has been a longstanding matter in his party. Indeed, Senator Ray, when interviewed by Laurie Oakes on the *Sunday* program of 3 April last year, said:

You see, you can approach this in one or two ways, Laurie. Some people say we should change the voting system to alter the effect of the Senate. I much prefer to approach it, in the long-term, of reducing some of the powers of the Senate because proportionate representation is a great way of distributing representation, an appalling way of distributing power.

That sets out in black and white the agenda of this government. Further on in that interview, Senator Ray referred to the blocking of supply and how the Senate would deal with major tax bills. That is what this government is on about.

Last night we saw the Keating republic mark I. The Keating republic mark II is on its way. There is a secret agenda, and we should not be mistaken in that regard. That is why I asked that question of Senator Evans, but he skirted the issue and would not answer it.

Last year, Senator Evans himself canvassed the very issue of altering the election of senators. It was only last December that the government scrapped that idea because it saw that it was unpopular with the people. As stated in the *Australian* of 2 December 1994:

Federal Government plans to tame the Senate with dramatic changes to the voting system to eliminate the minor parties have been quietly shelved after the threatened move proved unworkable.

That just goes to show that all these plans, all these high and mighty goals, lack detail—detail which Senator Evans could not give today.

The people want to know the details of the proposed republic and the only way to do that is to go to a constitutional convention. The Americans did it in 1787 at Philadelphia. We did it in the 1890s. Some things do not change over time and one of them is going to the people and letting them decide.

**Senator NEAL** (New South Wales) (3.22 p.m.)—This is an opportunity to say a few words about something that I was very pleased to hear last night. After attending our caucus meeting yesterday, the Prime Minister (Mr Keating) addressed the parliament later in the evening on the republic. I was very proud of the fact that I have become part of the Senate at this time, to be part of something that is really momentous and history making.

When I look at you people over there and when I look at your position I have to say that, largely, I feel sorry for you because you cannot be part of that history. You always feel excluded, you always feel like you are running along behind. You are never really part of what is happening in Australia. I am telling you that in the parliament and country-wide the republic is happening. If you are not part of becoming a republic, you are not part of what the people in the community want.

We have seen a little bit of progress in the coalition's views. The first version of its opposition to the republic was, 'We will just sit here and say no, no, no. We will close our eyes and refuse to participate.' The second approach, which is being articulated by Senator Ellison and others today, is, 'We're not actually going to say no, because we

know that the community is not in favour of that, but we will frustrate the process. We will make it so difficult that it will be impossible.' That is clearly the approach that you have been taking.

But you have been frustrated by the fact that a simple solution has been found. It is very clear that this is not what you would like. You would like to see a situation where this issue is sent off somewhere to be silently strangled and never see the light of day.

It really is a pretty simple question. I tried to ask a few opposition senators about their views on it. The question is whether they want an Australian to be the head of state. Frankly, if they cannot say they believe that the head of Australia should be an Australian, they have a major problem. They really will be left behind by history. They should reconsider their position and come along with the rest of us and make history for the next century.

**Senator MINCHIN** (South Australia) (3.25 p.m.)—The government's budget was described as a smoke and mirrors budget. This whole republican play also involves smoke and mirrors. Last night's act was one of the great deceptions of all time by the Prime Minister (Mr Keating). He presented himself as the great snake oil salesman. He pretended that this proposition involves no change and that all the government is doing is changing the name of the Governor-General to 'President'. Mr Keating understands that the Australian people are very suspicious of everything he does and will not buy this without it being presented in a very deceptive way involving no change except in name. But this is no simple change; that is the message that the Australian people will get tonight from the Leader of the Opposition.

The government and Mr Keating are proposing very fundamental change. Fundamental change to the constitution is involved in what Mr Keating put forward last night. By my rough assessment, something like 30 to 40 separate constitutional amendments would be required simply on the basis of what Mr Keating put forward last night.

The government is creating a completely new office—the office of President of the

Commonwealth of Australia—but it will not even attempt to define the powers of this new office, which is the most extraordinary proposition I have heard. This new president will be elected by the parliament with his or her own mandate. That person will be able to be dismissed only by a two-thirds majority of the parliament. He or she will have enormous powers that will not be codified. There will be far less restraint on the exercise of these powers than is currently the case. The government is proposing a fundamentally and inherently dangerous change to the constitution.

Many constitutional lawyers are saying, and will continue to say, that it is absurd to create the new office of president and yet not say what the powers of this office will be. Sir Harry Gibbs has been saying that today, as has Professor Leslie Zines. Anyone of any eminence in relation to the constitution recognises the absurdity of what is being put forward.

There is a magnificent and delicious irony for those opposite who are maintaining the rage of 1975. The president that they want to create will have all the powers that Sir John Kerr had when he dismissed their government. But there will be far less restraint on this president than was the case with Sir John Kerr. This president cannot be dismissed by a mere phone call to the Queen. This president can only be dismissed by a two-thirds majority of the parliament. This president will have far less restraint in the exercise of the significant powers he or she has. I have no idea how any of those who are full of rage from 1975 could possibly accept this proposition.

The government has a very fundamental problem in not attempting to codify these powers. The government knows that, if it attempts to codify the powers, the thing would have absolutely no hope of getting passed.

The government's other major problem is public opinion. There is no sustained majority for going to a republic. None of the major polls have yet to show that a majority of Australians want a republic. So the government has at least half the community against it. When it asks people how the president

would be elected—assuming that there would be a president—80 per cent of the community want that person to be elected by the people. They do not want the government's option of election by politicians, because they do not trust politicians. After 12 years of government, I can understand why they do not want politicians appointing the president.

We now learn today that the government even has the leader of the Labor Party in Victoria against it. Mr Brumby said today that his personal view is that presidents should be popularly elected and that ideally his or her powers should be codified. Clearly, there are major problems within the ALP on this issue. The government's own people are against it on the issue of the election and powers of the president.

It is my forecast that Mr Keating's republic will end up just like Dr Hewson's GST. As the government said then, the devil is in the detail. There is much more to this than meets the eye. If the voters do not understand it, they should not vote for it. The Australian people will not vote for this proposition when it comes to the election. The government is putting forward an extremely divisive proposition. It has spent 12 years dividing the Australian nation. That will end at the next federal election.

**Senator McKIERNAN (Western Australia)** (3.30 p.m.)—History does not stop merely because you are playing a part in it. This afternoon, we are playing a part in the making of history. The statement of the Prime Minister (Mr Keating) last night has finally got some members of the opposition out of their shells to publicly debate the issue of the republic. That issue has been around, but they have closed their eyes to it. They have added nothing constructive or given any points of view in all the time that it has been there in the very public arena. Now, they are doing so because it has been put right in front of them.

Speaking of history, Madam Deputy President, I take this opportunity to commend you on your recent election to the position that you hold. Other colleagues of mine have commented on the history of you, a woman, occupying that position. I add my congratulations to those of my colleagues. Moving back

to the debate, last night at our caucus meeting members of the Labor Party were addressed before the Prime Minister's statement in the House of Representatives. It brought my mind back to a person to whom a lot of credit is owed for the fact that this debate is so public today. The person I refer to is the late Colin Jamieson, a previous leader of the state parliamentary Labor Party from Western Australia.

Colin Jamieson seconded a motion that the Labor Party constitution should be altered to include republican words in the platform of the Labor Party at a conference in Perth in 1981 I believe. He then took that resolution to Melbourne, where the national conference of the Labor Party was being held. After some forceful debate, the conference adopted, in the aims and objectives of the Labor Party, that Australia should become a republic. That was 14 years ago. This issue is not new to the Australian public; it is certainly not new to the Australian Labor Party. The debate did not start in 1981; it was around a long time before that. It does show that the debate can move, as we have witnessed here this afternoon.

Members of the opposition are now willing to talk about Australia becoming a republic. I confidently predict that this will happen within the next five years. I believe that, when the Australian people are fully informed about it and the matter is fully debated not only by those in favour of the republic but those in opposition to it, when the numbers are counted in the referendum—that is, not only the majority of numbers throughout Australia but also in the majority of states—there will be in support for Australia becoming a republic by the year 2000. I believe when the Olympic Games are held in Sydney that it will be an Australian, as an Australian head of state, who will be opening those games. That will avoid some of the shame that we would experience were we to have a leader who was not an Australian open the games on behalf of us. That is only a very short time away, but the debate is happening and it is a very good debate.

I think that, whilst different names of different contributions have been tossed around here this afternoon regarding who is

in favour and who is against, it shows that individuals from various spectrums of the debate are now coming out and making an input. Some of this is positive, some of it is negative. Some people making comment obviously do not understand what they are saying, but they are raising new questions. Mr Keating did not say that his speech last night was the end of the matter. In actual fact, in caucus he told us that it was the start of the third stage in the debate. What was put down in the House of Representatives last night was not the final say. The people who will be having the final say on this issue will be the people of Australia. They will be doing that democratically through the ballot box, through the referendum that will be held throughout Australia in 1998 or 1999. (*Time expired*)

Question resolved in the affirmative.

#### **Operation Wallah**

**Senator CHAPMAN** (South Australia) (3.35 p.m.)—I move:

That the Senate take note of the answers given by the Minister representing the Minister for Immigration and Ethnic Affairs (Senator Bolkus), to a question without notice asked by Senator Chapman this day, relating to the Queensland 'Operation Wallah' investigation into the Defence Force Offsets Credit Program.

Earlier in the week Minister Bolkus abused the Acting Chairman of the CJC, Mr Lew Wyvill QC, when I asked a question in relation to a statement that Mr Wyvill had made about the outcome of the Australian Federal Police's investigation on these matters, and inferred Mr Wyvill was lying. Today in answer to my question he has inferred that the former CJC chairman, Rob O'Regan QC, has been lying. In the to-and-fro across the chamber Minister Bolkus said, 'No, Senator Chapman, you're lying.' That is not the case because in both of these situations I have quoted directly from both Mr Wyvill and Mr O'Regan. So the allegation about lying is directed at both of those two highly respected gentlemen. A report in this week's *Bulletin* states:

According to O'Regan, the CJC briefed the NCA in February 1994 and the Australian Federal Police last November about certain Operation Wallah matters that fell within commonwealth jurisdiction. "It looked to serious investigators here, particularly the director of the Official Misconduct Division,

Mark Le Grand, who is vastly experienced in these matters, that they warranted investigation," O'Regan says. "It's a view with which I concur, as do [four] other [CJC] commissioners . . . That was my view of the matter after having carefully considered the material."

So there it is laid on the record. It seems everyone is out of step except little Nicky Bolkus. Here we have statements from two highly respected law enforcement officers—

**The DEPUTY PRESIDENT**—Order! Senator, that is not an appropriate way to refer to a member of the chamber.

**Senator CHAPMAN**—Everyone is out of step, in deference to your comments, Madam Deputy President, except the minister. We have two statements from highly respected law enforcement operators but the minister says they are both wrong and he is the only one who is right. The minister is also confusing the statement of the Minister for Justice (Mr Kerr) on Monday—which was at the conclusion of an AFP report; whatever conclusions we might like to draw about that particular investigation—with the situation last May when I asked him whether the CJC had briefed the NCA about these particular matters identifying possible Commonwealth offences. Last May he said there were no possible Commonwealth offences identified. Clearly, from what Mr O'Regan has said, there were possible Commonwealth offences identified that should have been investigated.

To try to divert further attention from the matter, the minister then says today, 'The NCA didn't have a reference on this matter so it couldn't investigate it.' He did not mention that last May; there was no mention of a need for a reference from the NCA on these matters. All he said was that there were no Commonwealth offences identified that needed investigation. It is clear from that that he misled the Senate. (*Time expired*)

Question resolved in the affirmative.

#### Longline Fishing

**Senator O'CHEE** (Queensland)—I seek leave to table two photographs which were referred to today in question time.

Leave granted.

#### MATTERS OF PUBLIC IMPORTANCE

##### Taxation: Families and Small Business

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

The damage done to Australian families and small businesses by the high tax policies of the Keating Government.

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

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

**The DEPUTY PRESIDENT**—I understand that an agreement has been reached as to the time allowed for each speaker. I would ask the clerks to set the clock in accordance with that agreement.

**Senator MICHAEL BAUME** (New South Wales)(3.39 p.m.)—The text of this matter of public importance reads:

The damage done to Australian families and small businesses by the high tax policies of the Keating Government.

This matter has been brought forward because of the government's dishonesty in pretending that it is not a high taxing government and that its huge taxes are not damaging Australia's families and small businesses. It is about time the truth came out and the government's position was demonstrated to be shonky, phoney and dishonest.

It clearly is the highest taxing government in some areas. For example, I demonstrated yesterday that in regard to sales tax, this government is now hitting Australian consumers with the highest proportion of sales tax as a proportion of GDP in Australia's history. The government knows this and is up to its usual deceptive stunts to try to hide the truth. The facts are clear: total taxes and, basically, all major taxes have risen by more than the inflation rate over the 13 or so years this government has been in office.

Individual income taxes have increased 136.8 per cent since 1983. Total company tax is up by a massive 370 per cent. Total indi-

rect tax has risen by 149.8 per cent. Sales tax alone is up by 305.7 per cent and total tax revenue has gone up by about 190 per cent. This 190 per cent increase in total tax revenue is occurring over a period when inflation is only 68.9 per cent. In other words, there is a huge real increase above the inflation rate.

Yet Australians are constantly told by Labor that they live in a low tax country. Naturally, very few Australians believe it. Why would Australians believe the Prime Minister, Mr Keating, and his government when they know perfectly well how much they were deceived by the government at the last election, with phoney promises about tax cuts? The fact is that tax increases are set to outstrip the rate of inflation by over nine per cent per annum during the 13 years of the present Labor government. On top of the high tax that Australians pay, there is also the internationally relatively high cost of compliance. No other industrialised country, with the possible exception of the US, has compliance costs anywhere near as high as those in Australia.

The government's response is that you cannot just look at these total tax rises. What you have to do is look at tax as a proportion of gross domestic product. Well, I have done that. This government is still the worst ever in some instances—I noted sales tax—despite some disgraceful and totally dishonest attempts to fiddle the books or, in view of some responses yesterday and the day before, should I say 'cook the books' to show a phoney result.

Let me demonstrate how this government manages to lie with statistics. On Tuesday, Senator Cook gave the perfect example of this by sneakily changing the statistics to pretend that they suit his case. On page 862 of *Hansard*, he referred to the ratio of tax to GDP, imperiously claiming that the huge post-1993 election rise from 22.1 per cent of tax as a percentage of GDP to 24.2 per cent in 1995-96, and then forecast to go to 24.6 per cent in 1996-97, did not break any promises not to raise taxes. He then pretended that this was better than when the coalition was last in government. How did he prove that? Very simply—he did not refer to the same measure at all. He simply did not refer to the ratio of

tax to GDP. Not on your life! He sneakily changed the words. He said 'total revenue', not 'total taxes'. Is that not fascinating? This is a very different measure indeed.

As the Senate can clearly see, the more the government sells off government bodies like Qantas and the Commonwealth Bank, the less revenue it earns from them. Revenue does not equal taxes and Senator Cook knows that. Revenue has been going down from these external agencies, government business enterprises and so on, yet Senator Cook pretended that they are the same as tax. Yesterday he made the same sneaky deception, on page 981 of *Hansard*:

Under the last coalition government when John Howard was Treasurer, in 1982-83, government revenue as a percentage of GDP was at 26.0 per cent. Under our government, it is at 25.3 per cent. In other words, the high taxing party of Australian politics is the coalition—

Isn't that marvellous! Change revenue to tax and you can prove whatever dishonest point you want to make—that is if you are made that way. I would suggest that that is typical of the way this government has handled this matter.

So, why did Senator Cook change tax as a measure to compare with 1983 into revenue? Was it simply because John Howard's last budget, in which I was involved as parliamentary secretary, had a tax to GDP ratio of only 24 per cent—lower than this budget and far lower than next year's forecast? Clearly, Senator Cook will do anything to create the false impression that his government is not the biggest taxing government in Australian history next to the Whitlam government. The facts are simply irrefutable. He said, 'The level of taxation under us is lower than the level of taxation under the coalition.' That is simply false, false, false!

To clear up the other revenue point, government revenue, such as dividends from GBEs, has fallen from 2.1 per cent in 1982-83 to only 1.1 per cent of GDP in this budget. Let us have no more deception from Senator Cook's cooking of the budget books. Let us stick to the government's high tax record, without this kind of disgraceful deception.

Overall, I think we should see that there is no room for disagreement. The last figures for income tax are clear. In Mr Howard's last budget, income tax totalled 16.3 per cent of GDP; this year's budget lifts it to 17.6 per cent. On every measure there is a totally deceptive response by this government. Under this government, company tax is up by 25 per cent—from 2.8 per cent of GDP under Mr Howard to 3.5 per cent now. That is a further disincentive to Australian corporate competitiveness with lower taxing Asian nations.

On personal income tax, plus fringe benefits tax—which clearly applies to it—collections in 1982-83 totalled 13.3 per cent of gross domestic product. That is the same as this year, despite the false claims of huge l-a-w, law, personal tax cuts by the government. There has been no cut whatsoever in income tax collections as a proportion of GDP by this government.

Let us turn to sales tax—the most classic—where there has been something like a 52 per cent increase in sales tax collections just since the last budget. What do we know about sales tax? We know that, according to an EPAC background paper in 1991—the government's own body—the changes in the wholesale sales tax appear to have increased the regressivity of this tax. The distributional impact of the tax has only marginally changed for most income deciles, with the exception of the lowest decile where the tax burden has increased notably.

In other words, Mr Warren, who did this study, also found that the tax burden has increased particularly noticeably for the bottom 10 per cent of income earners—the poorest in our community. They are the people being hit by this government's record sales taxes and by its huge increases in ordinary taxes. We see that the burden of the wholesale sales tax clearly falls most heavily on low income earners.

Statistics for 1993-94 published by the Australian Taxation Office show that motor vehicle parts and accessories, household appliances, furnishings and hardware, machinery and equipment, and beer, wine and spirits account for almost three quarters of total sales tax revenues. Every average family

is involved in buying those. They are the ones being hit. (*Time expired*).

**Senator SCHACHT** (South Australia—Minister for Small Business, Customs and Construction) (3.49 p.m.)—I have to say that, when I saw that the matter of public importance submitted for discussion today was moved by Senator Baume, I thought: what sort of extraordinary performance are we going to get to justify taking up the Senate's time for an hour today? After hearing that speech, there is no justification whatsoever.

What I could discern from Senator Baume's speech was some argument over definitional terms of whether it was revenue or tax that affected the figure of determining the state of the Australian economy—that is, our performance compared with Mr Howard's performance when he was Treasurer in the last coalition government those many 12 years ago.

Senator Baume accused Senator Cook, representing the Treasurer (Mr Willis) in this place, of misleading the Senate. Senator Cook did not mislead the Senate. Senator Cook has outlined to the Senate on innumerable occasions the success we have had—compared with the success of Mr Howard when he was Treasurer—in getting a successful economy, creating employment, getting low inflation and stability in interest rates and in getting an economy people are able to invest in with confidence, because we have an economy that is not only growing domestically but also growing in the international arena with exports.

It really is astonishing that an hour of the Senate's time is to be wasted on this matter of public importance so that an arcane point of semantics can be used by Senator Baume. We now know why people are wondering about the relevance of the Senate in the debate about legislation. The time of the Senate has been wasted by the opposition over the last three weeks because the opposition has refused to debate legislation of substance.

With this matter of public importance proposed by Senator Baume, we now have another example today of an hour being wasted. I think this is the third occasion in the last two weeks I have seen small business

mentioned in a matter of public importance. But Senator Baume never mentioned one word about small business in his remarks. He never mentioned one word about Australian families. He was trying to prove a semantic point about whether an issue involved tax or revenue—absolutely irrelevant to the performance of the economy in Australia.

**Senator Michael Baume**—The poorest are being hit hardest. Why don't you be honest and say so?

**Senator SCHACHT**—For Senator Baume's benefit I will put on the record a range of very salient facts about the economy. Under this government real household disposable incomes have increased by 40 per cent. Under Labor real increases in additional family payments have been up to 150 per cent. Between December 1982 and December 1994 single income families on two-thirds of male average weekly earnings with two dependent children have had an increase in their real after tax income of \$49 a week. This is very largely due to the improvements in the social safety net, particularly improvements in family payments.

Under Labor, pensions have increased by nearly 14 per cent in real terms. Under the coalition, they went down by two per cent. Under Labor, unemployment payments have increased by 26 per cent in real terms. Under the coalition, they went down by 18 per cent. It goes on, but I will not go through this long list because it will take more than the time I have available.

I thought we might have got some indication from Senator Baume about families in his remarks. There was not one issue of substance mentioned about the income of families and what we have done as a government to put into place the social safety net, which only two weeks ago Mr Howard in a press statement dismissed as irrelevant and of no worth or value. That is what he thinks of families. He dismisses the concept of a social net—the concept of putting a base of income for people in Australia so that they know that no matter what their circumstances are they are guaranteed a certain level of decency in the way they live. Mr Howard dismissed this out of hand in a press statement he put out last

week which said that the social wage is of no relevance. That is what he said.

**Senator Michael Baume**—He did not.

**Senator Forshaw**—He called it a so-called social wage.

**Senator SCHACHT**—He called it a so-called social wage. This has to be the most outstanding achievement of this government: we have improved the living standards of ordinary Australians substantially and significantly more than any government since federation. It is an achievement that you and your party in government have never been able to match or show any interest in. You want people to be made fearful of their circumstances so therefore they are not able to have the choice, the decency and the dignity in the way they live.

Senator Baume's motion then refers to small business; but in his actual remarks there was no mention of policy for small business. This is an absolute policy-free zone in the Liberal Party at the moment—they have absolutely no policy.

Mr Howard's headland speech—better described as the cape miserable or cape disappointment speech—two nights ago, disappeared and sunk without trace. I heard the other day that you people had to sit for an hour as Mr Howard droned on about the wonders of the Menzies age and all sorts of other things. But, at the end of it, the speech had nothing in it. While Senator Baume made no mention at all of small business, Mr Howard said, 'We will remove government regulation.' He did not say which regulation, just the usual one-liner, 'Get rid of regulation.'

There was mention that maybe the FBT and the capital gains tax will be removed by the opposition. That means that \$3 billion of revenue will go out the window. Where will you, Senator Baume, raise the extra \$3 billion of revenue if you abolish the FBT and the capital gains tax? It means you will either put taxes up somewhere else, or you will cut expenditure to reduce the social safety net, because Mr Howard says it does not matter, it is of no relevance. That is obviously the implication.

But let me get down to the actual issues some small businesses are raising and which have been raised in the debate, such as unconscionable conduct—an area where we have constitutional power. There was no mention by Mr Howard of his view about that at all. If he is talking about removing regulation, most small businesses in New South Wales, or in the Hunter valley where I have been asked to go to a rally, oppose deregulation of shopping hours. Small business does not want a reduction of regulation in that area; it wants a restriction on shopping hours.

But Mr Howard is running around saying, 'Less regulation.' Is that his view? Many small business people in Australia are diametrically opposed to him on that theory. They may be wrong, they may be right. But the point is: he is not telling them in detail what he actually believes. He is not telling them what he wants. He is not telling them what he is going to do. He is saying, 'All I want you to do is to hate Paul Keating.'

Senator Baume hates Paul Keating more than any does other senator. Senator Baume makes more speeches attacking the Prime Minister in every possible way, very much with the imprimatur of the leadership of the coalition. They know that they had better not do it as it looks a bit nasty. But the one thing they all know is that nothing is too dirty for Senator Baume in the political slandering of people.

**Senator Michael Baume**—Madam Deputy President, on a point of order: that is a clear reflection on me. While it is natural that the minister would make it—it is typical of him—it is about time he was brought to order for this sort of thing.

**The DEPUTY PRESIDENT**—It certainly was a reflection on the senator.

**Senator Michael Baume**—You said nothing is too dirty.

**Senator SCHACHT**—In that case, in terms of your smearing the Prime Minister—

**The DEPUTY PRESIDENT**—I think it relates to political standards and you should withdraw.

**Senator SCHACHT**—Madam Deputy President, I withdraw. But we do know that

Senator Baume, by his consistent remarks in this Senate and the speeches he makes, has one policy: to endlessly attack the personality and the integrity of the Prime Minister. The opposition has no other policy.

We did not get one word of policy from Senator Baume of what the opposition would do if it got into government—not for small business, not for families, not for the economy, or for anything else. If we get many more of these cape miserable, cape disappointment, mount lost or whatever you want to call these speeches from the Leader of the Opposition, Mr Howard, between now and the election, we will still be waiting for a policy.

You want to go to the people by attacking the personality of the Prime Minister and saying to the people, 'Vote us in because we don't like Paul Keating.' It is going to be the most bereft political policy of any election in Australia. I thought that Andrew Peacock in the 1990 election campaign was pretty bereft of any policy substance. But, by comparison, John Howard now makes Andrew Peacock look an absolute example of political substance and policy substance.

We are quite delighted, Senator Baume, for you and the opposition to be a policy free zone because, when it comes to the crunch, people will not vote on the basis of being purely negative. They want to know what you will do in government and you are not game to tell them. I want to put on the record some figures that are irrefutable. I want to compare various figures and statistics about the performance of the coalition under Mr Howard when he was Treasurer and the performance of this government.

The average rate of economic growth under Mr Howard as Treasurer was 2.6 per cent; under this government, the average was 3.3 per cent. The average rate of inflation under Mr Howard was 9.7 per cent; under Labor it was 5.5 per cent—and since June 1991 it has been 1.9 per cent. The rate of inflation when Mr Howard left office was 11.4 per cent; the current rate of inflation is 3.9 per cent. The underlying rate of inflation when Mr Howard left office was 10.5 per cent; the current underlying rate of inflation is 1.9 per cent. The lowest rate of inflation under Mr How-

ard, in December 1978, was 7.7 per cent; the lowest underlying rate of inflation under Labor, in March 1979, was 5.9 per cent.

Bank housing loan rates when Mr Howard left office were 12.5 per cent; the current bank housing loan rate is 10.5 per cent. Official interest rates when Mr Howard left office were 9.9 per cent; the current rate is 7.4 per cent. When Mr Howard left office, the 90-day bank bill rate was 15.9 per cent; the current rate is 7.65 per cent. The next one is a bobby-dazzler—the highest 90-day bank bill rate under Mr Howard, in April 1992, was 21.65 per cent; the highest 90-day bank bill rate under Labor, in December 1985, was 19.75 per cent. The prime interest rate when Mr Howard left office was 15.7 per cent; the current prime interest rate is 10.7 per cent.

The employment figures are the ones that really affect the families that Senator Baume is trying to talk to. The average number of jobs created per year under Mr Howard, from February 1978 to March 1983, was 51,300. Under Labor, the average was 163,540. The unemployment rate when Mr Howard left office was 10 per cent; the current unemployment rate is 8.3 per cent. Government revenue as a percentage of GDP under Mr Howard, in 1982-83, was 26 per cent; under Labor, in 1994-95, it was 24.1 per cent. Government outlays as a percentage of GDP under Mr Howard, in 1982-83, were 28.6 per cent; under Labor, in 1994-95, they were 26.7 per cent.

There we have a range of figures, not just one selected here or there. On every one, Senator Baume, you came second. You were taken to the cleaners. If there were three horses in the race, you would have come third—but there can be only two. There is no doubt about the performance when Mr Howard was Treasurer. You might say this is going back too far, going back 12 years. But when we do not know what his policies are and cannot compare him on that, the only thing we can do is go back to his performance—and his performance was dreadful.

Perhaps, when he comes up with a policy, we can talk about that and get a decent debate going. But the problem is he is not game to make a policy because as soon as he raises

any policy intent there will be a big dust-up in the Liberal-National parties because you are so ridden with factions and views that you cannot agree on policy. So no matter what Mr Howard says, you will not be able to agree on one. You will have great difficulty—no matter how much you want to attack the personal integrity of the Prime Minister—winning an election based on personal abuse of the Prime Minister. You are going to fail; and fail badly.

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia) (4.04 p.m.)—Madam Deputy President, I congratulate you. This is my first opportunity to do so when you have been in the chair. I acknowledge the job you will do for the Senate.

I enter this debate as probably one of the very few practising small business people. I acknowledge that farmers and some of the professionals are small business people but, for 20 years, I made a living out of small business. I think I know small business and I think I understand it. I ran a successful small business and employed 10 people.

I am afraid that I would have been a casualty of small business in the last 10 years, if I had continued in small business and had not entered politics. I had a successful small business but I do not think it could have sustained the pressures this government has put on small business over the last 10 years. I would have been one of the 14,000 casualties last year and one of the 70,000 casualties over the last four years. That is what has happened to small business. Those are the casualty figures that have been recorded under this government.

What has the Prime Minister (Mr Keating) said about small business? I can tell Senator Schacht that the remarks the Prime Minister made have incensed small business. He said, ‘This is as good as it ever gets,’ and, ‘If they are feeling the pinch, they should go back to pay-as-you-earn employment.’ I have heard in my travels small business people—and one in particular comes to mind—who have voted for the Labor Party all their lives. They have been so incensed by that remark—obviously, Senator Schacht has heard this—that they have said that they will never vote for the

Labor Party again. the person I had in mind even went on television in his local area and said he wanted to disown the government and that he had completely changed his vote.

I was disappointed in Senator Schacht's speech because I do acknowledge that he genuinely tries to help small business but his attack today was negative as he parroted the government's line. The government gave him a piece of paper and he parroted that line. All he did was try to use some figures. But he did not tell us what he was going to do for small business. I do not think that, in the overall scheme of things, Senator Schacht is listened to amongst his cabinet colleagues. If he were, we would not have had interest rates going to 23 per cent. That is an Australian record that the government will hold forever—23 per cent interest rates on farmers and small business. That is one of the greatest reasons for small businesses perishing in such large numbers.

I will repeat those numbers: 70,000 small businesses have gone broke in four years and 14,000 went broke last year. That was the tip of the iceberg. That was just the people who went into bankruptcy and walked away. But many others sold their homes, cashed in their life insurance policies and their superannuation policies, and paid out their debts. Those figures I have just mentioned were the ones for people who had recorded bankruptcies and had gone into receivership.

When, four or five years ago, I announced the figures and gave them to the press, the heading 'Record Bankruptcies in Australia' would be seen on page 1. That went on three months after three months. The casualties grew until everyone accepted that casualties were a fact of life. I certainly acknowledge that running a small business is a high-risk enterprise. It needs a lot of courage to go into small business because the casualty rates are high; but there is no reason for nearly 100,000 businesses to have gone broke in four years. Let us look at some of the reasons they have gone broke. One is the capital gains tax. It might be the final straw. The fringe benefits tax started at \$585,000 and has now reached \$3½ billion, mainly out of the small business sector.

We have industrial relations problems. I do not know whether anyone on the government side knows how much damage industrial relations is doing to small business. It is doing enormous damage to small business. I employed 10 people and if I had anyone who was even half good I would try desperately to hold him. No-one ever enjoys having to dismiss an employee. It is not something that anyone wants to do. But there are times in small business - because of downturns, the loss of a major customer, and many other reasons—when you have to let staff go. Most times it is done with the greatest reluctance. There is nothing that hurts a small businessman more than having to go in the next morning and tell someone that his services are no longer required because he cannot afford to pay the wages.

People in small business are terrified to put anyone on because they cannot dismiss them. Senator Panizza is nodding his head in agreement. In the last budget we saw company tax rise from 33 per cent to 36 per cent. Senator Schacht said that we should not worry about that; that deals with corporations. He said that that was the big end of town. But 40 per cent of small businesses are incorporated and they are going to have to pay the increased taxes.

Sales tax has risen from 15 per cent to 21 per cent and the government tells small business to pass it on. We cannot do that. Every time we put a tax up our sales slide back. When sales are down we have to decide what we are going to do. We have cut everything to the bone so we have to put someone off. Taxes are up and our sales are down.

Over the last 10 years this government has been a disaster for small business because of high interest rates, increased taxes and a number of other initiatives. The Prime Minister said to small business, 'It is as good as it ever gets'. He told them that if they were feeling the pinch they ought to go back to paying tax. It is utter nonsense to think that one can just switch off the light, walk out of one's business or farm and get a job. The Prime Minister should be condemned for his callous approach to small business. He has done immeasurable harm to the small business

community and they are not going to let him forget it at the next election. (*Time expired*)

**Senator FORSHAW** (New South Wales) (4.13 p.m.)—This is the fifth matter of public importance brought on by the opposition in the last eight sitting days. If we take out the two days when we adjourned early for estimates it means that we have had five MPI debates in six days. What do we get? We get another spurious proposition put up by those opposite to waste time; to avoid debating the important legislation yet to come before this Senate.

On 29 May this chamber debated tax rates as they affect small business. Yesterday we had a debate about the impact of policy on families. What do we get today? Today we have a rehash of the same ridiculous propositions as were put forward in the previous two debates.

This time wasting exercise demonstrates two fundamental truths about the opposition: firstly, it has no interest in getting on and dealing with the real issues, the real responsibilities that we in this chamber are charged with carrying out; secondly, it has no policies on any important issues that concern and affect the Australian people. All the opposition has is a lot of tired rhetoric which demonstrates its contempt for the welfare of ordinary Australian families and small business.

As Senator Schacht pointed out, this is an opposition whose leader is dismissive of the social wage. This is an opposition that believes that we should blindly follow the long discredited policies of Thatcherism and Reaganomics which ripped the heart out of the social fabric of the UK and the USA.

In this debate, as in so much of the opposition rhetoric, the focus is on revenue. The opposition does not like talking about targeted expenditure, programs designed to create equity, programs designed to produce a fairer society, and programs designed to enhance social justice. But if we concentrate on revenue and tax policy for a moment, we find that the government's record is one of great assistance to small business and families. It is a record that stands in marked contrast to the disgraceful record of the opposition when it

was last in government and the current Leader of the Opposition, Mr Howard, was Treasurer. Of course, it stands in contrast to the opposition's most recent tax policy—the discredited GST.

**Senator Panizza**—Which you lied about.

**Senator FORSHAW**—I know, Senator Panizza, you do not like being reminded about the economic situation prior to 1993, but I am going to remind you. When John Howard was in charge the top marginal income tax rate was 60 per cent. It is now 47 per cent. When John Howard was Treasurer the bottom marginal tax rate was 30 per cent. It is now 20 per cent. The company tax rate under John Howard was 46 per cent. The Labor government slashed it to 33 per cent. We did that to help restructure this economy to make it more efficient and to get more investment in equipment in Australian industry. We tackled the big issues that Malcolm Fraser and John Howard would never confront.

Now we see these crocodile tears from John Howard about the rate being set at 36 per cent—still well below the level under John Howard. As the minister has pointed out, government revenue as a proportion of GDP is now lower than it was under John Howard. Housing rates are lower and the average inflation rate since June 1991 has been 1.9 per cent, compared with an inflation rate under John Howard of 9.7 per cent.

Of course, policies in support of families and small business go well beyond simply considering taxation rates. The government has assisted families through wages policy, industry policy, retirement incomes policy, and the development of the social wage. I recall that one of the last acts of the Fraser-Howard government was to impose a freeze on the wages of ordinary taxpayers in this country. That was done at the same time as the wealthy continued to put up their own wages. That was at a time when we had a massive tax avoidance industry in this country. Ordinary taxpayers were subsidising those who had the ability to find ways to avoid paying their fair share of the tax burden.

It was a Labor government, with Paul Keating as Treasurer, that finally brought

equity back to the tax system. It was a Labor government which got rid of tax rorts. (*Time expired*)

**Senator KNOWLES** (Western Australia) (4.18 p.m.)—Today we could be forgiven for not knowing what we are debating because the Labor Party has not touched on it; that is, the damage done to Australian families and small businesses by the high tax policies of the Keating government. I want to focus on that, even if the Minister for Small Business, Customs and Construction, Senator Schacht, and Senator Forshaw choose not to.

The reality is that for 12 years this government has made promises which have been smashed—promise after promise after promise. The promise that has probably affected families more than any other is the recent l-a-w/l-i-e promise of tax cuts. That tax cut has also affected the self-funded retirees. They are not going to get anything in superannuation because they do not earn an income. Yet, this government blindly goes on. It promised at the last election not to increase indirect tax, but we have seen wholesale sales tax increase across the board from 20 per cent to 22 per cent as of 1 July. Sales tax alone has risen by 52 per cent since the March 1993 election.

Everyone will remember the debate leading up to the March 1993 election when we were proposing a flat 15 per cent GST. The lies that came from this government were just breathtaking. Since that election we have seen a rise of 52 per cent in indirect taxes.

The people of this country have simply been defrauded. They do not see a tax on the shelf on nearly every single solitary product. The families and the businesses of this country have been forced, as of this budget, to pay more sales tax for their motor vehicles and more sales tax for their homes. Yet this government says that it was not going to increase indirect taxes.

**Senator Michael Baume**—And even toilet paper.

**Senator KNOWLES**—And even toilet paper, even toothpaste—

**Senator Calvert**—Sporting goods.

**Senator KNOWLES**—Sporting goods, orange juice—you name it. Everything. The

sad reality for families and businesses in this budget is the fact that, in many cases, they had already ordered their cars; in many cases they had, in fact, signed the contract for their new homes, only to be hit later on with these increases in taxes.

The car dealers, for example, have been placed in an unenviable position, where they now actually have to go back to their clients and say, ‘Give us more money.’ Can you imagine the car dealers? They are at the blunt end of the whole show, too, because the clients are not particularly thrilled and they blame the car dealers. I can assure you, Mr Acting Deputy President, that I have sheeted the blame right home to where it belongs, and that is with this deceitful, dishonest government that continually says it is not going to put up taxes while doing quite the reverse.

The government dropped company tax prior to the last election to match our policy. What has happened? It has put it back up. It does not matter what happens to the companies. The fact that companies are still trying to recover from the recession that we had to have matters not. The fact that, in many cases, the building companies are still struggling to survive matters not. They get slugged three times—company tax, the tax on building products, and also the tax on motor vehicles.

Individuals get taxed again with the Medicare tax—otherwise known, in the cutsie-pie term, as a levy. It is nothing more than a tax. What happened last year? I think it was about this time last year that the Minister for Human Services and Health, Dr Lawrence, said, ‘There will be no increase in the Medicare tax.’ This budget—up goes the Medicare tax. So this government cannot be trusted with anything to do with money.

The tobacco tax just happens to have risen by 10 per cent. Did the government tell people prior to the election, ‘We’re not going to increase any indirect taxes but, by the way, we will increase tobacco tax as well’? No, it did not. It simply said, ‘We’re not going to increase any indirect taxes.’ Certain bank fees have increased. What does that mean? That simply amounts to a tax on savings. Nothing more, nothing less; just a tax on savings. What we need to realise also is that govern-

ment spending has increased in this budget to \$6.6 billion. What was the election promise? The election promise was an increase of only \$5.2 billion over four years. In this budget we have \$6.6 billion.

The sad reality of all of this is where it really does affect families. We can look, for example, at the fuel tax. At the time of the last election, the fuel tax was 26.2c per litre. By February the following year, it had climbed to 30.75c per litre. I might add that it was 31.75c for leaded fuel and, of course, it is the poorer people who are generally driving cars that run on leaded fuel. Did it matter to this mob? No, it does not matter to this mob that it is hurting more those who can pay for it least. Now fuel tax has reached 32.5c per litre for unleaded fuel and 34.57c per litre for leaded fuel. This is the mob that was not going to increase fuel tax. Did it matter? No. It has just gone up again. What this mob will not understand is the impact right across the board. Freight goes up; groceries go up; everything goes up.

**Senator Michael Baume**—And it hits the battlers.

**Senator KNOWLES**—That is exactly right, Senator Baume. It hits the battlers because of the flow-on impact of that. Had this mob not lied to the people of Australia at the last election, there would have been so little fuel tax—a 15 per cent fuel tax. Here we are with a 34.57c fuel tax. We talk about fairness to families and businesses; this government has duded both very seriously, and it wonders why people do not accept what it is doing for the future of this country.

**Senator MURPHY** (Tasmania) (4.25 p.m.)—This has been titled ‘the battle for the battlers’. I would have to say that if you listened to what some of the senators on the other side of the chamber have had to say, you would have to wonder if this is a battle, because it is certainly going to go off without a bang. Quite clearly, if you look at the policies that they are proposing, you will see there is no comparison; but because there are no policies in the first instance, for the purpose of my contribution to this debate I will have to look back at what the opposition was proposing prior to the last election. Of course,

that is one of the very reasons why the opposition is still where it is: in opposition. Its policies on industrial relations in this country were to actually reduce the incomes of Australians—to pay young people \$3 an hour—let alone worry about any tax that they may have had to pay.

I just want to reiterate some things the minister said earlier with regard to just how things have improved under the Labor government, and how they have improved over the last 12 years. Real household disposable income has increased by 40 per cent. These are the things that are important to the Australian people. It is disposable income that is relevant. That is what they need when they purchase goods and have to pay mortgages.

The other fundamental thing, and the thing that the opposition carped and carped about prior to the last budget, was interest rates. We delivered a budget that has seen interest rates trending down. It is interest rates that are fundamental in terms of Australian people going out to buy their homes. The one most important factor that will impact on their lives and on their pockets is interest rates and we have achieved a downward trend in interest rates.

On the matter of interest rates, it is very worthwhile noting that, when those opposite were last in government—a long time ago, I know, and it is difficult for them to remember—the bank housing loan rate, when John Howard left office, was 12½ per cent. It is currently 10½ per cent and, in fact, trending down—going down—and we have had it down lower.

**Senator Michael Baume**—What did it get up to?

**Senator MURPHY**—If we want to deal with the level of interest rates and how high they got and how low they got, I can certainly do that. What is more important is the number of people who are in employment under this government; the number of people who have jobs under this government; the number of people we have taken out of unemployment over 12 years; the record contribution to employment that this government has made. That is what makes a strong economy. That is how you achieve real outcomes for the so-

called battlers, the people that you are now trying to claim you represent. As I said at the start, what was your proposal? You proposed individual contracts, lowering of the social wage and \$3 dollars an hour for young people. That is the sort of proposal that you had.

I was reading the *Financial Review* yesterday. On the front page, as you can see here, there is a picture of John Howard standing half behind his policy door. The article was headed 'End of radicalism: Howard unveils his mainstream strategy'. I thought the *Financial Review* actually made a mistake because if you fold the page up and just take a look at the photograph it says 'radicalism . . . his mainstream strategy', and that is exactly right. That is what Mr Sneaky wants to deliver to the battlers of this country. That is how he wants to backdoor them. That is exactly what he is going to do. Let me tell you, the only battlers—

**Senator Michael Baume**—Mr Acting Deputy President, I rise on a point of order. I think Senator Murphy should withdraw the reference to the Leader of the Opposition that he made and that I will not repeat.

**The ACTING DEPUTY PRESIDENT (Senator Teague)**—Senator Murphy, I believe it is inappropriate to call any member 'Mr Sneaky'. I think it is entirely proper to describe another person as acting in a sneaky way or something like that. I do not want to be pedantic about the matter, but it is not appropriate to reflect upon a member of either house of the parliament with such a name. I ask you to withdraw that.

**Senator MURPHY**—On the point of order: I want to say that, for Senator Baume to get up and raise that matter, given his record of slandering other people—

**Senator Calvert**—Mr Acting Deputy President, you gave a ruling and I ask—

**Senator MURPHY**—I am speaking on the point of order, and I think I have the right to do that.

**The ACTING DEPUTY PRESIDENT**—Order! If any senators want to raise a point of order, they do not have the liberty, as a preliminary to that point of order, to make reflections on any other senator or to engage

in a debate. I ask Senator Murphy to make his point of order succinctly.

**Senator MURPHY**—Mr Acting Deputy President, I was not about to dispute your ruling, and I will withdraw, but I just add that the only battle for battlers in this country is if Senator Baume's leader gets into government because they will then have to battle the sort of stuff I mentioned before.

**The ACTING DEPUTY PRESIDENT**—Order! The time for this debate has expired.

## ORDER OF BUSINESS

### General Business

Motion (by Senator Sherry) agreed to:

That the order of General Business for consideration today be as follows:

- (1) consideration of government documents;
- (2) General business notice of motion no. 1556 standing in the name of Senator Watson relating to the diesel fuel rebate scheme.
- (3) General business notice of motion 1557 standing in the name of Senator Tierney relating to drought affected farmers in the Upper Hunter.

## DOCUMENTS

### Advance to the Minister for Finance

**Senator MICHAEL BAUME** (New South Wales) (4.34 p.m.)—I move:

That the Senate take note of the document.

The Advance to the Minister for Finance statement for March includes a significant item relating to the increased costs to the Industrial Relations Court because of the wrongful dismissal arrangements this government has introduced. Things are particularly bad in Western Australia, where there is an enormous logjam of matters to come before the court, requiring additional appointments and substantial extra costs. Whether the wrongful dismissal legislation is right or wrong, it is evident that it has become a serious problem. The enormous burden that it has imposed on many private sector employers has been reflected in the unexpected burden that it has imposed on the government itself in providing these facilities.

It strikes me as interesting that this may well be one of the unintended consequences of this legislation. Apparently, the government

did not realise that by introducing this law it would result in a substantial increase in the work and costs of the Industrial Relations Court. I do not know to what extent next year's estimates reflect what is really going to happen—I was not on that estimates committee—but I was surprised to see the very substantial increase in costs in the Industrial Relations Court as a result of this matter.

I seek leave to continue my remarks later.  
Leave granted; debate adjourned.

#### Australian Telecommunications Authority

**Senator CALVERT** (Tasmania) (4.38 p.m.)—I move:

That the Senate take note of the document.

I know that Senator Alston has more than a passing interest in the CoT cases and I am sure that he would want to comment on this document. I have been inquiring through estimates for the last four years into another area of Telstra's activities—the travel rorts affair.

I have quite a number of questions on notice on this matter at the moment. As Senator Michael Baume would know, over the last four years of estimates I have been pursuing a particular case against Telstra on behalf of one of its former employees who was dismissed on a charge relating to something like \$121 worth of cabcharge documents. He tried every avenue of appeal—the Industrial Relations Commission, the Disciplinary Appeals Board, and others. I am pleased to say that, as a result of questions asked at estimates, documents being made available to the Minister for Communications and the Arts, Mr Lee, his taking the time to read them—I believe he spent an hour and a half on them one weekend—he came to the same conclusion as I did, that this particular person, Mr Geoff Marr, had been treated rather shabbily.

The fact that Telecom spent something like \$700,000 pursuing this matter was of great concern to me also. I am pleased to say that the minister arranged for an independent inquiry by former Justice Ken Marks. That report was made available at estimates the other night. Unfortunately, we did not get to

Telstra because there were a lot of questions about the ABC. But that particular report has raised serious doubts about the Geoff Marr case, so much so that it was recommended that he be reinstated or offered a package, which would be backdated to the time when he was unlawfully dismissed, with compensation for stress and all the rest of it. Although Telstra has not taken up any of these recommendations, I hope that it will. As I said, I have questions on notice about it.

I know that some people in this place have listened with interest to my questioning over some time. I am pleased to say that, thanks to a sympathetic minister and a persistent senator, justice has been done somewhat. I am very pleased about that for the sake of this individual, who, quite frankly, had run out of people to go to. He had been to the Ombudsman and everywhere. I had never met him before. He managed to come to me because he had seen my involvement in the whistleblower case. Senator Alston wishes to discuss the CoT cases, so I seek leave to continue my remarks later.

Leave granted; debate adjourned.

#### Aboriginal and Torres Strait Islander Social Justice Commissioner

**Senator CALVERT** (Tasmania) (4.42 p.m.)—I move:

That the Senate take note of the document.

I am sure that Senator Tambling would have more than a passing interest in this report. Unfortunately, he is not here at the moment. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

#### Consideration

Question resolved in the affirmative on the following orders of the day without further debate during consideration of government documents:

Ministerial Council on Education, Employment, Training and Youth Affairs—National Report on Schooling in Australia 1993—Report and Statistical Annex

Justice Statement—Attorney-General's Department

Australian Law Reform Commission—Reports Nos 67 and 69 on Equality before the law—Government response

Australian Law Reform Commission—Report No. 57 on Multiculturalism and the law—Government response

Administrative Review Council—Report No. 34 on Access to administrative review by members of Australia's ethnic communities—Government response

Australian Law Reform Commission—Report No. 68 on Compliance with the Trade Practices Act 1974—Government response

Consideration of motions to take note of the following government documents adjourned without debate:

Australia-China Council—Report for 1993-94 (Senator Calvert)

Follow-up audit of CARE Australia—Report to AusAID (Senator Calvert)

Aboriginal and Torres Islander Commission Act—Aboriginal and Torres Strait Islander Elections Review Panel—Report—Review of electoral systems, March 1995 (Senator Calvert)

Department of Primary Industries and Energy—National Landcare Program—Report for 1993-94 on the operations of the land and water elements (Senator Calvert)

*(Quorum formed)*

## DIESEL FUEL REBATE SCHEME

**Senator WATSON (Tasmania) (4.46 p.m.)**—I move:

That the Senate—

- (a) deplores the proposed amendments to the diesel fuel rebate scheme which would be retrospective to 1 August 1986 and would result in endless conflict, with many people being asked to repay rebates which have been approved and received under the rulings of the day;
- (b) notes that some companies have incurred significant costs in pursuing challenges to interpretations, only to find that, after considerable financial outlay, this retrospective action has changed or destroyed their case; and
- (c) deplores the retrospective changes to the diesel fuel rebate scheme, as a denial of natural justice.

This is a very important motion. I am pleased that the Senate has seen fit to bring it on this afternoon.

I draw the Senate's attention to the fact that the draft bill in its current form will lead to further rounds of expensive and unproductive litigation in the pursuit of clarity and equity. The bill will have major ramifications for many primary production and mining industries. The hardest hit will be those industries in the far outback.

The amendments proposed in this bill to the diesel fuel rebate scheme will be retrospective to 1 August 1986. The amendment could well result in endless conflict. Many payments for rebate have been made under judicial and quasi-judicial interpretation. As a result, many people may find that they will be asked to repay rebates that have been approved and received under the rulings of the day. Conversely, some companies have incurred significant costs in pursuing challenges to interpretations only to find that, after considerable financial outlay, this reprehensible retrospective action has changed or will destroy their case. It is an action that Senator Barney Cooney, as a lawyer, would find most reprehensible. I ask him to plead my case before his caucus colleagues.

Yesterday, the Business Council of Australia entered the fray over the government's attempts to retrospectively amend the diesel fuel rebate legislation, describing the move as outrageous. I agree with those sentiments. The issue involves the provisions that the government intends to restrict the conditions under which the rebate would be paid retrospectively to 1986.

Australian citizens and companies should not be denied the right to rely on the law as enacted by the parliament and the court's interpretation of that law. It is argued that the move will raise the perception internationally of 'sovereign risk' in Australia. We have had too many cases in this country where the government has jeopardised constantly before the law or introduced the concept of sovereign risk. This is very damaging to Australia's

international reputation, particularly when investors are seeking international funds for investment in essential mining industries for Australia. Essentially the outback will be attacked. This concept of sovereign risk cannot lightly be dismissed.

Other proposed changes do not encourage or support the efficient use of subcontractors either within primary industry or the mining industries. It would appear from the particular wording at this early stage that they may well be targeted and at risk. This concern needs clarifying. As one having some interest in contract fertiliser lime spreading, I shudder to think of the cost ramifications or the impact on this industry if the government were to take the rebate retrospectively, and even if they were to apply prospectively the effects the change could have on the efficiency of both mining and agriculture. It may well be a further attempt by this government to attack independent contractors who are used increasingly by both mining and primary production sectors.

The proposed changes to the eligibility criteria have the potential for an extensive and probably unintended impact on the mining industry. These implications, which are embodied in the proposed legislation and arising from the budget, will add significantly to the cost of legitimate mining operations, an export industry that should not be taxed. After all, we had an election about a GST. A GST was about taking costs off industry, particularly off exports. Only a year or two away from that election, the government introduces changes which will add costs to export industries in the form of the withdrawal of diesel rebates.

**Senator Murphy—**In what area?

**Senator WATSON—**You know the area; the whole scope. Haven't you read the budget documents? Read the budget documents. Get out in the real world, Senator Murphy.

**The ACTING DEPUTY PRESIDENT (Senator Teague)—**Order! Interjections are disorderly. It is against the standing orders to have a conversation across the chamber. All speeches should be directed through the chair.

**Senator WATSON—**Mr Acting Deputy President, I thank you for the protection that you are affording me in this chamber. I am amazed that honourable senators on that side have not taken the time to read the budget documents, I suggest they discuss with their constituency the impact that these kinds of measures will have on the livelihoods and the future of miners and farmers.

Let me take this further. It will add significantly to the cost of legitimate mining operations. The amendments to the definition of mineral sand excludes sand mining, yet there are numerous examples where sand is extracted for the purpose of recovering minerals. The bill's current wording makes sand mining—a legitimate mining operation—ineligible as well. This ambiguity must be clarified. With the removal of the so-called sleeper clause, it is now unclear as to whether activities associated with mining, such as generation of power to light a mine site or the removal of earth to access ore bodies, will be covered.

It also appears that a hole has been created in the eligibility criteria for the rebate between the conclusion of exploration activities and the commencement of mining. The scope of the term 'dressing' used under the bill is still unclear. The term 'treatment', which is more commonly used in the industry, should be taken to be interchangeable with the word 'dressing', and this definition should be made clear in the legislation. This bill is opening up a whole new problem of definitions and lack of clarity which will be detrimental to the industry. In the past, such definitions have been made clear by quasi judicial interpretation, by rulings of the day, and this will be destroyed by reprehensible retrospective legislation. What confidence can business have in this government?

Diesel fuel use in the transporting of minerals to a treatment or beneficiation site is rebatable. In fact, AMEC believes this provision should be extended to include the return journeys by transporters where the trucks are empty or back loaded. The transport of other raw materials used in the treatment of beneficiation is not covered. This forms a vital part of this process and therefore should be includ-

ed in the rebate. The diesel fuel rebate available for rehabilitation will, as a result of the proposed changes, be limited to the rehabilitation of mining sites only. A great deal of expenditure is incurred in rehabilitation. Those honourable senators opposite are supposed to be interested in the environment. I remind the Senate that a lot of expenditure will be incurred in rehabilitation areas used to contain tailings resulting from the beneficiation process, and these sites should be made eligible.

The diesel fuel rebate will be limited to the pumping of water where the pumping is carried on or adjoining the place where the exploration prospecting mining is conducted. Amendments will therefore exclude situations where the pumping of water is carried out at remote bore fields. You cannot necessarily find water immediately adjacent to your site, and you have to bring it in. This will have the effect of denying those sorts of costs.

**Senator Murphy**—I don't agree with you, John—you have got it all wrong.

**Senator WATSON**—I would be very happy for Senator Murphy to follow me and answer these charges. I believe, if he does that, he will give a great deal of confidence to the mining and production industry. I challenge him to get up and deny this following me. I believe we need that sort of action in this debate.

The amendments will include situations where the pumping of water is carried on in remote bore fields located some distance from the mine site, thereby increasing the cost to the miner. The diesel fuel rebate may well only be available for the construction or maintenance of access roads and storage dams and only where it is carried on at the actual place where the mining takes place, not the adjacent site which is necessary and incidental to the purpose of mining.

It has been proposed that the diesel fuel purchased for use in the generation of electricity for a mining town is eligible to receive a rebate. It appears that the new definition will deny a rebate for diesel fuel used in the generation of electricity for all mining towns, particularly those located in Western Australia. The rebate is limited to circumstances

where the service, maintenance or repair of vehicles, plant and equipment for use in mineral exploration, prospecting or subsequent treatment of minerals are carried out at the actual place where the mining operation takes place.

The new residential provisions will deny a rebate where the diesel fuel is used for electricity generations for residential purposes at a place other than where the mining operations are conducted or at a place adjoining the mine. I urge the maximum numbers of my colleagues to participate in this debate. I conclude by saying that these measures, particularly the retrospective changes to the diesel fuel rebate, are reprehensible, a denial of natural justice and must be overturned. I call upon all reasonable members of the Labor Party to ensure that this takes place.

**Senator MURPHY** (Tasmania) (4.58 p.m.)—With regard to Senator Watson's comments, they are totally incorrect. Retrospectivity, as I understand it, essentially deals with companies and/or persons who have not claimed. The retrospectivity in terms of a court judgment or a payment that has been made under the existing arrangements will continue to be made and maintained. Senator Watson said that the mining of sand for the purposes of mineral extraction would not be entitled to the rebate. That is wrong. Mining sands for the purpose of extracting minerals will continue to be paid the rebate. Sand mining for the purposes of making it into concrete or whatever will not be eligible. It never was eligible. In terms of return journeys where trucks are taking minerals or rocks to be processed further in the beneficiation and away from the mine site, they will be counted, regardless of whether it goes outside of the boundary of the mining pit or the specific mine site. They will still be able to count that as part of their claim in terms of the rebate.

In relation to boring for water, I think honourable senators will find that, regardless of whether it is 50 kilometres away, providing the water is being bored and pumped for a specific mining purpose, the rebate will be able to be claimed. In terms of the electricity generation, towns that are outside the normal control of local government—where there are

no local government power supplies, et cetera—or mining towns that provide their own power generation, will be able to claim the fuel for that power generation under the rebate. That is a fact.

**Senator Panizza**—Give us one example; one in Western Australia.

**Senator MURPHY**—I cannot think of a specific example right now. If Senator Panizza wants some examples, I am happy to get them because I know it is very important in Western Australia. The Labor Party had a meeting with AMEC and the department and we worked through some of those issues. I acknowledge that there is a concern about the retrospectivity but we cannot allow loopholes to continue forever and it has to be dealt with. There are plenty of other times when we can debate this, including when the bill comes before us. If Senator Watson wants some information, I suggest he raise his questions with the minister. I am quite sure the minister will provide him with the information that he needs in answer to the questions and other points he has raised in this debate.

**Senator PANIZZA** (Western Australia) (5.01 p.m.)—I enter this debate with pleasure and support Senator Watson, the most able person in the Senate on taxation matters.

**Senator Sherry**—Why isn't he a shadow minister then?

**Senator PANIZZA**—That is entirely up to John Howard. We do not do dirty deals behind doors in the Liberal Party, like those opposite do in caucus. Irrespective of whether Senator Watson is on the front bench, he is still the top tax expert in this place. Even Senator Neal is nodding her head at my suggestion.

Before Senator Murphy leaves the chamber, I would like to respond to a few of the points he raised. I asked him to give me one example in Western Australia where there is a mine site that has power generation—or a mine site full stop—that is not covered by local government. When he gives me that one example I will half believe that he knows what he is talking about. I know that he is wrong. There is no such mine site in Western Australia.

**Senator Sherry**—We want you, John, on the front bench.

**Senator PANIZZA**—He is sitting on the front bench. Senator Murphy tried to imply that a mining site does not have power generation which is provided by local government. That is entirely wrong. When the bill comes before us—we have seen the brief notes on it—it will show that any mine site within a local government area cannot claim that rebate on power generation. If Senator Sherry reads the legislation, he will see that.

**Senator Sherry**—Can't we debate it when we are doing the legislation? Why do it now?

**Senator PANIZZA**—This is our general business for the day, Senator Sherry. You are entitled to put your name on the speaker's list. When you speak, I will listen to what you have to say and make some constructive criticism when you are finished. The point is that it is there in black and white. I am speaking for the mining industry at the moment; I will get on to the rural industry later. There is a supporter for the rural industry up in the gallery.

Senator Murphy was saying that carting material to the treatment plant is rebatable for extraction of minerals. That is well spelt out in the legislation. But nowhere in the legislation does it say that the return journey is covered. Senator Sherry and Senator Murphy can say what they like, but it is there. If they interpret the law as it reads and if this legislation sees the light of day, they will see that that is correct. We may have different ideas for the legislation. We will make sure that the return journey is also covered and is set out in black and white. I will come back to those points later.

I believe that if this government has abused a tax revenue in this place, this is the one that it has abused the most. Since 1983 this dishonest government has turned the diesel fuel levy into a levy for roads. It started long before 1983 and it started long before 1973. In fact, it started in March 1956 when it was 2.108c per litre. The reason why it is an odd figure is because we were dealing with pence per gallon in those days. That is the conversion. That is the reason why this diesel fuel levy was introduced. There was always a levy

on petrol but as the years went by the usage of petrol fell and the usage of diesel increased heavily.

The government of the day—the Menzies government in 1956—imposed a levy on road funding. I believe that was a capital idea. Any fuel that was used off-road was rebatable. It does not matter what it was used for in those days—whether it was used for fishing, farming, mining or power generation—it was rebatable. That is the concept of the beginning of the diesel fuel levy for roads. Those who were around at the time can see how the road system improved.

What did this government do? The fuel levy system hardly changed from 1956 to 1983 when the Fraser government lost power. As soon as this government came in it changed the whole concept. It turned it into a full taxing system rather than having the gumption to do otherwise.

I believe the Labor Party's tax summit was in 1984. Senator Foreman might have been here at the time and could tell me about it. There were various options. At the time I recall that Mr Keating favoured option C. It was option C, wasn't it, Senator Sherry?

**Senator Sherry**—That was 10 years ago.

**Senator PANIZZA**—It was 1983. Every day in question time government ministers go back long before 1983. If I feel like going back to 1983 now, Senator Sherry, I will do so. In 1984 I think the government had a tax summit and there was an option C. Can anyone here tell me what option C was? I thought it related to a consumption tax.

**Senator Sherry**—Speak through the chair.

**Senator PANIZZA**—I am speaking through the chair but I don't have to stare him in the face all day. Whilst talking in this place, it is easier to turn the other way to where there are a few people in seats. I am not being disrespectful to you, Mr Acting Deputy President.

There was such a thing as option C in the 1984 tax summit. I do not know what option A or option B was; I did not read too much about what the Labor Party was doing. I believe that option C related to a consumption tax—a goods and services tax. I believe that

Mr Keating was rolled on it at the time. He was very much in favour of it. The odd West Australian friend I have in the Labor Party—the former Western Australian minister for transport, Julian Grill—was over here for it. He was telling me that he was very much in favour of it. Unfortunately, I do not think that Mr Keating made a strategic withdrawal at all; I think he was made to withdraw it by Mr Hawke.

The point is that no matter what happened, that summit looked at all the taxation spheres. After all, in 1983 the Labor government, if I remember correctly, was elected on the basis of promising a tax review. And what happened? When the 1984 tax summit was held, they squibbed it. They were not game to give Australia what was needed. Of course, Dr Hewson tried that in 1993.

**Senator Sherry**—Where is he now?

**Senator PANIZZA**—I know where he is now. Unfortunately, this government lied to the people of Australia on that goods and services tax.

**Senator Sherry**—You told the truth—that is your problem.

**Senator PANIZZA**—I will take up that interjection. Senator Sherry said that unfortunately in 1993 we told Australia what we were going to do. Thank you, Senator Sherry. He said that we told them the truth and he condemns us for telling the truth. This government lied to the Australian public about that. There is no getting away from that point. Now that they are back in government they have not been able to touch the tax system to make it equitable right around Australia, so they are using other measures. It has taken me a while to get to the point but I believe this government has maltreated—

**Senator Sherry**—You haven't mentioned diesel fuel once yet.

**Senator PANIZZA**—Yes, I have. This government has maltreated the fuel levy just as occurred with the fringe benefits tax and the capital gains tax—they are all new taxes. We are told that this is not a high taxing government but they are all new taxes. I refer also to the superannuation guarantee levy. The fringe benefits tax killed regional develop-

ment in towns. Senator Sherry cannot deny that. It completely killed it in Western Australia. That is what brought in the industry of fly-in, fly-out. I will give you my theory on fly-in, fly-out taxation and the fringe benefits tax but there is not enough time to do so today.

The capital gains tax killed massive investment in property. That cannot be denied. The superannuation guarantee levy, of course, killed the subcontracting system in the building industry. Another point is that I, along with a few others here such as Senator Sandy Macdonald, have experience in paying some of these taxes such as the diesel fuel levy.

**Senator Sherry**—You have got a vested interest then.

**Senator PANIZZA**—I have got a vested interest and I will declare it. I have the experience of paying it out and then claiming for it—whenever you like but, say, four times a year. Even though the government is rebating this fuel levy back to the farmers, off-road users and people in mining, it has it in its coffers for at least three months of the year. So it gets an interest-free loan.

This fuel levy or taxation system raises about \$3 billion a year. If I am wrong someone can correct me but I think I am right in that regard. So a quarter of that is \$750 million. This government gets \$750 million in the form of an interest-free loan from farmers, contractors and miners. But when they draw up the budget papers they always show the diesel fuel rebate figure as a debt-forgone income. Yet it should not be there in the first place. Anyone else who is my age may remember that when the diesel fuel levy was introduced you had an exemption certificate, which meant you did not pay the levy in the first place. But for some reason or other that system was changed—I do not know which government changed it—so that you had to pay it and get it back. That \$750 million is sitting there at any time in the government coffers—an interest-free loan from these people. The government has really abused it.

What has it done now? It has shifted the goalposts so that fewer and fewer can claim the rebate. As Senator Watson mentioned, not

only has it shifted the goalposts but it has shifted them 10 years later. Can someone tell me who won the AFL grand final in 1986? I do not remember which team won, but just imagine shifting the goalposts 10 years later and saying, 'No, they didn't kick those goals, we'll take their premiership off them.' That is what this system is doing. For 10 years miners, contractors, in some cases golf clubs—schools of agriculture were also mentioned—have been claiming the rebate. Now, 10 years later, according to this retrospective legislation—and any retrospective legislation is immoral, I believe—the government will go back 10 years and charge those people for a fuel levy that was free at that time.

**Senator Sherry**—That is not right.

**Senator PANIZZA**—That is immoral and Senator Sherry knows it. Someone on this side during question time or this debate today mentioned the bottom of the harbour retrospective legislation.

**Senator Sherry**—John Howard introduced that, didn't he?

**Senator PANIZZA**—Yes, I know he introduced that. In 1981, before he went out—

**Senator Sherry**—Did you support it?

**Senator PANIZZA**—I was not a member of parliament at that stage.

**Senator Sherry**—But did you support it?

**Senator PANIZZA**—Morally, I did not support it but practically I would have had to support it. They made a big deal about that and it only related to \$80 million. This piece of retrospective legislation will be the reverse. The government is going to grab \$130 million that does not legally belong to it. That is how great this problem is.

Let us return to the mining system. Senator Watson and I have said that the government is shifting the goalposts so that where people were able to claim the fuel rebate, now they will not be able to do so. So the costs of mining will increase. I am not talking so much about gold now because gold can be sold at just about any time but, of course, the margin will be less and less and some of the

marginal mines may have to close. We will lose our competitive edge with the rest of the world.

Let me give a few figures as to what has been raised under this system, going back to when this government came into office in 1983. If I remember correctly, about 7c a litre was being raised on diesel fuel. It is now 33c a litre and rising every year according to indexation. It must be remembered that that legislation was introduced in order to provide money to fix roads. You would reckon that because this system has gone on for so long we would have the best road system in the world, but I am afraid our road system, as everyone who does a lot of outback driving knows, is going backwards. Some of the states, such as New South Wales, have had to introduce an extra levy of 4c a litre. Western Australia did that later. With regard to the record amount of 33c a litre that the government is raising, only about 7c is going back into roads, and the rest is simply going into government coffers. It is going to raise more from the mining industry as well by changing the goalposts. I have told the Senate about that when I was responding to some of the points made by Senator Murphy.

Let us turn to the farming scene. Fortunately, off-road costs are rebated, and so they should be. But now the goalposts have been shifted there. There are a lot of farmers, especially smaller farmers, who use contractors to do work on their farm. Typical work would be shifting stock. Although not too much travelling is done on farm in shifting stock, on a pastoral station you can do up to 300 kilometres or 400 kilometres off-road. It would be nothing for a contractor on one of the massive stations that we have in the north of Western Australia, in the Kimberley region, to do 500 kilometres on those ungazetted roads, and that section done by the contractor will be liable for payment.

On a 1,500 kilometre journey, a fuel levy would have been paid on about 1,000 kilometres; now they will be paying the levy on the whole 1,500 kilometres. The reverse applies when the truck comes back for the second load. Farmers will be paying both

ways, so it is not just 500 kilometres that will be added on, it is an extra 1,000 kilometres.

One type of work done on farms is crop spraying. Anyone who has been around a farming operation in May or June would have seen a lot of crops in the ground; it is a very busy, intensive season. Ideally, the season is squeezed into less than five weeks, and you cannot do everything in that time—especially these days with the sort of legislation that this government brought in about unfair dismissal. As a fellow in business myself, I am very serious about this. You do not want to put employees off, especially ones who perform, but you are frightened to put extra people on, even at seeding time—or at harvesting, but that is not so much a problem because not so many people are needed—because you have got to put them off at the end. They ask, 'Why am I being put off?', even though you have told them that it will be five, six, seven, eight or 10 weeks' work. So then you use spraying contractors who use a boom spray in a Landcruiser four-wheel drive.

To date, any fuel used for contract spraying was rebatable. If you used your own tractor, it was rebatable. Senator Sherry, if you put a contractor on now, according to your new legislation, the fuel is not going to be rebatable. So the cost of that cropping will go up once again—and I am sure that Senator Sandy Macdonald will comment on that when he speaks in this debate, because he is a very successful farmer in New South Wales. That is the situation. Where once contractors' fuel was rebatable, now it is not.

What is the reason that has been given? The best reason from the government, or any government adviser, is that a contractor might use some of that fuel on the road. What a ridiculous, stupid argument that is. There are always grey areas that this government could look at where things are not done right rather than the minimal use contractors may have on roads. The government should look at the converse of that in that a contractor coming onto the farm for the first time may have tax-paid fuel in his tank which he uses. The government has used a very weak and stupid argument.

Both farming and mining are going to suffer very badly and I believe that the government should be condemned for it. I have now covered my points and the points that Senator Murphy has raised. We will have a good chance to debate the legislation when it comes—if it ever comes, with the way the government is managing the business this year.

**Senator Sherry**—Come off it. What about all your filibustering?

**Senator PANIZZA**—We won't go into that debate now.

**Senator Sherry**—How much time have we spent on legislation?

**Senator PANIZZA**—Legislation? That is the government's fault, not mine.

**Senator Sherry**—You keep changing the order of business.

**Senator PANIZZA**—You set up a proper program and we will go along with it.

**Senator Sherry**—Oh, you will?

**Senator PANIZZA**—We will when you set up a proper program, and your Manager of Government Business in the Senate knows that. We will eventually have a chance to debate this properly. But the reason we have brought this matter on today is so that we can alert the people of Australia as a whole to the fact that you are once again going to hurt the mining industry and the rural industry. Senator Sherry, they are the industries that carry Australia. Eighty per cent of Australia's export income comes from farming and mining. That is why this motion is on the books today.

**Senator SANDY MACDONALD** (New South Wales) (5.26 p.m.)—I am very pleased to have the opportunity to support Senator Watson in his motion, which deplores the proposed amendments to the diesel fuel rebate scheme and which would be retrospective to 1 August 1986. Senator Watson is a tax expert. He is recognised on both sides of the Senate as somebody with an excellent working knowledge of tax. He is really taking the opportunity to flag a problem that has been brought to the attention of the government with this legislation that has been proposed in

the budget. The government knows that there is very considerable doubt about the application of the retrospective nature of the legislation. It is time that it realised the problem, and this is an opportunity for it to do something about it.

I listened with interest to my colleague Senator Panizza who also has a very good working knowledge of tax, the way it is administered and the effect that it has on business operations. It would be in the government's interests to take note of what he said. I also listened with interest to Senator Murphy. I always listen with interest to what Senator Murphy has to say because he is rather unique in the 1990s Labor Party in that he actually has done a physical day's work in his life. He might not have a lot of experience about running a business, but we do welcome his support—limited though it was—in looking at what the budget proposals are, and we look forward to his having some influence on his colleagues in perhaps changing the budget legislation before it comes through.

The coalition is committed to a fair deal for the mining industry. For that reason, we will be opposing these changes to the diesel fuel rebate scheme announced in the budget, particularly the proposal to abolish the rebate for mining sandstone, sand, clay and granite and some other extracted materials for the nine years retrospective to 1986. I want to reiterate that: it is retrospective. You do not introduce retrospective legislation without a great deal of thought.

We will also oppose the abolition of the rebate currently allowed for mining-related activities. These include rehabilitation of mining operations. For my area of the Hunter Valley, this could be very damaging and environmentally irresponsible. The Hunter Valley is an incredibly productive coalmining area. It is essentially a very beautiful part of Australia. It is part of the economic powerhouse of the nation, and it has a terrific ability to provide a support backup in tourism for the Olympic Games in the year 2000. Its wine industry is unparalleled. The same goes for mining, heavy industry and farming. The effects of mining do require a large amount of rehabilitation, and the removal of the diesel

fuel rebate would be very unwise in terms of environmental responsibility.

The removal of the rebate also affects mining related transport activities and the pumping of water, which is essential for mining and for primary production. If it were extended to primary production, it would be very unsatisfactory. Electricity generation is also included. It would be an additional cost to regional consumers in out-of-the-way places where diesel has to be used because diesel is the only means of generation. The mining and related sector stands to lose hundreds of millions of dollars from these changes.

Clearly, the removal of the rebate amounts to increasing the tax on intermediate business input. Worst still, the government's attempt to retrospectively increase taxes is a disturbing indication of its attitude towards business. The BCA yesterday entered the fray. It described the proposed actions as outrageous. All I can say to the BCA is that it has to be very careful about what it says to this Labor government because it runs the severe risk of being shut out, which is in line with the authoritarian nature of the government's approach to business people who are not too friendly.

The trouble with this federal Labor government—and I see that the Minister for Small Business, Customs and Construction (Senator Schacht) has come into the chamber—is that despite its protestations it is just not sympathetic to business. It is not sympathetic to the way business operates. It is not sympathetic, and it does not have an understanding of the difficulty business faces in meeting budgets. It certainly does not understand the climate of uncertainty that this sort of retrospective legislation has. The trouble is that, in the main, the people making decisions in the government have never been in business themselves. That is not the be all and end all—

**Senator Watson**—Senator Schacht has the capacity to fix this up.

**Senator SANDY MACDONALD**—Yes, I know. In generosity to Senator Schacht, he has shown some sympathy to small business. Because of the pressure being brought on him

and others by the BCA, I am sure he is aware of the problem. He has the chance to make some changes between now and when the budget papers come in. Clearly, this is just a blatant move to increase revenue. It is a tax on primary production. It is a tax on exports at a time when we need the export dollars. As I have indicated, in terms of the Hunter Valley, it is a tax on the rehabilitation of mining land and it is a tax on greening. That cannot be very satisfactory.

I do not have to remind those opposite that there are over 700,000 children living in families in which neither parent has a job. There are now 1.2 million Australian families in which no family member—parent or child—is employed. And still this Labor government persists with policies—not just the ones we are talking about here—that are a deterrent to business investment. We all know that business investment equals jobs for Australians. Profit and reward for taking a risk is a concept those in the government have some difficulty in coming to terms with. Labor policies are creating uncertainty and concern about the future and undermining the confidence needed to invest. Labor's industrial relations laws, which serve to increase the power of its mates in the ACTU, limit the opportunity to increase productivity and therefore increase business investment.

Industry stands to lose at least \$100 million from this legislation because of this government's poorly drafted eligibility provisions in the original diesel rebate scheme. Coupled with this, the government has done nothing to fix the legislation for nine long years. The government has now rightly drawn widespread condemnation for what is essentially a revenue grab from industry. This comes on top of the extra 3c company tax in the budget that Labor slugged Australian business with. This government is the original Indian giver; it gave in the 1993 campaign and now it takes away.

These retrospective changes will reduce the eligibility of some mining activities and will abolish the rebate for mining of sandstone, sand, clay, granite and other materials. The government has had many opportunities to clarify the operation of the scheme in the

past. The government cannot rely on illegality or fraud to justify its heavy-handed approach. There has been no wrongdoing.

What makes the government's legislation even more offensive is the fact that it discriminates against claimants according to the stage of their legal proceedings. Companies that have received a rebate contrary to the proposed changes will not have to repay it, but those currently contesting claims lose their right to proceed. Industry has a fundamental right to seek clarification of any legislation and the right to complete current cases is part of the very essence of our legal system.

I believe this move could also raise a perception internationally that sovereign risk in Australia is increasing. Mr Acting Deputy President, as you well know, sovereign risk is an old principle that laws cannot bind the sovereign. Therefore, questions of fairness and what is proper do not apply if the sovereign chooses to change his or her mind. The government, by taking a stand on sovereign risk—in other words, changing its mind after business has made up its mind on existing rebate arrangements—risks being seen as irresponsible and Australia runs the risk of being seen as an unsatisfactory place to do business.

As we have been a capital importing nation for almost all of our history, and will be for the foreseeable future, this decision should not be taken lightly. As my colleague Senator Watson pointed out, certainty before the law is essential. Retrospectivity is not an approach to be taken without considerable thought and, basically, it is summed up as a complete denial of natural justice. The government's ineptitude has meant that industry has had to expend a considerable sum of money to challenge the interpretations of the provisions, only to have its case destroyed by this legislation.

Another disturbing aspect of this legislation is the government's attempt to distinguish between mining and quarrying industries. The operations involved in quarrying are identical to those carried out in open-cut mining, and they will continue to receive a rebate. There is no reason why some extractive industries would be provided with a diesel fuel rebate

and others excluded, apart from the government's grab for revenue. The whole episode typifies this government's anti-industry approach. With this, in concert with its refusal to deregulate the labour market and to make the waterfront fully competitive, it is no wonder business is looking to pack up and move offshore. It is voting with its feet.

**Senator SCHACHT** (South Australia—Minister for Small Business, Customs and Construction) (5.38 p.m.)—I was not going to enter this debate—I had other things to do—but I could not resist in the end. This is not the debate that will take place in the Senate on the actual measures; it is a general business motion moved by Senator Watson. The main reason I want to enter the debate is to point out that it is quite clear some honourable senators opposite may have been misled in what we are really doing with the diesel fuel rebate scheme. I want to give a bit of history about the scheme.

**Senator Brownhill**—This is such a good speech I will not have to speak!

**Senator SCHACHT**—It might well be that way, Senator Brownhill. You never know your luck in the big city, or even in the parliament. In 1982 the Fraser government introduced the diesel fuel rebate scheme as we know it to replace the previous scheme. I suspect it was done in a way more to do with an election outcome than with anything else. In the first year it was introduced I think it cost about \$150 million in rebate. This coming financial year I think the estimates are that the rebate scheme will cost about \$1,200 million.

**Senator Brownhill**—You keep putting the tax up; that is why.

**Senator SCHACHT**—We acknowledge that a major part of the increase is because the excise itself has been significantly increased—

**Senator Brownhill**—By your government.

**Senator SCHACHT**—By our government, and there is no argument about that. I also want to point out to honourable senators opposite that the scheme has been expanded in two areas. The first area is by the interpretation of the court on applications from

people who have been rejected. The court, and the AAT in subsequent cases, has kept expanding the eligibility. I will come back to that in a moment.

Another area of the scheme that has grown rapidly is the mining industry because of the growth of mining in Australia. The mining industry claims are going up maybe \$80 million to \$100 million a year, not just because of excise itself going up but because many more mines are coming in, which is good and no-one disputes that. It is estimated that, at the present rate, by the turn of the century this scheme could be costing the taxpayer about \$2 billion a year.

**Senator Watson**—Why should taxes be imposed on export industries? That is the issue; that is what I raised.

**Senator SCHACHT**—Senator Watson interjects, 'Why should it be placed on export industries?' One of the rationales, I am told, that the Fraser government used to justify the diesel fuel rebate scheme was that this was a concession to the mining and primary exporting industries because they had to pay high input costs due to high tariffs, high protection, in Australia. And that is perfectly true.

However, I would point out to senators opposite that since that time average tariffs in Australia have dropped from around 25 per cent to between five per cent and 10 per cent. We have also introduced a much broadened area of tariff concession orders. Finally, there are policy by-laws for major mining industry projects. All of this means the industry is paying less tariff than it ever has before for its inputs. Nevertheless, that was a justification for it—Senator Watson is dead right about that. But you now say that this industry is no longer paying anywhere near the same level of tariffs that it was in 1982 because of our policy of reducing tariffs. Therefore, the input costs are down.

I also point out to the senator that manufacturing exports have gone up substantially as well. Many exporting manufacturers do not use diesel fuel in their production. They are exporting for the benefit of Australia and they do not get access to the diesel fuel rebate scheme even though manufactures, I think, are now running well over \$20 billion a year in

exports. The Fraser government introduced the scheme specifically for the mining extraction industry where minerals would be extracted from the ore out of the ground and for primary production. It was those definitions that the Fraser government introduced.

Since then people have found, by appeal, that they can widen the definition. These definitions have expanded the eligibility. In the concern of senators for the agricultural and mining industries, which I accept—I have the same concern—they cannot tell me that when the Fraser government introduced the scheme, it did so to help local government bodies in the maintenance of parks and gardens in municipal areas. That is not a mining industry. That is not a primary production exporting industry. It is the maintenance of parks and gardens.

That application went to the AAT. It was rejected, thank goodness; but it has now been appealed by the consultants to the Federal Court. If that is upheld after all due process, with the backlog of applications that consultants are encouraging councils to lodge for the use of diesel going back to 1986, we believe that these claims could be up to \$40 million.

**Senator Panizza**—But if you were collecting that it would not worry you. If you were collecting that it would be a different story.

**Senator SCHACHT**—We pay it out, Senator. You do not understand the scheme. The scheme was never designed for local government bodies to claim the cost of maintaining parks and gardens in their council area. In no way is that a commonsense definition of mining or agriculture.

The next one that is on the go as part of this is an application to claim the diesel fuel rebate for the maintenance of golf courses. You cannot tell me that when the Fraser government introduced this scheme, it saw golf courses as either a mining exporting industry or an agricultural exporting industry.

In the Senate estimates committee the other day I tabled the letter that had been put out by the New South Wales Golf Association and circulated to every golf club, every golf course, in Australia. If they are successful on appeal they will be able to claim back all

their diesel consumption to 1986, even though they have just lodged it and had it dealt with in the last couple of years. That area alone is part of the \$40 million claim that people have already spent. They were going to spend it anyway. It is not helping an export industry, but it will be a claim back to 1986. That is going back nine years!

**Senator Panizza**—We have not debated that.

**Senator SCHACHT**—Senator Watson has been debating it.

**Senator Watson**—I have not been talking about golf courses.

**Senator SCHACHT**—Senator, you just indicated that the opposition will not support the clause that does away with all these claims for golf courses and parks and gardens back to 1986 if the court overrules the government.

The next one is a claim which has been upheld by the AAT but which Customs is appealing. It is called the Newman Sands case. This is one where three companies, CSR, Boral and Pioneer, have lodged claims subsequent to this decision that any sand you get out of any quarry no matter how you use it is eligible for diesel fuel rebate. It is not a mining process in the definition your government used in 1982 where ore is taken out of the ground and turned into something else.

**Senator Watson**—It is your looseness of definition.

**Senator SCHACHT**—And we are dealing with that. But those who are now lodging claims today anticipating that the court will uphold the position going back to 1986 have already carried out that business. It is not as though the business is going to go out of business. It goes back to 1986. There are now over 300 of those claims waiting for a favourable decision from the appeal court. The value of the claims is \$91 million—\$91 million on claims going back to 1986!

Every day that goes by more claims come in because the consultants are telling everybody, 'Get your claim in because we might be able to convince the Senate'—and they have been lobbying—to not let the government

have this retrospective clause that the claims going back to 1986 don't stand.'

**Senator Panizza**—I thought you had to claim it for 12 months.

**Senator SCHACHT**—No, you have got it wrong again, Senator. This is the problem: some of you do not understand the technicality of this bill, of this act and of this process.

We do not concede that extracting sand from a quarry to be used in building materials is mining. It was never defined that way by the Fraser government. The AAT has given it a different meaning.

Finally, I think Senator Watson will have to concede that this is the most astonishing case of all. Last week the AAT in Perth decided, on application, that the Water Authority of Western Australia was eligible for rebate of customs or excise duty paid on the diesel fuel it used to pump ground water for treatment and supply to townships such as Port Hedland and South Hedland. The tribunal's decision was on the basis that the WAWA was carrying out a mining operation which was eligible for rebate under the diesel fuel rebate scheme. If this stands it will mean that any household with a backyard water bore used for any purpose will be eligible to claim, legally, the diesel fuel rebate, because the court has ruled that extracting water out of the ground is a mining operation.

**Senator Panizza**—It is connected with mining.

**Senator SCHACHT**—No. That is what you think. That is not the way the court has ruled. That means that anybody who has a bore in the background and it has a diesel pump attached to it, using it for whatever purpose they like, can claim the diesel fuel rebate. That has been happening for the last decade or more. I have to say quite bluntly—I said it in the press statement—these are astonishing decisions beyond the common-sense application of what ordinary citizens would believe a mining or agricultural related industry is.

I say to the opposition: if you do not watch out—whether you are in government or we are in government—if you allow a scheme that was specifically designed, as Senator

Watson said, for export mining and export agricultural industries to be extended so that basically anybody who uses diesel anywhere off road gets the rebate, you are going to blow this scheme out of the water in the end. You are going to rock the scheme so far away from its original purpose that it will collapse, because people will say that it is being rorted.

Let me give Senator Watson another example. There is a category under the scheme called residential. A few months after I became customs minister responsible for administering this scheme, I discovered that, under this category of residential, a very senior public servant in an urban area of Canberra who had diesel heating in his home was getting the diesel fuel rebate every month because it was off road.

**Senator Watson**—You are not administering the law properly. It is a reflection on your department.

**Senator SCHACHT**—You misunderstand again. The legislation says he is eligible. What we are doing in this legislation is removing most of those categories. When you were in government you never wanted residential people who were in no way connected with mining or agricultural export industries to claim the diesel fuel rebate. We are closing that loophole. The diesel fuel rebate is available for those defined industries—mining or primary industry.

I have given a couple of examples of court rulings. The final one relates to a claim that was approved by the AAT. We opposed it, and we will appeal it. It relates to the Cowell electricity supply company on the Eyre Peninsula in South Australia, my home state. That company has a diesel generator to produce electricity for the surrounding area. It has been ruled that, as it connects electricity to farms around Cowell, the Cowell supply company can claim the diesel fuel rebate because it is somehow connected to agriculture.

We believe that this is getting out of hand. This is not what the scheme was designed for. Two years ago I attempted—and the Senate rejected it—to put a limit on how far back people could go to claim. That was in 1993. I remember people saying, 'If you get evi-

dence that people out there are trying to encourage other people to lodge back claims as a result of the change of eligibility because of the decision of the AAT, you show us.' In the estimates committee the other day I tabled a letter from the New South Wales Golf Association telling everybody to get into it and pointing out that, if they were successful in this appeal, Ernst and Young, the accountants, would do all the work for them as long as Ernst and Young got a 25 per cent success fee of whatever was paid to them. That is in the letter I tabled in the estimates committee the other day. We are trying to refine the scheme back to its original intent.

Irrespective of all that, I express amazement that members of the opposition, leading up to the budget, made strong and powerful speeches about reducing government expenditure, getting the deficit down and getting it into surplus as soon as possible. That was raised by every senior spokesperson for the coalition. It was also the main thrust of the recommendations of the Business Council of Australia. It made major recommendations that we slash government expenditure everywhere, get the deficit down and get it into surplus. The government achieved that by reducing government expenditure.

One way in which we did that was by redefining the original intent of the diesel fuel rebate scheme. By that means we were able to reduce expenditure. The people in the mining and primary industry sectors who were eligible for the diesel fuel rebate would still get it. We cut out the broader applications which the court had allowed, not what the government had intended. We also made sure that all the consultants and accounting firms which were sending out circulars telling people to claim back to 1986, if they got a favourable court decision, were eliminated; so that this money is not spent, thus reducing the deficit and helping us to get it into surplus.

When we did this we were attacked by the opposition. The opposition said that this was terrible. There is a bit of hypocrisy here. At one stage the opposition was screaming out for reduced expenditure. When the government takes on the task and, in a very select and proper way, maintains the policy intent of

the legislation which the Fraser government introduced, we get abused because we are not reducing it for the mining industry or for the mainstream primary industry sector. We are eliminating it for all those who should not be in the scheme. It was never the policy intent that they get it. We are stopping if for those who, by a favourable decision that could come in the next year or so—we are now wiping that out—could automatically claim back to 1986. They could claim back nine years.

When we estimated what we would save by having this clause which would stop those claims going back to 1986, the figure was around \$70 million. That was what we thought we would be able to save if we stopped claims all the way back to 1986. Since then, because of the publicity and the flood of claims coming in, driven by the consultants, we now believe the figure is \$160 million to \$170 million. In a month, extra claims totalling \$100 million have come in. All up, \$170 million will be claimed if all these court cases are decided in favour of the consultants and their clients. That \$170 million comes off the budget surplus. That is a 20 per cent reduction in the budget surplus.

The BCA and the opposition were saying, 'You must get the budget into surplus. You must get a bigger surplus.' Today you are telling us you are going to vote to allow the retrospectivity back to 1986 so that persons who were never intended to be able to claim the rebate will get it. They would walk off with a \$170 million windfall, which is not going to affect the previous operations of the scheme. They have already been conducted. They did not think they were eligible until a smart consultant found a way around and appealed to the AAT.

I am surprised Senator Watson would fall for this. He is one who has consistently and honourably argued in the Senate for fiscal rectitude in budgets and outcomes.

**Senator Watson**—And equity.

**Senator SCHACHT**—And equity. Why you would want to support a scheme being rorted so that golf courses, which use bore water for purposes other than for mining and

agriculture, could claim, and claim back to 1986 is beyond me.

**Senator Brownhill**—What about the electric light motors out in the remote areas?

**Senator SCHACHT**—They are still eligible. I wish you would read the legislation. For God's sake, read the legislation. I know you have made a policy decision to oppose in the parliament any measure that affects revenue or expenditure. Senator Watson, you have more credibility on these issues than have most others in the opposition, so I think you ought to convince them that they are mistaking this for a tax increase. It is not a tax increase; it is closing off a proposal for people to get a windfall gain for activities they conducted nine years ago. Otherwise, there goes \$170 million—we are not talking about \$5 million—off the budget surplus.

Every day that goes by more claims are lodged because the consultants are out there. This is not some poor little farmer arguing, this is an industry of consultants who know that if they win, 25 per cent of the claim goes to them. It does not go to the industry. That is what the letter from the golf association said. It said, 'If we win for you, Ernst Young gets 25 per cent.' Is that making a more productive country? Of course it is not. It is encouraging people to try to work out ways to make a living by rorting and finding loopholes in the tax system.

If their energy went into starting a new industry that employs people and produces product that goes to increasing Australia's economic wealth, we would all be better off. But the bright young accountants and consultants—or older consultants—are working out ways to say to the golf clubs of New South Wales, 'If we win this for you, give us 25 per cent.' It is a windfall gain.

I understand that you in the opposition might want to make a political point of not supporting absolute increases anywhere in taxes. This is not an increase in taxation; this is closing off windfall gains and loopholes which are beyond the policy intent of the Fraser government's own legislation. You may say, Senator Watson, 'Why didn't the government act on this years ago?' It is only in the last three or four years that the consul-

tants have been using claims in the AAT in the way they have.

I give fair warning: whether it is a Labor government or a coalition government in the future, if the scheme is allowed to expand so anybody who uses diesel for any purpose off-road in Australia can claim the diesel fuel rebate—and that is the way the courts are interpreting it—the scheme will fall over. Who will lose as a result? It will be the mining and primary industries of Australia. If you talk to them privately, Senator Watson—

**Senator Watson**—You should have been removing the list three or four years ago.

**Senator SCHACHT**—We tried in 1993 on the claims issue; and you voted us down. It is since 1993 that some of these extraordinary cases have emerged. No-one in his wildest nightmare would have suggested that someone in the AAT would rule that pumping water out of the ground is the equivalent of mining. That is what we are faced with. That happened only last week. Would anyone here have said to me or to you that pumping water out of the ground is the equivalent of mining? Of course not.

**Senator Panizza**—It's an extraction industry.

**Senator SCHACHT**—It's not; it's water.

**Senator Panizza**—You are extracting.

**Senator SCHACHT**—If you believe that, Senator Panizza, you really are going down into the deep end of the bore.

**Senator Panizza**—I didn't say I believe it; I said it was an extraction industry.

**Senator SCHACHT**—If you believe that, you are asking for big trouble with this scheme for the constituency you tell us you represent—mainly primary producers. You are faced with a very serious problem. First, you can allow this scheme—by opposing these measures—to be sorted and broadened so that in the end it will collapse because, fiscally, it is irresponsible to keep it. Second, you can support the government so the scheme can continue to support those whom the Fraser government first designed it to help—mining and primary industry.

Third, you can encourage a culture in this country of consultant industries which spend all their energies and intellectual abilities finding loopholes in tax acts and measures such as this, hoping they can convince someone on an AAT or in a court to find, in some esoteric way, that their meaning is okay. Again, it is not a culture we should have in this country. We should be encouraging those people to spend their intellectual property developing new industries that create real wealth for Australia. That is a culture change we need. Closing off the measures the way we have in this bill is part of that process.

I look forward to the debate. I am more than happy to have private discussions with any member of the opposition about what this bill means; because it is clear to me by the range of interjections and the comments made that some members opposite do not quite understand what we are doing. We are not touching the eligibility of the diesel fuel rebate for legitimate mining, agriculture and primary industry; but we are making sure that we are closing off the non-legitimate areas that have been let through by the court.

Not only are we stopping them, we will not let them have nine years of claims that will cost us \$170 million, maybe more. That would come off the budget surplus, a surplus you all demanded we should prove we have in this budget. We have got it and now it looks like you are voting to reduce the budget surplus by 20 per cent. Fiscal rectitude from the opposition, on that basis, would go out the window. I urge you to consider this legislation very carefully. I make that genuine offer to talk to you privately about this bill and why it is so sensible for the long-term interests of the people you claim you represent.

**Senator BROWNHILL** (New South Wales—Deputy Leader of the National Party of Australia) (6.06 p.m.)—We should come back to what this debate is about. We are not debating the bill but a motion by Senator Watson which he so ably moved earlier. The motion states:

That the Senate—

(a) deplores the proposed amendments to the diesel fuel rebate scheme which would be retrospective to 1 August 1986—

we do not like retrospectivity—

and would result in endless conflict, with many people being asked to repay rebates which have been approved and received under the rulings of the day;—

under the rulings of your government. The second part of the motion states:

- (b) notes that some companies have incurred significant costs in pursuing challenges to interpretations, only to find that, after consideration financial outlay, this retrospective action has changed or destroyed their case; and
- (c) deplores the retrospective changes to the diesel fuel rebate scheme as a denial of natural justice.

That is what we are talking about. We are not really talking about the bill at this stage, although the Minister for Small Business, Customs and Construction (Senator Schacht) has given a great recitation on what is happening with the bill. Minister, people are cranky about this because on budget night your government proudly proclaimed very loudly that you would leave the diesel fuel rebate intact—

**Senator Schacht**—We did.

**Senator BROWNHILL**—You have not; and that is what we are cranky about. At present, the diesel fuel rebate for farmers is about 32½c per litre. You are expecting to recoup some \$3.9 billion from diesel excise alone in 1995-96—that should be noted—an increase of nine per cent on the previous year. With the scheme we have been operating under, eligible primary producers receive a rebate of some 32½c per litre while eligible mining operations receive a rebate of 30.1 cents per litre. Effectively, they pay an excise of 2.4 cents per litre. Other rebatable users receive a rebate of 24.8 cents a litre. Effectively, they pay 7.8 cents per litre. Where the government is going wrong is that retrospectivity is required to limit the liability to piggyback claims and other claims that have been made. I know you are having a ding-dong with Senator Watson at the moment, Senator Schacht, and I am sure that Senator Watson, when he sums up, will give you a couple back. That will come a bit later.

The claims arise as a result of decisions of the Administrative Appeals Tribunal and the

Federal Court which have broadened the scope of eligible rebatable activities beyond what was originally intended. We understand that on this side of the chamber. But we still say that we do not like the retrospectivity. We do not like the fact that on budget night the government indicated that it was not going to interfere with the diesel fuel rebate. But it has. Those are two areas where we disagree with the government.

There are several other points to consider. There is no doubt that revenue is the prime motive behind this. To get a budget surplus the government has to sell off half the farm. The government is selling off the front paddock this time, not the back paddock. The government has sold off a little of the family silver as well. The government has done this to get itself into a position where it has a rather small surplus. It is a funky budget. It has been fudged the whole way through, and this is another part of the fudge.

The government is into revenue raising. The government is not trying to fix up the scheme as much as it is trying to raise more revenue. The minister has delivered his dissertation but I do not know that I am wiser now than I was before he started. The bill is going to overturn several decisions of the AAT and the courts to the financial disadvantage of claimants. It is going to be pretty difficult for a lot of claimants. It is going to abort other decisions in the process.

Companies have gone to considerable expense to contest decisions in the AAT and the courts. Those decisions will be overturned by this legislation. As Senator Watson says, this legislation is not in the right direction. I believe it would have been appropriate to follow the convention of limiting retrospectivity back to budget night—not back nine years. That point has been made by Senator Panizza, Senator Sandy Macdonald and Senator Watson.

Nobody minds the retrospectivity going back to budget night. We feel that that would be quite right and just, and it is the convention. To take it back nine years will cause problems. It was the government's legislation that set this in place. It is not as if somebody has done the wrong thing. In administering

the scheme the government has been doing the wrong thing and it is now going to make it retrospective.

There are a couple of areas that concern me as a person from the agricultural sector. I know that these same matters worry Senator Panizza and Senator Sandy Macdonald. We have the list of amendments and we see the rebate relating to mining and agriculture. I would like some explanation of that part of the legislation which says, 'Activities will be restricted to diesel fuel purchased for use in preparation of the soil, the act of growing primary produce, or rearing of livestock and other connected activities.'

I would like to put on record some of the questions I would like to ask. The minister mentioned that pumping water would not be subject to the diesel fuel rebate. Does that mean that water that has been pumped on a farm is going to be subject to the fuel excise? What about the maintenance activities associated with the operation of a farm? These are activities that are not absolutely tied up with the soil or with the growing of a crop. Are they going to be written into legislation?

What about fencing or the construction of other infrastructure or property developments? Are those activities going to be subject to the fuel excise levy? I wish the minister was sitting in his seat; perhaps he could answer some of these question and save us a lot of problems. What about drilling for water for livestock or irrigation? Is that going to be subject to the fuel excise levy or will there be a fuel excise rebate? What about the planting or tending of trees for windbreaks? That has nothing to do with the growing of a crop and it is not tied up with the soil. Is that going to be subject to the diesel fuel rebate? What about the farming of fish, shellfish and other crustaceans; is that going to be eligible for a diesel fuel rebate? What about the cutting or ploughing of firebreaks? I really wish the minister was sitting in his chair instead of burbling on right in front of me while I am trying to speak.

**The ACTING DEPUTY PRESIDENT** (Senator West)—Senator Brownhill, you might like to address the chair, please?

**Senator BROWNHILL**—Madam Chair, I will address my questions through you, but if the minister would like to talk to somebody perhaps he could do that from his own seat and not talk between you and me.

**Senator Schacht**—I surrender.

**Senator Sherry**—I rise to a point of order. Senator Brownhill is out of order in suggesting that Senator Schacht should respond from his seat. Senator Schacht has spoken in the debate. Senator Brownhill is grossly out of order to suggest that Senator Schacht should be interjecting on him.

**The ACTING DEPUTY PRESIDENT**—Thank you, Senator Sherry. You are quite correct. Senator Brownhill, if you would like to address your—

**Senator BROWNHILL**—On the point of order: I think it is the utmost rudeness for a minister to be talking in front of somebody who is trying to give a speech in the chamber.

**The ACTING DEPUTY PRESIDENT**—Would you like to continue your speech?

**Senator BROWNHILL**—I would like your ruling, Madam Acting Deputy President. It is rude for somebody to be standing in front of a person who is speaking in the chamber.

**The ACTING DEPUTY PRESIDENT**—Senator Brownhill, he is not in direct line. He was sitting in the seat having a conversation with one of your colleagues. If you would like to continue with your speech I would appreciate it.

**Senator BROWNHILL**—Madam Acting Deputy President, I would like to say that he is actually out of his place in this chamber. He is speaking and he is on his feet. When another person is speaking that is not the correct thing to do.

**The ACTING DEPUTY PRESIDENT**—There are a number of senators in this chamber at present who are not in their correct places and you are not drawing attention to them. Would you like to continue with your speech, please?

**Senator BROWNHILL**—I would very much like the minister to listen to some of the things I am saying; he might be able to answer some of them. That might be helpful.

Thank you very much, minister, for leaving the chamber.

**The ACTING DEPUTY PRESIDENT—**  
Senator Brownhill—

**Senator BROWNHILL**—I think that is a wonderful example of the Acting Deputy President's job—especially as you have now got him to leave the chamber.

**The ACTING DEPUTY PRESIDENT—**  
Please do not reflect on the chair in your speech.

**Senator BROWNHILL**—I will ask another question, and maybe the Parliamentary Secretary to the Minister for Primary Industries and Energy, Senator Sherry, who is the font of all knowledge, might be able to answer.

**Senator Sherry**—I am not the font of all knowledge.

**The ACTING DEPUTY PRESIDENT—**  
The parliamentary secretary will not answer interjections, please.

**Senator BROWNHILL**—He is not interjecting on me, Madam Acting Deputy President.

**The ACTING DEPUTY PRESIDENT—**  
He is answering interjections. He shall not do so. Would you please continue your speech?

**Senator BROWNHILL**—I ask another question, Madam Acting Deputy President, through you. What about the carting of fodder from a paddock to a place of storage, or from storage to a place where it can be fed to livestock? What is going to happen there in relation to the diesel fuel excise in that instance? It is not in the terms of the legislation which reads, 'Restricted to diesel fuel purchased for use in preparation of the soil, the act of growing primary produce, or rearing of livestock or other connected activity.' We would like to know whether or not those other connected activities are applicable.

What about the spreading of fertiliser on the farm? Is it all right? If it is done in the local park is it not all right? Senator Watson was absolutely correct in moving this motion. He said that the two things that really concerned—

**Senator Watson**—We have a responsibility as legislators to have clear and unambiguous legislation.

**Senator BROWNHILL**—That is right. We should have clear and unambiguous legislation put before this chamber. We have not seen it yet. At this stage of the debate we are deplored the absolute hypocrisy of the government. On budget night the government said that it would not touch the diesel fuel excise. We have only to remember all those things that we saw in the newspapers about the diesel fuel rebate being scrapped. There was a figment of truth in that, I suppose.

Then we come to budget night and we are told, 'No, nothing is going to be done to the fuel excise rebate. It is all under control.' Then there was the sleight of hand—another, very slight, sleight of hand—and it was made retrospective. Retrospectivity back to 1 August 1986? Dear, oh dear, that is a long time, isn't it? How long has this government been in power?

**Senator Sherry**—Not long enough.

**Senator BROWNHILL**—I will refer to that very foolish interjection from the parliamentary secretary. The point is that the people out there are now saying, 'This government has been there too long. It's time for a change. It's time to get rid of this Labor Party that has ruled Australia for the last 13 years. It has dragged us to our knees. It has given us a balance of payments on the current account, which is running at about \$2 billion a month. It has given us a foreign debt that is getting up towards \$200 billion. It has given us an economy that cannot even keep up with New Zealand now; New Zealand has outstripped Australia.' Parliamentary Secretary, it is an absolutely ridiculous remark that the government has not had long enough. The Australian people, I can tell you, have actually had you, and they do not want you any longer.

The point is really about retrospectivity and the clarity of the definition of 'agriculture' in this bill. So I fully support Senator Watson and his motion before the chamber tonight. The fact is that the government does stand condemned. It does things that we deplore, and we deplore the things it will be doing with this legislation in the future. I will let

Senator Watson speak now because I know he wants to say something about what Senator Schacht has been earbashing us with for a while.

**Senator WATSON** (Tasmania) (6.23 p.m.)—in reply—I admit that it is somewhat unusual for me to introduce a motion impacting on a bill which is yet to be debated in this chamber, but we do have some rather unusual circumstances in that the bill significantly widens the scope of what was outlined in the budget. Since my contribution and Senator Schacht's contribution on this motion, he has spoken to me. It would appear that the government is prepared to go back and have discussions with the genuine parts of the industry—mining and agriculture—and speak with those peak bodies who feel that they may be disadvantaged as a result of the scope of this legislation, to ensure that its so-called ambiguities are removed. I certainly welcome that.

I thank my colleagues—Senator Sandy Macdonald, Senator Brownhill, Senator Panizza—for their contributions in this debate today. As Senator Brownhill said, it is the responsibility of this parliament to ensure that we have clear, unambiguous legislation which is carefully targeted to a particular area of need. However, Senator Schacht's contribution reflected the fact that his department has been somewhat negligent in the manner in which the government has been administering this scheme. When we were talking about it, it was never intended to cover such things as golf courses and so on. I agree with him. These sorts of rorts, if they are alleged rorts, have to be targeted and eliminated.

The best legislation, of course, is to ensure that, whenever abuse is around, it should be picked up easily; it should not be allowed to be tolerated year after year and then be covered by retrospective legislation. This is quite reprehensible and really demeans the value of law so far as taxpayers and clients are concerned.

In summing up in this debate on my motion, I believe we can do no better than look at the summary of concerns from the minerals council of Australia. It sees the bill not as a carefully worded attempt to remove any

ambiguity—and I think that was the thrust of my contribution—as to the ambit of the diesel fuel rebate scheme, but to more effectively target the scheme to those who are genuinely involved in the business of mining operations and, I also add, primary production operations. It is a thinly veiled attempt to restrict the diesel fuel excise rebate being paid for diesel used in actual mining and in genuine primary operations.

The important thing is that the passage of the draft bill, as it is at the moment, will create significant uncertainty about the eligibility of a number of activities central to the activity of mining operations as defined in subparagraphs 8(a) and (b). We had contributions from Senator Murphy and the minister, Senator Schacht, who said, 'Well, this is not intended.' I say that you now have an excellent opportunity to go back to redraft or amend those sections of the legislation which have given rise to our concerns about the scope of what is intended. Don't use a sledgehammer to attack the problem.

The existing legislation, designed to be written off by the retrospective application contained in this bill, will be replaced by a new round of litigation which would be forced on mining operations in relation to central aspects of the rebate for actual mining operations. I am talking about actual mining operations; I am not talking about golf courses. So let us focus on the legitimate areas of activity which are going to get picked up by the very wide scope.

From the contributions today, it is quite obvious that there is uncertainty. The minister said to me, 'If there is uncertainty, I am prepared to look at it and to change it.' I welcome that, and I believe that we are going to get something very constructive out of this debate which could well affect the final outcome if the government does its job and listens to the industry and makes the necessary arrangements.

The problem is that the bill is not consistent with statements contained in the explanatory memorandum. This is always very dangerous because a lot of us have difficulty reading bills per se. We go to the explanatory memorandum and we rely on that as to the bill's

meaning, intent and coverage. So we have a situation where the bill is not consistent with the statements contained in the explanatory memorandum, with the application of the new definitions being significantly more restrictive and with greater financial implications than those suggested in the explanatory memorandum.

I believe this is a legitimate activity for the Senate to embark upon at this time because we know the legislation is going to get rammed through later when there is a minimum amount of time to discuss it. What we are doing through this motion is warning the government. We are giving the government time to get it right and to make sure that the explanatory memorandum agrees with the bill, but if the bill is wrong, to fix it up in accordance with the undertakings given in the explanatory memorandum.

According to the Acts Interpretation Act, courts only go to the explanatory memorandum when the bill is unclear. If the courts believe the bill is clear as to its intent, they do not then go to the explanatory memorandum or to the undertakings given in this chamber in second reading speeches or at the committee stage.

The central responsibility of all legislators in this place is to carefully look at any legislation that has retrospective application. I believe that this is what I have done through this motion and I stand by it. I would welcome the government's preparedness to look at the particular areas of concern that the NFF, the Minerals Council and other genuine bodies have in relation to these measures. We will make up our minds accordingly.

Question put:

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

The Senate divided. [6.36 p.m.]  
(The President—Senator the Hon. Michael Beahan)

Ayes . . . . .	28
Noes . . . . .	20
Majority . . . . .	8

#### AYES

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

#### NOES

Beahan, M. E.	Burns, B. R.
Carr, K.	Childs, B. K.
Colston, M. A.	Cooney, B.
Denman, K. J.	Devereux, J. R.
Evans, C. V.	Foreman, D. J.*
Forshaw, M. G.	Jones, G. N.
McKiernan, J. P.	Murphy, S. M.
Neal, B. J.	Reynolds, M.
Schacht, C. C.	Sherry, N.
West, S. M.	Wheelwright, T. C.

#### PAIRS

Crane, W.	Collins, J. M. A.
McGauran, J. J. J.	Collins, R. L.
Newman, J. M.	McMullan, R. F.
Troeth, J.	Coates, J.
Macdonald, I.	Ray, R. F.
Patterson, K. C. L.	Faulkner, J. P.
Baume, M. E.	Evans, G. J.
Herron, J.	Bolkus, N.
Crichton-Browne, N. A.	Crowley, R. A.

\* denotes teller

Question so resolved in the affirmative.

#### NOTICES OF MOTION

##### Consideration of Legislation

Senator HARRADINE (Tasmania)—by leave—I give notice that, contingent on the reading of the order of the day for the consideration in committee of the whole of the Human Services and Health Legislation Amendment Bill (No. 1) 1995, I shall move:

That it be an instruction to the committee of the whole that:

- (a) the committee divide the Human Services and Health Legislation Amendment Bill (No. 1) 1995 to incorporate in a separate bill the proposed amendments to the Therapeutic Goods Act 1989; and
- (b) the committee add to that bill enacting words and provisions for titles and commencement.

### DROUGHT RELIEF

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

That the Senate—

- (a) condemns the Minister for Primary Industries and Energy (Senator Bob Collins) for his ‘boneheaded’ decision to accept the recommendations of the Rural Adjustment Scheme Advisory Committee, which has that has continued to exclude partial areas of the Upper Hunter region from the exceptional circumstances drought aid package;
- (b) expresses shock and dismay that the western area of Merriwa and the eastern portion of Singleton continue to be excluded despite four applications for justice from this Australian Labor Party Federal Government;
- (c) highlights the anger of the entire Upper Hunter region at this arbitrary decision which has produced two classes of drought-ravaged farm families with the anomaly that the excluded areas are as badly drought-affected as the areas included on the list;
- (d) condemns this decision to create a ‘have not’ class of drought-affected farmers in the Upper Hunter region whereby farmers in the excluded portions find themselves surrounded by properties considered to be in extreme drought; and
- (e) demands that the Minister explain forthwith to the Senate why this unbelievable bureaucratic anomaly has occurred, placing incredible stresses and anxiety on farmers whose last hopes rested with inclusion in the exceptional circumstances list.

This motion condemns the Minister for Primary Industries and Energy, Senator Collins, for his bone-headed decision to leave out two hundred farm families from exceptional circumstances assistance in the Upper Hunter.

As this chamber is aware, this matter has had a very long and sad history, particularly for the people in the Upper Hunter. Australia has been in the grip of drought for the last four years. We have had a situation right

across the country where slowly, year by year, people on farms and in the towns that supply those farms have got into a bad and worsening situation.

There is something about drought that makes it very different from other natural disasters that afflict us. With a cyclone, like Cyclone Tracy, you automatically respond because it is such a dramatic event. With bushfires, people rush to the rescue because they are such dramatic events. But droughts are not dramatic; they creep up on a country very slowly.

In Australia, where 80 per cent of the country is urbanised, the majority of the population hardly even notices drought. One of the tragedies of this drought, which is probably the worst drought this century, is that it seems as though the Prime Minister (Mr Keating) and the government did not notice that it was upon us. It was only in the early part of last year that the Prime Minister finally got out of the city and into the drought country and saw what was happening. But even then he was very slow to respond.

Probably more tragic for the farm people was that the federal government department that is responsible for rural matters—the Department of Primary Industries and Energy—was so incredibly slow to do anything about the drought and come up with systems of assistance that were fair, equitable and, more importantly, timely. We had a minister who finally decided in the third year of the drought that he might do something about it last August. I asked a question of him in the chamber at this time. What was his policy? What was he going to do if the drought continued until December, February or the winter plantings in April this year? He did not really have a response to that. His policy back then was that he really hoped it would rain next week and that that would solve the problem for him. The rains did not come by December. By February, there was some rain across Australia. Indeed, by April there had been some rain across Australia. This has given people in the cities a false sense that the drought has broken.

A break in a drought does not mean that there is a sudden downpour that provides

enough water so that it will be all right next week. It is not like that at all. When there are sudden downpours after a drought, most of the water seeps into the ground. Many areas have told me that, after those rains in January, they did not have any water in the dams. Even though there have been some good rains in many areas of Australia, there was not enough rain to break the drought. Many areas of Australia are still in the grip of drought. Quite a number of areas are in the grip of extreme drought circumstances. This brings me to the current plight of the Hunter Valley.

Initially, when the government finally got its act together and decided that, under RASAC, it would allow farmers and regions to apply for drought assistance, the Upper Hunter, which is the subject of this motion, continually missed out. It has been a great mystery to people in the Upper Hunter why this government constantly has left them out. Many people have the theory that the Upper Hunter is not in a marginal seat. Areas that seemed less deserving got the extreme drought assistance, and they did not.

The surprise in their not getting it was reflected in the fact that the state government—the body that really knows what is happening in the drought affected areas; it really has the rural counsellors on the ground to advise—put the Upper Hunter very high up on the list. They were sixth on a list of about 14. When the federal government funded the extreme drought circumstances, it jumped straight past the Upper Hunter and included a number of other areas lower down the list. Again, it is just a huge mystery why the Upper Hunter was left out.

Part of the reason seems to be that the way in which RASAC was determining who got in and who was left out was very shonky. It was taking annual rainfall figures. It was not taking into account the distribution of that rainfall in time and across an area. One of the features of the Upper Hunter is that it can rain in one section of the Upper Hunter and be totally dry in the other. Some sections got 10 inches of rain in a day. On a yearly average, that looked pretty good. It does not satisfy the extreme drought criteria. If there is a sudden downpour after a drought, the top soil on

those properties where all the vegetation has been taken off—this occurred on many properties—is washed into the dams and knocks over fences. The next week, when it is all dried out again, the farmers are in a worse position. This happened in many areas of the Upper Hunter. According to the minister's criteria, that was fine; they had a higher annual rainfall.

The government has become a little more sophisticated. It has decided to build in something about the distribution of rainfall. It has taken six months of belting over the head for it to finally realise that it should also be looking at the distribution of rainfall. There are a number of things about that criteria that the federal government really needs to fix. One would hope that, in the almost inevitable cycles of drought we have in this country, when we get to the next big drought the government has its act together, has worked out the criteria and is able to apply it fairly and equitably.

Recently the minister has had another think about the drought areas. He has moved through cabinet that a sum of money for extra drought assistance—more than \$40 million—be distributed. The hope was that, after three strikes and out for the Upper Hunter, its farmers would all get in. Indeed, some farmers did. There were great celebrations in some parts of the Upper Hunter. But there was tragic disbelief in other parts because they were left out.

People there cannot understand why some areas were left out. The area west of Merriwa was left out. The area east of Singleton was left out. It has affected 200 farming families. We had a situation where the conditions were quite similar across the whole region. About 1,000 farmers got the drought assistance and 200 farmers did not. The result hinged on the division of a river or a road. Those on the wrong side of the road or the river missed out. Those on the other side were okay. But the rain did not stop at the river or the road. People cannot understand why they were left out.

We have to appreciate the tragedy of what this means to these people. Those without any income who live in a city are entitled to the

unemployment benefit or a whole range of benefits. Some people in the Upper Hunter have had no income for over three years. What can they do? They are in a situation where they have no income. At the start of the drought, a lot of them had no debt. They just gradually went into more and more debt. Some are up to \$0.25 million in debt. How on earth will they ever get out of that debt?

It is difficult to believe that this government could leave 200 farming families with no income support and with debt continually mounting. How will these people ever re-establish a viable business on the land again? The tragedy is that, in an area where there was good farming practice and land, the policies of this government have destroyed the livelihoods of these people. They will be moving off the land as great numbers of people move off the land over time. My family did that 30 years ago because of a similar set of circumstances. It goes on today.

What have governments learnt from past droughts? Look at a chart showing the situation from the turn of the century. About every four to five years we move back into the drought cycle. When these people who have been so hardly done by from this government at this time get to the next drought, which will inevitably come after five or six years, they will not have got back on their feet again. They will still be in debt. They will not have been able to restock properly. When the next drought comes, they will get hit for six. It is a tragic cycle. The government calls itself a government of compassion and concern. It is just leaving the farming community in this country totally out to dry.

The reaction of farming people to this government's policies and actions has been quite dramatic. Let us see what some of them have had to say. The New South Wales Farmers Association, the Sccone Rural Counselling Service and the Denman, Singleton and Merriwa rural lands protection boards are totally baffled by this discrimination.

On 31 May the *Newcastle Herald* quoted a New South Wales Farmers Association official in this way:

We have deep concern that farmers in some areas who are suffering from drought just as much as the

areas receiving assistance have been excluded. There are heaps of anomalies and questions. We are completely mystified.

Let me repeat that last bit for the government, and particularly for RASAC. There are heaps of anomalies and questions. This is after four goes at getting the guidelines right. They still have it wrong. Upper Hunter rural counsellor Andrew Badgery has told me that this split decision in the Upper Hunter is unbelievable. It is welcome news for those who are in but absolutely devastating for those people who have been left out.

The Merriwa Rural Lands Protection Board secretary Kevin O'Malley has outlined the nonsense and bureaucratic humbug of this minister's decision. He said, 'There's no difference between the areas of the Upper Hunter that are included and those that are excluded. Farmers in Singleton are now isolated and surrounded by adjoining properties which are in the exceptional circumstances area.' Farmers, as I said before, get it on one side of the road but not on the other. RASAC really has to have a look at its inconsistencies in its decisions and do something about it very quickly.

The New South Wales Carr government does not escape from this either. It stands condemned for accepting this sort of discrimination. Minister Amery has meekly gone along with the injustice. The state minister must steel himself to front Minister Collins and do something about this problem. They are both in the same party; surely he has some influence. Upper Hunter farmers demand this decision on Merriwa and Singleton districts be reviewed immediately. Labor's Mr Amery in New South Wales must go into bat for farmers in crisis. If he fails to pressure this minister immediately, he will be despised with the same passion as the federal minister. Senator Collins must end this arbitrary discrimination now. He must also guarantee exceptional circumstances payments for 12 months to give farmers some financial stability to re-establish their properties after one of the worst droughts this century. Minister Collins's action is yet another example of Labor's total disregard for farmers and rural and regional Australia.

**Senator SANDY MACDONALD** (New South Wales) (6.52 p.m.)—Mr Acting Deputy President Watson, this is the first time that I have had the opportunity to speak in the Senate with you in the chair. I congratulate you on the success of your motion in general business this afternoon. I have pleasure in supporting Senator Tierney's motion, which states:

That the Senate—

- (a) condemns the Minister for Primary Industries and Energy (Senator Bob Collins) for his 'boneheaded' decision to accept the recommendations of the Rural Adjustment Scheme Advisory Committee, which has that has continued to exclude partial areas of the Upper Hunter region from the exceptional circumstances drought aid package;
- (b) expresses shock and dismay that the western area of Merriwa and the eastern portion of Singleton continue to be excluded despite four applications for justice from this Australian Labor Party Federal Government;
- (c) highlights the anger of the entire Upper Hunter region at this arbitrary decision which has produced two classes of drought-ravaged farm families with the anomaly that the excluded areas are as badly drought-affected as the areas included on the list;
- (d) condemns this decision to create a 'have not' class of drought-affected farmers in the Upper Hunter region whereby farmers in the excluded portions find themselves surrounded by properties considered to be in extreme drought; and
- (e) demands that the Minister explain forthwith to the Senate why this unbelievable bureaucratic anomaly has occurred, placing incredible stresses and anxiety on farmers whose last hopes rested with inclusion in the exceptional circumstances list.

The government's total response to this devastating drought has been extremely slow. Farmland, which was initiated late last year by high profile media personalities, fired up the government about the extent of devastation caused by the drought in rural Australia. Mr Keating, the farmer's friend, as he described himself at the National Farmers Federation AGM late last year, said that he would not let the bush down. Federal government started to give some assistance, but it was reluctant to extend the exceptional circumstances to many desperate farm families. There has never been

any recognition of the effect of the drought on small business. The basis for the tardiness in its response is that this federal Labor government is a very un-country government and a very un-country Prime Minister. He is very un-Australian in many of the ways that he approaches the problems that face this nation and this economy.

At the time the budget was brought down in terms of the fraudulent budget surplus, the Prime Minister told small business, 'This is as good as it gets.' In the One Nation statement some years ago, he recognised how important a strong rural economy is. In one of the very few things that the Prime Minister has ever said with which I agree, he said that for a strong economy there must be a sustained recovery in the rural sector. We have seen the first signs that the drought is starting to break with the winter cereal crop that has been planted in the eastern seaboard, particularly in New South Wales, where about 3½ million acres have been planted. This winter cereal crop is important for the wellbeing and the maintenance of the family farm in the eastern seaboard. However, Queensland and certain sections of New England have not had the falls that are required. It is vitally important for that crop to come in and take some pressure off those farm families that are really devastated after four long years of drought.

The reason farmers were particularly affected by the drought was that the Labor government has run a very high inflation economy and very high interest rates. The terms of trade for farmers collapsed, and the wool crisis affected the whole of the farming community because wool spreads its tentacles right throughout the rural economy, whether you grow wool or not. Everything was deregulated, except the labour market and the waterfront. Then came the drought. It came when the prudent farmer's friend, the IEDs, had been removed. It gives some pleasure to note that the government realised the IED scheme was important.

Assistance needs to be given for farmers to prepare for economic downturn, but it took a long time for them to realize that. It also took a devastating drought, an effect on farm families and an effect on the budget which the

government is now recognising will cost a large amount of money. In terms of social equity and the importance of our rural producers and exporters to the economy as a whole, it is money that is very well spent.

Last week's announcement of the new exceptional circumstances drought areas brought both pleasure and heartache to the Hunter Valley, which is an area that I know well. Farmers in the Scone Rural Lands Protection Board and half the Merriwa and Singleton boards were included. Unfortunately the other half, on the western side of the Merriwa Rural Lands Protection Board and Singleton farmers east of the Hunter River, awoke to the news that they would not be afforded help. How do you explain to a farmer who has had to shoot his sheep and see his cattle die that he is not worth helping in the eyes of the government while his next-door neighbour will receive a range of benefits however belated that help may be? The government will not tell us why. It will not explain the anomalies of the Rural Adjustment Scheme Advisory Committee.

Senator Collins asks, 'Where are the coalition's particular policies that would help these people who need help?' The obvious answer—it is so obvious, it hardly needs stating—is that we are not the government. But we do have one policy that would meet the problems that farmers have faced in this current crisis—that is, to give help where it is needed. We certainly would have done that. The information upon which Senator Collins based his submissions to cabinet must be made public. Most of all, they must involve an intense amount of scrutiny. He must release the RASAC report on which he based his decisions.

It is not good enough to force those affected to wait months before assistance is obtained through the Freedom of Information Act, which is what is happening following the rejection of these areas for exceptional circumstances assistance in December. You might recall, Mr Acting Deputy President, that when the exceptional circumstances provisions came out in December, at least one area—for reasons that are obvious, I will not name it—nowhere near met the expectations

of exceptional circumstances of the Hunter Valley. In terms of the Farmhand assistance and other forms of charity provided generously to those affected by drought by mostly metropolitan areas of Australia, I understand that this particular area that had been included as having exceptional circumstances passed the hat around and gave this money to the Scone rural lands protection board, which, in addition to the \$10,000 that was collected by fellow farmers in a nearby area, was able to hand out around \$300,000 worth of charity.

By determining eligibility for assistance on the basis of where farmers live rather than their need the government has essentially created two classes of farmer. Farmers want answers. Those who have missed out on the latest assessments are living well below the poverty line and farming communities and townships will take years to recover. The division by division rainfall assessment formula needs to be—

**The ACTING DEPUTY PRESIDENT (Senator Watson)—Order!** The time for consideration of general business has expired.

## COMMITTEES

### Employment, Education and Training References Committee

#### Meeting

**Senator TIERNEY (New South Wales)—by leave—I move:**

That the Employment, Education and Training References Committee be authorised to hold a public hearing during the sitting of the Senate on 9 June 1995 from 9 a.m. to 10 a.m. to take evidence from witnesses for the committee's inquiry into matters relating to Austudy.

By way of brief explanation, the committee had settled on a hearing for this day starting at 8 a.m. in the expectation that normal Friday circumstances would apply. It is our last chance to receive crucial evidence from the Department of Employment, Education and Training, as we have a deadline to report to the Senate within three weeks.

Question resolved in the affirmative.

### Certain Family Law Issues Membership

Message received from the House of Representatives acquainting the Senate that on 6 June 1995 Mr M.J. Evans was nominated to be a member of the Joint Select Committee on Certain Family Law Issues in place of Mr L.J. Scott. Mr L.J. Scott and Mr Horne were nominated to be members of the Joint Standing Committee on Foreign Affairs, Defence and Trade.

### Superannuation Committee Reports: Government Responses

Debate resumed from 29 March, on motion by Senator Schacht:

That the Senate take note of the documents.

**Senator WOODLEY** (Queensland)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

### Consideration

Question resolved in the affirmative on the following orders of the day without further debate during consideration of committee reports and government responses:

Finance and Public Administration Legislation Committee—Report—Supplementary estimates hearing: National Media Liaison Service

Industry, Science, Technology, Transport, Communications and Infrastructure—Standing Committee—Report on Fisheries reviewed—Government response

Employment, Education and Training References Committee—Report—Inquiry into the development of open learning in Australia: Part 2

Legal and Constitutional Legislation Committee—Report on the Family Law Reform Bill 1994 and the Family Law Reform Bill (No. 2) 1994 [Exposure draft]—Government response (interim)

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report on An island tiger: Report of an unofficial visit to Taiwan—Government response

Family Law Issues—Joint Select Committee—Report on the Child support scheme: An examination of the operation and effectiveness of the scheme—Government response (interim)

ABC Management and Operations—Select Committee—Report—Our ABC

Public Accounts—Joint Statutory Committee—336th Report—Public Business in the Public Interest: An inquiry into commercialisation in the Commonwealth public sector

Industry, Science, Technology, Transport, Communications and Infrastructure—Standing Committee—Report on Disaster management—Government response

Appropriations and Staffing—Standing Committee—22nd Report

Legal and Constitutional Affairs—Standing Committee—2nd report on the cost of justice—Checks and imbalances—Government response

National Capital and External Territories—Joint Standing Committee—Report—King George V Memorial

Legal and Constitutional References Committee—Discussion Paper—A system of national citizenship indicators

Community Affairs References Committee—Report—Psychotherapeutic medication in Australia

Finance and Public Administration Legislation Committee—Additional Estimates 1994-95—Additional information

Public Works—Joint Statutory Committee—Ninth report of 1995—Facilities for an increased Army presence in the North (APIN) Stage 2

### DOCUMENTS

#### Auditor-General's Reports

##### Report No. 31 of 1994-95

**The ACTING DEPUTY PRESIDENT** (**Senator McKiernan**)—In accordance with the provisions of the Audit Act 1901, I present the following report of the Auditor-General:

Report No. 31 of 1994-95—Efficiency Audit—Defence Contracting.

**Senator MacGIBBON** (Queensland) (7.07 p.m.)—I move:

That the Senate take note of the document.

The Auditor-General's report that is before the Senate is a very important report on a very complex subject. The Department of Defence is the largest purchaser of goods and services in the Commonwealth of Australia, spending roughly \$7 billion a year. It involves very large individual contracts. Two contracts that are running at present are of the magnitude of around \$5 billion each, which is a

very large sum of money. Contracts extend over a large number of years.

I wish to outline some of the characteristics of Defence contracts. Firstly, they are in a field where there is often very little direct commercial competition because there are specialised defence weapons systems or platforms. Sometimes, but not always, they are on the fringes of technology—what is possible or pushing the boundaries out for something that is new to give the defence forces an advantage technically. They are nearly always written in military specifications. Military specifications grew up through this century because of the very arduous conditions to which military equipment has been subjected to in the field.

Military specifications produce a very high cost item because the quality is the highest you can get and it is often associated with very low volume production. There are many things now in relation to quality where civilian standards have exceeded military specifications. A classic example of that is in the electronics field. Computers that are specialised for defence analytical purposes, signal processing, et cetera, are a generation or two behind what is available in the commercial market with respect to their capability and speed. It is interesting that the United States is starting to recognise this. Within the last 12 months a number of US defence contracts have gone out which specifically mention that military specifications are not only not required but not to be applied to the product. One of those was the missile airborne warning system (MAWS) for which tenders were called recently, for infra-red weapons. Australia lags in the ability to get away from military specifications.

The history of defence contracting is a history of considerable cost over-runs and considerable time over-runs. That impacts very much on taxpayers because they have to pay cost increases that can be substantially more than they thought they would be committed for when the contract was let. There is also a great penalty economically if equipment is supposed to come in at a certain time and is late. Personnel are trained, provision is

made for it and it does not arrive until 12 months, 24 months or 36 months later.

Historically, one of the first things that governments around the world did was to use a cost-plus contract. That provided no incentive for manufacturers to perform efficiently. The movement 10 or 20 years ago was to have fixed price contracts. Fixed price contracts, when you are dealing with new technology, are hard to enforce. The services tend to change things and we get the situation, as we have got with the Anzac frigates, where everyone argues that it is a fixed price contract but, as the Auditor-General showed in his report presented earlier this week, there has been a 33½ per cent increase on what is a very big contract.

At the end of the day the only successful way of handling defence contracting is to reach a stage which we in Australia are quite a long way from—there must be a mutual partnership between government and industry. That must be based on mutual trust which, in turn, is based on complete honesty between the two parties, the government and the producer.

The objective of the tendering system is to provide open and effective competition between the tenderers and to obtain the best value for the Commonwealth of Australia. I think the taxpayers have been badly let down in that regard in two of the major contracts in this country in recent years—the Anzac ship program and the Collins program. The principal reason why they have been badly let down is that the contracts were rushed because the government of the day, the Labor Party, wanted to grant contracts and sign the tenders to the advantage of Labor State governments in South Australia and Victoria.

The report that is before us tonight illustrates some of the faults in the present system. There is no time, in the few minutes remaining to me tonight, to go through all of them. But I would like to touch on a couple of them because they illustrate the failings of the present system quite dramatically. The first is the light armoured vehicle contract, which is now called the Auslav—the provision of wheeled lightly armoured fighting vehicles for the army.

That all came about as an impromptu decision. The minister at the time, Mr Beazley, was in America, saw some of these vehicles and liked them. Having spent a long while on the defence estimates, I know what is going on there. Surprise, surprise—in this area of very tight budgetary circumstances, \$20 million was found out of the blue to buy 15 vehicles because Mr Beazley liked them. They were imported to Australia and evaluated by the engineering development organisation in the Department of Defence. The department rushed immediately, at the bidding of Mr Beazley, into a purchase of these vehicles for the move to the north of the 2nd Cavalry Regiment.

Because of the haste there was no comparative study made of other wheeled vehicles around the world. This was the only one considered. It failed to pass the tests that the engineering development group did on it. We got rushed into buying something at a very high price. The first vehicle was handed over last week. It illustrates the failures in the passing of the very cumbersome procedures which the Department of Defence has in place in the Force Structure Policy and Programming Committee and the Defence Source Definition Committee. When these committees are put to the test, they are not worth the paper they are written on.

The second point in the report that is of interest is the notorious submarine program which gave us Auditor-General's report No. 22 of 1991-92. As I said earlier, that was a politically driven decision. It is giving us the most expensive diesel electric submarines in the world, at about \$1 billion a boat. The Auditor-General's report that we are discussing tonight points out that the contract was signed and then hundreds of amendments were entered into. That enabled the contractor under the terms of the contract to virtually write his own ticket.

We then had the business of the Steyr rifle. I note that there are people in the gallery tonight who have a great interest in rifles. We could have imported those rifles from Austria for \$1,339. The actual price that the Auditor-

General gives is \$2,397 for Australian manufacture, an increase of 79 per cent in the purchase price. That is not supported in any way other than by the woolly notion that we wanted Australian production. The sad fact of life is that when that contract for 67,000 rifles is completed, ADI will close the line down and that facility will have no life thereafter. It will not be able to be reactivated readily, so the very high premium we paid there was paid for no benefit at all.

The report outlines 13 proposals for improvement in the contracting system. I want to touch briefly on four or five of them. The first one I want to talk about is the NAPNOC program—no acceptable price, no contract—which the United Kingdom operates. It means that if the government does not have a set price for the whole deal, it does not sign the contract. That will eliminate the hugely expensive nonsense that we got into with the Australian Submarine Corporation and the Collins class submarines.

The second point made is that the UK and US governments insist that all contracts for defence allow the government to have access to the true costing and pricing data within the manufacturer. We do not have that in Australia. The third point that I want to emphasise is the need for training of officers involved in assessing contracts in Australia. The Auditor-General makes the point that there seems to be a great variation in the level of ability and knowledge of officers approving contracts and the officers themselves make the claim that they would like better training.

The final point that the report makes which I think is of importance is that where we are going to produce things in Australia we should do it after careful analysis and look at the benefits that will come. Is it really necessary? Certainly, in the case of the Steyr rifle, a premium of 79 per cent for the production of a basic rifle which is readily available is not worth while.

**Senator MARGETTS** (Western Australia)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**COMMITTEES****Selection of Bills Committee  
Report**

**Senator BURNS** (Queensland)—by leave—  
On behalf of Senator Jones, I present the sixth report of 1995 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

Leave granted.

*The report read as follows—*

**REPORT NO. 6 OF 1995**

The Committee resolved:

- (a) That the following bills be referred to committees:

Bill title	Stage at which referred	Legislation Committee	Reporting date
Customs and Excise Legislation Amendment Bill 1995—provisions of the bill <i>(see Appendix 1 for a statement of reasons for referral of the bill)</i>	immediately	Economics	26 June 1995
Sales Tax (Exemptions and Classifications) Modification (General) Bill 1995—provisions of the bill <i>(see Appendix 2 for statement of reasons for referral of the bill)</i>	immediately	Economics	26 June 1995
Social Security Legislation Amendment Bill (No. 1) 1995—provisions of the bill <i>(see Appendix 3 for statement of reasons for referral of the bill)</i>	immediately	Community Affairs	26 June 1995
Student and Youth Assistance Amendment (Youth Training Allowance) Bill 1995—provisions of the bill <i>(see Appendix 4 for statement of reasons for referral of the bill)</i>	immediately	Community Affairs	26 June 1995

- (b) That the following bills be deferred for consideration at the next meeting:  
(deferred from meeting of 9 March 1995)
  - . Bankruptcy Legislation Amendment Bill 1995  
(deferred from meeting of 10 May 1995)
  - . Air Navigation Amendment (Extension of Curfew and Limitation of Aircraft Movements) Bill 1995
  - . Communications and Tourism Legislation Amendment Bill 1995
  - . Family Law Reform (Consequential Amendments) Bill 1995
  - . Law and Justice Legislation Amendment Bill (No. 2) 1995
  - . Sex Discrimination Amendment Bill 1995
  - . Trade Marks Bill 1995
  - . Transport Legislation Amendment Bill (No. 2) 1995

- . Wildlife Protection (Regulation of Exports and Imports) Amendment Bill 1995  
(deferred from meeting of 8 June 1995)
- . Child Care Legislation Amendment Bill 1995
- . Higher Education Funding Amendment Bill (No. 1) 1995
- . Rights to Privacy and Equality (ICCPR) Bill 1994
- . Taxation Laws Amendment (No. 2) Bill 1995
- (c) That the following bills not be referred to committees:
  - . Aircraft Noise Levy Bill 1995
  - . Aircraft Noise Levy Collection Bill 1995
  - . Air Services Bill 1995
  - . Australian Meat and Live-stock (Quotas) Amendment Bill 1995
  - . Beef Production Levy Amendment Bill 1995

- Cattle Export Charges Amendment Bill 1995
- Cattle Transaction Levy Bill 1995
- Civil Aviation Legislation Amendment Bill 1995
- Constitution Alteration (Ecology, Diversity and Sustainability) Bill 1995
- Customs Tariff Amendment Bill (No. 2) 1995
- Electoral and Referendum Amendment Bill 1995
- Exotic Animal Disease Control Amendment Bill 1995
- Fringe Benefits Tax Amendment Bill 1995
- Human Services and Health Legislation Amendment Bill (No. 1) 1995
- Income Tax Rates Amendment Bill 1995
- Live-stock Export Charge Amendment Bill 1995
- Live-stock Slaughter Levy Amendment Bill 1995
- Loan Bill 1995
- Local Government (Financial Assistance) Bill 1995
- Meat and Live-stock Industry Bill 1995
- Meat and Live-stock Industry Legislation Repeal Bill 1995
- Medicare Levy Amendment Bill 1995
- National Cattle Disease Eradication Trust Account Amendment Bill 1995
- National Residue Survey Administration Amendment Bill 1995
- National Residue Survey (Cattle Export) Levy Bill 1995
- National Residue Survey (Cattle Transactions) Levy Bill 1995
- Passenger Movement Charge Amendment Bill 1995
- Passenger Movement Charge Collection Amendment Bill 1995
- Primary Industries Levies and Charges Collection Amendment Bill 1995
- Prime Minister and Cabinet (Miscellaneous Provisions) Bill 1995
- Public Service (Abolition of Compulsory Retirement Age) Amendment Bill 1995
- Sales Tax (Exemptions and Classifications) Modification (Customs) Bill 1995
- Sales Tax (Exemptions and Classifications) Modification (Excise) Bill 1995
- Taxation Laws Amendment (Budget Measures) Bill 1995
- Telecommunications (Carrier Licence Fees) Amendment Bill 1995

The Committee recommends accordingly.

(G N JONES)

Chair

8 June 1995

## Appendix 1

Proposal to refer a bill to a committee

Name of bill: Customs and Excise Legislation Amendment Bill 1995

Reasons for referral/principal issues for consideration:

1. Under the residential premises category of the diesel fuel rebate scheme the Liberal and National Parties wish to clarify the implications of the Bill for those claiming the rebate in rural and remote areas who have no alternative energy source and those in urban areas claiming the rebate who have access to reticulated gas and electricity. Information will be sought on the implications for the 13,500 claimants in these groups with a view to amending the Bill in the Senate to retain the rebate for residential rural diesel users.

2. Despite Government assurances that no existing agricultural claimant will be disadvantaged, questions have been raised regarding the position of transport contractors operating on a property and off-road transport. Information on the interpretation of the proposed changes to the eligibility provisions for agricultural users will be sought with a view to ensuring no diminution in the level of rebate afforded to genuine agricultural operations.

Possible witnesses: Australian Local Government Association, National Farmers Federation, others to be considered.

Committee to which bill is to be referred: Economics Committee

Possible hearing date(s): Friday 23 June

Possible reporting date:

(signed) Paul H. Calvert

Whip/Selection of Bills Committee member

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## Appendix 2

Proposal to refer a bill to a committee

Name of bill: Sales Tax (Exemptions and Classifications) Modification (General) Bill 1995

Reasons for referral/principal issues for consideration:

to examine the impact of proposed amendments to the Sales Tax (Exemptions and Classifications) Act 1992 on the building and construction industry, the hardware industry and associated businesses, and the cost implications for new non-luxury vehicles on retail traders.

Possible witnesses: Housing Industry Association of Australia, Master Builders Association of Australia, Retail Traders Association, Australian Consumers Association, Australian Equipment

Lessors Association, Australian Automotive Association, Motor Traders Association.

Committee to which bill is to be referred: Economics Committee

Possible hearing date(s): 23rd June 1995

Possible reporting date: 27th June 1995

(signed) Paul H. Calvert

Whip/Selection of Bills Committee member

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### Appendix 3

Proposal to refer a bill to a committee

Name of bill: Social Security Legislation Amendment Bill (No. 1) 1995

Reasons for referral/principal issues for consideration:

All of schedule 4

All of schedule 14

All of schedule 16 \*\*

\*\* concerns regarding a similar issue are contained in the Student Youth Assistance Amendment (Youth Training Allowance) Bill 1995

Possible witnesses: List to be supplied to the Committee Secretary tomorrow

Committee to which bill is to be referred: Community Affairs

Possible hearing date(s):

Possible reporting date:

(signed) Paul H. Calvert

Whip/Selection of Bills Committee member

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### Appendix 4

Proposal to refer a bill to a committee

Name of bill: Student and Youth Assistance

Amendment (Youth Training Allowance) Bill 1995

Reasons for referral/principal issues for consideration:

Schedule 3—amendments relating to lump sum compensation \*\*

\*\* concerns regarding a similar issue are contained in the Social Security Legislation Amendment Bill (No. 1) 1995

Possible witnesses: same list of witnesses as for the Social Security Legislation Amendment Bill (No. 1) 1995 to be supplied tomorrow

Committee to which bill is to be referred: Community Affairs

Possible hearing date(s):

Possible reporting date:

(signed) Paul H. Calvert

Whip/Selection of Bills Committee member

### Rural and Regional Affairs Committee

#### Report: Government Response

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science)—I present the government's response to the report of the Standing Committee on Rural and Regional Affairs entitled *Deer industry legislation revisited*. I seek leave to move a motion in relation to the document.

Leave granted.

**Senator COOK**—I move:

That the Senate take note of the document.

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

Leave granted.

*The document read as follows—*

**REPORT OF THE SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—"Deer Industry Legislation Revisited"**

Conclusions\Recommendations	Action/Comments
The Committee considers that the following two matters need further attention: the failure to collect levies on live deer exports; and  the rate at which levies are charged. The Committee has identified that some industry participants consider the rate of levy is too high.	At issue is the failure by two companies to pay about \$50,000 in levies and late payment penalties. The Minister for Primary Industries and Energy (PI and E) is satisfied that there has been no dereliction of duties and that extensive debt recovery action is being undertaken including litigation in the courts. This is standard Levies Management Unit (LMU) practice when any levy payer fails to pay. The Minister for PI and E has already corresponded with the President of the Deer Farmers Federation of Australia recommending that any proposed decrease in the levy rates for deer research and development be deferred until it has consulted with the Rural Industries Research and Development Corporation (RIRDC) on the likely outcome of a review currently underway on deer research and development. This review is focusing on the future RIRDC research and development program and funding strategies. A separate review of the above issues is unwarranted in view of action already undertaken by the Department of Primary Industries and Energy, and the Minister's correspondence to the industry recommending it consults with RIRDC on its research and development program.
The Committee recommends that the Commonwealth Government examine these matters and suggest that this can be done either by a separate review, or by extending the scope of the review currently being conducted by RIRDC.	as well, from the Queensland Farmers Federation. In part, the letter reads:  I am writing regarding the Industries Commission Report into Research and Development. I understand the Report is now with the Government. The letter goes on to express its deep concern about the implications of the commission's draft recommendations, as these affect rural industry. The letter went on to say: In a very brief summary, the Commission in its draft report recommended that there be a dramatic reduction in public support for research and development in the rural sector. The Queensland Farmers' Federation, along with many other rural organisations, made detailed arguments to the Industries Commission about why this would not produce an optimum outcome for the nation. At a time of balance of payments

**Senator WOODLEY** (Queensland)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

#### **ADJOURNMENT**

#### **Research and Development**

**The ACTING DEPUTY PRESIDENT** (**Senator McKiernan**)—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

**Senator WOODLEY** (Queensland) (7.20 p.m.)—In the adjournment debate tonight, I want to draw the attention of the Senate to a letter which the Australian Democrats recently received, and I assume other parties received

problems it is just not sensible to further reduce the competitive edge of a major export industry. The Queensland Farmers' Federation made the point that Australian agriculture is able to compete in highly corrupted world markets and this has only been achieved by maintaining a technological edge. To reduce support for research in rural industry would only put at risk our export advantage.

I think we should underline very strongly those words. The letter continues:

The Commission recognised there was a high return on investment in agricultural research and development. In making its recommendations, the Industries Commission seems to have assumed that there were a few spill over benefits from the public support of this research. This is clearly not the case. Also they assumed that rural industry would have the capability of increasing its research contribution to match the recommended reductions in public support. Queensland Farmers' Federation along with other industry groups demonstrated that constraints within industry would prevent this occurring.

I think that the debate today underlined what those constraints are. It is very clear, at least it should be, to senators in this place. The letter concludes:

We are not aware of what impact our submission to the Industries Commission has made on its recommendations and final report. However I am writing to urge you as an elected member of parliament from Queensland to understand our deep concerns about the implications of a reduction in research and development funding. I am seeking your assistance in bringing these concerns to the attention of the Government.

I believe this is one occasion on which it is appropriate for senators from different states to underline together, not in any partisan way, the needs and concerns faced by the rural industry. To underline the Democrats' constantly repeated concern about the Industry Commission, I want to quote a few words from a recent address to the Queensland University of Technology by the Leader of the Australian Democrats, Senator Kernot. She said:

Every time I pick up a copy of an Industry Commission report, I wonder why \$27 million worth of public money is being spent each year to allow these ideologues to parade their prejudices as good policy.

Industry Commission reports have become entirely predictable:

- if a public subsidy exists, slash it;

- if there is a regulation, abolish it;
- if there is any public interest, ignore it;
- if there is a public utility, sell it (or corporatise it);
- if there are workers, retrench them or recommend a cut in their wages.

My colleague Senator Sid Spindler has spent a lot of time studying the effects of the Industry Commission on Australia's manufacturing industry. His Independent Parliamentary Inquiry in 1993 found that the policies of the Commission have cost Australia upwards of 200,000 jobs and significantly added to our current account problems.

In 1993:

... John Quiggan, from the ANU's Centre for Economic Policy, undertook a comprehensive survey of the industry Commission's approach to public sector reform and he found that the formal economic modelling upon which the Commission bases its work yielded "favourable simulations of policies that benefit the mining sector and the owners of capital at the expense of manufacturing and labour".

Quiggan also found this formal analytical framework was supplemented by an informal framework within the Commission in which a commitment to a free market approach was paramount.

He concluded there was an inevitable bias within the Commission in favour of privatisation and deregulation and that the Commission's approach effectively guaranteed support for "a pre-determined reform agenda regardless of the actual situation in any particular area."

In other words, the Industry Commission is not interested in genuinely exploring the problems within a particular industry or sector and coming up with fresh responses to those problems. What the Commission does is to impose its own economic and ideological template on whatever it is investigating and virtually works backwards to get the result it wants. As John Quiggan said, the result is virtually guaranteed, regardless of the realities of the situation under investigation. It is no wonder that the whole welfare sector is raising the same concerns as the Queensland Farmers' Federation has brought to our attention tonight.

### **Research and Development**

**Senator COOK** (Western Australia—Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for

Science) (7.27 p.m.)—In view of Senator Woodley's remarks, I rise to speak for just a minute as it is opportune that I am in the chamber. I am doing Senator McMullan's duties, so I am here accidentally. For the interest of Senator Woodley, having raised the question of the research and development report of the Industry Commission, I say that the Assistant Treasurer, the Honourable George Gear, and I, pursuant to a cabinet decision earlier this week, yesterday released the final report of the Industry Commission into research and development in Australia to the public.

This is not the normal procedure. The normal procedure is for the final report to go to the government and for the government to release the final report with its response to the final report. The reason we varied the procedure on this occasion is that we—in particular, I—want to see the final report attract further commentary from organisations and interested individuals so that the government can respond to this final report in the innovation statement it has planned for August. I draw that to the attention of honourable senators, in view of what Senator Woodley has said.

**Senator Chamarette**—I think we have been very patient. I have watched the clock for more than a minute. This is not a debate.

**The PRESIDENT**—Order! Minister, there is a limited time for this debate.

**Senator COOK**—My last sentence is to say that it is not appropriate for me as the minister to make any observations about that report. However, it is available for public commentary, and I welcome hearing further comments on it.

### Refugees

**Senator CHAMARETTE** (Western Australia) (7.29 p.m.)—I wish to speak this evening on a matter which has been raised with me by community groups working with refugees in this country. At times, it seems that the government has a somewhat schizophrenic attitude to refugees. We see that time and again as it prides itself in the international community on its acceptance of relatively

large numbers of refugees from various parts of the world, while at home it works very hard to deny entrance to those who may very well be refugees who choose to, or who are forced to, come unannounced. Those issues have been canvassed often in this place and will no doubt be aired again, and I do not want to dwell on them tonight.

Rather, I want to talk about a very positive initiative which seeks to enable families of refugees to be reunited in Australia. I am sure most people would realise that, when a refugee or a family of refugees leave their own country and are resettled elsewhere, they often leave other family members behind. This is of great anxiety to them. Certainly, the government, to its credit, recognises that such separations occur and that they add an extra dimension of pain and anguish to people whose lives have already been uprooted as they flee persecution in their own lands. To overcome this, the government has for a long time provided particular identified migration categories to facilitate reunions of this kind. This is an aspect of the migration program which I heartily commend and I hope it will be regarded in a positive light by the majority of Australians.

What is less well known is that there are considerable costs involved for those who wish to use the reunion program. Naturally, the greatest cost is often that of funding the travel component—one of the enduring aspects of Australia's geographical isolation. Additionally, the government no longer provides travel funding for people coming to Australia under the special assistance category or the special humanitarian program in the migration program. People seeking to come to Australia under special assistance category or special humanitarian program category are either having to fund their own travel or having to rely on the ability of sponsoring groups in this country to extend financial assistance.

For many years now there has been a travel loan fund, established by a range of church and community organisations, which provides low cost finance to families who wish to assist relatives coming out under the reunion schemes. The same funding should also, in

my opinion, be able to be extended to these people. But, like so many other initiatives, demand has for some time outstripped supply. This is somewhat inevitable in light of the government's decision over the years to make more reunion visas available in the migration intake. We wish more community initiatives were victims of their own success in this way!

But it has the consequence that, on average, the cost of bringing one family to Australia under this program is about \$5,000, with some cases costing up to \$10,000. To overcome immediate problems, the National Council of Churches of Australia recently committed an additional \$50,000 to the fund. However, that will cover the costs of only some 10 reunions, assuming the average cost remains in the order of \$5,000.

The travel loan network has recently been formed to formalise and to coordinate the work which is going on in a number of agencies to assist with such costs. Obviously, the most important aspect of the network's work is to find the capital to establish a permanent, self-supporting investment fund. The fund works on the basis, as I said, of low cost loans to people who settled here as refugees. Those loans are replaced in a very responsible way. The need now is for an injection of a significant sum of money from the government to assist in this work.

The travel loan network in a recent paper set out three possible courses of action to overcome the problems which it outlined: firstly, that the Department of Immigration and Ethnic Affairs fund the International Organisation for Migration, in itself an international network, to administer such a fund; secondly, that the department fund existing organisations involved in travel loan schemes; and, thirdly, that the department fund various NGOs to administer and follow up the new scheme, as outlined in the paper, with appropriate guidelines set by negotiation.

The travel loan network has called for a discussion involving the major players in the matter—namely, the Department of Immigration and Ethnic Affairs, the United Nations High Commissioner for Refugees, the International Organisation for Migration and the

travel loan network itself. The paper presented recognises that the government provides considerable amounts of money for humanitarian purposes within the migration program and duly acknowledges the positive effect of the program itself and the work done by DIEA. However, it notes that even in the case of the special assistance given to Burmese people in the border regions with Thailand the airfares to Australia are not covered.

I believe that the network has come up with a range of fair, practical and effective possibilities to overcome this problem. It may be that the solution lies in one of the options I have mentioned, or it may be in a combination or variation of those options. There is clearly a considerable base of experience amongst groups involved in the network and I urge the government to draw on that expertise so that the positive effects of the humanitarian migration schemes will not be limited by peoples' financial difficulties in taking up the offer of resettlement which is given to them.

#### Science

**Senator COULTER** (South Australia) (7.35 p.m.)—Honourable senators will recall that earlier this week I raised in an urgency motion the matter of the government's abject failure in relation to its science policy. Honourable senators will also recall that this matter came to a head with respect to one part of Australia's scientific effort last year with the pressure on CSIRO and CSIRO scientists. That, of course, led to the Senate committee inquiry into CSIRO which made certain recommendations.

Earlier this week we had the urgency debate, which I was very pleased to see was supported by the opposition and which debate was won. I am sorry to say that the minister is not here by accident tonight to hear this letter I am about to read. He opened his contribution to that debate by saying that he was bemused—‘bemused’ was the word he used—by the fact that I had raised this debate. I take that word to mean that the minister simply did not understand what we were on about.

I am not surprised with the content of this letter, which I received today—partly in

response to letters which I have sent to scientists and partly in response to just the general ferment which is going on in science and the desperation with which scientists around this country are responding to the lack of a credible science policy in Australia. I received this letter today and I would like to read it into the record. It begins:

Dear Senator Coulter,

You are right to be concerned about the long-term direction of CSIRO.

One could also say this for science generally in the universities and elsewhere; but this scientist was, until recently, a CSIRO scientist. He goes on:

Despite the public posturing of its spokesman from time to time, the prime focus of the organisation is commercial return to its customers, who are business entities (which does not include family farms), not the Australian public. Science comes a poor second, if it comes anywhere. It is thus a commercial servicing rather than a scientific research organisation. The composition and behaviour of its current board provides all the confirmation of this that the outside observer needs. It is an outrage that the Board should impose a gag on Chiefs of Division—

he is referring there to the *Sydney Morning Herald* of 22 May—

and that the Chairman should seek to discredit concerned scientists within the organisation who have the temerity to question the changes proposed by the board . . .

He refers there to another article in the *Sydney Morning Herald* on 26 May. He goes on:

I understand from my former colleagues that the new director of the CSIRO Institute of Animal Production and Processing has stated to staff that "CSIRO is not a shelter for intellectually advantaged scientists" but that staff must listen to and serve their customers, that anyone who doesn't like it can leave and that, if they wish to criticise, they'd better resign first. This is an extraordinary insult to and attack upon people who have dedicated their working lives to an ideal within the organisation. In addition, I have been made aware that concerned scientists who made submissions to the Senate Enquiry last year have been targeted within the organisation for being disloyal. When I joined CSIRO in 1968, the Executive provided the resources and the scientists did scientific research under the direction of the Chiefs of the Divisions. Under these conditions, CSIRO became world famous for its science and the developments that

flowed from it. Now, scientists must win the resources and account to management for those resources by achieving specified 'milestones' in the time allocated for them by the customers. It may be possible to undertake technological developments under these conditions but they make scientific research impossible.

Perhaps my own case will serve to illustrate CSIRO's new focus. I worked in the Division of Animal Production for 26 years. I reached the level of Chief Research Scientist in 1987 and am regarded throughout the world as a leading authority in the field of ruminant physiology and nutrition. With two colleagues, I won an AWRAP grant in 1993 but we were told that it was not enough. Like all industry grants, it paid operating expenses and technician salaries, but not investigator salaries and overheads, amounting to about 20-25% of the so-called full cost. I was told that, unless I obtained the rest of the money, or another grant in an area of higher priority, I would be made redundant.

This is precisely what we heard from many scientists around the various CSIRO divisions during the Senate inquiry. The letter continues:

The Chief told me that he "was thinking about (my) early departure", his justification being that "the Division would be better off financially for (my) departure". There was no possibility that the extra money could be found and my new grant proposals were unsuccessful. So, in January this year, I was retrenched at the age of 56 because, to quote the case for my redundancy, "The Division is unable to apply Dr Faichney's knowledge of digestive physiology to projects that are seen outside the Division as worthy of substantial funding with the result that Dr Faichney's area of work is now redundant to the Division."

This again is what I pointed to in the debate earlier in the week. Many of these senior, very experienced scientists who still have 10 years or so of useful working life in them are being lost to science in Australia. But to continue, he says:

The fact that the Division's major current commercial development (Rumentek feed supplements) is based on the work that I did in the early 1970s carried no weight, nor did my early involvement in the work that led to the development of the AUSPIG software package, the Division's other main commercial development. I received a letter (from the Chief who made me redundant), written on the day of my retrenchment, which was ". . . to record CSIRO's appreciation of your outstanding commitment to science and the Australian livestock

industries over more than a quarter of a century. You have added lustre to CSIRO's name overseas and within Australia have contributed significantly to the prosperity of the livestock industries." I am fortunate that, although my pension is 20% less than I would have received at age 65,, it is enough to live on. Thus my main concern now is to retrieve my emotional and intellectual self-esteem.

I think that it is most important for you to maintain your inquiries into CSIRO and its management. Its very existence as a scientific research organisation is at stake.

And the letter is signed:

Yours sincerely,

G.J. Faichney, BAgSc, MScAgr, PhD, DAgSc.

Need I say more about the plight of science in this country.

#### Indigenous Land Corporation

**Senator CAMPBELL** (Western Australia) (7.43 p.m.)—By way of an aside, Senator Coulter and I could probably think of one famous world scientist that we met a few months ago in this building who may think that a 57-year-old scientist may have more than 10 years or so ahead of him. I refer, of course, to Dr Teller, who clearly at the age of 57 had many good years ahead and still does, I hope.

The reason I rise tonight to speak on the adjournment—I do not think I have done so for quite a long time now, probably a year or so—is that just a few minutes ago I had provided to me by someone in the press gallery a copy of a press release from the newly-created Indigenous Land Corporation, which was issued by David Ross, the newly-appointed chairman of that corporation. It has angered me somewhat. It is probably not a good time to make a speech when you are angry. I think I have cooled off a little bit and I will try to be as composed as I can.

In the past few months this Senate has devoted an enormous amount of time to debating the formation of the Indigenous Land Corporation and the land fund and the intricacies of that. In this last sitting fortnight we have devoted quite a lot of time to the decision of ATSIC to provide \$20 million out of \$24 million to the Northern Territory to the exclusion, virtually, of every other part of

Australia. The Minister for Primary Industries and Energy (Senator Bob Collins), the Leader of the Government in the Senate (Senator Gareth Evans) and, indeed, the Prime Minister, Mr Keating, have all been censured by this Senate for their part in the legislative process that led to that decision.

The media release that I refer to tonight reports a number of things. But the key decision of the first board meeting of the Indigenous Land Corporation reports that one of the three main decisions they made at that first board meeting was that until 1 July 1997 no funds would be allocated to the Northern Territory for land acquisition as a consequence of the ATSIC board decision to allocate \$10 million of its land acquisition funding to the Northern Territory. Of course, you will already, Mr President, have picked up a discrepancy in the facts in the media release, because the reality is that \$20 million, not \$10 million, has gone to the Northern Territory.

What is disturbing about the press release put out by Mr Ross on behalf of the corporation is its contradictory nature and the way that it sweeps aside the very interests of the Aboriginal and Torres Strait Islanders that this corporation, under the law of this land passed by this Senate and this parliament, is required to serve. Specifically, I will quote that Mr Ross waxes lyrical in his media release about his enthusiasm to 'create a structure and process which reflect the needs of indigenous Australians'. He also goes on to stress:

... that the Board's decisions would not be overly influenced by ATSIC or favour particular groups of indigenous peoples.

It is fanciful to say such a thing on the first page of a document and on the second page to say that you have decided not to send any money into the Northern Territory because ATSIC had made a decision to send all of its money into the Northern Territory. It is absolutely farcical and, really, quite a sick joke.

He goes on to say that the corporation—and the board—should be judged on its decisions, and indeed it will be. I am recording in the

Senate tonight my disbelief. In fact, when I went across to Senator Crowley, the minister on duty, to ask her permission to have this document incorporated in *Hansard*—I may seek leave to do that in a short while—Senator Crowley quite properly asked me what it was all about. As I sat there waiting for her to read it, I thought maybe it is a forgery. Maybe someone is just playing a joke on us here because this document is so outrageous, the decision of the ILC board is so outrageous, that indeed it could be a forgery. It could be someone playing a dirty joke on a few people in the gallery. I certainly hope no-one would be that sick, but I suspect that it is a genuine document and that makes it even sicker.

I just point to one of the very sad, sick, sorry and disgusting things about this press release that has so angered me. Mr Ross, or whoever wrote the press release, goes on to say that one of the decisions of the board, as required under law, is to develop strategies. He says:

Key to the development of these strategies—

he is talking about the national strategies and the regional strategies—

will be an assessment of current land acquisition and management needs.

For those of you who remember the debate, the board was required to develop a strategy as to how you would go about serving the needs of Aboriginal people in Australia and Torres Strait Islanders by assessing the various lands that are held at the moment, the needs of those people, and to make some sensible decisions about how you would go about that. The coalition, the Greens (WA) and, I think, most senators agreed that it would be a good idea to look at that on a regional basis and then to form a national strategy based on that.

The board would, quite properly, as Mr Ross said in his press release, 'want the strategy to reflect what people on the ground and communities want in the way of buying and managing land'. It does not take anyone too much intuition to figure out that if you

hold a board meeting and announce straight-away that you are not going to give any money to the Northern Territory, that, firstly, that decision has been taken without reflecting what people on the ground and the communities want because, clearly, the board has not spoken to one community or one Aboriginal or Torres Strait Islander in Australia before taking that decision.

Secondly, there can be no strategy because the board has not even figured out how to create its strategies. It has taken a decision that will affect the lives of an enormous number of Aboriginal and Torres Strait Islander Australians. It has done so without consulting the communities. During the debate, we heard a lot about consultation, and the lack thereof. When the committee I chaired went around Australia to talk to Aboriginal people about the land fund, most of them laughed when we told them that the minister had said this act was the result of the most extensive consultation in the history of Australia. It was a sick joke to them, as it was to us. There had been no consultation. I seek leave to have this media release incorporated in its entirety in *Hansard*.

Leave granted.

*The document read as follows—*

Indigenous Land Corporation

PO Box 1735 Woden ACT 2606

Media Release

8 June 1995

Indigenous Land Corporation starts work

The Indigenous Land Corporation (ILC) concluded its inaugural Board meeting this week on an optimistic note.

Chairman Ross said, 'I am pleased to be working with a Board with such a depth of experience in indigenous culture and enterprises and with good commercial knowledge as well as a lot of common sense. At the end of this meeting I feel confident that we will be able to create a structure and process which reflect the needs of indigenous Australians.'

Mr Ross stressed that the Board's decisions would not be overly influenced by ATSIC or favour particular groups of indigenous peoples. After the meeting Mr Ross said, 'I emphasise the Board should be judged on its decisions. Board members have been appointed to represent the

interests of all indigenous Australians. We cannot afford to show favouritism—all decisions will be just and equitable. The ILC faces an enormous challenge of allocating limited funds to meet the many demands from across Australia.'

A large component of the meeting focused on creating the administrative base for the Indigenous Land Corporation. Key decisions included:

the adoption of a regional structure with offices to be established in Adelaide, Brisbane and Perth. The ILC will remain in Canberra temporarily;

a process for developing its first National Indigenous Land Strategy and the associated regional strategies. Key to the development of these strategies will be an assessment of current land acquisition and management needs. Initially guidelines for regional strategies will be developed. The strategies are due to be finalised by the end of 1995; and

a decision that until 1 July 1997 no funds would be allocated to the Northern Territory for land acquisition, as a consequence of the ATSIC Board decision to allocate \$10 million of its land acquisition funding to the Northern Territory.

Work on developing the national strategy will begin immediately.

'The Board wants the strategy to reflect what people on the ground and communities want in the way of buying and managing land. We will be asking the regional indigenous organisations to let us know their needs and priorities. The ILC will not be in a position to release any funds for the

first six months. The National Strategy must be in place and tabled in Parliament before we start funding' Mr Ross said.

The Indigenous Land Corporation came into existence on 1 June 1995 through the enactment of the Land Fund and Indigenous Land Corporation (ATSIC Amendment) Bill 1995. The ILC is independent of ATSIC and the Government. Its job is to run a national land acquisition and land management program for all indigenous Australians.

The legislation also established the indigenous Land Fund which is a self-sustaining capital fund. The Land Fund is administered by ATSIC at the discretion of the Minister for Finance. The ILC is funded through monies provided by the Land Fund.

For more information contact:

Chairman—David Ross: Mobile 0419 213 563

Clare Henderson Parliament House: (06) 289 8868

Mr David Ross, Chairman of the Indigenous Land Corporation Board will hold a press briefing on Friday 9 June 11.30 at Parliament House, Canberra. Room to be advised.

**Senator CAMPBELL**—I thank the Senate. I am sure the Senate will debate this matter for many weeks to come.

**Senator TIERNEY** (New South Wales) (7.51 p.m.)—I rise to speak about unemployment on the north coast of New South Wales. I seek leave to have incorporated in *Hansard* a table showing such unemployment.

Leave granted.

*The document read as follows—*

#### Unemployment: Page

DSS Area	Casino	Grafton	Lismore	Total
September 1994	N/A	3064	3815	6879
October 1994	1331	2977	3497	7805
November 1994	1317	2921	3803	8041
December 1994	1338	2985	3843	8157
January 1995	1370	3061	4069	8500
February 1995	1436	3171	4269	8876
March 1995	1406	3081	4284	8771
April 1995	1332	2974	4002	8308

## Unemployment: Richmond

DSS Area	Byron Bay	Murwillum-bah	Tweed Hds	Ballina	Brunswick Hds	Total
March 1993	2568	1430	1993	2069	n/a	8060
October 1994	1488	1372	2449	1916	1210	8435
November 1994	1500	1393	2430	1980	1227	8530
December 1994	1492	1409	2430	1982	1247	8560
January 1995	1599	1476	2570	2142	1307	9094
February 1995	1653	1547	2649	2264	1313	9426
March 1995	1643	1529	2702	2266	1313	9453
April 1995	1603	1477	2690	2243	1324	9337

**Senator TIERNEY**—I thank the Senate. I have had this table incorporated into *Hansard* because it proves that the ALP member for Richmond (Mr Newell) has been caught out telling Richos on unemployment numbers in his very marginal electorate. Mr Newell is so embarrassed that I have exposed these Richos that he has complained to a number of my colleagues, presumably seeking their protection from being so exposed. I believe his actions are unprecedented and prove that my public debate with Neville Newell highlighting his duplicity is justified in the public interest. I want to go on and prove how this has taken place.

**Senator Crowley**—Mr President, I take a point of order. I ask the Senator to withdraw that reference to duplicity about one of our parliamentary colleagues in another place.

**The PRESIDENT**—I ask you to withdraw that reference, Senator Tierney.

**Senator TIERNEY**—I seek your ruling, Mr President, on the word duplicity. I would not have thought it was against standing orders.

**The PRESIDENT**—In the context you used it, it was clearly meant to imply a lie. I ask you to withdraw it.

**Senator TIERNEY**—I withdraw, on your advice, Mr President. Specifically, what Mr Newell has done is quote misleading unemployment figures for his seat of Richmond in a rather pathetic attempt to try to create a positive impression of the record of the Keating government in that area. As an ALP backbench member for regional Australia, he

has been placed in the position of defending the indefensible.

The real record of this ALP government is appalling in regional areas such as the north coast of New South Wales, which is now living with very high and immovable structural unemployment. Neville Newell's record on unemployment, in his five years in this seat, has been appalling. What can he point to in terms of doing anything for unemployment in the area? What new projects has he attracted into the seat of Richmond to create the very needed employment? What he has done is try to put a favourable spin on Australian Bureau of Statistics numbers to hide the legion of jobless that the ALP has defined off the list.

We all know people who are still unemployed after completing training courses—older men and women on the mature age allowance, people with part-time work who want to work longer hours and those who have just given up looking for work. These are the real, hidden unemployed and they are not included on the official figures. What I am going to speak about tonight are the official figures; but, beyond that, there is a large group of people who are also unemployed on the north coast and, indeed, right across Australia.

Let us look at what Mr Newell claims as the unemployment figures. He claims unemployment has come down and is now only 12.5 per cent for March. Even on his own flawed reckoning, the level of unemployment is almost 50 per cent above the national figure for March. Mr Newell should be alarmed and ashamed when the real level of unemployment in his seat is revealed. With

the ABS figures for that electorate, he has tried to defend this poor record.

What people should realise about ABS figures is that they are samples. Some 80,000 people right across Australia are sampled. When that is broken down into 154 electorates, that is a very small sample. What happens is that we get a very inaccurate picture. I will go into the reason for that a little later.

The DSS figures are the real figures, because they measure real people who are seeking jobsearch or newstart allowance. These are the people who walk through the door and register. These are the real numbers and are the numbers I have had incorporated in the Senate record tonight. These figures are for the centres of Ballina, Brunswick Heads, Tweed Heads, Murwillumbah and Byron Bay. They show the accurate picture.

Since March 1993, unemployment has risen steadily each month from 8,060 persons to 9,453 in March 1995. There have been no falls over this time. This is a 10 per cent increase, in the six months to March 1995, in the number receiving the dole cheque. This region is still looking for its five minutes of economic sunlight. What we have found happening across Australia is that there have been some boom spots, some hot spots in the economy, often associated with the centres of capital cities. But out in regional and rural Australia, people have been left behind. As a matter of fact, regional and rural Australia has not come out of the last recession.

Mr Newell has tried to put a favourable spin on all this. The media have been awake to it. There has been great media interest in this story. The table I had incorporated was included in the local newspapers which

showed quite starkly how Mr Newell had been misleading the local voters. As I said, he is using Australian Bureau of Statistics figures.

Alan Ramsay, the journalist, has pointed out why this is dishonest, why you cannot do this. A column by him appeared on 13 May this year, headed 'One Problem with the Jobless Fantastic News'—that is what the government has been portraying it as. It clinically sets out that the official ABS figures are at best a guess. Ramsay said:

How can two government agencies—the ABS and the DSS—

on the same day announce two quite different sets of figures on unemployment for the same month. The ABS is the agency the government relies on for official unemployment. The Bureau does not however actually count those people who want work but can't find it . . . it samples one half of one percent of the population each month . . .

Ramsay goes on:

The DSS does it differently. It actually counts each month all registered job seekers who get the range of unemployment benefits.

Ramsay raises the obvious point that it is real people counted drawing unemployment cheques—not the ABS informed guess—that is the best guide. Ramsay concludes his piece, saying:

the fact is that social security figures . . . the DSS figures indicate the more real level of unemployment.

That is what I have had incorporated in the *Hansard*. That is what was in the local newspapers. It points out that what Neville Newell has been saying about unemployment in the Richmond area is totally misleading. He claimed the level was decreasing. The table shows it is increasing and, like many things in this government, that is just another l-i-e.

**Senate adjourned at 8.00 p.m.**

## ANSWERS TO QUESTIONS

The following answers to questions were circulated:

### Australian Construction Services (Question No. 2027)

**Senator Kemp** asked the Minister representing the Minister for Administrative Services, upon notice, on 6 March 1995:

(1) Has the Australian Construction Services (ACS) constructed or managed the construction of any buildings in excess of \$1 million since January 1992; if so; (a) what building(s); (b) when was the building completed; (c) what was the original contract amount; and (d) what was the end cost of the building.

(2) What was the ACS's role.

(3) What sums were spent on variations to the original design and modifications to these buildings.

(4) (a) What did these variations and modifications entail; and, (b) why were they necessary.

**Senator McMullan**—The Minister for Administrative Services has provided the following response to the honourable senator's question:

The answers to these questions are contained in the following table and explanatory notes.

### PART A:

State	Project description (1)	Customer	Practical completion date (1b)	Original contract amount (1c)	Contract amount as varied (1d)	ACS role (2)
ACT	DAS Fleet Accommodation Fyshwick	DAS Fleet	18-Nov-94	3,141,437	3,581,835	SUP
ACT	Taxation Office Belconnen	DAS—AEM	04-Jul-94	29,270,204	33,088,531	DD/PM/CS/CA/SR
ACT	Defence Building M Russell	Defence	29-Jul-92	74,295,865	80,975,704	SUP
ACT	ATO—Commonwealth Bldg A—Bruce	ATO	16-Oct-92	18,127,612	20,782,643	SUP
ACT	Australian Customs Computer Centre	Aust Customs Service	13-Nov-92	14,941,531	15,741,950	SUP
ACT	Australian War Memorial New Warehouse Building	Aust War Memorial	20-Dec-93	5,895,926	6,101,421	CM
NSW	Extensions to Office Block—Wagga Wagga	DAS—AEM	27-Nov-92	3,855,900	3,935,793	PM/SUP/SRCA1
NSW	Accommodation Upgrades 2 & 3 Singleton	Defence—Army	12-Dec-93	11,837,413	12,415,356	PM/SUP/SRCA1
NSW	Accommodation of IET's Singleton	Defence—Army	29-Apr-93	7,162,278	7,086,081	PM/SUP/SRCA1
NSW	Upgrading of Central Power House Nowra	Defence—Army	07-Feb-94	1,585,248	2,545,027	PM/SUP/SRCA1
NSW	Upgrade Messes & Kitchens Myambat	Defence—Army	20-May-93	1,513,700	1,570,223	PM/SUP/SRCA1
NSW	New City Central Office Block Sydney	DAS—AEM	17-Jul-92	166,081,000	170,637,000	PM/SUP/SRCA1
NSW	Squadron Admin Building North Nowra	Defence—Army	16-Feb-92	1,387,316	1,404,172	PM/SUP/SRCA1
NSW	R&F Student Accommodation Singleton	Defence—Army	29-Nov-93	4,268,505	4,327,568	PM/SUP/SRCA1
NSW	Accommodation for IET's Singleton	Defence—Army	05-May-93	3,897,907	3,983,599	PM/SUP/SRCA1
NSW	Operations, Communications & Admin Nowra	Defence—Navy	18-Jan-93	2,360,000	2,502,510	PM/SUP/SRCA1
NSW	Returned Produce Store Myambat	Defence—Army	26-Aug-92	1,371,218	1,381,259	PM/SUP/SRCA1
NSW	Explosive Storehouses	Defence—Army	14-Mar-94	17,480,000	20,198,742	PM/SUP/SRCA1
NSW	Naval Health Centre Garden Island	Defence—Navy	14-Feb-94	2,081,071	2,227,271	PM/SUP/SR/CA
NSW	Commonwealth Offices Orange	DAS—AEM	13-Jan-95	1,030,477	1,085,385	PM/SUP/SRCA1
NSW	Military Police Complex Green Hills	Defence—Army	25-Mar-92	14,116,741	15,124,205	PM/SUP/SR/CA
NSW	Family Court of Australia Bldg Sydney	A-G's (Family Court)	13-Nov-93	50,986,660	52,029,034	PM/SUP/SR/CA
NT	RAAF Base Tindal—Construction of Aviation Fuel Storage	Defence—RAAF	18-Aug-93	8,785,463	8,830,186	PM/SUP

State	Project description (1)	Customer	Practical completion date (1b)	Original contract amount (1c)	Contract amount as varied (1d)	ACS role (2)
NT	RAAF Base Tindal—Construction of Defence Facilities	Defence—RAAF	13-Apr-94	11,856,372	12,132,753	PM/SUP
NT	RAAF Base Tindal—Construction of Living-in-Accommodation	Defence—RAAF	26-Nov-93	2,798,999	2,789,835	PM/SUP
NT	RAAF Base Tindal—Ordnance Storage Facility (Phase 1)	Defence—RAAF	26-Aug-92	1,119,844	2,405,572	PM/SUP
NT	RAAF Base Tindal—Construction of Calibration	Defence—RAAF	17-Sep-92	1,887,852	2,039,752	PM/SUP
NT	RAAF Base Tindal—Construction of Operation & Technical Facilities	Defence—RAAF	16-Dec-93	2,393,384	2,419,361	PM/SUP
NT	Waler Barracks	Defence—Army	21-Dec-92	63,000,000 #	54,500,000	PM/SUP
NT	2CAV Regt Relocation	Defence—Army	18-Dec-92	51,606,149	54,588,041	DD/PM/SUP
NT	Kakadu National Park—Construction of Cultural Centre	National Parks & Wildlife	14-Sep-94	1,917,683	1,971,164	DD/PM/SUP
NT	Nhulunbuy—Alterations and Additions to Commonwealth Centre	DAS—AEM	16-Dec-94	1,086,687	1,119,464	DD/PM/SUP
QLD	Oakey Building 823 Extensions to Workshop	Defence—Army	28-Aug-92	1,318,834	1,385,743	PM/DD/SUP/SR/C S/CA
QLD	Cabralah Joint Telecommunications Training Wing	Defence—Army	16-Apr-92	1,886,530	2,041,588	PM/DD/SUP/SR/C S/CA
QLD	Cleveland Redevelopment of Facilities	CSIRO	22-Jul-94	1,459,000	1,580,562	PM/DD/SUP/SR/C S/CA
QLD	Bundaberg Commonwealth Offices	DAS—AEM	09-May-94	1,667,681	1,688,382	DD/SUP/SR/CS/C A
QLD	Amberley WSSF Transportable Building	Defence—RAAF	23-Dec-92	1,660,046	1,691,847	PM/DD/SUP/SR/C S/CA
QLD	Townsville Lavarack Barracks Refurbishment of Rank and File Building Nos 417 & 324	Defence—Army	09-Dec-92	1,227,000	1,227,000	PM/DD/SUP/SR/C S/CA
QLD	Inala New Commonwealth Offices	DAS—AEM	05-Sep-94	3,807,259	3,868,483	DD/SUP/SR/CS/C A
QLD	Cabralah Rank and File Accommodation & Interconnecting Blocks	Defence—Army	04-Dec-92	2,492,786	3,497,243	PM/DD/SUP/SR/C S/CA
QLD	Oakey, New Administration Building	Defence—Army	05-Nov-92	2,036,612	2,067,599	PM/DD/SUP/SR/C S/CA
QLD	Townsville Lavarack Barracks Rank and File Building Nos 321, 422, 516 & 522	Defence—Army	20-Jul-92	2,496,000	3,154,766	PM/DD/SUP/SR/C S/CA
QLD	Oakey New "Q" Store and Transport Facilities	Defence—Army	11-Dec-92	2,386,202	2,554,560	PM/DD/SUP/SR/C S/CA
QLD	Cabralah Extensions to Rank and File Dining Room and Kitchen, Ration Store	Defence—Army	24-Nov-92	1,150,000	1,216,744	PM/DD/SUP/SR/C S/CA
QLD	Cabralah, Junior Officers & Senior NCSO's Accommodation JTS HQ Ablutions	Defence—Army	04-Dec-92	1,529,917	1,586,896	PM/DD/SUP/SR/C S/CA
QLD	Cabralah Multipurpose Gymnasium, Squash Court and Tennis Court	Defence—Army	03-Mar-92	1,303,029	1,398,645	PM/DD/SUP/SR/C S/CA
QLD	Oakey Paint Shop Extensions and Refurbishment	Defence—Army	25-Aug-93	2,308,600	2,394,177	PM/DD/SUP/SR/C S/CA
QLD	Terrica Place	DAS—AEM	28-Feb-95	54,678,147	57,220,820	DD/CS/SUP/CA/S R
SA	Explosive Ordnance Facilities Stage 1 RAAF Base Edinburgh	Defence—RAAF	27-Aug-93	2,065,423	2,046,140	PM/DD/SUP/CA
VIC	Greensborough—New Telephone Exchange	Telecom	18-Mar-92	941,235	1,086,470	PM/SUP
VIC	Edinburgh—SA—New Institute of Aviation Medicine	Defence—RAAF	06-Feb-95	3,019,660	3,193,425	PM/DD/SUP
VIC	Nth Melbourne—Telephone Exchange Upgrade	Telecom	17-Sep-92	1,363,520	1,510,550	SUP
VIC	Maribyrnong, Noise and Vibration Laboratory	DSTO	30-Aug-93	1,561,400	1,424,700	PM/SUP
VIC	Antarctic—Davis Meteorology Building	DSET	31-Mar-94	2,060,000	3,000,000	PM
VIC	Antarctic—Mawson—Balloon Building	DSET	31-Mar-93	1,080,000	1,240,000	PM
VIC	Antarctic—Davis, General Science Building	DSET	30-Dec-94	5,700,000	5,300,000	PM
VIC	Antarctic—Mawson—Living Quarters	DSET	28-Feb-95	4,150,000	4,420,000	PM

State	Project description (1)	Customer	Practical completion date (1b)	Original contract amount (1c)	Contract amount as varied (1d)	ACS role (2)
VIC	Antarctic—Mawson—Operations Building	DSET	31-Mar-94	4,333,000	3,930,000	PM
VIC	Antarctic—Mawson—Emergency Power House	DSET	15-Feb-95	1,600,000	1,690,000	PM
VIC	Antarctic—Davis UAP Building	DSET	30-Dec-93	4,230,000	4,030,000	PM
VIC	Fishermen's Bend—ARL Site Re-development	DSTO	21-Oct-94	11,060,000	11,060,000	PM
VIC	Antarctic—Casey, General Science Building	DSET	28-Feb-93	4,765,000	4,225,000	PM
VIC	Mulwala—REFA	ADI	16-Dec-92	78,000,000#	138,000,000	PM
VIC	Brunswick—Telephone Exchange Upgrade	Telecom	28-Feb-92	1,089,750	1,231,890	SUP
VIC	HMAS Cerberus—Communications School	Defence—navy	15-Jan-95	9,232,045	9,430,015	PM/SUP
VIC	East Burwood—New Archive Repository	Archives	15-Oct-93	6,563,280	6,942,200	SUP
VIC	Parkville—Division of Biomolecular Engineering—New Laboratory	CSIRO	31-Mar-94	5,672,130	5,932,368	PM/SUP
VIC	Clayton—Division of Mineral Process Engineering, New Administration and Technical Facilities Building	CSIRO	22-Jul-94	3,878,089	4,062,974	PM/SUP
VIC	Melbourne—Casselden Place Office Tower	DAS—AEM	31-Aug-92	168,075,000 *	192,514,539 **	PM/SUP
VIC	HMAS Cerberus—New Recruit School	Defence—navy	31-Jan-93	4,493,700	4,782,600	PM
VIC	Bendigo Commonwealth Offices for DSS	DAS-AEM	23-Feb-95	2,890,434	2,997,868	PM/DD/SUP/CA
TAS	Hobart Commonwealth Gvt Centre Stage 2	DAS-AEM	19-May-92	21,652,000	27,196,000 ##	PM/DD/SUP/CA
WA	Perth Commonwealth Law Courts	A-G's	27-Nov-92	59,495,885	62,250,313	PM
WA	HMAS Stirling Expansion of Naval Stores	Defence—Navy	29-Apr-94	3,470,000	3,760,962	PM
WA	HMAS Stirling Electronics Workshop No. 2	Defence—Navy	06-Mar-92	2,471,166	2,485,058	PM
WA	6 Accommodation Blocks	Defence—Navy	22-Jan-93	2,778,862	2,844,040	PM
WA	HMAS Stirling Hull Maintenance Workshop	Defence—Navy	29-Jan-92	1,574,069	1,585,218	PM
WA	HMAS Stirling Extension of Officers Wardroom	Defence—Navy	22-Jul-94	1,603,500	1,941,290	PM
WA	HMAS Stirling Fleet Base General Amenities	Defence—Navy	20-Mar-92	748,500	1,013,946	PM
WA	HMAS Stirling—COMAUSSURBRON Building	Defence—Navy	12-Nov-92	1,493,000	1,508,544	PM
WA	HMAS Stirling—Extension to JS Recreation Centre	Defence—Navy	20-May-94	1,666,610	1,718,996	PM
WA	HMAS Stirling—Extension to JS Gallery & Cafeteria	Defence—Navy	29-Mar-94	3,426,028	3,839,478	PM
WA	HMAS Stirling—Port Services Building	Defence—Navy	20-Aug-92	1,670,755	1,706,323	PM

## PART B:

Variations (V) (VI) (VII)

Customer requests	Documentation clarification	Statutory requirements latent conditions industry needs incl. site conditions/site requirements	Total variations
381,433	58,965	0	440,398
1,938,433	1,224,817	655,077	3,818,327
3,223,220	2,360,743	1,095,876	6,679,839
200,083	860,295	1,594,653	2,655,031
199,581	72,661	528,177	800,419
195,490	1,955	8,050	205,495
2,749	77,144	0	79,893
495,317	62,024	20,602	577,943
7,106	(83,303)	0	(76,197)
834,781	95,069	29,929	959,779
41,316	(16,332)	31,538	56,523
(348,715)	(255,773)	5,160,488	4,556,000
459	16,397	0	16,856
13,581	45,482	0	59,063
51,328	24,197	10,167	85,692
75,594	58,729	8,188	142,510
34,083	(24,042)	0	10,041
2,736,319	(37,800)	20,223	2,718,742
34,944	50,969	60,287	146,200
38,938	207	15,763	54,908
269,237	642,673	95,554	1,007,464
747,496	74,916	219,962	1,042,374
0	44,723	0	44,723
242,233	34,148	0	276,381
(19,978)	10,814	0	(9,164)
1,285,728	0	0	1,285,728
95,672	56,228	0	151,900
25,977	0	0	25,977
784,000	33,500	0	817,500
2,132,000	849,892	0	2,981,892
45,809	7,672	0	53,481
13,277	19,500	0	32,777
53,776	3,261	9,872	66,909
147,984	(2,000)	9,074	155,058
107,585	3,203	10,774	121,562
19,799	902	0	20,701
5,489	(4,176)	30,488	31,801
0	0	0	0
35,583	22,604	3,037	61,224
955,406	(1,600)	50,651	1,004,457
23,701	7,286	0	30,987
657,920	740	106	658,766
153,849	9,605	4,904	168,358
27,880	(450)	39,314	66,744
33,552	(1,800)	25,227	56,979
65,227	0	30,389	95,616
39,521	13,468	32,588	85,577
1,088,071	249,905	1,204,697	2,542,673
2,479	13,839	(35,601)	(19,283)
108,900	36,335	0	145,235
33,852	132,058	7,855	173,765
120,850	26,180	0	147,030
(119,500)	8,000	(25,200)	(136,700)
940,000	0	0	940,000
0	0	160,000	160,000
(400,000)	0	0	(400,000)
0	0	270,000	270,000
403,000	0	0	403,000
0	90,000	0	90,000
(200,000)	0	0	(200,000)
0	0	0	0
(540,000)	0	0	(540,000)
60,000,000	0	0	60,000,000
98,550	43,590	0	142,140
127,200	70,770	0	197,970
23,093	319,162	36,665	378,920

## Variations (V) (VI) (VII)

Customer requests	Documentation clarification	Statutory requirements latent conditions industry needs incl. site conditions/site requirements	Total variations
125,048	86,973	48,217	260,238
41,216	91,054	52,615	184,885
12,840,245	10,340,731	258,563	23,439,539
241,805	47,095	0	288,900
65,653	6,385	35,396	107,434
3,322,000 ##	819,000	1,403,000	5,544,000
387,646	1,349,964	1,016,818	2,754,428
215,450	59,104	16,408	290,962
2,579	11,313	0	13,892
66,023	(845)	0	65,178
1,552	9,597	0	11,149
222,790	90,288	24,712	337,790
246,220	6,245	12,981	265,446
5,891	9,510	143	15,544
29,438	9,968	12,980	52,386
286,934	50,621	75,895	413,450
36,414	(2,166)	1,320	35,568

## LEGEND:

PM Project Management

DD Design and Documentation

SUP Superintendent

CS Construction Supervisor

CA Contract Administration

SR Superintendent's Representative

SRCA1 Superintendent's Rep/Contract Administration by Asset Services

CM Construction Manager

\* Original contract \$186m included provisional sums of \$18.425m.

Three PC adjustments are included in Document clarification column.

\*\* Client requests also includes work ordered by tenants.

# Project was delivered by the use of a significant number of trade and building packages and this amount represents the clients original budget allowance.

## This figure includes \$3,032,000 of Tenant requested variations.

## EXPLANATORY NOTES

1. Response provided for buildings in excess of \$1m for which ACS has managed construction since January 1992. ACS does not construct buildings its role has been to design/document and project manage the construction of buildings.

2. \$1m has been interpreted as the physical cost of the building exclusive of fees.

3. The contract amount as varied shows the original amount plus variations. Delay and prolongation costs have been excluded.

4. The response to questions (3), (4a) and (4b) have been limited to providing details on variations under three headings. The reason for this is that there can be up to 1,000 variations on one project and to list the information individually it would require an enormous amount of resources. In addition there is a lack of current knowledge on the variations for some projects particularly those completed shortly after January 1992 which were undertaken as part of a tied customer arrangement.

### **Employee Share Acquisition Schemes**

(Question No. 2046)

**Senator Watson** asked the Minister representing the Treasurer, upon notice, on 8 March 1995:

With reference to employee share acquisition schemes (ESAS) and the preparation of fringe benefit tax returns for the year ending 31 March 1995, given the already onerous compliance burden and to remove uncertainty in relation to employee shares ownership schemes:

(1) Does the Government propose to introduce legislation to impose fringe benefits tax on employers in respect of ESAS; if so, will the legislation contain features as outlined in the press release of 9 December 1994.

(2) From what date would such ESAS measures commence.

(3) When is such legislation to be introduced into the Parliament.

**Senator Cook**—The Treasurer has provided the following answer to the honourable senator's question:

(1) As announced on 28 March 1995, shares and rights provided under Employee Share Schemes will be subject to income tax in the hands of employees, with concessional treatment where specified conditions are met. The new provisions are contained in Taxation Laws Amendment Bill (No 2) 1995.

(2) The measures will commence from 6.00 pm, 28 March 1995, subject to the operation of transitional provisions.

(3) The legislation was introduced into the House of Representatives on 30 March 1995.

### **Ben Halls Gap State Forest**

(Question No. 2132)

**Senator Sandy Macdonald** asked the Minister for the Environment, Sport and Territories, upon notice, on 8 May 1995:

(1) Why is the Australian Heritage Commission (AHC) proposing to list Ben Halls Gap State Forest in the Register of the National Estate when State Forests will release a full scientific study of the area later this year.

(2) Why is the AHC not viewing Ben Halls Gap as part of the Walcha-Nundle Management Area.

(3) Why is the AHC pre-empting the environmental impact statement process for the Walcha-Nundle Management Area.

(4) How can the AHC use an argument relating to old-growth forest when there is no scientific methodology for determining what constitute 'old growth' in New South Wales.

**Senator Faulkner**—The Minister for the Environment, Sport and Territories has provided the following answer to the honourable senator's question:

(1) The AHC listed Ben Halls Gap State Forest on the interim list of the Register of the National Estate on 30 June 1992. Several objections from local landowners were received to the listing.

Under paragraph 23B of the Australian Heritage Commission Act 1975, the Commission must deal with objections within a 12 month period after the three month objection period closes. An extended period may be sought in exceptional cases but no further extensions may be given.

In February 1993, the then Minister for the Arts, Sport, the Environment and Territories, the Hon Ros Kelly MP, decided to extend the deadline for resolving objections to the listing of the State Forest until 30 December 1994, pending the completion of the Walcha-Nundle Styx Environmental Impact Statement. The New South Wales Forest Service originally estimated that the EIS would be finalised by April 1994, but to date the EIS has not been completed.

In July 1994 I then appointed two independent assessors to re-assess the national estate values of the State Forest. These were Associate Professor Jeremy Smith, who examined the botanical values and Dr Darren Quin, who examined the zoological values. Both Professor Smith and Dr Quin are employed by the University of New England, and are highly qualified in their fields of study.

The New South Wales Forest Service provided the assessors with copies of the completed flora and fauna surveys undertaken for the Walcha-Nundle Styx EIS for use in their re-assessment of the values of the State Forest. The flora and fauna surveys are the only scientific documentation included in the EIS which are relevant to the assessment of National Estate significance.

(2) The assessors considered the national estate values of the State Forest within a regional context using the flora and fauna surveys conducted for the Walcha-Nundle Styx EIS. They also used extensive survey data for forests in the region compiled by the University of New England over many years. Both assessors have also worked extensively in National Parks within the region, and were able to compare the flora and fauna values of Ben Halls Gap State Forest with those of other State Forests, National Parks and Reserves.

On the basis of the assessors recommendations the Commission decided to list Ben Halls Gap in

the Register of the National Estate, excluding a small area which is leased for grazing.

(3) The purpose of the Environmental Impact Statements by State Forests of New South Wales for forest regions within the state (in this case the Walcha-Nundle Styx EIS) is different to that of listing a place in the Register of the National Estate.

The listing of a place in the Register of the National Estate indicates that the place is significant as part of Australia's heritage. The listing of a place in the RNE is not a management decision and does not affect the actions of State and local government authorities and private individuals.

Forest EIS contain details of how the forests of a region are to be managed by State Forests of New South Wales for conservation and timber utilisation. The Commission has provided advice to State Forests of New South Wales regarding places of national estate significance within the Walcha-Nundle Styx region for inclusion in the EIS.

(4) When considering places for inclusion in the Register of the Register of the National Estate the Commission assesses them against criteria set out in section 4 of the Australian Heritage Commission Act. Old-growth is assessed by the AHC to be a regionally and nationally rare phenomena (Criteria B).

The National Forest Policy Statement (NFPS)—to which the Commonwealth and all State and Territories are signatories—provides the following definition of old-growth forest:

'forest that is ecologically mature and has been subjected to negligible unnatural disturbance such as logging, roading and clearing. The definition focuses on forest in which the upper stratum or over storey is in the late mature to over mature growth phases.'

Given the NFPS definition local or regional identification of old growth forest is possible.

For example old-growth forest was identified at a regional level in the Commonwealth funded Old-growth Forest Project undertaken in both Central Highland and East Gippsland study by the Victorian Department of Conservation and Natural Resources.

As an example of old-growth forest identified at a local scale, the oldgrowth forest at Ben Halls Gap State Forest was identified by a site specific survey undertaken for NSW National Parks and Wildlife using methods consistent with the NFPS definition of old-growth.

## Convention on International Trade in Endangered Species of Wild Fauna and Flora

### (Question No. 2142)

**Senator Woodley** asked the Minister for the Environment, Sport and Territories, upon notice, on 11 May 1995:

(1) What are the names of the members of the Australian delegation to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) meeting held in Florida in 1994.

(2) How is the makeup of the delegation to each CITES meeting determined.

(3) Did the delegation to the Florida meeting act under instruction from the Minister or his department, or were they empowered to decide Australia's position on the issues and proposals raised at the meeting.

(4) Did the Australian delegation propose a change to the status of the saltwater crocodile under CITES; if so: (a) what was this change; and (b) will this change enable the exporting of skins from crocodiles killed in the wild in Australia.

(5) Could indications be given of the following proposals which were raised at the meeting and what position Australia took on each of those that were raised: (a) a proposal by South Africa to lessen protection for African elephants and allow trade in elephant skin and hides; (b) a lessening of protection of the southern white rhino, allowing trade in live rhinos or dead sport-hunted rhinos; (c) changes to free up the importation of leopard and cheetah skins; (d) a lessening of protection for the minke whale; and (e) listing threatened timber species under CITES.

(6) What measures are used to enforce CITES.

(7) What are the criteria to list and de-list species under CITES and were these criteria changed at the Florida meeting; if so: (a) what were the changes made; and (b) what was the Australian delegation's position on the changes.

(8) Have any recent changes to CITES or the rules governing CITES enabled expanded commercial trade in any endangered species; if so, what are they and what has the Australian Government's position been on these changes.

(9) Is it a fact that there are circumstances where developing commercial markets for particular species of wildlife assists in the preservation of that species; if so, what are such circumstances.

**Senator Faulkner**—The answer to the honourable senator's question is as follows:

I have forwarded a copy of the Report of the Australian Delegation to the Ninth Meeting of the Conference of Parties to CITES, 7-18 November

1994, Fort Lauderdale, Florida, United States of America, to the honourable senator. Further copies are available from the Senate Table Office.

(1) The Australian delegation to the Ninth Meeting of the Conference of Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) comprised:

Mr Malcolm A Forbes;

Mr Robert W G Jenkins;

Mr Francis B S Antram;

Mr Robert J Moore;

Mr Paul M Smith;

Dr William J Freeland;

Dr James A Armstrong;

Mr Glenn Sant; and

Dr Godfrey A Letts

(2) The composition and membership of an Australian delegation to any particular Meeting of the Conference of Parties is determined after considering the range of issues included in the agenda for that Meeting. It is established practice that the Australian delegations to each CITES Meeting comprise officers of the Australian Nature Conservation Agency and the Department of Foreign Affairs and Trade, as well as representatives of State and Territory nature conservation agencies and non-government organisations.

I approved the composition and membership of the Australian delegation to the Ninth Meeting of the Conference of Parties to CITES following consultation with my colleague, Senator the Hon Gareth Evans QC, Minister for Foreign Affairs.

(3) The Australian delegation to the Ninth Meeting of the Conference of Parties to CITES acted in accordance with a delegation brief which I approved. The brief was compiled in consultation with representatives of relevant Commonwealth, State and Territory Government departments and agencies, non-government organisations and industry groups.

(4) In accordance with Article XV of the Convention, a proposal to change the listing of the Australian population of saltwater crocodile (*Crocodylus porosus*) was lodged with the CITES Secretariat in June 1994.

(4)(a) The proposal sought an unqualified listing of the Australian population of *C. porosus* on Appendix II to the Convention, in recognition of the improved conservation status of the species. Since 1985, the Australian population of *C. porosus* has been listed on Appendix II to the Convention, subject to criteria for ranching which were established by the Third Meeting of Conference Parties.

(4)(b) The change to an unqualified listing of *C. porosus* on Appendix II to CITES will only allow the export of skins from saltwater crocodiles killed in the wild if the existing management programs are amended to permit this activity. Any changes to the current management arrangements for saltwater crocodiles in Australia will require approval by the Commonwealth under the provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982, if exports are to take place. The Act provides for a public consultation process to be undertaken before a Commonwealth decision is made.

(5)(a) The Republic of South Africa submitted a proposal to transfer the South African population of African elephant from Appendix I to Appendix II. The Australian position was to offer the proposal support, conditional on the concerns raised by the CITES panel of experts being met, and the new listing being annotated "for trade in non-ivory products only". As South Africa amended the proposal so that these two conditions were satisfied, Australia spoke in favour of the proposal. The proposal was not voted upon, as it was withdrawn by South Africa.

(5)(b) The Republic of South Africa submitted a proposal to transfer the South African population of southern white rhinoceros from Appendix I to Appendix II. The Australian position was to oppose this proposal as submitted, but South Africa subsequently amended the proposal to read "... for the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and hunting trophies". Australia abstained from voting.

(5)(c) Export quotas for leopard were granted to a number of African countries at the Seventh (1989) and Eighth (1992) Meetings of the Conference of Parties. The CITES Secretariat submitted a draft resolution for consideration by the Ninth Meeting of the Conference of Parties which sought to improve the reporting requirements for the export of leopard hunting trophies and skins under the quota system. The proposal included a mechanism to suspend imports from any country granted an export quota that had not met its reporting requirements. Australia supported the proposal.

No proposals were submitted which related specifically to the cheetah, although Namibia submitted a draft resolution relating to trade in hunting trophies of species listed in Appendix I and another relating to application and interpretation of quotas for species included in Appendix I (the cheetah is listed in Appendix I, with annual export quotas approved for Botswana, Namibia and Zimbabwe). Australia opposed any wording in the former resolution which would restrict the capacity of an importing country to adopt stricter domestic measures as provided for in Article XIV of the

Convention, and voted in favour of a proposed amendment to adopt wording consistent with the text of the Convention. Australia abstained from voting on the latter proposal as Australia was not able to implement the proposed resolution without legislative amendments.

(5)(d) Norway submitted a proposal to transfer the Northeast Atlantic and the North Atlantic central stocks of minke whale from Appendix I to Appendix II. Australia voted against the proposal.

(5)(e) Several proposals seeking the inclusion of various species of tropical timbers in Appendix II were submitted for consideration by the Ninth Meeting of the Conference of Parties. In addition, the United Kingdom submitted a draft resolution which aimed to address some of the technical and practical problems associated with applying the CITES framework to timber species. The Australian position was to pursue the initiative of the United Kingdom, preferring to defer consideration of listing additional timber taxa in the Appendices until the implementation problems which had already been identified had been addressed. Nevertheless, a voting position for Australia was formed on each timber proposal, based on the biological and trade criteria for listing species in the Appendices.

In accordance with the proposal by the United Kingdom, the Conference of Parties established a working group to investigate the implementation of CITES for timber species. A member of the Australian delegation was appointed to chair the working group. The group will liaise closely with other relevant international organisations such as the International Tropical Timbers Organisation, and is to report to the next Meeting of the Conference of Parties in 1997.

The decisions of the Conference of Parties on individual proposals related to timber species are summarised in the Report of the Australian Delegation.

(6) In Australia, CITES is implemented through the provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982, which is administered by the Australian Nature Conservation Agency. The Act provides for the appointment of inspectors to enforce the Act. Any officer of the Australian Customs Service, any member of the Australian Federal Police; and any member of the police force of an External Territory is an inspector under the Act. In addition, a number of personnel who are employed by State conservation agencies have also been appointed as inspectors under the Act.

(7) Criteria were established in 1976 at the First Meeting of the Conference of Parties to assist the Parties make decisions in relation to proposals to amend Appendices I and II to the Convention. The

criteria establish standards of information required on the biological status and trade status of a species proposed for inclusion in Appendix I or Appendix II. Appendix I of the Convention includes all species threatened with extinction which are, or may be, affected by trade. Appendix II includes all species which, although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilisation incompatible with their survival and other species, which must be subject to regulation in order that trade in specimens of the aforementioned species may be brought under effective control.

(7)(a) The Ninth Meeting of the Conference of Parties made extensive changes to the Criteria for Amendment of Appendices I and II, to address various inadequacies in the original criteria which had become apparent since 1976. The new criteria are detailed in the Report of the Australian Delegation.

(7)(b) Australia adopted a negotiating position aimed principally at achieving an acceptable outcome that most Parties (including both developing and developed countries) were able to endorse. Australia supported the development of objective criteria for evaluating the suitability of taxa for inclusion in the Appendices to CITES, providing that such criteria represented a genuine advancement over the original criteria. Australia also supported the inclusion of precautionary measures in the new criteria.

A member of the Australian delegation was appointed to chair a working group to resolve differences among Parties over the revised criteria. The product of the working group was a consensus document which was adopted by Committee 1 with 81 votes in favour to none against, and subsequently ratified in Plenary Session. Australia abstained from voting, indicating its desire to be seen to be impartial in the process.

(8) Apart from amendments to the Appendices, there have been no recent changes to the text of the Convention.

Resolutions and decisions of Meetings of the Conference of Parties are made to guide Parties in the implementation of the Convention. They are not binding on Parties, but, as they represent a consensus view, it is usually in the best interests of Parties to abide by them.

Some of the resolutions and decisions made by the Meetings of the Conference of Parties may, simplistically, be interpreted as having enabled expanded trade in some specimens of species which are classified as being endangered, in cases where such trade will not be to the detriment of the wild population, such as animals that have been legiti-

mately bred in captivity and plants which have been artificially propagated.

The Report of the Australian Delegation includes copies of all resolutions and decisions of that Meeting. In relation to each of these resolutions and decisions, Australia adopted a negotiating position which favoured an increase in the effectiveness of the Convention, so that species are given a level of protection commensurate with their conservation status.

(9) The development of commercial markets for wildlife products may assist in the preservation of the harvested species and other wildlife by providing a landholder with an alternative or supplementary means of productive land-use. It may act as an incentive for the landholder to maintain areas of natural habitat on the property which may, in the

absence of such an incentive, be alienated for agriculture or other forms of land use inimical to all but the most hardy species of wildlife.

For such use to contribute to the long-term survival of the harvested species, the harvest must be conducted in accordance with the principles of ecological sustainability ie. at a level which may be sustained by the wild population without adversely affecting the species' role in the ecosystem, or the ecosystem itself. A sound, scientifically-based monitoring mechanism should be in place to detect any adverse ecological impacts of such harvesting, and the management regime needs to be sufficiently robust to respond to any adverse ecological impacts that are detected. The harvesting should comply with national and international legal obligations and policies, and also provide for the protection of wildlife from avoidable cruelty and suffering, where the harvested wildlife is an animal.