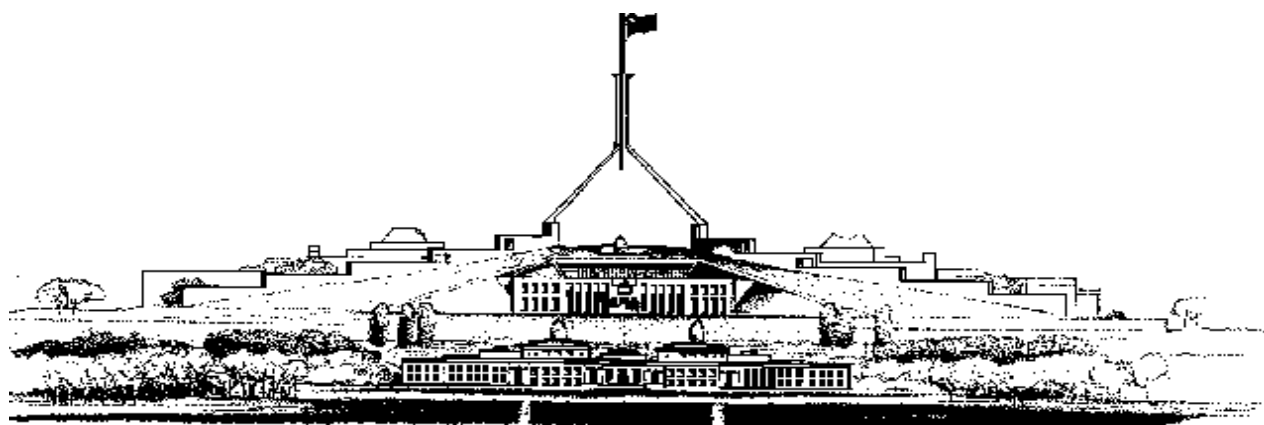




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 13, 2001
20 SEPTEMBER 2001

THIRTY-NINTH PARLIAMENT
FIRST SESSION—TENTH PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2001

Month	Date
February	6, 7, 8, 26, 27, 28
March	1, 5, 6, 7, 8, 26, 27, 28, 29
April	2, 3, 4, 5,
May	9, 10, 22, 23, 24
June	4, 5, 6, 7, 18, 19, 20, 21, 25, 26, 27, 28
August	6, 7, 8, 9, 20, 21, 22, 23, 27, 28, 29, 30
September	17, 18, 19, 20, 24, 25, 26, 27
October	22, 23, 24, 25, 29, 30, 31
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December	3, 4, 5, 6, 10, 11, 12, 13

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<i>SYDNEY</i>	630 AM
<i>NEWCASTLE</i>	1458 AM
<i>BRISBANE</i>	936 AM
<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
<i>DARWIN</i>	102.5 FM

Thursday, 20 September 2001

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

PARLIAMENT HOUSE: COMPUTER NETWORK VIRUS

The PRESIDENT (9.31 a.m.)—Senators may have noticed that as from approximately 8.30 p.m. last night access to the Internet has not been available. Late yesterday afternoon, a virus was detected on the parliamentary computing network. The virus, known as ‘Nimda’, is particularly damaging, being spread not only through infected emails but also by accessing other infected Internet sites. The latest virus detection software is used to protect the parliamentary network. However, because of the sophistication of the virus, the software is not able to prevent the virus entering the network when users visit other infected Internet sites. As from approximately 9.15 a.m. today, the Internet email facility has been reinstated, which will allow emails to be read and sent. Emails carrying the virus are being successfully denied entry into the network. Staff of the Department of the Parliamentary Reporting Staff are currently considering ways of being able, once again, to provide access to the full Internet service, while ensuring the integrity of the network is not compromised. I can assure senators that every effort is being made to return the service to normal as soon as practicable.

PETITIONS

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

SAMAG Magnesium Plant

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

The humble Petition of the undersigned respectfully shows that:

The residents of Port Pirie and districts strongly support the SAMAG Magnesium Plant proposal and believe that all South Australian Senators and the Federal Government should support the plant being located at Port Pirie.

Your petitioners therefore request that the Senate should undertake all efforts to ensure the SAMAG proposal at Port Pirie, South Australia,

receives equivalent funding support to that of the Queensland Magnesium Project.

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

by **Senator Ferguson** (from 4,160 citizens)

Petition received.

NOTICES

Presentation

Senator Ian Campbell to move, on the next day of sitting:

That the Migration Legislation Amendment Bill (No. 6) 2001 may be proceeded with before the Legal and Constitutional References Committee reports on its provisions.

Senator Ian Campbell to move, on the next day of sitting:

That the government business orders of the day relating to the following bills may be taken together for their remaining stages:

Migration Legislation Amendment (Judicial Review) Bill 1998 [2001]

Migration Legislation Amendment Bill (No. 1) 2001

Migration Legislation Amendment Bill (No. 6) 2001

Migration Amendment (Excision from Migration Zone) Bill 2001 and two related bills.

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

That the following matter be referred to the Select Committee on Superannuation and Financial Services for inquiry and report by 31 January 2002:

The effectiveness and efficiency of the current rules governing early access to superannuation benefits on existing compassionate and severe financial hardship grounds.

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

That the Select Committee on Superannuation and Financial Services inquire into the following aspects of the general insurance industry in Australia, and report by the last sitting day in March 2002:

- (a) motor vehicle insurance; and
- (b) public liability insurance for community and sporting organisations,

with particular reference to:

- (a) the cost of insurance products;
- (b) the conduct of insurers; and
- (c) the adequacy of the existing consumer protection regime, including industry 'self-regulation' and complaint and dispute resolution services, but not including any reference to matters contained within the terms of reference of the Royal Commission into the failure of HIH.

Senator COONAN (New South Wales) (9.32 a.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move that the Space Activities Regulations 2001, as contained in Statutory Rules 2001 No. 186 and made under the Space Activities Act 1998, be disallowed. I seek leave to incorporate in *Hansard* a short summary of the committee's concerns with this instrument.

Leave granted.

The summary read as follows—

Space Activities Regulations 2001, Statutory Rules 2001 No.186

The Regulations provide for a licensing and safety regime in relation to space launch activities.

Paragraph 2.04(2)(j) requires the holder of a licence to notify the Minister in writing of certain details about employees and deemed employees. The details include name, qualifications, usual place of residence, and employment history for the past 10 years. The Committee notes that this reporting requirement covers deemed employees, a category which includes persons who perform a service for the licence holder. The Minister advised that applicants should be notified of their obligations under the Regulations and that advice be provided on how the Government planned to use the employee information provided. However, it is unclear how this obligation affects deemed employees.

The Committee has therefore written again to the Minister seeking clarification on whether a deemed employee is made aware at the time that he or she agrees to provide the service that information about them (10 year employment record) will be supplied to the Minister.

BUSINESS

Government Business

Motion (by **Senator Ian Campbell**) proposed:

That the following government bills be considered from 12.45 p.m. till not later than 2.00 p.m. this day:

No. 8 Parliamentary Service Amendment Bill 2001

order of the day relating to the Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001

order of the day relating to the Education, Training and Youth Affairs Legislation Amendment (Application of Criminal Code) Bill 2001

No. 9 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001

order of the day relating to the Superannuation Legislation Amendment (Indexation) Bill 2001

order of the day relating to the Health and Other Services (Compensation) Legislation Amendment Bill 2001

No. 10 Taxation Laws Amendment Bill (No. 4) 2001, and

order of the day relating to the Trade Practices Amendment (Telecommunications) Bill 2001.

Senator BROWN (Tasmania) (9.34 a.m.)—Madam President, I would agree with that, except for No. 10, **Taxation Laws Amendment Bill (No. 4) 2001**. I have had a preliminary discussion with the minister about that, but I have not yet been briefed on that piece of legislation. If that is removed from the list, I would be able to support this motion.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.34 a.m.)—by leave—Could I suggest an alternate route that will involve some trust. Could I suggest that we leave it on the list for now and, if Senator Brown is not happy with it proceeding as non-controversial, I will give an undertaking to all senators that I will remove it from the list.

Question resolved in the affirmative.

General Business

Motion (by **Senator Ian Campbell**) agreed to:

That the order of general business for consideration today be as follows:

- (1) general business notice of motion No. 1038 standing in the name of Senator Cook relating to the introduction of the GST; and
- (2) consideration of government documents.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 1032 standing in the name of Senator Allison for today, relating to a discussion paper on the location for the disposal of radioactive waste, postponed till 24 September 2001.

General business notice of motion no. 1034 standing in the name of Senator Ridgeway for today, relating to the death of an Aboriginal man in custody, postponed till 24 September 2001.

General business notice of motion no. 1044 standing in the name of Senator Allison for today, relating to energy efficiency and low pollution standards for new power stations, postponed till 24 September 2001.

Motion (by **Senator Allison**) agreed to:

That general business notice of motion no. 1035 standing in her name for today, relating to the protection of women and children from abuse, be postponed till the next day of sitting.

Motion (by **Senator Brown**) agreed to:

That general business notice of motion no. 1046 standing in his name for today, relating to public education, be postponed till the next day of sitting.

MELBOURNE: COMMONWEALTH GAMES

Senator ALLISON (Victoria) (9.36 a.m.)—I ask that general business notice of motion No. 1033 standing in my name for today relating to the forthcoming Commonwealth Games in Melbourne be taken as a formal motion.

Leave not granted.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting

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

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to

hold a public meeting during the sitting of the Senate on 20 September 2001, from 7 pm, to take evidence for the committee's inquiry into the provisions of the Motor Vehicle Standards Amendment Bill 2001.

NOTICES

Postponement

Motion (by **Senator Allison**) agreed to:

That general business notice of motion No. 1033 standing in her name for today, relating to the Melbourne Commonwealth Games, be postponed until the next day of sitting.

GREAT BARRIER REEF: SEISMIC SURVEYS

Motion (by **Senator Bartlett**) agreed to:

That there be laid on the table, by the Minister for Industry, Science and Resources (Senator Minchin), no later than immediately after motions to take note of answers on 26 September 2001, all documents held by the Australian Geological Survey Organisation or the Commonwealth Scientific and Industrial Research Organisation in relation to the following:

- (a) seismic surveys of the Townsville Basin, Marion Plateau, Queensland Basin and Queensland Plateau areas off the coast of Queensland, including survey maps, assessment reports (particularly relating to hydrocarbon potential) and documents relating to any industry participation in any of the surveys;
- (b) all documents relating to the sale of those survey results to private parties; and
- (c) all agreements with private industry relating to the undertaking of seismic surveys in any of the above areas.

GREAT BARRIER REEF: OCEAN DRILLING PROJECT

Motion (by **Senator Bartlett**) agreed to:

That there be laid on the table, by the Minister for the Environment and Heritage (Senator Hill), no later than immediately after motions to take note of answers on 26 September 2001, all documents held by the Great Barrier Reef Marine Park Authority (GBRMPA) or Environment Australia in relation to the following:

- (a) the assessment of the Ocean Drilling Project (ODP) leg 194 by GBRMPA, including the assessment of seismic impacts of drilling;
- (b) materials submitted by ODP in support of its permit application;

- (c) seismic survey information relating to seismic surveys conducted in preparation of leg 194 (including the 1999 cruise by the CSIRO vessel, the *Franklin*);
- (d) leg 133 of the ODP; and
- (e) the technology transfer or sale relating to research or data produced by or during legs 133 and 194 of the ODP.

ANSETT AIRLINES

Motion (by **Senator O'Brien**) agreed to:

That there be laid on the table by the Minister representing the Prime Minister, no later than 5 pm on 24 September 2001, the following documents:

- (a) all correspondence and other communications, including e-mails and briefing notes, between the Prime Minister, his office, the Department of Prime Minister and Cabinet, and Air New Zealand relating to the conditions placed on that company as part of the approval of its application to take 100 per cent ownership of Ansett Airlines;
- (b) all correspondence and other communications, including e-mails and briefing notes, between the Prime Minister, his office, the Department of Prime Minister and Cabinet, and Air New Zealand relating to the ownership and operation of that airline and its subsidiaries from 1 January 2000; and
- (c) all submissions and other communications, including e-mails and briefing notes, from the Department of Prime Minister and Cabinet to the Prime Minister relating to:
 - (i) the approval of Air New Zealand's application to take 100 per cent ownership of Ansett Airlines and its compliance with conditions placed on its ownership and operation of Ansett Airlines as part of that approval, and
 - (ii) the ownership and operation of Air New Zealand and its subsidiaries from 1 January 2000.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Reference

Motion (by **Senator O'Brien**) agreed to:

That the order of the Senate of 19 September 2001 adopting the 14th report of 2001 of the

Selection of Bills Committee be varied to provide that the Regional Forest Agreements Bill 2001 be referred to the Rural and Regional Affairs and Transport Legislation Committee instead of the Environment, Communications, Information Technology and the Arts Legislation Committee, for inquiry and report by 25 September 2001.

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (9.40 p.m.)—I move:

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

Education, Training and Youth Affairs Legislation Amendment (Application of Criminal Code) Bill 2001

Excise Tariff Amendment (Crude Oil) Bill 2001

Health and Other Services (Compensation) Legislation Amendment Bill 2001

Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001

Trade Practices Amendment (Telecommunications) Bill 2001

Superannuation Legislation Amendment (Indexation) Bill 2001.

I seek leave to incorporate in *Hansard* a short statement which covers the reasons for the exemption of the **Superannuation Legislation Amendment (Indexation) Bill 2001**.

Leave granted.

The statement read as follows—

SUPERANNUATION LEGISLATION AMENDMENT (INDEXATION) BILL 2001

Purpose of the bill

The Bill contains amendments to legislation which provides superannuation arrangements for the military and for Commonwealth civilian employees to change the timing of the indexation of pensions paid under that legislation from annual indexation to twice-yearly indexation.

Reasons for Urgency

This proposed legislation, which gives effect to a 2000-01 Budget measure, was introduced into the Parliament during the Budget (Winter) Sittings 2001. The Bill provides for the new timing for

pension indexation for civilian and military pensions to commence on the first pension payday in January 2002. Passage in the current Sittings is necessary for the new arrangements to commence in that timeframe.

(Circulated by authority of the Minister for Finance and Administration, the Hon. John Fahey, MP)

Question resolved in the affirmative.

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (9.37 a.m.)—I ask that government business notice of motion No. 2, which proposes the exemption of the migration bills package from the bills cut-off order, be taken as formal.

The PRESIDENT—Is there any objection to this motion being taken as formal?

Senator Brown—Yes.

The PRESIDENT—Formality is denied.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator O'BRIEN (*Tasmania*) (9.42 a.m.)—On behalf of Senator Cooney, I lay on the table Scrutiny of Bills *Alert Digest* No. 13 of 2001, dated 20 September 2001.

Senator BARTLETT (*Queensland*) (9.43 a.m.)—I move:

That the Senate take note of the report.

My understanding is that that *Alert Digest* relates to the migration bills that were just introduced into the House of Representatives two days ago, guillotined through there just last night and attempted to have come on here today. It is appropriate that the work of the Scrutiny of Bills Committee be noted in relation to all of its work but particularly in relation to important pieces of legislation such as these are. The Scrutiny of Bills Committee, along with the Regulations and Ordinances Committee, performs a very important task which is often underestimated and not recognised—that is, to scrutinise bills, as the title of the committee suggests, and to examine them not in terms of policy grounds but in terms of fundamental legal principles, including civil liberties, retrospectivity and other grounds. It is a contempt of the work of that committee for the Senate

to basically proceed with bills such as these as speedily as is being proposed without examining the sorts of concerns that the committee has in relation to these bills. Not having been on the committee and not having seen the report, if the Clerk or an attendant would provide me with a copy of it while I am speaking, that would be nice.

I think the focus of that committee's work needs to be examined. There is no doubt that there are some significant problems in these bills in regard to those basic legal principles. Leaving aside the policy debate for the moment—that is not what this committee does; we can debate that at another time—these legal principles are very important. These bills undermine some of those principles in quite a fundamental way. I have not seen the committee report, but I would be very surprised if it does not highlight them. The fact that the report has just been presented and no senator in this place, other than those on the committee, has had an opportunity to examine it makes this an important matter to consider.

The committee looks at things such as whether bills and acts of parliament trespass unduly on personal rights and liberties; make rights, liberties or obligations unduly dependent on insufficiently defined administrative powers; make rights, liberties or obligations unduly dependent on non-reviewable decisions; inappropriately delegate legislative powers; or insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Senator Brown—Madam President, I raise a point of order. I apologise to Senator Bartlett. I think it is quite untoward that we are debating a matter when the basic document relating to it is not available to the Senate. I would move that, until it is unavailable, we suspend the debate on this matter and come back to it when that document is available.

The PRESIDENT—You cannot move an adjournment in the middle of Senator Bartlett's speech. You could move that adjournment when Senator Bartlett has completed his speech.

Senator Robert Ray—Madam President, on the point of order: Senator Brown and I have not agreed on much over the years, but I agree that we have to do something about this as a principle. I would suggest two things: first, that we try and get a report as quickly as possible so that my colleagues here can debate it and, second, that a reference by you, Madam President—and I know how gracious you are in these things—to the Procedure Committee is in order. There have been a number of occasions where I have wanted an Auditor-General's report and so on. We are often caught in a position where we are not giving due respect to reports because we are not able to read them properly before we have to get up and address them. So I was wondering if you could take that on board and refer it to the Procedure Committee—not just about this instance but generally about the availability of reports that are then to be potentially debated in this chamber.

The PRESIDENT—I will do that, but I point out that in this instance it is an *Alert Digest* we are talking about; it is not a report from the committee. There may be some substance in the other matters, and I will refer them.

Senator BARTLETT—I note that, as you say, Madam President, it is an *Alert Digest*, but it is a very significant digest and it contains lots of things that we need to be alerted to. The usual procedure, which other senators are probably aware of but others listening to the debate may not be, is that the committee examine bills according to those principles that I just read out. I would suggest that all five of those principles are probably breached by these bills, which makes it quite serious, and that the committee should examine them according to those principles and, if concerned, seek the minister's advice. The minister should then respond to that and that response then be incorporated in further reports so that the Senate as a whole can take that into consideration.

This report seeks advice from the minister on a number of matters. For example, on the *Border Protection (Validation and Enforcement Powers) Bill 2001*, it seeks the minister's advice as to:

- whether the provisions have the effect of making lawful acts which are currently unlawful ...
- why the validation is expressed so widely ...
- whether the actions which are retrospectively validated must have complied with guidelines as to conduct or other internal regulatory procedures, and what remedies would be available to a person where, for example, a Commonwealth official took action which was 'improper' ... and
- whether the phrase 'an intention to enter Australia' refers to Australian land or Australian territorial waters.

Those have been identified, but of course we do not have the advice from the minister about the concerns that have been raised in this *Alert Digest*. Concerns are also raised about:

- why it is thought necessary to prohibit the institution of proceedings in relation to (presumably otherwise unlawful) detention;
- whether the powers to detain and search are to be carried out on the high seas or in Australia's territorial waters;
- why, given the availability of telephone warrants, it is appropriate that searches of detainees be conducted without a warrant;
- whether this bill is seen as dealing with 'extraordinary circumstances' or a situation of emergency, and why these powers are not subject to a sunset clause.

Again, these are extra concerns raised with just with one of these bills. The provisions in the bill that are highlighted empower people to detain persons without any charge. The *Alert Digest* also expresses concerns about the retrospective operation of the *Migration Amendment (Excision from Migration Zone) Bill 2001*. It expresses concerns about significant definitions able to be amended subsequently by regulation—the so-called Henry VIII clause—expresses concerns about the wide discretion involved in the consequential provisions bill, expresses concerns about provisions that remove access to the courts and seeks advice on how court proceedings have been used by offshore entry persons to frustrate the resolution of their immigration status. It also deals with the *Migration Legislation Amendment Bill (No. 6) 2001*, which I will not touch on because it is before a Senate committee at the moment, so we will have the opportunity to examine that further.

A quick perusal of this *Alert Digest* makes it quite clear that the Standing Committee for the Scrutiny of Bills—which, as I remind senators, is not a policy committee; it does not examine the whole issue of how we deal with unauthorised arrivals—only examines those basic legal principles. I think, particularly in the Senate, we should consider these in regard to the impact of legislation that we may pass about trespassing unduly on personal rights and liberties, about making rights and liberties dependent on administrative powers which are inadequately defined and about making those rights and liberties dependent on non-reviewable decisions. Unfortunately, the Migration Act is already crammed full of those sorts of things, but these bills are even more packed full of them. They inappropriately delegate legislative powers and insufficiently subject the exercise of legislative power to parliament scrutiny. They do the lot.

This package of bills, as this *Alert Digest* shows, contravenes all of those basic principles that this committee examines. Those basic principles of civil liberties and the rule of law, the basic principles that go to the separation of powers and the foundation of the entire system of government in this country are the sorts of things that these bills undermine and these are the sorts of things that are outlined in this *Alert Digest*.

I should also add that the committee is a cross-party committee: there is no, as there never is, any dissenting report. The committee is chaired by Senator Cooney, quite ably, and also contains Senator Crane, Senator Crossin, Senator Ferris, Senator Mason—some fine legal minds amongst them—and Senator Murray, from the Democrats, another person with fine attention to detail and some of those fundamental principles of accountability.

I remind people of the purpose of these committees. Why do we have a committee like this that does that hard work? It is not political work; it is not work that seeks to get publicity. It is behind-the-scenes work that scrutinises legislation for the basic fundamentals of it. It is, I believe, contemptuous of such committees for the Senate not to take into account the work that they do and the

concerns that they raise and to try to rush through consideration of matters before advice has been returned to the committee from the minister. We are basically preventing this committee from doing its job—and let us not forget that this committee and the Regulations and Ordinances Committee do an incredibly important job. They actually save the rest of us a lot of work: they go through and look for these basic legal principles and draw them to our attention and seek to get answers to them before we have to deal with them in the chamber as a whole. That is an important aspect of this committee's work.

The committee has raised serious concerns about these bills that have not even been introduced into the Senate yet. We should take note of this report and I believe seek to get the minister's answers to the many concerns that are raised within it before we proceed further on those bills. That is a point that I would seek to make later on today if such questions arise, but I do urge all senators and, indeed, others who are interested—those in the media—to examine this *Alert Digest* that raises some, amongst many, concerns in relation to these bills that I believe should be examined.

The PRESIDENT—Senator Brown, you gave notice of wanting to adjourn the debate.

Senator BROWN (Tasmania) (9.54 a.m.)—I now have the *Alert Digest* and, although I failed speed reading school back in 1970, I have been able to look at it and I will proceed, but I would endorse the point that Senator Ray made that it is not satisfactory for us to have to debate documents that we have not had an opportunity to look at.

This is a very important report from the Senate Standing Committee for the Scrutiny of Bills, as Senator Bartlett has just said. That committee looks at bills coming before the Senate to ensure that they do not infringe on civil liberties, that they do not inappropriately delegate legislative powers, that they are clearly defined and, in effect, that they represent good legislation which has been subject to parliamentary scrutiny and do not infringe long held values that this nation stands for. This committee, which I might point out does not include Senator Bartlett or me sitting on it, has raised a number of ques-

tions which should be answered before the Senate deals with these matters. On the matter of retrospective validation of any action, the committee has sought the advice of the Minister for Immigration and Multicultural Affairs as to:

whether these provisions have the effect of making lawful acts which are currently unlawful, or which would be unlawful if they occurred in Australia ...

It has asked the minister:

why the validation is expressed so widely, and whether it would operate to validate all actions by an officer during the relevant period (including, for example, an action which caused the death of, or serious injury to, a person detained on a vessel) ...

It has asked the minister:

whether the actions which are retrospectively validated must have complied with guidelines as to conduct or other internal regulatory procedures, and what remedies would be available to a person where, for example, a Commonwealth official took action which was 'improper' but which was validated by the bill ...

I have been very concerned about that. If we are getting retrospective legislation and here is this to cover the tracks of the minister or some other person who acted not just improperly but potentially illegally since the *Tampa* picked up the asylum seekers in the waters off our northern coast, I do want to be party to it. Retrospectively validating improper or illegal actions is, I do not think, the right way for parliament to proceed. The committee has also sought the minister's advice as to:

whether the phrase 'an intention to enter Australia' refers to Australian land or Australian territorial waters.

We do not have the minister's advice on those matters. On the matter of detention and search of persons, the committee has asked the minister's advice as to:

why it is thought necessary to prohibit the institution of proceedings in relation to (presumably otherwise unlawful) detention ...

It has asked the minister:

whether the powers to detain and search are to be carried out on the high seas or in Australia's territorial waters ...

And:

why, given the availability of telephone warrants, it is appropriate that searches of detainees be conducted without warrant ...

This is a very important question. The committee has also asked the minister:

whether this bill—

that is, the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#)—

is seen as dealing with 'extraordinary circumstances' or a situation of emergency, and why these powers are not subject to a sunset clause.

Indeed, that is something that the minister mooted just a week ago. On the matter of mandatory sentencing—and let us not forget that this is the first time we have seen mandatory sentencing appearing in federal law—the committee sought the minister's advice 'as to why it is appropriate to give the executive control by limiting judicial discretion in these circumstances'. In other words, after the long debates we have had about the Northern Territory and mandatory sentencing, and the general consensus in this place at least that sentencing should be a matter for the courts, here we have legislation coming before us to give the executive control by limiting the courts' discretion in these circumstances. Is it right for politicians through this course of action to be telling judges what they shall or shall not do when it comes to sentencing? Once we step across the border and support that, once we step over the limit and support that, where does it end? These are very important questions for the opposition to be considering.

The committee then looked at the [Migration Amendment \(Excision from Migration Zone\) Bill 2001](#) and it put a number of questions to the minister. It is seeking the minister's advice on why the explanatory memorandum does not indicate why the dates variously applying to the implementation of this law for Christmas Island, the Cocos (Keeling) Islands and so on have been chosen, and whether any person will be disadvantaged by the retrospective operation of these provisions and, if so, who. We need to know these things if we are going to act with political as well as legal prudence in considering these important bills.

The committee has also sought the minister's advice as to the head of power which

authorises the excision of various parts of Australia from the migration zone—that is, from Australian law—in particular, the Migration Act. It has looked at the Henry VIII clause, schedule 1, item 1 of that bill, and it seeks the minister's advice as to whether it is appropriate that such a significant definition is able to be amended by regulation—that is, by the minister's request through a regulation which comes before the parliament. We do not have the minister's response on that. On the matter of wide discretion, the committee points out that the bill proposes to insert a new section into the Migration Act which gives the minister an apparently unfettered discretion to determine whether an application for a visa by an offshore entry person is a valid application.

The committee also has a number of questions on the *Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001* which will be seen in the report. When it comes to the matter of a bar on certain legal proceedings, the committee has asked the minister how court proceedings have been used by offshore entry persons to frustrate the resolution of their immigration status. If the minister is putting legislation before us to counter that, then we need to have the government tell us where the courts have been frustrated by this process. I await the minister's advice on that.

On the *Migration Legislation Amendment Bill (No. 6) 2001*, when it comes to drawing inferences from a refusal to produce documents under proposed new sections 91B and 91W, the committee seeks the minister's advice as to why it is appropriate that unfavourable inferences be drawn in administrative proceedings and what the consequences of drawing those unfavourable inferences might be. When it comes to the drafting note, item 10, schedule 1 to this bill, the committee notes that it consists solely of the heading of the item with no substantive enacting words. That is an extraordinary comment on the fact that this is legislation on the run.

Finally, we are going to hear quite a bit more of this this morning. I appeal to the opposition. You know, from the feedback that is coming from thinking Australians throughout our community, that there is high

alarm in the community—not least amongst Labor voters—about the way the opposition appears to be joining the government in making legislation on the run and effectively moving towards a parliamentary railroading of this legislation. I caution against it. It is the wrong way to go. I also appeal, and I will be making this appeal later, for this legislation to go to a committee—I will put the date of that committee Tuesday next—to allow the opposition at least to have the decency to support the public having some input into this legislation in the coming days, much the same as is going to occur with the regional forest agreement legislation.

Question resolved in the affirmative.

COMMITTEES

National Capital and External Territories Committee

Report

Senator LIGHTFOOT (Western Australia) (10.04 a.m.)—I present the report of the Joint Standing Committee on the National Capital and External Territories entitled *Risky Business: Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort*, together with the *Hansard* record of the committee's proceedings, minutes of proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator LIGHTFOOT—I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

Madam President, the opening of the Christmas Island Casino and Resort in 1993 had a profound impact upon both the economy and the community of Christmas Island.

It boosted employment, encouraged the growth of a tourism and small business sector, almost doubled the population of the small island community, and had a positive effect on Christmas Island as a whole.

Unfortunately, the casino and resort closed in 1998. This was the result of internal management disputes, the cessation of direct air services from

Asia and the flow-on effects of the Asian economic crises.

The closure of the casino and resort had a substantial impact on the newfound prosperity of the island economy, for both individuals and businesses who suffered financial losses as a result of the casino and resort's closure.

When the liquidator was appointed by the courts in 1998, it was hoped that the casino and resort could be tendered and sold quickly, in order to settle outstanding entitlements owed to former employees of the casino and resort, and to refurbish and re-open the casino and resort as quickly as possible.

Unfortunately, the tender process which followed was long and complicated, beset, as it was, by numerous legal challenges from the former Directors of Christmas Island Resort Pty Ltd.

As a result, even though the property was sold on 5 May 2000, the liquidator is unable to pay entitlements owing to former employees of the casino and resort because of a continuing legal challenge in the High Court of Australia.

The committee was asked by the Senate to examine the conduct of the tender process followed in the sale of the casino and resort, and to inquire into the current status of the casino and resort as well as proposals for the resort's future development.

Necessarily, the committee also examined a range of broader issues which provided a context for its examination of the sale process for the casino and resort, and which bear directly on the future development of the island.

This included issues such as the provision of air services, future economic development opportunities and the level and structure of community consultation with representatives of Christmas Island.

The committee held public hearings in Canberra, in February and June 2001, as well as in Perth and Christmas Island in April 2001.

The committee heard evidence from the Department of Transport and Regional Services, the liquidator of the casino and resort, the company which made the strongest bid within the tender process, members and representatives of the Christmas Island community and Soft Star Pty Ltd – the company which eventually bought the casino and resort.

In our report – Risky Business – the committee has made six recommendations. These relate to:

- Administrative processes relating to Christmas Island;

- The payment of entitlements to former employees of the Christmas Island Casino and Resort, and the Christmas Island Laundry;
- The resolution of matters pertaining to the resort lease and the future operation of the casino and resort;
- Conversion of the resort leases from leasehold to a conditional form of freehold title, subject to full community consultation;
- The conduct of probity and background financial checks; and
- Negotiation of terms and conditions for the provision of vehicular access to Waterfall Bay for members of the Christmas Island community.

The committee has also made a number of general conclusions with regard to issues and concerns raised during the course of the inquiry.

The committee considered that many of the concerns heard during the inquiry regarding the conduct of the tender process, originated out of an inherent tension between the liquidator's role in an essentially commercial operation to realise the assets for the best price in the shortest timeframe, and the Commonwealth's desire to optimise opportunities for Christmas Island.

The committee also acknowledges that the liquidator, faced with diminishing funds and the potential for protracted and lengthy negotiations regarding the conditions of operation, subsequently sought an expeditious resolution to the sale process.

The committee has noted concerns about the commencement of negotiations with Soft Star Pty Ltd, the eventual purchaser of the casino and resort, before the official termination of the tender process. However, the committee also recognises that this did not contravene *Corporations Law*.

The committee received evidence from community members of Christmas Island, who are concerned that Soft Star are yet to commence the refurbishment of the complex required for the re-opening of the casino and resort. The Committee heard evidence from Soft Star Pty Ltd, that the redevelopment of the complex has not commenced owing to commercial factors which have rendered the opening and operation of the casino and resort on Christmas Island commercially impractical.

Soft Star Pty Ltd is a company associated with Asia Pacific Space Centre (APSC). APSC are planning to construct and operate a commercial satellite launching facility on Christmas Island. The satellite launching facility will bring enor-

mous investment and employment opportunities to the island, and to Australia as a whole.

The committee notes a June 2001 announcement by the Minister for Regional Services, Territories and Local Government, the Hon Ian Macdonald, regarding Commonwealth funding of approximately \$100 million, for the purposes of common use infrastructure associated with the project.

The committee noted in its report, that Soft Star have repeatedly stated their intention to restore the casino and resort to its former glory, bringing jobs and economic growth for the Christmas Island community.

In June 2001, Soft Star announced that it intends to pursue the refurbishment and re-opening of the facility in the immediate future. More recently, in the *Weekend Australian* newspaper of 15 September 2001, there appeared another article titled 'Island Casino to Reopen'.

The committee consequently considered that future prospects for the Island are good. The construction and operation of the satellite launching facility will make the operation of the casino and resort more commercially viable, thereby facilitating its prompt refurbishment and re-opening.

I would like to thank those individuals and organisations who provided the committee with submissions and evidence, and also to the members of the committee, who have shown their commitment to the committee's responsibilities with respect to Australia's territories.

In addition, I would like to extend my thanks to the committee secretariat of Richard Selth, Emma Herd, Sarah Steele and Anna Gadzinski, for their assistance to the Committee during the course of the inquiry.

Madam President, I commend this report to the Senate.

Senator CROSSIN (Northern Territory) (10.05 a.m.)—I rise to provide a contribution from the opposition members of the Joint National Capital and External Territories Committee in relation to the report on the Christmas Island casino resort that was just tabled by Senator Lightfoot. This inquiry examined in some detail the circumstances surrounding the tender process of the disposal of the failed Christmas Island casino resort and its subsequent sale to a company known as Soft Star. The salient facts in this business process are that the Christmas Island casino resort was granted a 99-year crown lease for a 47-hectare block of land upon which the facility was built. The resort

was a major employer on Christmas Island and a major stimulus to the Christmas Island economy. The closure of the resort in 1998 has had a devastating effect upon the social and economic structure of Christmas Island, with up to 250 people leaving the island immediately after the casino's closure.

The Christmas Island Chamber of Commerce estimates that the island's population has fallen from 2,600 to 1,300 since the closure of the casino. It has been 15 months since the sale of the facility and over three years since the start of the sale process, and the casino and the resort remain largely closed. Let us be quite clear in presenting the report about what the closure of the resort and the sale of the casino have meant for Christmas Island—the island depended very much on the operation of the casino for income, economy and livelihood—and what it now means for those people who are still awaiting the realisation of the promise that the casino be reopened. Our dissenting report highlights the opposition's many concerns relating to this process, such as the purpose clause of the lease; the conversion of the leases from leasehold to freehold title and the conduct of the negotiations with ComsWinfair—the company that I believe would have by now opened the resort and the one, it seemed on the face of it, to which the resort should have been sold. Of course, the casino and the resort was sold to Soft Star Pty Ltd. People reading this transcript, and who want to know about this process, should be aware that Soft Star Pty Ltd is connected to the APSC—the owners of the space base—to which this government last month appropriated many millions of dollars to assist in getting the space base operating.

Much hinges on the interpretation of the purpose clause of the Christmas Island resort lease, which is now where the focus of the future of this resort is placed. The lease says:

The Lessee shall use the premises only for the purposes of a hotel-casino and ancillary thereto, for personal services, retail and non-retail shops, recreation, accommodation and entertainment facilities or such purpose as may be approved in writing by the Commonwealth.

Evidence was presented to the committee that the purpose clause of the lease is permis-

sive and not mandatory and that therefore failure to reopen the casino does not appear to constitute a breach of this lease. We do not accept that. Even if this interpretation were accepted, non-government members could not understand why this government failed to ensure that the operation of a casino and resort was mandatory within the purpose clause of the lease, remembering the importance and the contribution of the casino and resort to Christmas Island's economy and social infrastructure.

However, our interpretation suggests that the purpose clause of the lease means that it was mandatory, that there was an obligation on the Commonwealth government to ensure that, in the sale of the casino and resort, the future owners—Soft Star in this case—were mandated and that they must open and operate it as a casino. It appears to non-government members of the committee that the current leaseholder is in breach of the lease by failing to reopen the casino and resort. Opposition members on the committee do not accept the assertion made in the majority report that the committee understands that the Commonwealth has no ability to compel the owner of the facility to use it for the purpose of a casino and resort. We do not accept that. We believe that the Commonwealth has an absolute ability and an absolute obligation to compel the owner of the facility to open it as a casino. We say that the current operator should be given 12 months to do so or that the lease be revoked. We know, of course, that that will lead to court action.

I draw the Senate's attention to an article in the *Weekend Australian* of September 15 and 16 where Soft Star say that negotiations are under way with potential managers to reopen the casino and that they are 'doing what they need to do and will see how quickly it can be done.' Who with? Who is Soft Star talking to? What is the time line? We have heard this time and time again. In fact, Soft Star put out a press release in June saying they were about to reopen the resort, but we are still waiting for that to happen. We are continually being led around. The people on Christmas Island are being con-

tinually misled by Soft Star's promises to reopen this casino.

The other important issue is the conversion of the lease from leasehold to freehold. Given the importance of a functioning casino resort to the tourism and small business sectors of the island economy, we feel that it would be highly inappropriate to approve the conversion of the resort leases from leasehold to freehold title, even on a conditional basis. Non-government members are concerned that the loss of direct control over the lease by the Commonwealth would impact negatively upon the community's ability to influence the use of the casino and resort by the current owner or by any other subsequent owners. We are also concerned at the lack of consultation with the Christmas Island community, again, and the lack of consultation with the Christmas Island Shire Council, again, regarding the conversion of the resort lease from leasehold to freehold—which is a prospect that this government is currently considering.

In short, the opposition members of the committee feel that in light of continuing uncertainty in the redevelopment of the complex, and its reopening as a fully operational casino and resort, the approval of Soft Star's application for conversion of the leases from leasehold to freehold title would remove any influence the Christmas Island community could have over the management of such a vital economic resource. Further, the non-government members of the committee were concerned about the result of the tender process and the subsequent sale to Soft Star. We believe that ComsWinfair clearly emerged from the tender process as the only viable tenderer with the experience, financial resources and intent to refurbish and reopen the casino and resort to its full operational capacity. It would appear that any outstanding conditions between ComsWinfair and the Commonwealth were and could have been essentially resolved as of January 2000, and that ComsWinfair anticipated resolving all outstanding issues in the shortest time frame possible.

The other thing is that, in relation to the sale to Soft Star Pty Ltd, the opposition members of the committee did not think it

was appropriate to begin negotiations with Soft Star before the termination of the tender process, nor was it appropriate that probity and financial background checks were not applied to Soft Star before the sale of the property. In short—and there are many more things I would like to say about this report—we believe the tender process for the sale of the Christmas Island resort was flawed from the outset. We believe the Commonwealth's handling of its role in the process and its responsibilities to the Christmas Island community have once again been totally inadequate.

In closing, I would like to add my thanks to the committee secretariat, to the secretary Richard Selth and to the people who work in that committee, in particular to Emma Herd for the work in producing this report. (*Time expired*)

Senator Crossin—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**HEALTH AND OTHER SERVICES
(COMPENSATION) LEGISLATION
AMENDMENT BILL 2001**

**SOCIAL SECURITY AND VETERANS'
ENTITLEMENTS LEGISLATION
AMENDMENT (RETIREMENT
ASSISTANCE FOR FARMERS)
BILL 2001**

First Reading

Bills received from the House of Representatives.

Senator IAN CAMPBELL (*Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts*) (10.16 a.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (*Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts*) (10.17 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**HEALTH AND OTHER SERVICES
(COMPENSATION) LEGISLATION
AMENDMENT BILL 2001**

The bill proposes to amend the Health and Other Services (Compensation) Care Charges acts 1995. The acts were passed to ensure that, when plaintiffs go to court to recover damages for personal injuries, they would repay to the Commonwealth the cost of any Medicare and residential care benefits received because of the injury.

The bill arises from a review of the acts undertaken for the government by the former Commissioner for Superannuation, Mr George Pooley. In consultation with the Health Insurance Commission, the legal profession, insurers and the minister's department, Mr Pooley examined the operations and the administration of the acts. Mr Pooley found that the compensation recovery program, governed by the acts, has proved cumbersome and burdensome for all parties. He made a number of recommendations to improve these processes, and to minimise the burdens and frustrations for all parties—but especially those waiting for their compensation payouts to be released to them.

Currently, 50 per cent of every dollar recovered by the Commonwealth is consumed by administration costs. This bill will provide for a saving of \$6.5 million in the first full year of operation. The proposed amendments simplify the recovery process for notifying claims, and streamline the processes to allow a clearer and more manageable path from claim to resolution of incurred Commonwealth debt. The proposed reforms in this bill will significantly reduce the number of settlements and judgments that are required to be notified to the Commonwealth by setting the minimum amount of a judgment or settlement that must be notified at \$5,000 or above.

Importantly, the bill eliminates any necessity for the notification of a potential judgment or settlement. This removes the excessive requirement placed on insurers and/or the injured party to no-

tify the Commonwealth of a possible compensable case, regardless of the likely success of any claim for compensation.

The bill will also provide a genuine power to audit the integrity of claims and to allow a more effective checking process of claimant details and medical history to ensure that there is an appropriate recovery of Commonwealth debt. More emphasis will be on the claimant to provide assurances, through the provision of statutory declarations, on the level of Medicare or residential care costs associated with their judgment and settlements.

The advanced payment option that currently allows claimants to receive 90 per cent of their judgment or settlement moneys once the case has been resolved has been retained for the time being. In addition to that arrangement, a provision has been included to allow the Commonwealth to set a sliding scale of the advanced payment option by regulation, which will allow claimants to receive a better targeted share of their award initially on settlement or judgment. This will provide flexibility in the future to ensure that injured persons receive as much as possible of their settlement as early as possible. That predetermined percentage will still be forwarded to the Commonwealth for reconciliation of debt. The balance will, as now, then be forwarded to the claimant upon debt clearance. This will result in the debt to the Commonwealth being more effectively recovered and the claimant having greater and faster access to more of their money without having to wait until final debt liability is verified.

The review examined the appropriateness of continuing the advanced payment options, considering that at the time of their introduction they were only to be a temporary measure. This was the case as the initial period of recoveries resulted in major administrative backlogs in processing the claims by both insurers and the Commonwealth. As the processes have been streamlined over time and further streamlining occurs through these proposed changes, such a temporary arrangement should be strategically removed. This helps lawyers and insurers more than the claimants. This bill, therefore, includes a provision for the insertion of a sunset clause for the advanced payment option arrangements from 2004. This will provide an introductory period of time to enable the new streamlined arrangement to be bedded down.

The new arrangements will be simpler, more efficient and keep impositions on claimants to a minimum. Simpler claiming and administrative processes will allow the speedier release of final compensation settlements or judgments and re-

duce the worry and red tape for recipients and their families.

Mr Pooley has the thanks of the government and the parliament for his hard and considered work, as do those who played such a constructive role in contributing to the review which has led to this very important and, indeed, landmark legislation.

**SOCIAL SECURITY AND VETERANS'
ENTITLEMENTS LEGISLATION
AMENDMENT (RETIREMENT ASSISTANCE
FOR FARMERS) BILL 2001**

The purpose of the retirement assistance for farmers scheme was to meet welfare and rural adjustment objectives by providing an opportunity for low income, pension age farmers and their partners to gift the farm to the younger generation without affecting their access to social security payments. The legislation provides for the scheme to finish on 30 June 2001. There are however some farmers who, while otherwise eligible under the scheme, had not finalised the transfer of their farm by 30 June 2001. The purpose of the bill is to provide those farmers with extra time in which to take advantage of the scheme.

In effect, the bill allows an extra period of time to finalise transfers for those farmers who contacted Centrelink prior to 1 August 2001 to enquire about their eligibility and who are subsequently advised by Centrelink that they would attract the benefits of the scheme if the transfer was undertaken. These farmers can still qualify for assistance under the scheme provided the transfer is finalised within 3 months from when Centrelink responded to their enquiry.

The bill also provides for similar arrangements in respect of farmers applying for Department of Veterans' Affairs income support pensions and who wish to take advantage of the scheme.

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

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

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

**COMMONWEALTH INSCRIBED
STOCK AMENDMENT BILL 2001**

First Reading

Bill received from the House of Representatives.

Motion (by **Senator Ian Campbell**) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.18 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—

Today I introduce a bill to modernise the conduct of the Commonwealth Government Securities market.

The bill will remove regulatory barriers to the electronic issue and transfer of Commonwealth Government Securities, including Treasury Bonds and Treasury Notes.

The bill will put in place reforms to the Commonwealth Inscribed Stock Act 1911 to enable Commonwealth Government Securities to be cleared and settled electronically alongside a range of financial products under the Corporations Act 2001, as amended by the proposed Financial Services Reform Act 2001.

The Commonwealth Inscribed Stock Amendment Bill will provide a legal framework for the electronic transfer of Commonwealth Government Securities that is flexible and that promotes an efficient and innovative market.

The bill will create a more efficient business environment for market participants by opening up the conduct of the Commonwealth Government Securities market to clearing and settlement facilities involved in the broader operation of the financial markets.

The bill will make clear that non-government clearing and settlement facilities regulated under the Corporations Act may be appointed as Registrars under the Commonwealth Inscribed Stock Act in addition to, or instead of, the Reserve Bank.

However, the bill will not preclude the Reserve Bank from continuing to have a role as a Registrar in providing for the electronic recording and transfer of the ownership of Commonwealth Government Securities, in addition to its role in the recording of transfers of ownership of Commonwealth Government Securities in paper form.

The bill will enable the Commonwealth to create equitable interests in Commonwealth Government Securities. The Treasurer will be able to enter into contracts or arrangements or execute deeds of trust for the purpose of issuing Commonwealth Government Securities to a person, including to a clearing and settlement facility, on trust for other persons. This will include where the clearing and settlement facility is acting in the capacity as a Registrar under the Commonwealth Inscribed Stock Act.

The bill will also provide for regulations to be made under the Commonwealth Inscribed Stock Act providing for the transfer of legal or equitable interests in Commonwealth Government Securities in accordance with the provisions of the Commonwealth Inscribed Stock Act, or by applying provisions of the Corporations Act, with or without modifications, to the transfer of interests in Commonwealth Government Securities under the Commonwealth Inscribed Stock Act.

These reforms will increase business confidence in the effectiveness and reliability of electronic transfers of Commonwealth Government Securities by providing a certain and secure framework for electronic transactions in the Commonwealth Government Securities market.

By underpinning electronic transfers of Commonwealth Government Securities, the bill will increase community confidence in the effectiveness and reliability of such transactions.

In particular, the bill will encourage international confidence in the effectiveness of the legislative framework supporting the Commonwealth Government Securities market.

I commend the bill to the Senate.

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

The ACTING DEPUTY PRESIDENT (Senator Hogg)—The bill stands referred to the Economics Legislation Committee for inquiry and report by 6 December 2001.

SUPERANNUATION LEGISLATION AMENDMENT (INDEXATION) BILL 2001

First Reading

Bill received from the House of Representatives.

Motion (by **Senator Ian Campbell**) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.19 a.m.)—I table a revised explanatory memorandum relating to the bill and 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 amends the Superannuation Act 1922 the Superannuation Act 1976 and the Defence Force Retirement and Death Benefits Act 1973.

The Superannuation Act 1922 and the Superannuation Act 1976 provide superannuation pensions for former Commonwealth civilian employees who were members of the 1922 Act superannuation arrangements and the Commonwealth Superannuation Scheme respectively.

The Defence Force Retirement and Death Benefits Act 1973 provides for superannuation pensions for former military employees who entered the Defence Force between 1 October 1972 and 30 September 1991 and persons who were compulsorily transferred from the Defence Force Retirement Benefits Scheme (DFRB) in 1972.

This Bill will implement an initiative announced in the 2001-02 Budget to assist older Australians who are Commonwealth civilian superannuation pensioners and who receive pensions from those schemes. It will also provide for twice yearly indexation of military superannuation pensioners.

Currently, Commonwealth civilian and military superannuation pensions can be increased only once a year, in July, where there has been an upward movement in the annual CPI.

Under the new arrangements provided for in the Bill, these pensions will be able to be increased in January and July each year taking into account any increase in the CPI for the half year ending in the respective preceding September or March quarter.

The first pension increase under these new arrangements will be payable to Commonwealth civilian and military superannuation pensioners in January 2002 if there is a half year increase in the CPI in the September 2001 quarter.

These new indexation arrangements will also apply to members of the Public Sector Superannuation Scheme and the Military Superannuation and Benefits Scheme. Changes to the PSS and

MSBS Rules will be made to apply these new arrangements to PSS and MSBS pensions.

The amendments in this Bill will increase the purchasing power of some 100,000 Commonwealth civilian superannuation pensioners and some 58,000 military superannuation pensioners, by reducing the delay between price increases and compensatory adjustments to their superannuation pensions. The new pension indexation arrangements are in addition to other initiatives announced by the Government in the 2001-02 Budget for self-funded retirees and age pensioners which may also benefit Commonwealth civilian and military superannuation pensioners.

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

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

BUSINESS

Government Business

Motion (by **Senator Ian Campbell**) agreed to:

That government business order of the day no. 3 (Interactive Gambling Amendment Bill 2001) be considered after consideration of the government business order of the day relating to the **Trade Practices Amendment (Telecommunications) Bill 2001** till not later than 2 p.m.

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) BILL 2001

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) (CONSEQUENTIAL PROVISIONS) BILL 2001

BORDER PROTECTION (VALIDATION AND ENFORCEMENT POWERS) BILL 2001

First Reading

Bills received from the House of Representatives.

Motion (by **Senator Ian Campbell**) proposed:

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

Senator BARTLETT (Queensland) (10.21 a.m.)—Under standing order 113 part (3), I request that the motion be divided and

the provisions put as separate motions. I would like to speak to the motion.

The ACTING DEPUTY PRESIDENT—The question is now that the bills proceed without formality. Senator Bartlett, you have the call.

Senator BARTLETT—It is important and appropriate to speak to this motion because we often hear those words ‘that these bills may proceed without formalities’ and do not actually consider what they mean. It is appropriate to also utilise the opportunity of this motion to draw attention to what is actually happening in this chamber today and what has happened in this parliament over the last day or two.

The motion is that ‘these bills may proceed without formalities’. If this motion were agreed to, it would have the effect of suspending any requirements for stages of the passage of the bills to take place on different days, for notice of motions for such stages and for the printing and certification of the bill or bills during the passage. It is a mechanical motion that is used to facilitate easy passage of legislation to stages of consideration and it is normally passed without dissent and without comment, because there is opportunity to consider legislation and to look at the detail of it in the various later stages of the debate. But that is under normal circumstances and these are far from normal circumstances in the parliament at the moment in relation to these bills and these are far from normal circumstances in relation to this government’s treatment of the whole issue that is addressed by these bills.

The Democrats do not believe that these bills should proceed without formalities because we should not suspend any requirements for stages of the passage of the bills to take place on different days. These bills should be considered on different days and that is why we oppose that part of the motion. We believe that, because the bills have only just been introduced—probably about 42 hours ago, maybe slightly less—and because they deal with such significant issues, clearly they should not proceed without formalities.

The bills were introduced into the House of Representatives less than 48 hours ago. Some of them were not available on the parliamentary Internet until late yesterday afternoon. The explanatory memoranda certainly were not available until late yesterday afternoon. That is less than 24 hours ago. That is completely inappropriate. That is problematic for us as parliamentarians. Of course, we can get hold of the bills when they are introduced in the House of Representatives but getting commentary from the community about issues in legislation like this is virtually impossible. At 1 o’clock yesterday afternoon, I spoke to a number of people who are experts in the area covered by these bills. They still had not had an opportunity to look at the bills. I still have not had an opportunity to get any feedback from them about the impacts of these bills.

To suggest that we should allow these bills to proceed without formality I think makes a mockery of the proper legislative process that this chamber, in particular, utilises. We can forget about the House of Representatives; it never considers bills properly anyway. But the Senate has a responsibility to examine legislation properly. Amongst ourselves, we might be reasonably good at considering legislation and examining its detail but I do not profess to be an expert on everything and I rely very heavily on feedback from people who do have expertise, from people who work daily in whatever area is involved, and I have not had an opportunity to get that feedback. Indeed, in many cases, people have not had the opportunity to even examine the legislation. So this is a serious concern to the Democrats and that is why we oppose what is normally a straightforward mechanical motion.

It is worth noting what the impact of this mechanical motion is. It is something that we do not normally examine, that we do just wave through, assuming that those words are said for some sort of procedural purpose but do not have any real meaning. But those words that we hear all the time—‘that the bills proceed without formalities’—have quite significant impacts. It is appropriate not only to be aware of what those impacts are but also that we make a considered decision

about whether we should allow that to occur. We believe that in this instance we should not allow it to occur. It is in effect a fast-tracking motion. In virtually all circumstances that is okay, in our view, but let us not be under any illusion that these bills are anything other than quite extraordinary.

As we have already seen this morning in the brief opportunity we have had to consider the *Alert Digest* from the Scrutiny of Bills Committee there are fundamental concerns about these bills that go to the heart of the rule of law. To just wave them through without consideration and give permission for them to be brought on today—if the Senate so chooses—or for other notices of motion for various stages of the bill to be moved without notice is not appropriate given the extraordinary nature of these bills. That is why we are taking the unusual step of opposing this motion, because these are extraordinary bills. They contravene civil liberties in any number of ways. They contravene the basic underpinnings of our rule of law. They are of dubious constitutional validity in some circumstances. They savagely impinge on human rights of individuals and they undermine our obligations in relation to a range of international conventions. That is just on a first glance at the bills. That is without feedback from people who have expertise in this area. That is with initial consideration of the Scrutiny of Bills Committee report. We can tell that already from having a quick glance through these bills. Imagine what more we will find.

I hear more with each comment I get back from people about some other hidden atrocity within these bills. I will not go into detail on that matter now because it is not relevant to the question. The question before the chamber is whether the bills should proceed without formalities. I certainly will go into that matter when the bills do come on for debate which, hopefully, will not be today because these bills should not proceed without formalities. They should be put off for consideration in an appropriate fashion. Other proposals, which have been foreshadowed already, will be put before the chamber about a better process for doing that.

If there were some indication from the government or the opposition that they would support these bills being referred to a committee, even to report back next week, then we may be willing to support this motion and indeed not debate them because we would at least believe that we would have the opportunity to consider the bills. In a sense that is a suggestion to both the opposition and the government that if they support these bills going off to a committee, even just for a few days scrutiny, we would be less inclined to oppose them proceeding without formalities and, I would foreshadow, less inclined to oppose them being taken together as well, because at least there would be some opportunity to examine them.

We are not seeking to frustrate consideration of these bills in any unreasonable way. We are simply trying to draw attention to every stage of the proceedings in the passage of these bills and to draw to the attention of the Senate, the media and the public more generally what is occurring each step of the way as we wave through these bills. These bills have had very serious fundamental legal concerns raised about them. That is not even addressing the issue of the best policy approach to deal with the huge numbers of asylum seekers and refugees throughout the world. We can deal with that when it is relevant to the question before the chamber.

There have been serious concerns raised about the basic legal principles contained in these bills. We hear repeatedly from the opposition, and I think it is a fair enough point, that the government and the cabinet are packed to the gills with lawyers—some very esteemed lawyers with great expertise in the principles of law. I would be surprised if many of them have even had the opportunity to examine these bills in any detail. I would be interested in the feedback and expertise not only from those out in the community but also from those in the government, who, I know, have the expertise and the ability and who also have concerns about not just the treatment of refugees but also the legal principles involved in these bills. I think there would be many in the coalition parties, particularly the Liberal Party, who would be extremely concerned about the legal princi-

ples alone involved in these bills, leaving aside the policy aspects. I know there are others in the opposition who have concerns as well.

What needs to be emphasised and drawn to the attention of the public in relation to these bills is not only the content of the bills—which I will not debate now because it is not the question before the chair; we can debate that later—but also the process that is being followed. Let us go back to the structure of government, the separation of powers—that is, the role of the courts, the executive, the cabinet or the government, and the parliament—and the three arms or legs balancing each other not just in terms of the content of the bill but the process being followed here. The process is basically subverting what, I believe, is the genuine will of the parliament.

The party system in this place is so rigid and all of us are subject to that—some to a lesser degree than others—but I recognise that it is a feature of our political system. I have no doubt, and it is quite clear, that there are many in the opposition who are concerned about and opposed to these bills. I have no doubt that there are a number in the coalition parties who are concerned as well. It is quite possible that if a majority of people in this chamber were free to express their personal opinion on these bills they would oppose them.

Unfortunately, the power of the executive over the parliament and the power of the party system over the parliament has now got to a stage where, I believe, this is a clear example of the will of the parliament possibly being overturned and overridden. That is of great concern in terms of the fundamental underpinnings of our whole system of government. One of those three arms or legs, whichever you prefer, is clearly being weakened to a significant degree in relation to these bills and this process that we are currently following. I believe this is something that really should send alarm bells. People can have different views about the best policy approach to deal with the growing number of refugees throughout the world—numbers that are probably going to increase significantly in the next few days or are in-

creasing as we speak—but, leaving that to one side, this goes to our whole system of government and our legal principles.

Once the parliament steps aside and allows the executive to take on board such significant powers, not just in terms of the content of the bill but the process that is being followed with this legislative process, then this is not just about the rights of unauthorised arrivals and asylum seekers but about the rights of the Australian community. Once it is accepted practice to allow some of those fundamental legal and procedural principles to be undermined, to be ignored or to be waived, to empower the government to be above the law—which is what at least one of these bills does in that it empowers delegates of the government to be above the law—then we are seriously undermining the whole fabric of the protection of the civil liberties and the legal and human rights of the Australian community.

It is easy to think that this only applies to somebody else—people we do not know, people who do not have a face, people who are not Australians and whom we do not have to worry about. Once you support principles such as these, you put at risk the fundamental rights of the entire community. That is something the public is not aware of and I think they need to be made aware of. That is why we believe sufficient time should be given to consider this legislation. That is why we are concerned about the process that is being followed here. That is why the Democrats will take the step of opposing the motion that the bills proceed without formalities and putting on the record, in a procedural sense, why that should not be supported.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.35 a.m.)—I do not intend to speak for a long time on the question before the chair, which is that the bills may proceed without formalities. I think a couple of points can be made on this question. It was not clear to me as Senator Bartlett addressed the question whether or not he intended to oppose it. Senator Bartlett might be able to indicate that to us informally.

Senator Brown—I will.

Senator FAULKNER—Senator Brown has at least indicated that he will. I understand the question before the chair currently—something that has been heard many thousands of times: that the bills may proceed without formalities—is a standard procedure used to expedite the business of the Senate. For the first time since the new procedures for dealing with the stages of bills have been adopted, this current question is being debated. That is a first. This is the first time this question has ever been debated. If there is a vote on it or different views on it, it will be the first time that has occurred also.

The point here—and I would just like to deal with the substance of the question before the chair comparatively briefly—is that the standing orders of the Senate provide for bills to be dealt with on different days. I think that is the most simple explanation. In other words, a first reading is dealt with on one day, a second reading and committee stage is dealt with on another day and, under the standing orders, the third reading is dealt with on another day. Take, for example, standing order 112, which relates to the first reading of a bill. Standing order 112(4) says:

After the first reading, a future day shall be appointed for the second reading of the bill, and the bill shall be printed.

So this motion before the chair, this question before the chair, is basically to override that standing order and allow the bills to proceed without that formality, that formality being ‘a future day shall be appointed for the second reading’. In other words, the second reading can occur on the same day.

Senator Ian Campbell—It is because in the old days printing took a little bit longer.

Senator FAULKNER—Yes, that is probably a valid point, Senator Campbell, but I think also there are new procedures in the Senate which are to streamline some of these arcane standing orders. In relation to the third reading of the bill—this is once the second reading and the committee stage have been concluded—the third reading is governed by standing order 122 of the Senate. Standing order 122(1) says:

When the report of the committee of the whole is adopted, a future day shall be fixed for the third reading.

So again this question before the chair is to override standing order 122(1), as has occurred on each and every occasion a bill has been debated in this place literally for decades; that standing order has been overridden. It might be a reasonable thing for someone to point out that perhaps it is time to review these standing orders and modernise them so we do not actually require a question that the bills proceed without formalities. However, that is the question before the chair and they are the standing orders that are overridden by it, as in our view they ought to be and as they have been in the case of every other piece of legislation since this procedure has been adopted by this chamber, and we do not see any reason why the usual procedures should not apply here.

The next question that will come before the Senate is of course that the bills be taken together and read a first time. That is debatable also. I do not know what the intention of some senators in the chamber will be in relation to that question before the chair, but it has hitherto been accepted effectively as a formality. But the whole idea of this question is to expedite the second reading. In other words, you can go through all the stages of a bill—first reading, second reading, committee stage and third reading—effectively consecutively without delay, without having to wait a day. This is the point that I would make to Senator Bartlett and also to Senator Brown, who is in the chamber and who has indicated he will be opposing the question before the chair. This means that, in the truncated sittings program we have in this parliament, there will be a very significant delay in this legislation.

I appreciate that there is a lot of public interest in these bills; I acknowledge that, and it would be silly not to acknowledge that. I also appreciate that this is a high legislative priority of the government. I accept that priority, and the opposition believes that a strong case can be made for this legislation progressing without delay. We made a very different case, as you are aware, Mr Acting Deputy President, for the Commonwealth electoral bill, which the government wanted to progress quickly through the chamber and which does not have any priority and does

not have the same level of public interest or national interest. We made our views on that very clear and they stand in the record of the Senate, and that will be the consistent position of the opposition.

These three migration bills that are before us, the [Migration Amendment \(Excision from Migration Zone\) Bill 2001](#), the [Migration Amendment \(Excision from Migration Zone\) \(Consequential Provisions\) Bill 2001](#) and the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#), are urgent bills. I do not think it is appropriate in this circumstance to use a hitherto unprecedented device to delay the debate on these bills. I always think that, if you can, it is better to debate the substance of the bills, as opposed to using procedural devices or mechanisms to stop them coming on, though I acknowledge and I have always acknowledged—and I will not be hypocritical about this—that at times governments might propose to the Senate questions that are so outrageous that you have to use whatever capacity you have under the standing orders to make a clear point.

I am sure there will be a substantial debate on these matters. I do not doubt that the senator who has spoken to this question, Senator Bartlett, will engage in it. I do not doubt that Senator Brown will engage in it—fair enough—and that a number of other senators might also. I certainly accept, as would the opposition and, I am sure, every senator in the chamber, that these are matters of very great public interest, that they are serious questions of public policy and that they do deserve the attention of the parliament. Mr Acting Deputy President, because of that, we actually ought to get to the substance of the issue. Let us debate what these bills are all about, by all means.

I indicate on behalf of the opposition that we will not be engaging in any delaying tactics on this package of bills at all. In fact, I proposed to the Manager of Government Business as recently as half an hour ago that we actually try to move this process along by including some other bills, if it is possible, in a cognate debate if that would have the effect of saving time. But I also made the point to the Manager of Government Business that it

is possible that the Australian Democrats and other senators—minor party or Independent senators—may have such strong views that that would not be helpful. I acknowledge that. I understand how these things work. If it is not a helpful suggestion—although it certainly sounds helpful in terms of the processes as we all understand them—and if it were to have the unintended consequence of delaying debate, that is not our intention.

We will not be contributing at length to the second reading debate. On this package of bills, we will be minimising the number of opposition speakers. The opposition has made clear its general view in relation to this package of legislation. I accept that it is always difficult to make such a comment and it shows how courageous I am to say that we would not be speaking at length, with Senator Schacht handling the bill!

Senator Schacht—That's dead right.

Senator FAULKNER—I know how courageous I am in saying that!

Senator Schacht—I'm under no limitation.

Senator FAULKNER—That is not quite right, Senator Schacht.

Senator Schacht—Gagged by my own side—all right.

Senator FAULKNER—That is about the size of it, Senator Schacht. The key point here is that there is no filibuster on this as far as the Labor Party is concerned, and we will not engage in it. We believe that it is better to debate the substance of these bills. I acknowledge, as far as the Labor Party is concerned, that not all bills in the government's legislative program before the chamber are priority legislation. We have made a clear point about the nature of the [Commonwealth Electoral Amendment Bill 2001](#), and I hope the government has that on board. There are these migration bills and a number of other bills that have genuine legislative priority, that have clear national importance and that ought to be dealt with as soon as we possibly can, and certainly prior to an election being called. That is the real time constraint here.

Let us acknowledge it: we all know that there is a federal election around the corner. We all know that there is a certain amount of

business that needs to be done. It is never what the government asks for—be it a Labor government, a non-Labor government or a ‘Callithumpian’ government. You always put up a wish list—that is the way it goes in this business—but, contained within that ambit claim, there is always legislation that does need to be dealt with. As far as the Labor Party is concerned, this legislation fairly, squarely and clearly fits that bill. It is for that reason that I do not think we will be contributing any further to the question that the bills may proceed without formalities.

I want to make our position clear: we want to get on with the substance of the debate and, in saying that, we understand that there will be difficult views in the chamber. Senators have a right to express those views in the chamber, as they do. The Australian Labor Party has always defended that right when it has been exercised by senators, and I do not think that even our harshest critics would argue that. We have always defended the right of senators to deal with legislation before the Senate on its substance and, wherever possible, we have allowed for a reasonable amount of time to debate key priority legislation. There is no difference here, and I thought it would be worth while, in this circumstance, outlining the approach of the opposition and the import of the unprecedented debate that is occurring on the question that the bills may proceed without formalities.

Senator BROWN (Tasmania) (10.48 a.m.)—The core of the argument used by Senator Faulkner was that we get to the substance of the issue in the debate on the second reading. The core of the argument that I would put is that we ought to do that from an enlightened point of view. Remember that these bills are just now before the Senate and they were not in evidence to the House of Representatives before this week. It is proper practice in such contentious matters which fundamentally change the law—and I will argue later in the day that they effectively breach international law in a number of ways—that they be taken extremely cautiously and seriously by the Senate.

We have already heard that the Standing Committee for the Scrutiny of Bills report,

which came into this chamber about an hour ago, has put very serious and searching questions to the government about the legislation, but the Senate has had no response from the government. We know that a very important function of the Senate is to adequately review legislation, particularly where it has been more than expeditiously raced through the House of Representatives. If you turn to the current 10th edition of Odgers’ *Australian Senate Practice*, on page 11, under the heading of ‘Functions of the Senate’, you will find the fifth and sixth functions listed:

(5) To ensure that legislative measures express the considered view of the community and to provide opportunity for contentious legislation to be subject to electoral scrutiny.

(6) To provide protection against a government, with a disciplined majority in the House of Representatives, introducing extreme measures for which it does not have broad community support.

I would contend that the latter applies in this situation and that the Senate has a very great duty to ensure—I hope you can hear me, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—It is rather difficult, Senator Brown. There is a lot of talk going on to my left. If people to my left wish to have a conversation, perhaps they need to keep it quiet or go outside the chamber.

Senator BROWN—We are dealing here with extreme measures which introduce, for example, mandatory sentencing for the first time under federal law and measures which override all other laws and approaches to the courts not just by asylum seekers but by Australian citizens. Those are extreme measures. But whatever argument other senators might have on that matter, I think there can be no argument that the way this legislation is being fast-forwarded is counter to item No. 5 of Odgers’ list of functions of the Senate, which says:

To ensure that legislative measures express the considered view of the community and to provide opportunity for contentious legislation to be subject to electoral scrutiny.

There has been no electoral scrutiny of any substance on these bills. Indeed, there has not been Senate scrutiny, as the Senate Scru-

tiny of Bills Committee process highlights. Senator Faulkner said that it is extraordinary and a precedent that Senator Bartlett and I are not in favour of the removal of all impediment—that is, formality—to the bills proceeding forthwith. Let me take you to that part of the standing orders of this place where the procedure of bills into and through the Senate is dealt with. Standing order No. 111, subsection (5), says:

Where a bill ... is first introduced in the Senate ... and a motion is moved for the second reading of the bill, debate on that motion shall be adjourned at the conclusion of the speech of the senator moving the motion and resumption of the debate shall be made an order of the day for the first day of sitting in the next period of sittings without any question being put.

It goes on under subsection (6) to say:

Paragraph (5) does not apply to a bill introduced in the Senate or received from the House of Representatives within the first two-thirds of the total number of days of sitting of the Senate scheduled for the first period of sittings after a general election of the House of Representatives, but consideration of such a bill shall not be resumed after the second reading is moved in the Senate unless 14 days have elapsed after the first introduction of the bill in either House.

Senator Faulkner has said that that has ceased to be general practice in this place. But I would remind senators that these standing orders are to ensure that the Senate does deal with legislation in a way which stops railroading of legislation by the government, which may have a majority in the House of Representatives, and which does ensure that the community has an opportunity to have input. Senator Faulkner, and no doubt the government, will acknowledge that these bills are a matter of high public concern—not just interest but great concern. They are front-page news today. If you look at the *Australian* and see the pictures of the two asylum seeker children staring through the wire in Nauru, you understand that the matters in these bills are important, because they are changing the law to remove not only the rights of those children, as they have stood until now, but the rights of Australians who feel concerned about the rights of those children.

Senator Faulkner referred to standing order No. 112, subsection (4), which deals with the first reading of a bill in this place. It says:

After the first reading, a future day shall be appointed for the second reading of the bill, and the bill shall be printed.

The fundamental intention of the Senate in that standing order is and always has been that there is time for the Senate not only to consider the legislation but also to get public feedback. When you go on to standing order 114, subsection (2), on the second reading, it says:

An amendment may be moved to that question by leaving out 'now' and inserting 'this day 6 months', which, if carried, shall finally dispose of the bill.

We do not want to dispose of the bills; we want the bills to be properly looked at and we want the Senate to fulfil its obligation to the people of Australia to allow some input.

I point out to the opposition that Senator Faulkner has underscored the basic contradiction in the opposition's support for the government in shoving this legislation through so quickly when he said that the constitutional review bill, which is to do with Liberal Party funding, should be held up so that people have the time to look at it. He indicated that that bill was much less important than this package of legislation and was trying to argue that, therefore, this legislation should be dealt with differently because it is important—to wit, put it through the Senate without proper public input or proper reflection by senators on the gravity of the matter that it contains. That is the opposition arguing against its own position. It is saying, on the one hand, 'We've a piece of legislation which is for political advantage and may not be high in the affairs of the nation, although probity of political process is certainly involved. Hold that one up, because it gives our opponents a political advantage or allows our opponents to use parliament in an untoward fashion.' But on the other hand, the opposition's view is different when it comes to important legislation which goes not just to matters of immigration but to fundamental matters of prudence about the way parliament is a check on the executive and the Senate is a check on the House of Represen-

tatives and the Senate, as a house of review, has an obligation to allow the Australian public to have input. The opposition says, 'Scrap that.'

That is a perverse argument which belies the fact that the opposition, no less than the government, wants to railroad this extremely important legislation through the Senate for political purposes to get it off the agenda in the run-up to the election. The opposition feels wounded by the government's handling of this matter. I say to the opposition: the problem is that you did not take the contrary point of view right from the outset. The first day when the *Tampa* picked up the refugees off our northern coast, the opposition should have stuck to the time-honoured principle which says, 'Give those people a fair go.' The government was not going to; the Prime Minister was not going to. The opposition should have taken a lead there, and had it taken a lead the outcome would be very different now in terms of public regard for the way the opposition has handled the matter. It has taken the worst of all paths and that is as far as possible, with one exception, to support the Prime Minister in going the wrong way, in a heavy-handed way—which we now have to deal with in the Senate—ending up with an abuse of law and an abuse of a time-honoured practice in this nation of ours. What we are being asked to do today is to push through legislation which has not yet had community review and proper public review.

Later this morning I will be moving that these matters be put to a committee and the indications are that again the opposition is going to oppose that. How can the opposition justify that tactic? How can the opposition—like the government—say: 'We oppose the public having an input into this debate. We want this debated even before we know what the ramifications of this legislation, as requested by the Scrutiny of Bills Committee on which we have members, are. Even before we get government answers to these fundamentally important questions which the three bills raise, we want to debate and dispose of this matter'? It is as if it is taking orders directly from the executive suite, from Mr Howard's office. Of course it is not, but

what it is trying to do is shadow Mr Howard so closely that people will not perceive a difference and believe that the public out there is going to say, 'Oh well, that's that matter; we don't have to think about that when we are going to the ballot box.' Wrong move.

The public expects an opposition to be positive in the interests of the nation. If positive opposition here does not involve standing in support of basic civil liberties, rights and laws that are fundamental to the Australian precept of a 'fair go', it should at least insist that the Senate not be used as a rubber stamp for legislation on the run, as Mr Beazley called it, coming from the Prime Minister's office in the run-up to an election.

I acquaint the committee with the early alarm that there is in legal circles in this country about this legislation and the way it is being handled by reading a media release of the last 24 hours from the Law Council, which is opposed to this legislation. The media release says:

The Law Council of Australia says that it opposes the combined effect of the legislative package of six Bills introduced into Parliament yesterday.

It is referring to other bills which I understand from Senator Faulkner the opposition would like to see rolled into this process. It continues:

"Fundamentally, these Bills substantially cut the rights of asylum seekers to have access to our legal system to establish a claim as a refugee", says Law Council President, Anne Trimmer. "Australia voluntarily accepted this obligation when it ratified the Refugee Convention and made it part of our law. Any person within the territory of Australia, whether an unauthorised arrival or not, must have a right of access to the courts, in particular to have decisions of government officials which affect their rights reviewed by the courts".

"Some of the Bills relate to matters which are already covered by Bills that have previously been introduced and not passed, and are rightly languishing because they could not command support. These include the Bill to block judicial review, and the Bill to block 'class actions' by asylum seekers".

"Labor has previously strongly opposed these initiatives. Why is there now bipartisan support for such draconian measures?" asks Ms Trimmer.

The Law Council goes on to say:

In the last three years, the Federal Government has been advocating strong measures to address the boatloads of unauthorised arrivals, by seeking to limit these people's access to the legal system. These initiatives deny people affected by an adverse decision by a Federal Government bureaucrat the right to have that decision independently reviewed by [the] court. The Labor Party has consistently opposed these initiatives.

The Law Council believes that the proposed restrictions on access to judicial review are not necessary or consistent with the basic principles of fairness. Rights of judicial review for this category of decision are already very restricted. Previous legislation designed to restrict the use of judicial review has not succeeded in reducing the number of applications for judicial review by the courts. Similar problems exist in the legislation attempting to restrict the use of class actions.

The Border Protection Bill seeks to effectively exclude parts of Australian territory from the operation of Australian law, because the Bill prevents people who have landed in certain parts of Australia from accessing Australian law. Australia is a signatory to the Refugee Convention, and has undertaken to give effect to the obligations contained in the Convention. "It is contrary to the spirit of the Convention, and the operation of our legal system, that the legal rights of refugees are restricted or removed in certain parts of Australia".

There is more to that press release. I have another one from the President of the Australian Council of Civil Liberties, Mr Terry O'Gorman, expressing great concern and attacking the mandatory sentencing components in these bills, which were introduced into the federal parliament just two days ago, relating to changes in the Migration Act.

The opposition is on a real test here, being part of the process of railroading legislation that is important and fundamental to Australia's precept of civil liberties. The rights of individuals both Australian and non-Australian within our territories are at stake. If the government has not changed position on this legislation, philosophically Labor has. I counsel Labor to reflect upon that and, even if it does not, to do the right thing by exposing itself to the concerns of its own constituency in this matter. We should proceed with probity. We should proceed with the fundamental delay that is required to al-

low feedback to be heard. Therefore, I oppose the motion.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—The question is that these bills may proceed without formalities.

The Senate divided. [11.13 a.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes.....	46
Noes.....	<u>10</u>
Majority.....	36

AYES

Abetz, E.	Bishop, T.M.
Boswell, R.L.D.	Brandis, G.H.
Buckland, G.	Calvert, P.H. *
Campbell, G.	Campbell, I.G.
Carr, K.J.	Chapman, H.G.P.
Collins, J.M.A.	Cooney, B.C.
Crane, A.W.	Crossin, P.M.
Denman, K.J.	Eggleston, A.
Evans, C.V.	Ferguson, A.B.
Ferris, J.M.	Forshaw, M.G.
Gibson, B.F.	Heffernan, W.
Herron, J.J.	Hill, R.M.
Hogg, J.J.	Hutchins, S.P.
Kemp, C.R.	Lightfoot, P.R.
Ludwig, J.W.	Lundy, K.A.
Mackay, S.M.	Mason, B.J.
McGauran, J.J.J.	McKiernan, J.P.
McLucas, J.E.	O'Brien, K.W.K.
Patterson, K.C.	Reid, M.E.
Schacht, C.C.	Sherry, N.J.
Tambling, G.E.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	West, S.M.

NOES

Allison, L.F.	Bartlett, A.J.J.
Bourne, V.W. *	Brown, B.J.
Cherry, J.C.	Harradine, B.
Lees, M.H.	Murray, A.J.M.
Ridgeway, A.D.	Stott Despoja, N.

* denotes teller

Question so resolved in the affirmative.

The PRESIDENT—The question now is that the bills be taken together.

Senator BARTLETT (Queensland) (11.16 a.m.)—The question that the Senate now is considering is whether the three migration bills be taken together. I will not debate the bills; I will simply debate the sub-

stance of the motion before us, as detailed under standing order 113(2). I will not be seeking to call a division on this. We do not want to unreasonably hold up the proceedings of the Senate, but we do want to draw attention to the questions that are being put before us and the issues and the importance of this process that we are going through. Given the unseemly—one might say, obscene—haste involved in this, I think it is necessary that as much opportunity as possible is given to the public, the media and those interested in these issues to be aware of not just the detail of the bills but the process that we are going through in relation to them.

The effect of the motion that has been moved by Senator Ian Campbell is to allow the questions for any of the several stages of the consideration and passage of the bills to be put together in one motion. It would allow consideration of the bills to occur together in the committee of the whole and for the reading of the short titles only on every order for the reading of the bills. I do not have a problem with the reading of the short titles only on every order for the reading of the bills—I can live with that—but, again, taking the bills together goes to a procedural issue. Again, it is a machinery motion, but machinery motions have practical consequences.

One of the practical consequences is that this will again potentially limit the opportunity for consideration of these bills because, even though these bills come as a package of measures, taken individually each bill is separate and distinct—particularly the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#). You could argue that the [Migration Amendment \(Excision from Migration Zone\) Bill 2001](#) and the [Migration Amendment \(Excision from Migration Zone\) \(Consequential Provisions\) Bill 2001](#) are linked—and in that sense I could probably support these being dealt with together—but the border protection bill is clearly a distinct bill. There are distinct concerns raised about it. Indeed, it is specific and generic to court proceedings that may well still be current. I have seen reports that an appeal in the case dealing with the activities of the government in regard to the *Tampa* is still being considered and may well proceed to the High

Court. So that is quite feasibly still before the courts or still part of court proceedings. The border protection bill goes to the very heart of that proceeding.

I think it is therefore important that the border protection bill be dealt with separately. There are very distinct and specific questions in relation to it and, indeed, about the order of priority for the package of bills. The Democrats believe that in regard to this bill, which basically seeks to overturn the proceedings that are currently before the courts and retrospectively validate any illegal action, we should see what the court proceedings produce. Unfortunately, the migration area has a sad history in our country. A lack of attention to proper legal principles and processes and an overturning of basic legal rights and civil rights are probably more prevalent in the migration area in our legislative history than in any other area, and that goes right back to 1901 and the introduction of the White Australia policy. We have seen 100 years of a range of quite shameful actions by the Australian parliament in the overturning and undermining of basic rights in the migration area. The border protection bill is another development in that sad history.

There was a bill—I cannot recall the name of it—passed by the larger parties in this place some time back that again sought to retrospectively overturn and invalidate a decision of the High Court in the migration area. I am fairly sure that related to a refugee matter—certainly, it was a migration matter. Again, I think that shows the dangers involved. I talked before, in the debate on the previous motion, about the fundamental underpinning of our system of government: the separation of powers. I think we have done some dangerous actions in the past in reducing the roles of the courts that are enshrined in our Constitution and the protection that they provide for Australian citizens as well as others.

The border protection bill is another bill that engages in that dangerous practice. It seeks to retrospectively validate actions which may well have been illegal and on which court proceedings are currently under way. The Democrats believe that bill should

be considered separately. It should not just be squashed in together with other bills that deal with excising Christmas Island and other territories from our migration zone. It is a separate bill, with separate and very distinct characteristics and components. It has, as with the other two bills, been introduced only very recently, with absolutely no public consultation, and there has been virtually no opportunity for public consideration since these bills have been introduced. To try and rush all these bills through together simply reduces further the opportunity for consideration of the important matters that are contained in the bill.

As I stated before, the Scrutiny of Bills Committee, through the *Alert Digest*, highlighted significant concerns about each of these three bills—separate concerns distinct to each bill, which of course we have not got any response to yet—not concerns about the package as a whole, with one bunch of questions. Senator Brown will move a motion, which we will consider later on, about referring these three bills to a committee. Again, as I indicated on the previous motion, if there were support from the opposition for even a brief consideration of these three bills by the public in a Senate committee, we would be less concerned about this motion that the bills be taken together.

But, given the obscene haste in relation to these bills in a matter as fundamental and crucial as those dealt with in these separate bills, allowing a machinery motion to go through that would expedite passage of these bills without the opportunity for complete consideration is something that we, the Democrats, would be concerned about. There are significant concerns and they should be properly examined. If a committee had the opportunity to do that, then at least there may be some recognition of the validity of the bills being taken together.

I do not know if it is unprecedented to try and oppose bills being taken together. I would think that bills probably have been separated before where it is appropriate. Perhaps it is not common, but this is not common legislation, these are not common times and the sorts of things being attempted in these bills are not common. Extreme circum-

stances require extreme vigilance on the part of the Senate, particularly in an atmosphere of concern, uncertainty and apprehension. This is precisely the time when bodies such as the Senate should take a calm, considered view of legislation and should not just allow itself to be caught up in the torrent of fevered apprehension, some of which has been quite deliberately whipped up and exacerbated by this government in relation to these issues. It is a crucial issue and that is why we believe that these bills should not be taken together.

I add a further point that is not just in relation to legal principles and process: let us not forget that these bills deal with life and death issues. That might sound dramatic, but it is absolutely the case. These are life and death issues. You cannot get a more serious issue than that and there cannot be a more serious responsibility for a body like the Senate than dealing with life and death issues. They are much more important, I would argue, than even all those niceties about civil liberties, legal rights, the underpinnings of our rule of law and fabric of the Constitution—although they are all pretty important too! Life and death stuff, I think, is pretty significant: we have had a lot of death that people have had to deal with in recent times and it is not much fun. It is very disturbing for people. Plenty more of that could potentially occur and we, in relation to issues like this, should make sure that we absolutely uphold our responsibility to examine those things properly in a calm and considered way—and it is sometimes hard to stay calm when you are dealing with life and death issues—and that is something that would best be met by considering these bills separately. That is why we oppose this motion.

Senator HARRADINE (Tasmania) (11.26 a.m.)—I agree with what Senator Bartlett has said. These bills are quite separate bills, although that has never featured as an argument for opposing a formal motion that bills be taken together. Bills have been taken together over the many years that I have been in this place and, as you know, you have had bills that have been quite distinct in their objectives that have been taken together without much fuss. The chamber will realise that the reason that there is some

fuss about it at this time is to ensure that we have a proper opportunity to consider the measures in the legislation that has come before us. All I am doing is appealing both to the government and the opposition to just give us a bit of time. In the end, I may not change how I think about the matters at the present moment, but there are issues which I would like to canvass with a range of contacts that I have got in this particular area.

It is quite significant, as has been said by Senator Bartlett, that the *Alert Digest* has alerted us to certain key situations, particularly about the border protection legislation. I have only just got the *Alert Digest* in my hands. I will not repeat what has been said about it: I presume Senator Bartlett has pointed out what is in here in support of his argument.

I am going to vote against the motion that they be taken together. You can do that objectively because, as Senator Bartlett has pointed out, they are distinct pieces of legislation with different objectives. I am going to vote against this type of proposition for the first time in the 26 years I have been here, and I will do so just as an appeal to give us a bit of time. Give us until next week to have a look at the ramifications of these bills. That is why I am opposing what would normally be a formal proposition.

Senator BROWN (Tasmania) (11.30 a.m.)—I hear what Senator Harradine has just had to say. I am motivated similarly to appeal through this procedure, to the opposition in particular, for time to be allowed for these hugely important matters to be discussed. As Senator Bartlett said, and I cannot run them off as well as he did, not only matters of jurisprudence and civil liberties and suchlike but matters of life and death are being considered in this migration legislation. It gives power to the Australian government, and therefore involves the assent of the Australian people, to deal with people in desperate situations and determine the outcome that will occur there.

I read somewhere in the last couple of days that many people could be given cause to think again about the government's approach to asylum seekers when one of those boats founders and bodies start washing up

on the shore. I hope we do not have to come to that point to reconsider the direction in which the government is going. It is proper that we take time to think through the very important ramifications of these three bills, which ought to be taken separately. Certainly, if not all three bills are taken separately then the first and the second bills ought to be dealt with separately because they are about quite different matters. I will come to that in a moment. I want to complete quoting the pertinent comments coming from the Law Council of Australia on the matter. Their media release quotes the President of the Law Council, Anne Trimmer, as saying yesterday:

... the decision of the Full Court of the Federal Court in the *Tampa* case raised many complex issues about the power of the Federal Government to act in the manner that it did, and the operation of the Migration Act in such cases. The decision should be studied carefully before any legislation addressing this issue is enacted.

We cannot say that we have studied the issue carefully. It is patently obvious that the Senate has not carefully studied the issue simply because the Senate Scrutiny of Bills Committee, which has put questions to the government on this matter, has not been able to get a response and the Senate does not have that response. Ms Trimmer said:

The Law Council does not pretend that there is an easy answer to resolve the problem of unauthorised boat arrivals. The political handling of the *Tampa* crisis sent a very mixed message to the international community. The legislative package—

that is, the one we are dealing with today—will only serve to compound perceptions that Australia is ignoring the basic human rights of asylum seekers and its international obligations in relation to such people.

The media release went on to say:

Several commentators in the last few days have correctly identified that Australia's policy towards asylum seekers should not be another casualty of the terrible tragedy in the United States last week.

The media release quotes former Prime Minister Malcolm Fraser in the *Sydney Morning Herald* of two days ago:

If we want the boat people to go away, we have to go to the source of the problem and persuade

other countries that we should all act more effectively and more humanely.

Ms Trimmer concluded with these words:

Short-term political considerations should not be the driving force for the policy of either of the major parties—

she could well include all parties, Independents and others—

when you are dealing with the lives and safety of people fleeing from desperate situations.

Finally, the media release states:

The Law Council urges both major parties to rethink these policies which will—

in the council's view—

undermine Australia's accessible and fair legal system.

They are very sobering comments, and the opposition should heed them. I do not think any of us are going to say that the awesome tragedy in the United States, the heinous terrorist attack on the United States of just eight or nine days ago, is a totally overriding matter which is, quite rightly, diverting public attention from other matters being dealt with by the parliament. I am intrigued by the fact that there has been so little debate in this place about the terrorist actions in the United States. I asked a question about the matter on Tuesday. I am not sure if other questions have been asked or other motions put; certainly legislation has not come before us in this huge public debate. The parliament—including the opposition—has been galvanised by other important matters like the Ansett collapse, but I would ask it to be as judicious and as thorough in not just looking for solutions but in analysing the government's propositions in this matter as it has been in that matter.

These three bills are different. If you go to the Scrutiny of Bills Committee, a multiparty committee of the Senate which has met in response to these bills and given its report to the Senate just two hours ago, it says that the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#):

... proposes to validate certain actions taken into relation to vessels carrying persons reasonably believed to be intending to enter Australia unlawfully. These provisions:

- apply to any action taken by the Commonwealth or others in relation to particular vessels in the period commencing on 27 August 2001 and ending on the day on which the bill commences—

that is, is enacted. Secondly, the provisions of the bill:

- specify that any such action was lawful when it occurred—

that is retrospective, making anything that may have happened in dealing with the asylum seekers illegal. Thirdly, these provisions:

- provide that no proceedings against the Commonwealth or others may be instituted or continued in any court in respect of these actions.

There is one exception, and that is High Court action against improper use of authority by a Commonwealth officer. That matter is brought into this legislation only because senators, including me, drew attention to the fact that the [Border Protection Bill 2001](#), which was rushed into this place three weeks ago, attempted to be unconstitutional in that it tried to override people's access to the High Court. That is one of the glitches that has been picked up in the current legislation. Notwithstanding that, I draw the attention of senators to the fact that news overnight reported that an appeal to the High Court is being contemplated on the Federal Court full bench decision.

Senator McGauran—It's not going to happen.

Senator BROWN—The injudicious senator opposite says, 'It's not going to happen.' I do not know what news he has that I do not, but Senator McGauran is indicating—if I read that interjection correctly—that one of the aims of the government, in rushing this legislation through the Senate, is to thwart High Court action. If that is the case, it should alarm opposition senators and government senators alike, because that is not a proper use of the parliament.

Senator McGauran—We make the laws.

Senator BROWN—Senator McGauran says, 'We make the laws,' and my response to that is that we also should abide by the laws. In this legislation, as the Senate committee pointed out, there is a move to make lawful any breach of the law that has oc-

curred in the last month in dealing with asylum seekers. Senator McGauran may interject that, 'We make the laws,' but I put it to him, his minister and his Prime Minister that we abide by the laws, too, or we take the consequences. You do not come in here with retrospective legislation to say, 'If we have acted illegally, we will simply make it okay.' Tell that to the average citizen out there in relation to whatever matter in which they may have been netted by the law, and ask them what they think of politicians who bring in retrospective legislation to cover their own tracks when it comes to potential breaches of the law. I ask the government—and I will be pursuing this very vigorously in this debate—what are the breaches that the government is concerned about? What advice has it had? It can tell me in general terms that it has been in breach of the law in dealing with the *Tampa* asylum seekers, because prima facie that has happened and that is why this retrospective legislation is here.

The [Migration Amendment \(Excision from Migration Zone\) \(Consequential Provisions\) Bill 2001](#), the second bill at hand, is very different. Its intention is to excise Christmas Island, the Ashmore and Cartier Islands and the Cocos (Keeling) Islands from Australia in terms of the application of the Migration Act, and there are regulations to allow that process to continue. The Minister for Immigration and Multicultural Affairs may remove any other prescribed external territory and may also remove any prescribed island that forms part of a state or territory—and there we have the real problem, that Tasmania comes within that definition. I am not, as a Tasmanian senator, ever going to support a piece of legislation that treats our state differently from all the other states.

The government and even the opposition might argue that no minister is going to regulate to remove Tasmania from the conditions or the law of immigration in this country. If that is the case, we should not leave that potential there. This is a Henry VIII law which potentially enables a minister to regulate to excise further parts of Australia's territory for the purposes of the Migration Act—and, under regulation, those laws could stand for months before parliament had

an opportunity to overturn them. I do not believe we should be giving the minister those powers. This bill to excise parts of Australia from the migration zone is very different to the [Border Protection Bill 2001](#). The third bill, the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#), is consequent upon the previous one. It provides powers for the Commonwealth to deal with people who find themselves washed up, floating into or in some way or other in an excised offshore place, such as Christmas Island or the Cocos (Keeling) Islands.

It is an unusual move—and it may be unprecedented—to want to have these bills dealt with separately. But the consequences of these separate and different pieces of legislation are huge, so they should be dealt with not only separately but also very carefully and with time allowed for better public scrutiny and input to the Senate. I believe this chamber will be failing in its constitutional role as a house of review if it does not allow at least some days for public input on these important pieces of legislation.

These are rough, turbulent and fearful times for our nation; all the more important that the Senate scrutinise government legislation which aims to change long held values, remove rights and circumscribe civil liberties with regard not only to asylum seekers but also to Australians who find themselves, one way or another, involved with asylum seekers who are seeking to come in by an unlawful manner, because of their desperation in fleeing from circumstances which most Australians, I might say, could scarcely conceive of. I support the move to have these bills dealt with separately.

Senator SCHACHT (South Australia) (11.44 a.m.)—I will speak very briefly on behalf of the opposition on this matter that has been raised by Senator Bartlett, Senator Harradine and Senator Brown. The opposition does not support their proposal that the bills be taken separately. I particularly noted Senator Harradine's remarks that he cannot remember taking this position in his 25 years in this place. The opposition's view is very simple. We cannot imagine that, under the Senate procedures—even by putting these

bills together—there will be any limit on any senator to debate these matters, to move amendments in the committee stage, to speak as long as they like—often to the frustration of others, particularly managers of government business who do not want people to speak that often—

Senator Ian Campbell—They can vote on them separately, as well.

Senator SCHACHT—They can vote on them separately. We cannot see that there is any limitation on any Senator who wants to express a view, move amendments—

Senator Brown interjecting—

Senator SCHACHT—Senator Brown, they are all related in the immigration area. They are all related to matters that have been of considerable public interest in Australia over recent weeks. I would have thought that all senators would have a very clear view of the principle issues, the moral issues, the practical issues and the logistic issues relating to this package of bills that is before us. I therefore believe that the concerns of the senators who want to separate them are not warranted in this case. I would be very surprised if, by the time we finish the debate on these bills at the third reading, they have not had plenty of opportunity to express in every way they like their concerns, their opposition and their amendments to aspects of these individual bills. And I agree, on this occasion, with the Manager of Government Business that he can arrange to have separate votes taken on the different bills in the package.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—The question is that the bills may be taken together.

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (*Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts*) (11.47 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) BILL

The Australian public has a clear expectation that Australian sovereignty, including in the matter of entry of people to Australia, will be protected by this parliament and the government.

The Australian public expects its government to exert control over our borders, including the maritime borders to our north.

In the light of growing threats to our borders I am introducing a package of three inter-related bills today.

These bills are the Migration Amendment (Excision From Migration Zone) Bill, a consequential bill, and finally a bill to enhance our border protection powers and confirm that recent actions taken in relation to vessels carrying unauthorised arrivals, including the MV Tampa, are valid.

Before providing an overview of the objectives of each of these bills, I need to explain why we are doing this – why we are doing what the Australian public expects we should do.

Growth of unauthorised boat arrivals

We all know about the dramatic increase over the past few years in the number of unauthorised people who have been arriving in Australia by boat – we read about it every month in our newspapers.

In the late 1970's we had some unauthorised boat arrivals from Vietnam, in the late 1980's some from Cambodia, and in the mid 1990's some from the People's Republic of China.

However these were comparatively small in numbers, and importantly Australia could have been considered as a country of first asylum for people fleeing some of these countries.

What has changed since then has been the growth of organised criminal gangs of people smugglers who are motivated not by any desire to help others, but by base motives of greed.

This form of organised crime is found throughout the world and preys on people who are unwilling, for whatever reason, to go through normal procedures for entry to the country of destination.

Many of the people moved around the world by these smugglers have either no protection needs, or have bypassed effective protection arrangements in countries closer to their home, simply so they can achieve their preferred migration outcome.

To give some indication of the way in which people smuggling has affected Australia, in the financial year 1998 to 1999 there were 921 unauthorised arrivals by boat on Australian shores.

In the financial year 2000 to 2001 this number had increased to 4,141 unauthorised arrivals.

In the last full calendar month - August 2001 - no fewer than 1,212 people arrived in an unauthorised way on Australian shores.

Work of government to combat people smuggling

So it is apparent that these criminal gangs have been targeting Australia, among other countries.

We as a government have worked assiduously to counter this evil trade.

We are working with other governments and with international organisations towards prevention of the problem by minimising the outflows from countries of origin and secondary outflows from countries of first asylum.

We are also working with other countries to disrupt people smugglers and intercept their customers en route to their destination.

However, regardless of much effort by many governments, law enforcement agencies and international organisations, the illegal trade in people smuggling persists.

The smugglers don't care what happens to the people who get on boats arranged by them.

They don't care what happens to the boats themselves.

They don't check to see whether the people being smuggled are criminals or genuine asylum seekers.

The only thing they care about is getting paid.

According to media reports there are at least another 5,000 people currently in Indonesia and Malaysia who are waiting for arrangements to be finalised with the people smugglers for travel to Australia by boat.

Further media reports indicate that the smugglers are determined to collect their payments and continue their dirty business.

We also know that the steps we have taken, and will take, to front up to the most recent arrivals, are being watched as a sign of how determined we are.

We have to act to show our strong determination that these smugglers don't get their own way.

The Australian public demands it.

The government is determined to stop these smugglers, and this package of bills is an important step in achieving our goals.

The third in this package of bills will provide for minimum mandatory sentences for people convicted of people smuggling offences under the Migration Act.

The changes will provide that repeat offenders should be sentenced to at least 8 years imprisonment, whilst first offenders should be sentenced to at least 5 years.

Those provisions will send a red light to would-be people smugglers.

This first of the three bills is designed to fulfill the commitment the Prime Minister made on the eighth of September to excise some Australian territories from the migration zone.

The territories principally involved are the Ashmore and Cartier islands in the Timor Sea, Christmas Island in the Indian Ocean, and offshore resource and similar installations.

The government has also decided that the territory of the Cocos (Keeling) Islands should be excised from the migration zone with effect from noon yesterday, the 17th of September.

These territories will become 'excised offshore places', which will mean that simply arriving unlawfully at one of them will not be enough to allow visa applications to be made.

The effects of this bill will be limited only to those who arrive without lawful authority.

Australian citizens and others with authority to enter or reside in the territories will not be affected.

I will shortly be introducing the second in this package of bills, which will deal with consequential matters flowing from the decision to excise these territories from the migration zone.

The third bill that I will introduce today will deal with validation of the government's actions in relation to vessels carrying unauthorised arrivals, such as the MV Tampa, and to enhance our border protection powers.

The package should not be misinterpreted as 'fortress Australia' legislation.

Australia will continue to honour our international protection obligations.

We can be, and we are, justly proud of our immigration record and our welcome to settlers from all over the world.

Since 1945, almost 5.7 million people have come to Australia from other countries.

Almost 600 000 of those have come to Australia under our refugee and humanitarian programs.

Today, nearly one in four of Australia's 19 million people were born overseas.

Australian society has embraced people from around 150 different ethnic groups and nationalities.

A central part of Australia's commitment to migration has been its open and generous refugee resettlement programs.

On a per capita basis, Australia is second only to Canada in its generosity to refugees and people of humanitarian concern.

Australia's record is impressive against any measure and has been achieved by the determination of many governments to ensure that our programs are transparent and fair.

However, the success of migration to Australia also depends on the integrity that our programs have demonstrated.

This integrity cannot be maintained if Australia's maritime borders can be crossed at will.

The message that we, as a country, want to send has two elements:

- Australia is a country whose nation building record owes much to those who migrate here, and we will continue to welcome those whom we invite.
- But, we will not tolerate violation of our sovereignty and we are determined to combat organised criminal attempts to land people illegally on our shores.

In summary, this is an important package of bills for both the government and the Australian people.

It will significantly reduce incentives for people to make hazardous voyages to Australian territories.

It will help ensure that life is made as difficult as possible for those criminals engaged in the people smuggling trade.

Most of all, it will help ensure that the integrity of our maritime borders and our refugee program is maintained.

I commend the bill to the chamber.

**MIGRATION AMENDMENT (EXCISION
FROM MIGRATION ZONE)
(CONSEQUENTIAL PROVISIONS) BILL**

This bill is the second in a package of three bills designed to ensure that Australia has control over who crosses our maritime borders.

The purpose of this bill is to make some consequential amendments to the Migration Act and Migration Regulations following the excision of some Australian territories from the migration zone in respect of unauthorised arrivals.

The clear message of the bill is that people who abandon or bypass effective protection opportunities will not be rewarded by the grant of a permanent visa for Australia.

There are over 22 million refugees and people of concern to the UNHCR world wide and limited resources available to deal with them.

The refugees convention does not confer a right on any of these people to choose their country of asylum.

It is clearly up to Australia to determine who can cross our borders, who can stay in Australia, and under what conditions such people can remain.

This bill therefore provides strengthened powers to deal with people who arrive unlawfully at one of the territories beyond the migration zone.

These include powers to move the person to another country where their claims, if any, for refugee status may be dealt with.

Related provisions in the bill will preclude the institution of legal proceedings relating to such people in any court - apart from the High Court.

Finally, the bill amends the Migration Regulations to implement a visa regime aimed at deterring further movement from, or the bypassing of, other safe countries.

It does this by creating further disincentives to unauthorised arrival in Australia by those who seek to use smugglers to achieve a resettlement place they may well not need - a place taken from refugees with no other options available to them.

Unauthorised arrivals and those who leave their countries of first asylum will be able to be granted only temporary visas for Australia.

They will not have any family reunion rights.

For people such as those who have recently attempted to enter Australia by boat there will be no access to permanent residence, and their period of stay on temporary visas will be limited to three years, after which their situation will be reassessed.

I commend the bill to the chamber.

**BORDER PROTECTION (VALIDATION AND
ENFORCEMENT POWERS) BILL**

This bill is the third in a package of three bills designed to ensure that Australia has control over who crosses our maritime borders.

The purpose of this bill is to enhance our border protection powers and to confirm that recent actions taken in relation to vessels carrying unauthorised arrivals to Australian waters are valid.

Those who enter our territorial waters contrary to an express direction from the government should not be rewarded by being allowed to stay in our waters or, even worse, by having the opportunity to enter our land territory.

This legislation will ensure that there is no doubt about the validity of our border control powers and the government's actions in relation to vessels such as the MV Tampa.

The protection of our sovereignty, including Australia's sovereign right to determine who shall enter Australia, is a matter for the Australian government and this parliament.

Consequently, sections 4, 5 and 6 ensure that actions taken in relation to the Tampa since 27 August of this year are taken for all purposes to have been lawful when they occurred.

This also extends to actions taken in relation to the 'Aceng', a boat from Indonesia which later attempted to enter Australian waters near Ashmore Reef.

The bill also will enhance the border protection powers found in the Customs Act and the Migration Act, including the provision of powers to move vessels carrying unauthorised arrivals and those on board.

It is essential to have these powers.

They will be exercised in line with our international maritime obligations to ensure the safety of those concerned.

The maintenance of Australian sovereignty includes our sovereign right to determine who will enter and reside in Australia.

The provisions in this bill are overwhelmingly in Australia's national interest.

In fact one of the great enduring responsibilities of a government is to protect the integrity of Australia's borders.

Finally, the bill provides mandatory sentencing arrangements for people convicted of people smuggling offences under the Migration Act.

These offences apply where 5 or more people are smuggled and carry a maximum sentence of 20 years imprisonment.

The changes will provide that repeat offenders should be sentenced to at least 8 years imprisonment, whilst first offenders should be sentenced to at least 5 years.

The mandatory sentencing arrangements will not however apply to minors.

I commend the bill to the chamber.

Ordered that further consideration of these bills be adjourned to the first day of the 2001

summer sittings, in accordance with standing order 111.

COMMITTEES

Legal and Constitutional Legislation Committee

Referral

Senator BROWN (Tasmania) (11.48 a.m.)—I move:

That the following matter be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 22 October 2001:

All aspects of the provisions of the Migration Amendment (Excision from Migration Zone) Bill 2001, the Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001, and the Border Protection (Validation and Enforcement Powers) Bill 2001.

I alter that reporting date to Wednesday, 26 September 2001. I do that because there would be an argument from the government, if not from the opposition, that leaving the reporting date to 22 October would make it unlikely, with an election coming down the line and next week being generally agreed as the last week of sitting of the Senate, that the committee report would come back to the Senate.

I am appealing to the Labor Party to do the right thing by the people of Australia and particularly its own constituents. It knows, as well as all the rest of us do, that whatever supporters of the government might think, there are a huge number of opposition supporters who want to have this legislation properly dealt with, and that means properly scrutinised. I have already spoken about the Law Council of Australia and the Council for Civil Liberties being seriously alarmed, opposing this legislation at the outset and drawing attention to very serious shortcomings of the bills at hand. It goes to matters of huge importance—not only the way we deal with immigrants but the way we perceive ourselves as a nation, upholding fundamental civil liberties and human rights, not least access to the courts.

I have to look at the politics of this and I have to appeal to the opposition to take a second view of what it is doing. Is the opposition really going to support Prime Minister

John Howard in railroading this legislation through the Senate without an opportunity for the people of Australia to have a look at it and comment—not least the experts in this country who deal with matters of immigration, law, human rights, and our obligations under a range of international treaties dealing with the handling of refugees and with human rights?

As I understand it, it is a fundamental of Labor Party philosophy, if not policy, that human rights be protected and not be summarily passed away by the railroading of legislation through the parliament. I believe that, whatever else it may think about the Senate, it accepts that this is a house of review where the excesses of an executive government in the House of Representatives can be—if not stopped—slowed down, so the public has an opportunity to have a look at what we are dealing with. If the opposition does not support this move to enable the public to give us input before we finally deal with this legislation, it is falling into line with the Howard government philosophy and cutting the people of Australia out from this debate. It cannot do that; it should not do that; it must not do that. In the run-up to an election—where it is a concern that Prime Minister Howard is motivated not only by the idea of improving his stocks in the public domain but also by seeing the polls go that way and, worst of all, by the overshadowing awful tragedy in the United States—we cannot allow to slip through this place legislation which is going to affect immigrants, illegal or otherwise, to this country and Australian citizens' rights for a long, long time to come.

For the first time in federal law, mandatory sentencing appears. It raises its ugly head in this legislation. Once you allow it in your dealings with one group of people—Australians or otherwise—where do you draw the line? I ask the opposition: where do you draw the line on mandatory sentencing? I have been proud to be associated with you—

Senator Schacht—We won an election in the Northern Territory; we are going to repeal it in the Northern Territory. We have stated very clearly what our view on that is.

Senator Ian Campbell—You are going to keep it in Western Australia.

Senator Schacht—Federally, we have stated what our position is.

Senator Carr—Don't misrepresent us; you could provoke a blue here.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! Senator Brown, return to your comments.

Senator Schacht—Give due where due is—

The ACTING DEPUTY PRESIDENT—Senator Schacht, you can get up and have a say in the debate later if you like, but let Senator Brown continue.

Senator BROWN—Senator Schacht says that the Labor Party is removing mandatory sentencing in the Northern Territory.

Senator Schacht—We have won an election on it; we just got into office.

Senator BROWN—And that it won an election on it. So how contrary to that good action is the Labor Party in supporting the introduction of mandatory sentencing into federal law here today and, what is more, supporting it in a way which does not allow the public to have input, which does not allow itself to be informed about the danger of such legislation?

Senator Schacht—That string to your bow is about 10 miles long—to put those two together, Senator Brown.

Senator BROWN—Senator Schacht will be able to get up and try to defend the indefensible here. The point is: here is the Labor Party supporting mandatory sentencing. It is my understanding that people we might think are very good citizens of this nation can be caught up in this mandatory sentencing net. I want to talk about this further in the debate on the second reading of the bill, but let me just refer to it at the moment. The bill provides for mandatory sentencing of five years or eight years for citizens of Australia or other people who are involved in bringing groups of five or more 'illegal' immigrants—that is, asylum seekers—into the country in the future. As I understand it, had that law applied when the East Timorese were illegally in this country—after they had been

told to go—during the occupation of their country by Indonesia, and the nuns and others from the Catholic Church and others in the churches were giving those people refuge, it is not drawing too long a bow to say that they may have been subject to this mandatory sentencing provision. The Labor Party ought to look very carefully at that. I want to see what the Labor Party's legal advice on this matter is, because this is alarming stuff. As I said, I will come to it later. This legislation also overrules all other laws of the country.

The ACTING DEPUTY PRESIDENT—Senator Brown, could I interrupt you for a moment. I have just had drawn to my attention, and it should be drawn to your attention, that the motion as printed in the *Notice Paper* today is not correct in the sense that the words 'Legislation Committee' should be 'References Committee'. The original motion that you foreshadowed was to a references committee, and there has been an error in the printing of the motion. I just want to draw that to your attention, because it may be germane to the comments that you are going to make in the debate.

Senator BROWN—I thank you for that advice, Mr Acting Deputy President.

Senator Schacht—Mr Acting Deputy President, I raise a point of order. I have a point for clarification. I notice that you are now referring to the point in Senator Brown's motion which states:

That the following matter be referred to the Legal and Constitutional Legislation Committee...

The ACTING DEPUTY PRESIDENT—That should read 'References Committee'.

Senator Schacht—Is that what Senator Brown originally moved?

The ACTING DEPUTY PRESIDENT—That is correct. That is what Senator Brown originally moved. That is why I am drawing it to Senator Brown's attention now.

Senator BROWN—I thank you for that. I will check on that matter. Let me be very clear about this, Mr Acting Deputy President. The important thing is that this matter be referred to a committee so that we can get

from that committee the public's input on this matter.

I was referring to the fact that, beyond mandatory sentencing, this legislation also overrules other laws of the country. This package of legislation removes the right of citizens to have access to the courts of this country. I reiterate that all this is happening in a background of a potential appeal to the High Court, consequent on the ruling of the Full Bench of the Federal Court in the *Tampa* issue. Therefore, it has very serious ramifications as far as the time-honoured tradition of upholding people's basic rights to appeal to courts is concerned in this country. Members of the opposition in particular should think about that.

Think about the effort of the government last week to even overrule access to the High Court. If it were not for the Senate that effort to overrule the High Court, which I think would have failed because it was unconstitutional, would have gone through this place. The Labor Party is now taking part in a similar process of railroading through this place legislation with enormous consequences as far as legal and human rights in this country are concerned. We go now to the business of excision of parts of the country, dividing the country up for the application of law differently in one place to another. Where does that end? This is the start of a process which is open-ended. It is even open-ended in this legislation as it allows the minister by statute to draw the line differently, to include other external territories and, indeed, all other islands that are part of states or territories, including my home state of Tasmania.

One would agree that it is unlikely to occur, but that potential should never be allowed under legislation which treats all states equally. I will be moving to amend that provision when we get to debate the bill. It should not even be countenanced, not least in the Senate, which was under the Constitution established to look after the interests of the states against the excesses of the House of Representatives, which these days means the excesses of the Prime Minister's office. It is shoddy, fast-track legislation.

Mr Beazley has been maintaining all the way down the line that the government should not make legislation on the run and now we have him and the opposition running with the government. The important thing here is that we take a few days to allow the Australian people to have their say too. Is that going to be so harmful to the opposition? What is the argument that the opposition puts that this should not go to a committee?

Senator Carr—If you sit down we will tell you.

Senator BROWN—Mr Acting Deputy President, you will know that Senator Carr is disorderly in interjecting, but he compounds the infraction of the standing orders of this place by interjecting while standing between his seat and you.

The ACTING DEPUTY PRESIDENT—You have succeeded in putting Senator Carr back in his place.

Senator BROWN—Thank you, and I will not charge him a cent. It is very important that the opposition explains the contradiction between this situation and its insistence that the Liberal Party's effort to get legislation to ensure that public funding goes to its head office and not to its party offices, in the wake of the next election, goes to a Senate committee so people can feed in their views before we deal with that piece of legislation. Indeed, the opposition agrees that the regional forest agreements around the country are important enough—and it has dealt with this legislation before—for the public to have at least a few days input before debate on that bill takes place next week.

When it comes to this migration legislation, which has always been an important matter for the opposition, it suddenly says there will be no committee and no public input and it does not believe in anything other than the Howard government's prescription for putting this through the Senate. That is not only a contradiction but also a failure on the part of the Labor Party to uphold its own principles, its logic and its past avocation for the defence of human rights and, in particular, the defence of the have-nots, the people who do not have the privi-

lege of easy access to the courts and rights but who, nevertheless, find themselves within our borders. It is a pretty shoddy exercise. It is all the more shoddy that the opposition should be acquiescing to Mr Howard's prescription in dealing with it.

Senator McKIERNAN (Western Australia) (12.07 p.m.)—I do not intend to take too much of the Senate's time in debating Senator Brown's motion to refer this legislation to the Senate Legal and Constitutional References Committee. I am pleased, Senator Brown, that you did give that clarification as to which committee it is going to go to because it is important which hat I wear in joining this debate. It is a matter of whether I am chair of the references committee or deputy chair of the legislation committee. But, whichever hat I would be wearing, Senator Brown has not seen fit, since he put his motion in the chamber yesterday, to enter into any form of consultation or negotiations with me as chair or even as deputy chair of the committees. That is a breach of the normal practice and stands in stark contrast to what Senator Bartlett did during the last sittings when the [Migration Legislation Amendment Bill \(No. 6\) 2001](#) was referred to the Legal and Constitutional References Committee and was subject to some debate in this place. There was consultation all the way around, but regrettably Senator Brown has not seen fit to engage in that consultation.

Senator Brown, in putting forward a motion and not consulting, has put me as an individual in somewhat of a difficult position because, were I to acquiesce to and go along with the proposition that Senator Brown is putting forward, I would have to breach every understanding that we have had in the period of time that I have been chair of that committee. I agree with all the propositions of contacting the public and having the public come along to a Senate committee and inform the committee—and, through the committee, the parliament—about their concerns over or support for particular pieces of legislation. In order to facilitate the public doing that, we advertise in our national newspapers for people to come along and give their views. Where we identify particular individuals or organisations, we also

make contact with them for them to come along so we can ask them to give their particular views.

With the last bill that I referred to, which Senator Bartlett moved be referred to the committee, we were able to make informal arrangements. Even prior to the Senate passing the reference to the committee, we were able to make informal arrangements for advertising to take place. Were we to advertise in the national media on this particular set of bills, which are important bills, we would have had to have put the advertisement into the newspapers through the agency yesterday. If there were consultation, that might have been able to have been done, but regrettably there is absolutely no way in the world that it can be done now, at midday on Thursday, for the weekend's newspapers.

Senator Brown—What humbug.

Senator McKIERNAN—Well, it is an actual fact, and we were able to facilitate that other matter. Senator Bartlett is sitting very close to us, and I think Senator Bartlett will agree that the advertisement did appear and that the public have made submissions to the Senate Legal and Constitutional References Committee on the refugee determination bill. Tomorrow we will be having a public hearing on that piece of legislation here in the national capital, Canberra. We were able to do that through the processes of consultation. Senator Brown, if you do not want to engage in those processes, that is your decision, but it is your humbug, Senator Brown. It is your humbug that causes that not to happen.

The other thing that needs to be considered by the Senate in regard to this particular reference is: how does the public get to the hearing of the parliamentary committee and the committee get time to deliberate on the evidence taken, write up the report and present that report by Tuesday of next week? I do not know if any other colleagues are having the same difficulties as some others that I know in making travel arrangements at this particular point in time with only one of the major airlines of this country flying. It would be very, very difficult to move around this country at this moment in time, even if we were able to.

When will the committee have time to do the hearing? We cannot do it tomorrow because we are already engaged. On the instructions of the Senate, we already have a hearing on another very important bill, a bill so important that the person who was concerned about the content of the bill actually engaged in a consultation process with those of us that are also engaged in the committee, and we were able to facilitate that and support it. But, no, Senator Brown wants to do his own thing and go charging off on a steed to make a name for himself.

Well, Senator Brown, you are entitled to do that and you are doing that, but obviously you are not going to get your proposition up—but they are the breaks that you engage in, Senator Brown, entirely different from your actions in relation to the other inquiry that is before the Senate Legal and Constitutional References Committee. I refer to your contact with me in Burkina Faso just last week, I think it was or it may have been possibly the week before, and how circumstances have changed. You made contact with my office and made contact with me in the west of the continent of Africa, in Burkina Faso, to make alternative arrangements about a bill and a subject matter that was very dear to your heart. You were very able to do that while I was thousands and thousands of miles away, but while I sit four seats from you, you are not even able to come across—and we did talk about the other matter yesterday. If you fail on this particular occasion, Senator Brown, I think the first thing you should do is a bit of self-analysis of your own efforts in this. If you really wanted the bill to come through, you, the mover of the motion, would have at least engaged in some degree of consultation on it.

Senator Brown—What a comment for a chairman this is. This is disgraceful. It is just humbug.

Senator McKIERNAN—The only thing disgraceful in this, Senator Brown, is you; you have been the disgrace. But you have achieved your aim—you have made a name for yourself, but it is not a very good name, Senator Brown; it is not a very good argument at all.

Let me put one quick matter in regard to the bills. The bills, as I indicated and will be saying when we get into the second reading debate, are very important bills and are dramatically different from the bill we debated here three weeks ago. I have gone into the content of the legislation. One of the really important differences with the main bill is that we have actually seen it before it reached the chamber, whereas on the previous occasion we did not even see the bill prior to its entering the chamber. Indeed, the Australian Labor Party, the opposition party in this place, did not get a chance to look at the bill prior to it being introduced in the House of Representatives. Indeed, members of the government parties did not even get to see it.

When that bill was defeated in this place, we offered at the time to look at it and to work with the government on this very important matter of border control in this country. We offered to work with them on this occasion. On this occasion we have been given the opportunity to work with the government on it, and the government will see—by the introduction of this bill and what happened in the House of Representatives yesterday, where all the bills passed the House of Representatives with the support of the opposition—that legislation can be brought into this place and can be passed if it is good legislation. If it is bad legislation, we will oppose it, we will block it and we will not allow it to pass. We proved that some weeks ago, and we paid dearly, one would suggest, in the polls for that action.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (12.15 p.m.)—I take this opportunity to do something that I probably should have done the last time I was on my feet, when I incorporated, with the leave of the Senate, the second reading speeches in relation to the migration package of bills. I referred then to some documents that I would table in relation to the bills and particularly to a background paper on the unauthorised arrivals strategy which encompasses a range of information about the government's strategy in relation to unauthorised

arrivals. It goes into some detail about the history of this challenge for Australia and the way that this government and previous governments have handled the problem. It also goes into some significant and interesting information about the size of the problem. I commend all who are interested in the problem to look at the tables at the back of the document which go into the size of the problem and the number of people who are actually arriving illegally as boat people, as they have become known. It shows the remarkably massive increase over the last couple of months.

Senator McKiernan—Under your regime, you have almost lost control of it.

Senator Schacht—What are you doing? You are the government.

Senator IAN CAMPBELL—I guess you could make the political point that it is our fault that the Afghans are coming through Malaysia and Indonesia! I guess that someone who wanted to make a cheap political point would try to blame someone else and say that the reason that all the Afghans and others are leaving those regimes is the fault of John Howard. And if your dog has fleas, you could blame him for that as well. One of the tables makes the point that 1,212 people, which is a remarkably high number, arrived in August. Without any further ado, I table that document.

Senator BARTLETT (Queensland) (12.17 p.m.)—I wish to speak to Senator Brown's motion to refer the [Migration Amendment \(Excision from Migration Zone\) Bill 2001](#), the [Migration Amendment \(Excision from Migration Zone\) \(Consequential Provisions\) Bill 2001](#) and the [Border Protection \(Validation and Enforcement Powers\) Bill 2001](#) to a Senate committee for examination. I have spoken already today on this matter to a small degree, as people may have heard, and I will not repeat some of those points. This is a specific motion and I will speak specifically to it. It deals with one of the fundamental roles and responsibilities of the Senate, which is to ensure that legislation put forward by the executive is considered properly—put very bluntly: that we know what the hell we are doing when we vote on the thing. Quite frankly, there is no doubt

that, if these bills were voted on without consideration, lots of senators would not actually know what the hell they were doing and what we were really letting ourselves in for, let alone what we were letting asylum seekers in for, if we passed these bills.

I think the ramifications and consequences in a whole range of areas are things that not only the public but many in this chamber are not aware of. Surely, in our role as a parliament, as a Senate and as a legislature we have the responsibility to be aware of what it is we are inflicting on the Australian public and, indeed, on the world. These bills will not only deal with, and have an impact on, the domestic level; they will obviously have an impact internationally on people who are seeking protection from persecution. They may be put at greater risk of not getting that protection. I believe the bills will have international significance in the future direction of the ongoing debate about how to deal with the problem of asylum seekers, displaced people and refugees. As I and many others have said a number of times, it is a global problem; it is not just an Australian problem. Indeed, our exposure to it is a lot less than for many other countries. It is a debate that is flourishing and ongoing, not just in Australia but in many parts of the world. It is a debate that is probably going to intensify if the conflict eventuates that is likely to occur as a result of the terrorist attacks in the United States.

I hope that the international cooperation that is unfolding in relation to a response to that terrorist attack includes international consideration of and cooperation on what to do about the consequences for those who are victims of any conflict—the consequences for not only future refugees but the existing ones. Clearly, the global community has failed to address that issue effectively. That is why people are seeking protection as unauthorised arrivals, rather than going through the UN system. The UN system, whilst it tries its best, is dramatically flawed, and many people cannot access protection and there is not much likelihood of gaining protection. With that system not working, it is no surprise that people pursue other avenues to get protection and safety. We need to be

working cooperatively internationally to ensure that there is a better system or that that system improves dramatically. Otherwise, regardless of what laws we put in place here, the issue of people arriving here illegally will continue. It is a problem being generated by the persecution of people not only in Afghanistan but in many places around the world and by an inadequate international system for providing assistance to those people.

There is no perfect or easy solution, but this, as sure as hell, is not a solution. In terms of international ramifications, the concern I have is that Australia is looked to in relation to these issues. Many people have commented on our history in relation to refugees. We used to have a proud history that was influential in a global sense, in getting at least some improvement. The situation, such as it is at the moment, is due in no small part to the work that Australia and other nations have done in making that operate. Now that we are sending out these strong messages that we have changed our approach, both through our actions and legislation here and through direct commentary and contact with other governments, the way we are now going to deal with it is to try to stop people accessing protection. We have seen that already in the last few weeks and we see it in these bills.

It would not be unreasonable for other countries that bear a much greater burden than we do to look to Australia's lead and say, 'Australia is obviously willing to trash the refugee convention through its legislation and is basically seeking to prevent people from accessing protection; we'll do the same thing.' Do you think that will solve our problem? No, it will make it worse. I think the international aspect is one that has not really been given much attention, not surprisingly, because of the immediacy of the situation and the impact on people arriving here. But I think it is also very dangerous in that international sense. That is just one issue that we will not be able to properly examine unless we get this put to a committee and are given advice and input—not just from people who work here in Australia with asylum seekers. I believe that, when you are dealing

with legislation that goes right to the heart of some crucial international conventions, the opposition is quite right to be critical—and, along with others, it has been incredibly critical of this government's disgraceful undermining of international obligations in the human rights area. This legislation goes to the heart of some of those international issues on an international problem, and yet we are not going to have the opportunity to get a proper insight—nor any sort of insight—into what the likely international consequences will be. It is a global problem; we could have global input, but we are not going to enable ourselves to be aware of that now.

I have been involved in Senate inquiries before into some of these issues. I have to say that, before I came into this place, I was horrifyingly ignorant of some of these issues—and I am not suggesting that I am now fully across all of them. It is only through being able to examine some of these issues in detail that I have some appreciation of the significance of these issues and the fact that they have major international ramifications as well as local, domestic ones.

The Democrats strongly support this motion as an attempt to get at least something of a spotlight on what are, in my view, some of the most significant bills that we are going to consider, with ramifications that I do not think anybody has really thought through, beyond obviously the government thinking about their incredibly short-term, incredibly narrow, immediate political self-interest. That is clearly their motivation. The national interest does not rate with this government in relation to this issue. Put simply, political self-interest has been put first, second and last on the part of this government. For some time, but particularly at this moment, that is what has been driving their attitude and their rhetoric in relation to this. The social damage they are causing—the social division, the trashing of our international obligations, the trashing of the fabric of human rights—obviously does not count when it comes to short-term political gain. That is a great shame.

It is the role of the Senate, I believe, as a body independent of the government—the primary parliamentary body—to keep a check and a balance on the activities of gov-

ernment, to be able to operate, at least to some extent, beyond that short-term political gain of the government of the day and to take into account national and global interest. Unless we support this motion, again we will be passing up an opportunity to do that.

Senator HARRADINE (Tasmania) (12.26 p.m.)—I support the motion to refer this migration legislation to the Legal and Constitutional References Committee. It is important to have it go to the references committee so that we can question people from the various departments and others from the community on the ramifications of these pieces of legislation. This cannot adequately be done in the chamber, and that is why we have these committees—to consider and to invite people to give us their advice about the measures and the ramifications thereon. I want to say very clearly that I agree that this issue before us does raise a number of questions, including the question of the detention of persons without lawful authority. As I understand it, this legislation is going to be retrospective in respect of that matter. I have seen some legal views on this. We need further advice—or at least I do. You might be able to make your decisions, but I need further advice on this. One of the ways of getting this out in the open is to enable people to give evidence before a committee, and this legislation does raise the question of detention of persons without lawful authority.

It of course raises the importance of Australia being able to protect its own borders lawfully. It highlights Australia's obligations under the refugee convention. It will put the spotlight on those obligations that require us to give refuge to those with a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. However, it also raises the very important issue of people smuggling and organised groups or gangs making a considerable pile out of human misery. I think that, unless tackled, people smuggling will put at risk the credibility of the refugee determination system itself, and that concerns me. I understand some of the points being made by the government and the opposition, but I do not believe the

remedy is in denying the rights of others. This makes me very concerned.

I have a suggestion to the government, and I will make it during the debate, if we have much of a debate, at the committee stage. I say to Senator McKiernan that I understand what he says: if it goes to a committee and the report date is next Wednesday, what chance do we have to advertise for submissions and all the rest of it. But, to be frank, that is not of our doing, is it? Here is the legislation and the government wants it pursued. As has been indicated, the betting around the place is that we will not be back again after next week—I do not know about that—and so we have to consider the matter before the end of next week. Even a truncated inquiry would assist me and, I believe, other legislators in this important task. I support the motion.

Question put:

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

The Senate divided. [12.35 p.m.]

(The Acting Deputy President—Senator J. Hogg)

Ayes.....	9
Noes.....	<u>42</u>
Majority.....	33

AYES

Allison, L.F.	Bartlett, A.J.J.
Bourne, V.W. *	Brown, B.J.
Harradine, B.	Lees, M.H.
Murray, A.J.M.	Ridgeway, A.D.
Stott Despoja, N.	

NOES

Bishop, T.M.	Brandis, G.H.
Buckland, G.	Calvert, P.H. *
Campbell, G.	Campbell, I.G.
Carr, K.J.	Chapman, H.G.P.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Cooney, B.C.
Crane, A.W.	Crossin, P.M.
Denman, K.J.	Eggleston, A.
Evans, C.V.	Ferguson, A.B.
Ferris, J.M.	Forshaw, M.G.
Gibson, B.F.	Herron, J.J.
Hogg, J.J.	Hutchins, S.P.
Kemp, C.R.	Ludwig, J.W.

Mackay, S.M.	Mason, B.J.
McGauran, J.J.J.	McKiernan, J.P.
McLucas, J.E.	Newman, J.M.
O'Brien, K.W.K.	Patterson, K.C.
Payne, M.A.	Schacht, C.C.
Sherry, N.J.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	West, S.M.

* denotes teller

Question so resolved in the negative.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Reference

Debate resumed from 19 September, on motion by **Senator Brown**:

That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 1 April 2002:

All aspects of the provisions of the Regional Forest Agreements Bill 2001, including, but not restricted to:

- whether the legislation contravenes Australia's obligations under international agreements, including the Convention for the Protection of Biodiversity, the Framework Convention on Climate Change, the World Heritage Convention, the Ramsar Convention and agreements for the protection of migratory species;
- whether the bill overrides section 42 of the *Environment Protection and Biodiversity Conservation Act 1999* and the implications of this for the protection of World Heritage, the protection of Wetlands of International Importance and the environmental impacts of taking actions whose primary purpose does not relate to forestry;
- the compensation obligations to which the Commonwealth would be exposed if it took action to prevent forestry or mining operations or other activities in Regional Forest Agreement (RFA) areas;
- whether it is fair to provide compensation to an industry whose activities are already heavily subsidised and which has no reverse obligation to compensate the Commonwealth or states for damage to the environment, including water

- quantity and quality, soils, carbon banks, biodiversity, heritage and landscape;
- (e) the need to ensure that workers entitlements are protected; and
 - (f) the need to ensure full parliamentary scrutiny of all RFAs before initial ratification and before any proposed renewal.

Senator BROWN (Tasmania) (12.39 p.m.)—This is a motion to refer the [Regional Forest Agreements Bill 2001](#) to the Communications, Information Technology and the Arts References Committee. Last night I outlined the compelling reasons why that should happen and, moreover, why people should be given time to make their submissions on a matter which is extraordinarily important in my home state of Tasmania and also in Victoria and New South Wales in particular. The fate of Australia's tall forests and rainforests in the south-east corner of this continent is very much at stake. What I did not say but what is obvious is that it is three years since the last committee hearing into this matter and in that time the regional forest agreements have been implemented and their functioning has become a reality. It is very important that the Senate gets to know about the functioning, or malfunctioning, of those regional forest agreements.

I pointed out last night that one of the extraordinary shortcomings has been the forest practices code in Tasmania, which was supposed to give us the protection of the environment in those places being logged under the regional forest agreement, which of course is Mr Howard's document. What we see is the greatest rate of destruction of those forests and extraordinary breaches of the forest practices code by none other than Forestry Tasmania itself. That is aided and abetted by the Forest Practices Board, which has an incestuous relationship—

Senator Calvert interjecting—

Senator BROWN—I see that Senator Calvert is commenting—I am not sure whether in agreement or otherwise—over there at the moment. This matter is extremely important. Conservation, community and logging interests should have an opportunity also to ask where the money has gone—the millions of dollars of taxpayers' money un-

der the regional forest agreements—and why they have had not an increase but a fall-off of jobs in the logging of native forests around the country. These are really very important matters. Notwithstanding that, there has been an enormous vote showing lack of confidence in the government's and the opposition's point of view on this. The polls most recently in Tasmania say that 70 per cent of Tasmanians, despite all the propaganda we get—

Senator Sherry interjecting—

Senator BROWN—I see Senator Sherry now assenting to the fact that we get bombarded—at taxpayers' expense—with television by Forestry Tasmania. Now falling, collapsing, in the polls is the Bacon and Lennon government—65 per cent not too long ago, then 59 per cent, now 50 per cent and heading south. No wonder, because they simply will not respond to people and they will not endorse their own Tasmania Together process. Let us have a look at it. Labor is not frightened. It will support this motion. I recommend it to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—The question is that the motion moved by Senator Brown be agreed to.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT—Division required. Ring the bells.

Senator Faulkner—Mr Acting Deputy President, on a point of order: before you order the ringing of the bells, as it is one minute to the luncheon break there might be people leaving the building. There is always a risk in these sorts of things. The division, I think, will be clear-cut, but it might be better, I just submit to you—

Senator Ian Campbell—Can we do it at 12.30 on Monday, Bob?

Senator Faulkner—No, I think we ought to do it at a time to be arranged. That is my suggestion, because it is now the lunch break.

Senator Brown—Like this afternoon?

Senator Ian Campbell—Yes.

Senator Faulkner—I think that is sensible. With the indulgence of the chair and all

senators, I would respectfully request that we handle the question that way.

The ACTING DEPUTY PRESIDENT—I am happy to be indulged.

Motion (by **Senator Ian Campbell**) agreed to:

That the question be put at a later hour.

**PARLIAMENTARY SERVICE
AMENDMENT BILL 2001**

Second Reading

Debate resumed from 19 September, on motion by **Senator Troeth**:

That this bill be now read a second time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.45 p.m.)—The opposition support this legislation. The measures in the **Parliamentary Service Amendment Bill 2001** will enhance mobility between the Australian Public Service and the Parliamentary Service for employees who are employed in either service on an ongoing basis. Mobility between these services has been consistently supported by the opposition. We believe the movement of staff between the two services will enhance the vitality and effectiveness of both.

We also recognise the need for the technical amendment that rectifies a problem with the drafting of the original bill which would have required amending legislation each time there was a change to the name of a parliamentary department. Naturally, any motion before the parliament to change the name of a parliamentary department would be scrutinised very closely indeed by the opposition. But there is nothing more I wish to add in the debate on the second reading of this bill, because the bill has the support of the opposition.

Senator BOURNE (New South Wales) (12.47 p.m.)—In the absence of my ability to call any quorums, I would just like to say how valuable the Parliamentary Service is in this country and how much we in this chamber value all of those who look after parliamentary service on our behalf.

Senator ALLISON (Victoria) (12.47 p.m.)—The Australian Democrats will support the **Parliamentary Service Amendment**

Bill 2001. We have always supported sensible legislative changes to the public sector. We accept that this is a bill that clarifies and tidies up the 1999 Parliamentary Service Bill. It clarifies questions of mobility of ongoing employees between the Australian Public Service and the Parliamentary Service, with the aim of maintaining a high standard of staffing within the Parliamentary Service over time.

It may be appropriate at this time to put in a general thankyou to all the staff that work in the Parliamentary Service, who keep this place running and make our lives easier—be it the attendants here in the chamber, the Hansard staff, the invaluable staff in the Library or those who work in the Joint House Department. I would like to especially thank Shirley Simper from the office of the Leader of the Democrats, whose commitment to work and efficiency has long been recognised by our senators and staff.

The Australian Democrats have a long and proud record of support for the public sector, unmatched by anyone in this place. It is important to remember that this government has a poor record on the Public Service. It has no commitment at all to a strong, independent Public Service and has at many times made attempts to politicise that service. In the last decade, public sector jobs have disappeared as funding for many core services has been withdrawn. Instead of slowing, the winding back of the public sector looks set to continue as competition policy, contracting out and privatisation move into top gear. That means more job losses, lower levels of services—especially in regional areas—and higher prices for many services.

The casualisation that has occurred in many workplaces has also occurred within the public sector. It must be recognised that mobility rights are included only for ongoing employees, allowing them to have a career path within or between the Parliamentary Service and the Australian Public Service. However, the entitlements for leave for the growing class of non-ongoing employees in the public sector will continue to be paid out in cash at the end of their contract. This bill clarifies their role and is indicative of the actual situation both within the public and

private sectors. The Australian Democrats support this bill as we recognise that ready mobility between the Public Service and the Parliamentary Service ensures an ease of attracting a high standard of public servant to the Parliamentary Service and vice versa.

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (12.49 p.m.)—I thank honourable senators for their contributions and commend the *Parliamentary Service Amendment Bill 2001* to the Senate.

Question resolved in the affirmative.

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

NOTICES

Presentation

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (12.51 p.m.)—by leave—I give notice that, on the next day of sitting, I shall move:

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

Migration Legislation Amendment Bill (No. 5) 2001, and the

Migration Legislation Amendment Bill (No. 6) 2001.

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

Leave granted.

The statements read as follows—

MIGRATION LEGISLATION AMENDMENT BILL (No. 5) 2001

Purpose of the Bill

This Bill is designed to secure the Department of Immigration and Multicultural Affairs' (DIMA) private sector sources of personal information, by way of amendment to portfolio legislation.

The amendments will ensure that DIMA will continue to receive information that is necessary to carry out its core activities and functions. For example, passenger information which is received from the airlines in advance of a flight, is necessary to facilitate immigration clearance and a

failure to receive this information may cause considerable processing delays at airport primary lines.

The changes are necessary as a consequence of the Privacy Amendment (Private Sector) Act 2000, which was passed by Parliament in December 2000 and is due to apply to the private sector from December 2001. This Act provides protection for personal information collected by the private sector and limitations on its use and disclosure.

Reasons for Urgency

In the absence of this amendment, from 21 December 2001 DIMA's capacity to continue to receive personal information that is relied upon to carry out portfolio responsibilities may be compromised. A specific legislative authority, which will authorise the disclosure of personal information, is necessary to ensure that private sector organisations may continue to disclose information in confidence without breaching the new amendments to the Privacy Act 1988.

(Circulated by authority of the Minister for Immigration and Multicultural Affairs)

MIGRATION LEGISLATION AMENDMENT BILL (No. 6) 2001

Purpose of the Bill

This Bill amends the Migration Act 1958 to:

- restore the application of the Refugees Convention to its proper interpretation;
- promote the integrity of Australia's protection visa application and decision making processes in light of growing concerns of identity, nationality and claims fraud amongst unauthorised arrivals;
- provide the Minister with a power to substitute, in the public interest, a more favourable decision for a decision of the Administrative Appeals Tribunal relating to an application for, or the cancellation of, a protection visa; and
- ensure in the wake of recent litigation that family members of refugees are able to be granted visas.

Reasons for Urgency

The Bill will strengthen Australia's responses to the pressures facing the international framework of refugee protection; discourage unauthorised arrivals; correct expansive interpretations of our Refugees Convention obligations by the courts and close off areas of potential misuse of our refugee processes by asylum seekers in Australia.

Given the continuing high levels of unauthorised arrivals and increasing sophistication of people smuggling efforts, the risk of abuse of Australia's protection processes has increased. It is evident that people smugglers are coaching unauthorised arrivals in order to maximise their chance of gaining a protection visa, further placing the integrity of Australia's protection system at risk.

It is also necessary to address recent court cases which are expanding the coverage of the Refugees Convention. In particular, they have brought into question the eligibility of family members to obtain a protection visa unless they have a personal protection need. This weakens our capacity to address cases of clearly contrived claims for protection.

It is important that this Bill is passed as soon as possible to ensure that:

- the Refugees Convention provides protection to genuine refugees consistent with Australia's international obligations; and
- opportunities to abuse Australia's protection processes are removed.

(Circulated by authority of the Minister for Immigration and Multicultural Affairs)

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.51 p.m.)—I give notice that, on the next day of sitting, I shall move:

That, on Monday, 24 September 2001:

- (1) The hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to the adjournment in accordance with paragraph (3).
- (2) The routine of business from 7.30 pm shall be any motion under government business relating to the consideration of the bills listed in this paragraph and the government business orders of the day relating to the following bills:

Migration Amendment (Excision from Migration Zone) Bill 2001,

Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001,

Border Protection (Validation and Enforcement Powers) Bill 2001,

Migration Legislation Amendment (Judicial Review) Bill 1998 [2001],

Migration Legislation Amendment Bill (No. 1) 2001,

Migration Legislation Amendment Bill (No. 6) 2001, and

Migration Legislation Amendment Bill (No. 5) 2001.

- (3) Immediately after the completion of proceedings on the bills listed in paragraph (2), the Senate shall adjourn without any question being put.

Senator HARRIS (Queensland) (12.52 p.m.)—by leave—I am seeking clarification. Does the amendment change the sitting hours of 24 September? Could Senator Campbell let us know what those changes are?

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.52 p.m.)—by leave—I was just giving notice. It will be circulated and it will be something that will obviously be considered on Monday.

BUSINESS

Government Business

Motion (by **Senator Ian Campbell**) agreed to:

That government business order of the day No. 10—Taxation Laws Amendment Bill (No. 4) 2001—be postponed until the next day of sitting.

SOCIAL SECURITY AND VETERANS' ENTITLEMENTS LEGISLATION AMENDMENT (RETIREMENT ASSISTANCE FOR FARMERS) BILL 2001

Second Reading

Debate resumed.

Senator FORSHAW (New South Wales) (12.53 p.m.)—The opposition will be supporting passage of the **Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001**. This bill deals with the Retirement Assistance for Farmers scheme, which commenced operation on 14 September 1997. It was a scheme which was established to enable farmers of pension age or of low income to gift or transfer their farm to other members of the family without it affecting their access to social security entitlements. At that time the then minister, Minister Anderson, announced with great fanfare that this scheme would result in some 10,000 farmers taking advantage of the scheme and arranging for the intergenerational transfer of their farms. As we have subsequently found out, the great predictions made by the minister at

the time and subsequent ministers looking after agricultural matters or dealing with regional Australia were completely wide of the mark. In fact, as I understand it, only 2,000-odd farmers have made use of the scheme. Notwithstanding that failure of the government's original estimates, we have supported the operation of the scheme.

This bill actually extends the finalisation date of the scheme. It was due to finish on 30 June 2001. However, some farmers, we understand, may have sought to access the scheme following that date or enquired about their eligibility who would still be eligible to take advantage of the scheme if the date were to be extended. So this bill does enable the scheme to be extended for up to a maximum of three months following that date upon which those farmers contacted Centrelink. So it is dealing with a specific, defined class of farmers who have already commenced the process of accessing the scheme.

I am not sure whether or not that actually includes any members of the coalition government who may be concerned about their future representation in this place. As I know a number of them are, they may need to consider what they will be doing in retirement once they leave this building, either voluntarily or by virtue of the result at the ballot box. In any event, they will not be eligible for the scheme unless they have already made application but, for the reasons that I have advanced, we will still be happy to support the legislation.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (12.56 p.m.)—The legislation provides for the Retirement Assistance for Farmers scheme to finish on 30 June 2001. There are, however, as has been mentioned, some farmers who, while otherwise eligible under the scheme, had not finalised the transfer of their farm by 30 June 2001. The purpose of the **Social Security and Veterans' Entitlements Legislation Amendment (Retirement Assistance for Farmers) Bill 2001** is to provide those farmers with extra time in which to take advantage of the scheme. It also provides for similar arrangements in

respect of farmers applying for Department of Veterans' Affairs income support pensions who wish to take advantage of the scheme. I commend the bill to the Senate.

Question resolved in the affirmative.

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

EDUCATION, TRAINING AND YOUTH AFFAIRS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

Second Reading

Debate resumed from 29 August, on motion by **Senator Boswell**:

That this bill be now read a second time.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (12.58 p.m.)—It is obvious to all that the Senate is supporting this bill. The aims and objectives of the **Education, Training and Youth Affairs Legislation Amendment (Application of Criminal Code) Bill 2001** are outlined very clearly in the second reading speech and I commend the bill to the Senate.

Question resolved in the affirmative.

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

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (NO. 2) 2001

Second Reading

Debate resumed from 27 August, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.00 p.m.)—The **Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001** makes consequential amendments to certain offence provisions in the legislation administered by the Treasurer to reflect the application of the

Criminal Code Act 1995 to existing offence provisions from 15 December 2001. They clarify the physical elements of an offence and corresponding fault elements where those fault elements vary from those specified in the Criminal Code. The amendments also specify whether an offence is one of strict or absolute liability. In the absence of such an amendment, offences previously interpreted as being one of strict or absolute liability would be interpreted as not being one of strict or absolute liability. In addition, the amendments restate the defences to an offence separately from the words of the offence.

The amendments moved by the government to this bill relate to the interaction between the Criminal Code and the proposed Financial Services Reform Act. The proposed amendments ensure that the Criminal Code does not apply to offences against certain provisions that are being repealed or amended by the proposed Financial Services Reform Act that are not compliant with the Criminal Code. The bill does not change the criminal law, rather it ensures that the current law is maintained following the application of the Criminal Code to Commonwealth legislation. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.01 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 20 September 2001. I seek leave to move the two amendments together.

Leave granted.

I move:

- (1) Clause 2, page 2 (after line 3), at the end of the clause, add:
 - (3) Items 2 and 3 of Schedule 5 commence immediately after the commencement of item 1 of Schedule 1 to the *Financial Services Reform Act 2001*.

- (2) Page 68 (after line 10), at the end of the Bill, add:

Schedule 5—Amendment of other legislation

Australian Securities and Investments Commission Act 2001

1 At the end of Division 3 of Part 1

Add:

4AA Criminal Code does not apply

Chapter 2 of the *Criminal Code* does not apply to any offences against this Act.

2 Section 4AA

Repeal the section.

Corporations Act 2001

3 Section 769A

Repeal the section, substitute:

769A Part 2.5 of Criminal Code does not apply

Despite section 1308A, Part 2.5 of the *Criminal Code* does not apply to any offences based on the provisions of this Chapter.

Note: For the purposes of offences based on provisions of this Chapter, corporate criminal responsibility is dealt with by section 769B, rather than by Part 2.5 of the *Criminal Code*.

4 At the end of Part 7.14

Add:

1119A Criminal Code does not apply

Despite section 1308A, Chapter 2 of the *Criminal Code* does not apply to any offences based on provisions of this Chapter.

5 At the end of Part 8.8

Add:

1273A Criminal Code does not apply

Despite section 1308A, Chapter 2 of the *Criminal Code* does not apply to any offences based on provisions of this Chapter.

Financial Services Reform Act 2001

6 Subsection 2(2)

Omit “(3) to (7)”, substitute “(3) to (6)”.

7 Subsection 2(7)

Repeal the subsection.

8 Item 250 of Schedule 1

Repeal the item.

Insurance (Agents and Brokers) Act 1984**9 After section 5**

Insert:

5A Criminal Code does not apply

Chapter 2 of the *Criminal Code* does not apply to any offences against this Act.

Treasury Legislation Amendment (Application of Criminal Code) Act (No. 3) 2001**10 Subsection 2(2)**

Repeal the subsection.

Amendments agreed to.

Senator MURRAY (Western Australia) (1.02 p.m.)—I have circulated to the chamber amendment No. 2346. I move:

- (1) Schedule 4, item 2, page 30 (after line 28), after paragraph (1A)(c), insert:
- (ca) for the purposes of the *Freedom of Information Act 1982*; or

This amendment is to the Freedom of Information Act, and it addresses the ability of people to access information in the possession of government. FOI laws exist, firstly, to allow access to certain personal information held by government departments and, secondly, to provide a general right of access to government information. It was this general right that President Madison rightly identified as a 'democratic imperative'. It is imperative because, unless citizens have the power to access and independently scrutinise government information, there is little prospect of having a genuinely deliberative and participatory democracy. FOI opens government up to the people. It allows people to participate in policy, accountability and decision making processes. It opens the government's activities to scrutiny, discussion, comment and review.

Former Prime Minister Malcolm Fraser identified as a fundamental requirement that 'people and Parliament have the knowledge required to pass judgment on the government'. He said, 'Too much secrecy inhibits people's capacity to judge the government's

performance.' In 1983, Prime Minister Bob Hawke put the case bluntly: 'Information about Government operations is not, after all, some kind of "favour" to be bestowed by a benevolent government or to be extorted from a reluctant bureaucracy. It is, quite simply, a public right.'

My amendment addresses a deficiency at present and will correct it. As senators who follow these matters know, I have a private senator's bill designed to address real weaknesses in our FOI jurisdiction, which has had a very good unanimous response from the Senate committee. As we all know, the bias is still on the bureaucracy and their ability to restrain the release of information, but this at least addresses the need for some further access to be allowed.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.04 p.m.)—The government does not support this amendment for the following reasons: the policy behind all the Criminal Code harmonisation bills has been to make only the amendments necessary to ensure that current offence provisions would comply with the Criminal Code when it applies to the existing offences on 15 December 2001. The amendments maintain the substantive effect of the offence provisions and do not amend the policy behind them in any way. This amendment moved by the Democrats will involve a policy change to the Development Allowance Authority Act 1992, which is beyond the scope and intention of this bill. No other policy changes are being made.

Further, I am advised that the amendment by the Democrats would have little or no effect on what information would be disclosed under the FOI law. I understand that their amendment attempts to allow information that has been classified as commercial-in-confidence under the Development Allowance Authority Act 1992 to be released under the Freedom of Information Act 1982. However, I am advised that, generally, information that is commercial-in-confidence for the Development Allowance Authority Act 1992 will not be released under the FOI

Act because of the exemption in section 43 of that act. The government will not be supporting the amendment.

Senator LUDWIG (Queensland) (1.05 p.m.)—The opposition will not be supporting the Democrats' amendment. I understand that Senator Murray has had our reasons explained to him. Given that it is during non-controversial time, I will not go into those reasons in-depth at this point, unless Senator Murray wants me to. I simply indicate for the record that we will not be supporting the amendment. We will be happy to examine initiatives to ensure proper accountability with the Democrats, but not at this time.

Question resolved in the negative.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

SUPERANNUATION LEGISLATION AMENDMENT (INDEXATION) BILL 2001

Second Reading

Debate resumed.

Senator SHERRY (Tasmania) (1.07 p.m.)—The **Superannuation Legislation Amendment (Indexation) Bill 2001** amends the Superannuation Act 1922 and the Superannuation Act 1976 to provide for the twice yearly indexation of pensions paid under these acts. The amendments proposed by the bill give effect to an announcement made in the last budget. The critical change in this legislation is that the government has decided to introduce twice yearly indexation of Commonwealth superannuation pensions under the Commonwealth Superannuation Scheme, commonly known as the CSS, and the Public Sector Superannuation Scheme, commonly known as the PSS. This indexation will occur twice yearly on 1 July and 1 January for movements in the consumer price index for the previous half year. This will reduce the delay between the inflationary effects faced by superannuation pensioners and income adjustments. The change will commence from 1 January next year. At the

present time the indexation arrangement is yearly.

The Senate Select Committee on Superannuation and Financial Services, of which I am deputy chair, has considered this issue together with the issue of the rate at which the indexation occurs. I will come to that issue a little later. The Senate committee handed down a report in April 2001 titled *A reasonable and secure retirement*. The committee held a number of public hearings at the request of not just Commonwealth public superannuants but state public superannuants. It is important to point out that the problems we were dealing with and reviewing, as identified by former public servants, have an impact on Commonwealth public servants and state public servants. There is a variation of approach between the two jurisdictions. In the report on page 50, table 7 outlines the pension indexation arrangements for Commonwealth and the main state superannuation schemes. Until this bill is passed and takes effect, the Commonwealth frequency of indexation is annual. The Commonwealth military scheme is annual. Indexation is annual for Queensland, South Australia and New South Wales. Frequency of indexation is biannual for Tasmania, Victoria and Western Australia.

The government announced in the budget that former or retired public servants who were members of the CSS and PSS will receive an important change in their indexation arrangements from annual to biannual. However, what surprised me and the Labor opposition was the exclusion of two categories of former Commonwealth public employees. One was the exclusion of former military personnel and the other was the exclusion of former Papua New Guinea government superannuants. In the former case, there are some 57,000 military superannuants. In the case of former PNG superannuants, I think the number is a few hundred. It was certainly surprising to the Labor opposition that, for some reason never really explained by the government, the retired military personnel and former PNG public servants were to be discriminated against and excluded from this change to indexation provisions. It has never been explained why this exclusion was to

apply. Former PNG public servants and retired military personnel were formerly employed by the Commonwealth. To this day I do not believe we have received a satisfactory explanation.

Understandably, of course, former military personnel—some 57,000 of them—and people who are currently serving in the military were concerned about the discrimination that was proposed with this change to indexation arrangements. I received some representations from military personnel, both current and retired, about this matter. It was the view of the Labor Party that, as the government had accepted the principle that the indexation arrangements should be changed from yearly to biannual, that principle should apply also to the former military personnel and former PNG public servants. I think late afternoon on Monday or Tuesday of this week the government belatedly recognised the discrimination against military personnel and announced that the twice yearly indexation would be extended to 57,000 recipients of military superannuation pensions.

I would like to acknowledge the work of the shadow minister for defence science and personnel, Mr Laurie Ferguson. He was very active in the campaign to ensure that military superannuants were not discriminated against in the way that the government proposed. The government backed down on what was a shocking announcement in respect of military personnel. Mr Ferguson, on two separate occasions, had called for the minister, Mr Scott, in the other place to reverse this discrimination against retired military personnel and, finally, the minister accepted that advice. This issue reflects very poorly on the way in which the Liberal-National Party handled the superannuation indexation arrangements of military personnel.

I would also like to place on record the efforts of the Regular Defence Force Welfare Association. I acknowledge their persistent lobbying since this was announced in the budget and the contribution they have made to the government backdown on the indexation of the pension arrangements of military service personnel. I referred earlier to the report of the Select Committee on Superannuation and Financial Services. Government,

Democrat and Labor members of that committee unanimously recommended that this change should occur to the arrangements for all public servants. The government's inclusion of that recommendation in its budget during May must be the quickest response to a committee recommendation that I have seen in recent times. There are a lot of other recommendations that they have spent years with, and some we have never had a response to.

I should also point out that our recommendation went to ensuring that state governments changed annual indexation to biannual indexation. As I read out earlier, there are three state governments that have annual indexation. Those are Queensland, South Australia and New South Wales. I think it is very important that we have a consistent principle applying to former public servants. Whether they were in the armed forces or were former police officers or ambulance officers or were in the general public service, we should have a consistent approach to their indexation arrangements around the country. In winding up, I would call on the Queensland, South Australian and New South Wales governments to ensure that the arrangements relating to frequency of indexation are changed for their former public servants. It would be absurd to have different arrangements in some states from those in other states in the Commonwealth. I would go further: regardless of whether they are Labor or Liberal states—one of them is a Liberal state and there are not too many of those left nowadays—but in the case of South Australia—

Senator Ludwig—Not for long.

Senator SHERRY—Not for long, that is right. But whoever is in government we should ensure consistency of superannuation arrangements in respect of indexation around the country. I would go further and argue that the Commonwealth should legislate to ensure that we have a consistent approach, because I do not see how the continuation of inconsistent indexation arrangements can be tolerated.

Another issue has been raised by former public servants at state and Commonwealth level, and that is the base at which their pen-

sions are indexed. At the present time, according to the survey I have pointed to, it is the CPI. Commonwealth and state public servants were seeking a change to the base of the indexation arrangements, either to some sort of wage indexation movement or to average male ordinary time earnings, which apply to current pension arrangements.

The committee did consider this, because it is an important issue and I understand the concern of retired public servants on this. I will not go into all the detail, but we asked the finance department for an estimated cost, if this change were to be made—this is in respect to Commonwealth responsibilities only—and the finance department told us that the cost would be approximately \$700 million per annum. Therefore, regrettably, the majority of the committee—government and Labor—could not make that recommendation, based on the requests received. In the representations made since the committee's report was handed down, there has been some reasonable *prima facie* material presented to me at least to suggest that there is a question mark over the way in which the finance department arrived at the figure it gave to our committee. I do intend to seek further information about the finance department's estimates of the costs. I will have to check with my office whether that has gone into the department but, if I have not yet formally put it on notice, that request for further information will be going to the department, and hopefully we will receive a response very quickly.

In conclusion, the Labor opposition is, obviously, supporting this legislation. We are pleased to see that the government, after causing some months of worry for military personnel, has belatedly come to the view that it cannot discriminate against military personnel and has by way of amendment included in this legislation the 57,000 current recipients of military superannuation pensions. Obviously, this will impact on a growing number of military personnel as they retire. It is unfortunate that they have been worried and concerned about their exclusion from the announced provision, and belatedly that has been accepted. With the passing of the legislation here today, there

will be a welcome change to the indexation arrangements for public servants more generally, and military and PNG pension indexation arrangements.

Senator ALLISON (Victoria) (1.21 p.m.)—I would like to put on record the Democrats' support for this bill. It does, as has already been mentioned, pick up on the recommendation of the superannuation committee's inquiry into retirement benefits for public servants. It does not go as far as public servants wanted; it does not give them relative benefits over pensioners. However, I think making that indexation biannual rather than annual is an important step forward. We are also pleased to see the amendment which picks up on the arrangements for military and Papua New Guinean pensioners. That is important: had the government not put that amendment forward in this [Superannuation Legislation Amendment \(Indexation\) Bill 2001](#), the Democrats would have done so, so I want to indicate our support.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.22 p.m.)—I thank honourable senators for their contribution. The [Superannuation Legislation Amendment \(Indexation\) Bill 2001](#) implements the government's budget announcement for twice-yearly CPI indexation of Commonwealth civilian superannuation pensions from January 2002. I remind the Senate that this bill will increase the purchasing power of some 100,000 Commonwealth civilian, and some 58,000 military, superannuation pensioners by reducing the delay between price increases and the compensatory adjustments to their superannuation pensions. I thank honourable senators, and I commend the bill to the Senate.

Question resolved in the affirmative.

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

**HEALTH AND OTHER SERVICES
(COMPENSATION) LEGISLATION
AMENDMENT BILL 2001**

Second Reading

Debate resumed.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.24 p.m.)—The **Health and Other Services (Compensation) Legislation Amendment Bill 2001** proposes to amend the Health and Other Services (Compensation) Care Charges Act 1995 and the Health and Other Services (Compensation) Act 1995. The acts were passed to ensure that, when plaintiffs go to court to recover damages for personal injuries, they would repay to the Commonwealth the cost of any Medicare residential care benefits received because of their injury.

As has already been outlined in the other house, the bill arises from a review of the acts undertaken for the government by the former Commissioner for Superannuation, Mr George Pooley. He found that the compensation recovery program governed by the acts had proved cumbersome and burdensome for all parties, and he made a number of recommendations to improve these processes. These new arrangements will be simpler and more efficient and will keep impositions on claimants to a minimum. Simpler claiming and administrative processes will allow the speedier release of final compensation settlements or judgments and will reduce the worry and red tape for recipients and their families. I commend the bill to the chamber.

Question resolved in the affirmative.

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

**TRADE PRACTICES AMENDMENT
(TELECOMMUNICATIONS) BILL 2001**

Second Reading

Debate resumed from 19 September, on motion by **Senator Troeth**:

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (1.26 p.m.)—I understand that there has been some discussion between the government and the opposition regarding the **Trade Practices Amendment (Telecommunications) Bill 2001** and the **Interactive Gambling Amendment Bill 2001**. It had been the intention of the opposition to make fairly lengthy submissions on both bills when the bills were listed in the normal place on the *Notice Paper*. They have now been brought forward into non-controversial legislation. The government has sought the assistance of the opposition to expedite passage of both bills, and we have assented to that proposition. Accordingly, I seek leave of the Senate to incorporate my speech in the second reading debate on this bill.

Leave granted.

The speech read as follows—

The Trade Practices Amendment (Telecommunications) Bill 2001 seeks to amend the telecommunications access regime contained in the Trade Practices Act 1974. It seeks to streamline the telecommunications access regime in a number of ways.

My colleague in the House of Representatives, Mr Smith, has outlined in some detail the Opposition's position on this Bill, and on telecommunications competition issues more generally. I will not repeat what Mr Smith has already said about this Bill.

However, I would like to speak briefly about the Senate inquiry into the Bill and then I will move a second reading amendment.

The Senate Environment, Communications IT and the Arts Committee reported on its inquiry into this Bill earlier this week. Labor Senators provided a dissenting report to that Inquiry which set out one particular concern that had been raised by witnesses during Committee hearings.

This concern related to one of the ways the Bill seeks to streamline the telecommunications access regime, namely, by limiting the evidence available on appeals to the Australian Competition Tribunal (ACT) generally to that available to the Australian Competition and Consumer Commission (ACCC).

A number of witnesses, including telecommunications carriers and the ACCC, called for the ACT's merits review of ACCC decisions to be abolished.

This issue arose in the context of the new section 152DOA in the Bill, which specifies the matters to which the ACT may have regard when it is conducting a review of a determination of the ACCC in arbitrating a telecommunications access dispute.

At present, review by the ACT is a re-arbitration of the dispute, and the Tribunal may have regard to any information, documents or evidence which it considers relevant, whether or not those matters were before the ACCC in the course of making its initial determination.

Proposed new section 152DOA will, in effect, limit the Tribunal to consideration of information, documents or evidence which were before the ACCC initially.

The Explanatory Memorandum to the Bill explains the need for this amendment by stating that determinations by the ACCC “involve a lengthy and complex hearing process” and that restricting the material which the Tribunal may consider “will ensure that the Tribunal process involves a review of the Commission’s decision, rather than a complete re-arbitration of the dispute”.

The Explanatory Memorandum also states that “Although this option should reduce delay in the review of Commission decisions, it will reduce the extent of Tribunal review. On balance, it is considered that the limitations on the review are justified on the basis of the length and depth of the Commission’s arbitration process.

The primary concern of the carriers who are seeking to abolish the merits review altogether is the time and delay in access pricing decisions, particularly when there is a merits review and the lengthy process commences *de novo*.

The carriers had some valid arguments for abolishing the merits review. In particular they argued that:

- In this fast-moving market, it is only feasible for one body to consider the basic matters because the availability of a review process (in addition to avenues of judicial review) gives competitors an opportunity to delay if it is to their competitive advantage. Witnesses representing the carriers were particularly concerned that the review *de novo* by the ACT can be utilised for ‘regulatory gaming’, that is, using the regulatory resources and muscle of the organisation at every opportunity to frustrate competitive entry through exploiting the regulatory regime to try to exhaust competitor resources.
- The ACCC process is already lengthy, more thorough and performed by people with greater expertise than the ACT review, so the

value of merits review is dubious. The length and detail of the first instance process by the ACCC questions the need for a merits review.

- The ACCC better placed to determine these matters because it has the background expertise and experience, whereas the ACT has never considered a telecommunications pricing issue and has no resources of its own.
- The integrity of the ACCC process is adequately protected by the avenues of judicial review to the Federal Court or the High Court on matters of law, which is comprehensive and searching into the reasoning and analysis of ACCC decision making.

A variety of reasons were given for the existing arrangements being unsatisfactory. These included:

- Delay is a considerable concern for the industry, particularly as it relates to price determinations, because it creates lengthy uncertainty, is detrimental to competitive interests and delays investment decisions to the ultimate detriment of consumers
- Another concern with the merits review is that it may tend to have an intimidating effect on smaller access seekers. That is, if even relatively larger players are being taken to the tribunal, and the matter is being dragged out from scratch, the smaller access seekers will be deterred from even taking a matter to the commission. This is not in the interests of competition.
- The merits review is presently as of right. There is no restriction of frivolous or vexatious matters for the *de novo* review. It has been suggested that this encourages ‘regulatory gaming’ as it means there is nothing to prevent Telstra bringing a review before the tribunal for a tactical or strategic delay to competitors and would-be access seekers.

As well as the witnesses supporting the abolishment of the merits review, contrary views were expressed. Reasons for supporting the existing arrangements included:

- The enhanced appeals process (that is the merits review to the ACT) is an important part of the framework that specifically regulates telecommunications.
- The provision for merits review acts as an effective “insurance policy” against any mistakes that may result from the regulatory system. The risk of error occurring in regulatory decision-making and the costs of such error are very high.

- Appeals on questions of law do not provide a sufficient foundation for the confidence necessary for investment.

The Committee was advised that abolishing the merits review by the ACT might have some detrimental consequences such as:

- Deterring investment in regulated or potentially regulated telecommunications infrastructure because of a perceived regulatory risk. This would increase the costs of raising capital and reduce expenditure on investment.
- Setting a damaging precedent for other infrastructure industries affected by regulated decisions.
- Introducing uncertainty about investment, or returns on investment, and reducing incentives for continued investment.
- Eroding the accountability of the decision maker (ie the ACCC). That accountability appropriately accompanies the wide discretion of the regulator in making decisions. A high degree of scrutiny of the ACCC's decisions is also warranted by the impact of its decisions and the significant economic consequences.

The Department of Communications, IT and the Arts advised the Committee of the reasons for including the amendment in the Bill which limits the information that can be brought before the ACT, instead of abolishing the appeal for the ACT:

- The provision strikes a balance between competing interests, which is clearly the case given the competing submissions to this inquiry.
- Merits review has, since its introduction in 1997, been considered an important element of the package as a whole.
- Merits review is a presumed right for administrative decisions, and is considered appropriate given the nature and breadth of the ACCC's powers.
- Abolition of the merits review is a fundamental reform and no reforms of that central nature will be made prior to consideration of the Productivity Commission's findings from its inquiries into Telecommunications Competition Regulation and the National Access Regime.

So in summary of the Committee's inquiry into this Bill, Labor Senators were not persuaded, to oppose the Government's legislation. Clearly there are doubts regarding the merits review by the ACT, including the capacity and appropriate-

ness of the ACT to fulfil that role and the timeliness of outcomes.

Given the imminent conclusion of Productivity Commission inquiries on relevant matters, Labor Senators concluded that it was premature to make such a substantial change as abolishing the merits review prior to consideration of the reports from those inquiries.

In view of the different positions of witnesses and submissions to the Inquiry, consideration of the Productivity Commission's detailed analysis of the issue would be worthwhile prior to deciding on the most appropriate course of action.

In conclusion, Labor Senators recommended in our report that the issue of merits review by the Australian Competition Tribunal as a part of the telecommunications access regime be reconsidered in the context of the Productivity Commission's findings which will be available within the next month.

I believe that consideration of reforms of the regulatory regime applicable to the telecommunications industry is important to ensuring there is true competition in the industry.

And that is important to all Australian consumers.

While the Government likes to gloat about the degree of competition in the industry, Telstra receives 89 per cent of the total profits in the industry. Meanwhile Optus has eight per cent, Vodafone two per cent, AAPT one per cent and the others account for less than one percent of total industry profits.

There is still some way to go in achieving a more competitive telecommunications market. A Beazley Labor government will ensure Australians get more effective competition than this government has been able to achieve.

In that context I will move the second reading amendment in my name.

Senator MARK BISHOP—I thank the Senate. A second reading amendment in relation to the **Trade Practices Amendment (Telecommunications) Bill 2001** was circulated in my name yesterday. We are going to proceed with that amendment now and I will speak to it briefly. I move:

At the end of the motion, add:

“but the Senate:

- (a) notes the lack of effective competition in significant parts of the Australian telecommunications industry;
- (b) notes the Government's failure to respond in a timely manner to widespread industry concerns held since

- at least January 1999 about delays in the telecommunications competition regime, which continue to the detriment of both consumers and the industry;
- (c) notes that the cause of the Government's failure to act has been its ideological obsession with the full privatisation of Telstra; and
 - (d) calls on the Government to urgently consider further reform as part of its response to the final report of the Productivity Commission's inquiry into the telecommunications competition regime due next month".

Paragraphs (a) to (c) of the amendment address the issues of lack of competition and the failure to adequately advance change in the telecommunications competition regime, and note the government's obsession with the full privatisation of Telstra. Paragraph (d) effectively calls on the government to restart the reform agenda in the telecommunications industry. It is important to note the large, indeed huge, amount of profits—over \$4 billion per year—being made by Telstra at the moment. They represent about 90 per cent of industry profits and certainly indicate that Telstra holds a dominant market share of the various industries in which it competes. That strengthens Telstra's ability to effectively thwart even the most minimal competition reform. This is reflected in the management of the company by the current administration: their implementation of failed overseas strategies and their poor investments, all leading to significant write-downs. All of the features that I have just identified reflect a lack of competition in the telecommunications industry, an apparent exercise of monopoly power and the extraction of monopoly rents, to the harm of consumers, competitors, infrastructure users and resellers generally in this industry.

This serious state of affairs—in fact, the de facto re-monopolisation of the telecommunications industry—is permitted by this government, whose priority, as indicated in paragraph (d), is not advancing reform, not establishing a sound regulatory regime and not forcing the creation of a competitive market. Indeed, so poor are a lot of those elements that in his inquiry Mr Besley was

unable to recommend any degree of privatisation for the foreseeable future. This amendment effectively urges the government to forget, to negate, its obsession with the privatisation of Telstra and to get on with the main game. The main game is clear to everyone: establishing a flexible and effective regulatory regime and encouraging further real competition within the telecommunications industry and a hastened improvement of retail services to rural and regional Australia—that is, further competition and reform in this industry as a matter of urgency. I commend the amendment to the chamber.

Senator ALLISON (Victoria) (1.30 p.m.)—I seek leave of the Senate to incorporate the bulk of my speech in this second reading debate.

Leave granted.

The speech read as follows—

This Bill amends Part 11C of the Trade Practices Act 1974, dealing with arbitration of disputes between carriers and access seekers over access to certain telecommunications services. It seeks to encourage parties to settle access conditions by negotiation rather than arbitration and to reduce delays in the arbitration process.

Part 11C was inserted into the Trade Practices Act in 1997 and commenced operation on 1 July 1997, at the same time as the telecommunications industry was deregulated.

The intention was to allow for competition in the provision of telecommunications services. Of course, Telstra and previously Telecom has always owned the infrastructure that runs to literally millions of homes and businesses in this country and it was never seriously contemplated that new carriers would all install their own infrastructure.

Part 11C was enacted to provide a regime through which new carriers could get access to Telstra's lines into those homes and businesses.

Essentially that Part allows the ACCC to determine services to be 'declared services'. After a service has been declared, carriers who provide that service must give other carriage service providers access to the service.

Since the inception of the regime, the contentious issue has always been, not surprisingly, the terms and conditions on which that access is provided. Most notably, the issue of price has been the major problem.

Part 11C provides 3 alternative means of setting the conditions of access: negotiated agreement between the parties, offering an access undertaking and arbitration by the ACCC. In the first instance, it is hoped that the parties will be able to agree on the terms and conditions of access to the services. Alternatively an access provider may offer an access undertaking. The ACCC must assess this undertaking to ensure it is consistent with model terms and conditions set out in the telecommunications access code or be reasonable and be consistent with the standard access obligations. Only four undertakings have been submitted to the ACCC, all by Telstra. They were all rejected because one or more of the conditions was considered unreasonable.

Ultimately, if the parties can't negotiate an agreement and if there is no undertaking in place for granting access, the terms and conditions must be determined by the ACCC in arbitrating an access dispute.

After the ACCC has arbitrated a dispute and determined the terms and conditions of access, it is open to either of the parties to the dispute to seek merits review of the determination by the Australian Competition Tribunal.

In June 2000, the Productivity Commission was given a reference to inquire into telecommunications-specific competition regulation. One of the key matters it was to inquire into was the access regime contained in Part 11C.

In its draft report, the Productivity Commission estimates that in a clear majority of cases, at least 80%, terms and conditions for access to declared services are able to be agreed by negotiation between the parties. However, negotiations have in many cases been difficult and protracted, and have resulted in delays in obtaining access to the services.

The major problem with the regime is that, quite simply, it is slow. It takes the parties a long time to negotiate – it takes a long time to have services declared – it takes a long time for the ACCC to determine that it will not accept undertakings – it takes a long time for the ACCC to arbitrate disputes.

Some of the submitters to the Committee inquiry into this Bill were of the view that the delays were largely the result of Telstra's actions. The suggestion was that Telstra has used every possible legal avenue available to it to avoid disclosure of information and to generally delay the process of negotiation and arbitration.

I make no judgments as to whether or not those criticisms are fair. However, it must be remembered that Telstra is a 'for-profit' organisation

responsible to its shareholders and if it can legally pursue a course of action to benefit its shareholders, then it will. It was interesting to hear a representative of a non-Telstra carrier criticise Telstra's behaviour but then admit that if he worked for Telstra, he would advise them to pursue the same course of action.

Rather than directing criticism toward Telstra and saying that Telstra isn't behaving fairly, I think we should be looking at the legislation and the actions and powers of the regulator, the ACCC, to rectify the situation if we think they are currently producing or allowing unfair conduct.

I am pleased that the Productivity Commission has reviewed Part 11C. I hope that its recommendations will balance the need to expedite processes in relation to the declaration of services and the determination of terms and conditions with the need to preserve the rights of Telstra to seek review of administrative decisions which affect it.

I will refer to just one specific issue raised by the submitters to the inquiry into the Bill. A number of witnesses thought that the right to obtain a review of the ACCC's arbitration by the Australian Competition Tribunal, should be abolished. A number of very cogent reasons were presented in favour of abolition of that right of appeal. The Committee in its report neither agreed nor disagreed with the proposal but said that the appropriate course was to await the findings of the Productivity Commission.

I wish to make it clear that the Democrats support that position. The abolition of any appeal right, especially one which relates to an administrative decision of a regulatory body, is a very serious matter. The Democrats don't have a predetermined position on the issue. However, we will require clear evidence if it is going to be the case that a single regulatory body will have the final say in arbitrations and the merit of that body's decision won't be subject to review.

Senator ALLISON—I would like to make some comments about the ALP second reading amendment. Part (a) says:

... the Senate

(a) notes the lack of effective competition in significant parts of the Australian telecommunications industry ...

The Democrats support that paragraph. We still do not have significant and genuine competition in the local call market and we certainly do not have competition of any degree in most parts of regional and rural Australia. I know that there have been moves to

implement competition, or to at least trial competition, in the provision of USOs, but that too seems to have stalled. Perhaps the minister could comment on how those USO pilot areas are going when he sums up in this debate.

Part (b) says:

... the Senate ...

(b) notes the Government's failure to respond in a timely manner to widespread industry concerns ...

The Democrats do not support that paragraph. The government has made some attempts in the past to finetune the processes for obtaining access to the telecommunications infrastructure. It has perhaps been a case of rearranging the deckchairs on the *Titanic* because, in general, the whole negotiation-arbitration process has been slow and arduous. Whether you attribute the delays to Telstra, the ACCC or the access seekers, or to the mere fact that arbitrating these disputes is very complex, I have not seen the ALP or anyone else for that matter put forward serious proposals to significantly speed up the process.

Part (c) says:

... the Senate ...

(c) notes that the cause of the Government's failure to act has been its ideological obsession with the full privatisation of Telstra ...

The Democrats do not support that paragraph. I agree that this government has an ideological obsession with the full privatisation of Telstra, but even if we agreed that there has been a failure to act in relation to the competition regime, I do not think that one relates to the other all that well. In my view, the government would be more likely to push for greater competition in pursuit of selling Telstra. The more competitors it can point to, the better it can say that the regulatory regime is working and the more it can advocate that there is no longer a need for government control of Telstra. We simply cannot see that it is correct to suggest that there is some causation between a desire to sell Telstra and dragging the chain on competition reforms.

Part (d) says:

... the Senate ...

(d) calls on the Government to urgently consider further reform as part of its response to the final report of the Productivity Commission's inquiry into the telecommunications competition regime due next month ...

Again, the Democrats do not support that paragraph. We think it is pretty meaningless. It simply calls on the government to urgently consider further reform; it does not indicate what sort of reforms or whether there should be a modification of the current processes or a complete overhaul of the regime. That Productivity Commission report is due to be handed to the Treasurer on the 22nd of this month, just a few days from now. We will shortly be going into an election and further reform will not realistically take place until early next year. With those comments in mind, I would like to move an amendment to Senator Bishop's second reading amendment. I move:

Omit paragraph (b), (c) and (d)

I have been advised informally that the Labor Party is not prepared to agree to our amendment. If that is the case and my amendment is defeated, I indicate to the Senate that the Australian Democrats will not support the unamended version of the ALP's second reading amendment.

Senator HARRADINE (Tasmania) (1.34 p.m.)—I note that we do not have a quorum; Mr Acting Deputy President, I ask that you note that as well. I thought that this period was for non-controversial legislation. This is the second time during this period that there have been amendments proposed to the legislation. The response from the government to the first one from Senator Murray was that they were opposed to it; the response from the opposition was that they really needed more time for consideration and that this matter ought to be able to be sorted out between the opposition and the Democrats at some future time. That is a nice cosy arrangement.

I do not know what has happened between the opposition and the Democrats in this particular case. It certainly has not happened to me—I did not know anything about this being proposed during the non-controversial time, unless of course Senator Bishop's amendment is non-controversial. Senator

Allison opposes some of it so presumably it is not non-controversial. It should be made very clear that everybody ought to be brought into the ring. We all ought to be in the joke if there is one. I certainly was not brought into the circle.

I will not call a quorum but I do ask that in future we all be brought into the ring. I see no problem about what has happened, so long as you know beforehand in case you wish to make some contribution to what is, no doubt in the mind of the opposition, an extremely good amendment. It probably is, but I am not in the inner circle. Serves me right—I do not want to be in the inner circle most of the time—but I do represent people and I would be grateful if I were brought into the circle at some stage.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (1.37 p.m.)—I fully respect Senator Harradine's determination to maintain his professional maverick status. I assume he has been to too many royal commissions into police corruption when he starts talking about the joke, but I also understand why he would be concerned about what is, I think, a minor derogation from the usual practice.

The main point of concern—and I do not think this was communicated to you, and it should have been—is that the ALP were anxious to have their amendment on the record. I understand that. I think it was already known in advance that it would not be supported, that therefore it would simply be lost on the voices pro forma and that it would then be on the record in the way sought. So I apologise that that particular element of the joke was not shared with you, Senator Harradine, and I am grateful to you for not calling a quorum.

I would like to respond briefly to the amendment itself. We will not be supporting any of the Democrat amendments, much as I welcome Senator Allison's concession that the government did in fact make some pro-competition amendments back in 1999. In terms of ideological obsession, this term appears no less than five times in Mr Smith's speech on the second reading. So clearly the caucus subcommittee thinks this is one of

those buttons that if you press it often enough you might get a few people out there responding. I think it is pretty clear who has got the obsession with what. As Senator Allison points out, the logic is somewhat deficient. I am grateful to her for indicating that she thinks that we are more likely than our opponents to press for serious competition. If you look at some of the Knowledge Nation stuff, you will find—

Senator Mackay interjecting—

Senator ALSTON—Well, that's what she said.

Senator Mackay interjecting—

Senator ALSTON—Yes, she did. She said that if you are concerned to dress something up for privatisation you are more likely to want to ensure there is full and robust competition. But the more important point you should also focus on is that if you adopt some of the Knowledge Nation proposals, such as a single national call zone, you will actually chill competition stone dead. You will put every other carrier out of business. So I am grateful for those comments. As far as the Productivity Commission is concerned, we will certainly respond constructively to that. In a spirit of being constructive, what the opposition could do is sign on to Mr Beazley's recommendations—all \$163 million worth of them—if that is how you would address the three major issues—

Senator Mark Bishop—You could sign on to not privatising—

Senator ALSTON—Our position is very clear. In respect of Senator Allison's concern about the USO, we are committed to promoting the competitive provision of services through the USO contestability of pilots. These pilots represent an innovative approach whereby subsidies that support the provision of loss making services are also used to create an incentive for telecommunications service providers to enter regional and rural markets.

More than \$65 million in per services subsidies has been made contestable under the government's USO contestability of pilots. Contestability was introduced on 1 July 2001, so it is still too early to judge how suc-

cessful they might be. They are set to run for three years and competitors can enter the contestable areas at any time during this period. Prior to entering the market, competitors will have to analyse the market, develop a business case, enter into arrangements for services and equipment and possibly even install infrastructure. The current downturn in financial markets has also not helped in making it more difficult for service providers to access the capital necessary to expand into these new markets. Through this important structural change to the regulatory regime, the government has provided the opportunity for all carriers and carriage service providers to compete with Telstra for the USO subsidies. The government will be closely monitoring developments, and it is envisaged there will be an initial assessment of the pilots in December next to determine whether any fine tuning might be desirable.

I would like to make a few remarks about the merits review debate that has been going on. The bill is aimed at streamlining the current competition arrangements. It is clearly not the end of the discussion. The Productivity Commission review will provide an opportunity to consider more wide ranging reforms. No doubt the question of retaining merits review will again be raised in that debate.

The government does not support the removal of merits review at this stage. However, in the context of the Productivity Commission's response, we will again consider the strength of the competing arguments on this matter. We will also look closely at the behaviour of the parties and the extent to which current disputes are being resolved commercially before coming to a decision. In recent days, my concerns about the willingness of all parties to achieve a commercial resolution of the PSTN dispute have been heightened. Therefore, I want to make it plain that the government will not sit idly by and allow early resolution of this issue to be frustrated by manoeuvring for tactical advantage.

Merits review is meant to provide an opportunity for a second consideration of an ACCC arbitration. It is not meant to be an opportunity for attempting to delay outcomes

for commercial advantage or for prolonging industry uncertainty. While the government acknowledges the need for a suitable process to determine the appropriate methodology for the calculation of future interconnect charges, it does not believe there is any good reason why other matters leading to substantial industry uncertainty cannot be resolved in the near future.

Senator Harris—Mr Acting Deputy President, I rise on a point of order. During the second reading debate, two senators—Senator Bishop and Senator Allison—have asked to incorporate their speeches or parts of their speeches. None of these have been circulated in the chamber. I refrain from refusing leave. My point of order is: I believe that, under standing orders or, if not, as a courtesy, members of this chamber should be provided with copies of speeches if leave to incorporate them is requested.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Leave was granted at the time. I take your point that, as a matter of courtesy, it certainly would be a good idea.

Senator Mark Bishop—I take the point raised by Senator Harris. I will make sure a copy of my remarks that were tabled in this bill are provided to your office. I advise you that I do not have sufficient copies here for the next tabling speech on the Interactive Gambling Amendment Bill but, as you have raised the point, I will make sure a copy is made available to you as soon as I leave the chamber.

The ACTING DEPUTY PRESIDENT—The question is that the amendment moved by the Australian Democrats, removing paragraphs (b), (c) and (d) from Senator Bishop's amendment, be agreed to.

Question resolved in the negative.

The ACTING DEPUTY PRESIDENT—The question now is that the amendment moved by Senator Mark Bishop on behalf of the opposition be agreed to.

Question resolved in the negative.

Original question resolved in the affirmative.

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

INTERACTIVE GAMBLING AMENDMENT BILL 2001

Second Reading

Debate resumed from 30 August, on motion by **Senator Abetz**:

That this bill be now read a second time.

Senator MARK BISHOP (*Western Australia*) (1.46 p.m.)—As I outlined before, and for the sake of those Independent senators in the room, I will advise that there has been some discussion between the government and the opposition—and I think the Australian Democrats—in respect of the *Interactive Gambling Amendment Bill 2001*. This matter was listed at another place on the order sheet. The government sought that it be changed to non-controversial and the opposition has cooperated in that process. We are still keen for our second reading amendment to be put and discussed, so the sin that was committed before is repeated in this instance because I will be seeking leave to incorporate my remarks and then speak to the amendment that has been circulated in my name. I so seek leave.

Leave granted.

The speech read as follows—

Today the Senate is presented with a Bill that amends the Interactive Gambling Act 2001. The Interactive Gambling Act passed the parliament several months ago in an ill-conceived attempt by the Government to ban Australians from accessing a few reputable and well-regulated Australian casino sites.

Labor outlined a detailed policy response to interactive gambling, which, unlike the Government's ineffective Act, would have seriously limited problem gambling by Australians on the internet. Unfortunately the Government did not follow our lead.

This Bill today addresses some unintentional effects of the Interactive Gambling Act. Had the Government not responded to the considerable criticisms of the Senate Environment, Communications, IT and the Arts Legislation Committee inquiry, a good deal more amendment than this would have been necessary, so flawed was the Government's Bill.

My memory of the rather extensive debate in the Interactive Gambling Act 2001 was that Senator Alston said the Government was motivated by one primary or dominant consideration:

- Not to restrict existing land-based gambling facilities because they were
 1. already in existence and
 2. regulated by the States
- Prevent further extension of gambling into new areas such as cyberspace as a tool of social policy.

The basic justification put by the government was to at least prevent the further growth of gambling problems in new forms of communications.

During the committee stage of that act the government introduced amendments which prohibited the advertising of interactive gambling services. Those amendments were agreed to without debate.

One can make a number of points of that new part 7A of the Act relating to the prohibition of advertising of interactive gambling services.

Firstly this appears to be only the second time the Commonwealth parliament has imposed a blanket prohibition on the advertising of a particular product or service.

The only other example or precedent lies in the area of prohibiting tobacco advertising and that legislative prohibition took place only after

- Extensive community debate
- Consideration of state and territory laws
- Review of Commonwealth and state existing policy.

The essential rationale for tobacco advertising prohibition was a community health and protection of children debate.

In any event there was extensive community/press/parliamentary debate. In part 7A of this Act there was no such debate.

Accordingly one can properly conclude from a government perspective that the prohibitions on advertising are no longer considered a threat to the principle of free speech in this country.

In moving the amendments to the Interactive Gambling Bill on 28 June 01 Minister Alston said and I quote "the advertising ban would only apply to interactive gambling services that are banned by the bill".

However, it has since come to the government's attention that the Act may inadvertently prohibit the advertising of land-based casinos which also provide interactive gambling services to overseas customers. Section 61BA (1)(e) defines an inter-

active gambling advertisement as any writing, visual image or audible message that promotes any words that are closely associated with an interactive gambling service.

If a land-based casino uses its name for its legitimate interactive gambling services, then there is a chance that the name will become closely associated with the interactive gambling service. This would then prevent the casino from using the name in advertising its land-based services.

So the government policy position behind this bill is clear. It is to permit not prohibit those land based gambling facilities that also offer interactive gambling services to overseas customers the ability to advertise those services. This is of course a commercial necessity because it allows the offeror of interactive gambling services to overseas customers the ability to draw upon the brand name of the land-based facility.

This is of course commercial common sense but contrary to the governments stated policy of limiting the spread of social harm by limiting the spread of interactive gambling.

So this bill under discussion today represents the first big backflip over the Interactive Gambling Act 2001.

The prohibition on advertising was so critical that the government introduced a then new part 7A into the act and it was passed by agreement with the minor parties without parliamentary debate.

We now see the unintended consequences of an intellectually slothful approach to policy making in the form of this amending bill.

So to summarise the position of the government with respect to the Interactive Gambling Act 2001 and this amending bill

- It breaches long standing commitments to protection of free speech
- It bans the advertising of interactive gambling services to overseas customers
- Because it refused to engage in parliamentary debate the government cast its net too wide and now has to bring in an amending bill
- This amending bill now permits the advertising of gambling services to overseas customers where such gambling services are associated with land based gambling facilities
- The policy position behind this amending bill is at complete odds with the policy position as outlined by Senator Alston in the Interactive Gambling Act 2001
- The amending bill has neither coherent nor intellectual strength as it is counter to the

governments stated justification to limiting the spread of gambling on the internet.

The Opposition will not oppose this Bill, however I would like to reiterate the reasons why we believe the Interactive Gambling Act 2001 was a big mistake, why the Government's policy approach is flawed and why the Act is totally inappropriate and untenable.

My concerns, and I have detailed them before in this place, are as follows:

1. The Interactive Gambling Act does not prevent Australians from accessing Internet Gambling services.
2. The easiest sites for Australians to access are overseas sites, some of which are run by criminal and Mafia elements. It is nearly impossible to distinguish reputable sites from those of dubious probity.
3. Problem gamblers are likely to be the ones who will be desperate enough to circumvent restrictions on accessing Australian and foreign sites, and will most likely fall prey to unscrupulous operators who will not limit expenditure. Strictly regulated Australian sites would have reduced gambling problems more than this Act will.
4. The Act permits Australians access to internet wagering and wagering is hardly immune from gambling problems.

Turning then to my first point, the Interactive Gambling Act does not prevent Australians from accessing Internet Gambling services. There are a number of reasons for this.

- The Act stops Australians from accessing the safest sites in the world but allows them to access the most dangerous sites.
- If Australians want to access the services of Australian or foreign IGSPs, they are still be able to, even if those IGSPs claim not to accept Australian customers. Australians can still access reputable Australian and foreign IGSPs even if they refuse to accept Australian customers.
- The sanction in the Act for providing interactive gambling services to Australians is not a very persuasive deterrent and is unlikely to be enforced. This will especially be the case as the Government has failed to provide additional funding for the already under-resourced Australian Federal Police.
- There are significant numbers of disreputable foreign sites of dubious probity which Aus-

tralian will be able to access. Some gamblers might favour those sites, particularly those susceptible to problem gambling.

This leads me to my second point that the easiest sites for Australian to access will be overseas sites, some of which are run by criminal and Mafia elements. It is nearly impossible to distinguish reputable sites from those of dubious probity.

Despite the Minister himself stating in a Ministerial media release on interactive gambling that there are "very disturbing examples of how Internet gambling organisations actually feed the addictions of problem gamblers", it is not Australian gambling operators; rather, it is offshore operators who are engaging in such activity. And the Government has left Australian gamblers at the mercy of these gambling sites that feed addictions.

Australian sites comprise less than 2 per cent of the Internet gambling sites worldwide. Some protection this Act offers. All the Government has done is prevent Australian gamblers from accessing the strictly regulated sites.

This leads to my third point that it is problem gamblers that are likely to be the ones who will be desperate enough to circumvent restrictions on accessing Australian and foreign sites, and will most likely fall prey to unscrupulous operators who will not limit expenditure.

My fourth and final point is that Australians can still access internet wagering. Wagering is hardly immune from causing gambling problems.

The Government excluded interactive wagering from the Act despite the fact that wagering is as much a problem in terms of problem gambling as any other form of gambling.

This Government has never been concerned to protect problem gamblers. If it had been so concerned it would have done something during its last two terms to address the real problem – the land-based forms of gambling that are causing huge social problems.

The Government couldn't even come up with a sensible and effective policy for interactive gambling that would minimise interactive gambling to the greatest extent possible. Even when we told them what it was. They even initiated a Productivity Commission inquiry that said the same thing we did.

The most notable thing that the Act does is prevent Australians from accessing the world's best, safest and most consumer-friendly interactive gambling sites – the Australian ones.

Wagering is not any safer than any other form of gambling. Wagering is not immune to the social effects of problem gambling.

The Opposition took a very different approach to the issue of interactive gambling. Our primary concern was and is to ensure that problem gambling arising from interactive gambling is kept to an absolute minimum.

We remain concerned that the Government's Act will not control or limit problem gambling in the online environment.

The Opposition continues to believe that the most effective way to manage interactive and Internet gambling is, overwhelmingly, to have State and Territory cooperation in formulating and implementing a national regulatory regime.

There is no evidence to support the Government's conclusion that its ban will limit problem gambling.

Senator MARK BISHOP—I thank the Senate. There is an amendment circulated in my name on behalf of the opposition in respect of the Interactive Gambling Amendment Bill. I now formally move the amendment:

At the end of the motion, add:

"but the Senate:

- (a) maintains that the *Interactive Gambling Act 2001* remains unworkable, internally inconsistent and hypocritical legislation which:
 - (i) does not provide strong regulation of interactive gambling as the most practical and effective way of reducing social harm arising from gambling;
 - (ii) may exacerbate problem gambling in Australia by barring access to regulated on-line gambling services with in-built safeguards but allows access to unregulated offshore on-line gambling sites that do not offer consumer protection or probity;
 - (iii) does not extend current regulatory and consumer protection requirements applying to off-line and land-based casinos, clubs or wagering venues to on-line casinos and on-line wagering facilities;
 - (iv) damages Australia's international reputation for effective consumer protection laws and strong, workable gambling regulations;
 - (v) singles out one form of gambling in an attempt to create the im-

- pression of placating community concern about the adverse social consequences of gambling but does not address more prevalent forms of gambling in Australian society; and
- (vi) is not technology neutral or technically feasible;
- (b) calls on the Government to show national leadership on this issue by:
- (i) addressing harm minimisation and consumer protection as well as criminal issues that may arise from on-line gambling;
 - (ii) ensuring a quality gambling product through financial probity checks on providers and their staff;
 - (iii) maintaining the integrity of games and the proper working of gaming equipment;
 - (iv) providing mechanisms to exclude those not eligible to gamble under Australian law;
 - (v) implementing problem gambling controls, such as exclusion from facilities, expenditure thresholds, no credit betting, and the regular provision of transaction records;
 - (vi) introducing measures to minimise any criminal activity linked to interactive gambling;
 - (vii) providing effective privacy protection for on-line gamblers;
 - (viii) containing social costs by ensuring that adequate ongoing funds are available to assist those with gambling problems;
 - (ix) addressing revenue issues that impact upon state government decisions relating to interactive gambling;
 - (x) establishing consistent standards for all interactive gambling operators;
 - (xi) examining international protocols with the aim of achieving multi-lateral agreements on sports betting and other forms of interactive gambling;
 - (xii) ensuring appropriate standards in advertising, in particular, to prevent advertising from targeting minors;
- (xiii) investigating mechanisms to ensure that some of the benefits of on-line gambling accrue more directly to the local community;
 - (xiv) working with State and Territory governments to ensure that on-line and interactive gambling operators meet the highest standards of probity and auditing through licensing agreements;
 - (xv) seeking co-regulation of interactive gambling by establishing a national regulatory framework that provides consumer safeguards and industry Codes of Practice; and
 - (xvi) coordinating the development of a co-regulatory regime through the Ministerial Council comprising of relevant State and Federal Ministers”.
- Paragraph (i) of the amendment condemns the government for failing to adopt the most practical and effective way of reducing social harm arising from gambling by not choosing to strictly regulate the domestic industry. Instead, the government’s Interactive Gambling Act bans a few strictly regulated Australian sites. Paragraph (ii) expresses the opposition’s concern that I discussed earlier in my incorporated remarks that the impact of the act may be to exacerbate problem gambling in Australia by barring access to regulated online gambling services with in-built safeguards. The act still allows access to unregulated offshore online gambling sites that do not offer consumer protection or probity, placing those most vulnerable to problem gambling at an alarmingly high risk. As I discussed earlier, it leaves Australians at the mercy of unscrupulous gambling operators who feed addictions.
- Paragraph (iii) condemns the government for not extending current regulatory and consumer protection requirements applying to offline and land based casinos, clubs or wagering venues to online casinos and online wagering facilities. Paragraph (iv) expresses the opposition’s concern that this act damages Australia’s international reputation for effective consumer protection laws and strong workable gambling regulation. Australia has a fine reputation internationally for

its regulation of gambling. By failing to regulate this industry, the government is causing further damage to Australia's international reputation.

Paragraph (v) condemns the government for singling out one form of gambling in an attempt to placate community concern about the adverse social consequences of gambling. The government has singled out a form of gambling that has been around for some time now but has not revealed itself as a significant cause of gambling problems. This act was an attempt to detract the public's attention away from the real gambling issues related to more prevalent forms of gambling which the government has done nothing about.

Paragraph (vi) expresses the opposition's view that the act is not technology neutral or technically feasible. Even the Minister for Communications, Information Technology and the Arts has contradicted his own policy guidelines for the regulation of content of online services that he announced in July 1997 with the act.

Part (b) of the second reading amendment calls on the government to take a new approach, the approach recommended by Labor numerous times over the last 20 months. This is a comprehensive approach that will restrict problem interactive gambling to an absolute minimum, and the elements of our recommended approach may be found in paragraph (b).

Senator HARRIS (Queensland) (1.50 p.m.)—I put on record that One Nation will not support Labor's second reading amendment. Very briefly, the chamber will remember that in the debate on the Interactive Gambling Bill One Nation moved amendments that would have resolved the issue raised in paragraph (a)(i) of this amendment, in that we moved amendments for Australian based operations to be able to operate offshore and also for no offshore operations to be able to operate out of Australia or for Australian citizens to access them. Those two amendments moved by One Nation would have removed all of the problems that the Labor Party is professing now. Under paragraph (a)(vi) of the amendment, I disagree with the Labor Party in that the infor-

mation I have is that it is technically feasible to achieve what the government is intending to do, and I note One Nation's opposition to the amendment.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (1.51 p.m.)—I thank all members for their contributions to the debate on the **Interactive Gambling Amendment Bill 2001** and in particular the Labor Party for its constructive approach to having these matters disposed of expeditiously. The amendment really is a response to the Interactive Gambling Act, which is already in force. It also needs to be said that the reason for this amendment is that it was never the intention of the act to restrict offline or land based gambling or the advertising of such services. Whilst we remain very concerned about the socially harmful effects of poker machines in casinos, the responsibility for these rests with the states and territories which have allowed them to proliferate.

We will not support the second reading amendment. We do not support regulation as an alternative to a ban. We note that the states and territories still have not agreed on new national standards. There is no reason to think that they will be able to do that or be any more successful in restricting the growth of new forms of gambling than they have been with poker machines.

Amendment not agreed to.

Original question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Bill agreed to.

The CHAIRMAN—The question is that the bill be reported.

Senator HARRIS (Queensland) (1.53 p.m.)—I rise to support the government's **Interactive Gambling Amendment Bill 2001**. In doing so, I reiterate that the original bill, to which Pauline Hanson's One Nation moved an amendment, would have brought into place exactly what the government is attempting to do here today. I raise the issue that, under the government's bill, had either

Crown Casino or Lasseters, who operate Australian based casinos, set up an offshore interactive gambling casino under the same name, they would have been caught and they may have lost their land based casino licence. So, in supporting the government's bill, I am raising the issue that both the Labor Party and the government voted down an exact amendment to the original bill that would have resolved this issue. I commend the bill to the chamber.

Question resolved in the affirmative.

Bill reported without amendment; report adopted.

Third Reading

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

Sitting suspended from 1.55 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Sydney (Kingsford Smith) Airport

Senator HUTCHINS (2.00 p.m.)—My question is directed to Senator Abetz, the minister representing the Minister for Finance. Can the minister confirm that the government took the decision to extend the closing date for bids for Sydney airport by nine days on 13 September, less than 24 hours before the collapse of Ansett? Can he also confirm that the reason for the extension was the terrorist crisis in the United States and its implications? Given that the demise of Ansett will add to the negative impact on the likely price for KSA, will the government suspend the sale of KSA until circumstances allow it to return to a premium price?

Senator ABETZ—The sale of Sydney airport is proceeding in accordance with advice from the government's business and legal advisers, who are closely monitoring the domestic and international situation. In view of the tragic events in the United States and the subsequent uncertainty in the financial markets, the government has extended the date for lodging binding bids for the sale of Sydney airport by nine days, as Senator Hutchins has mentioned, until 4 p.m. on 26 September. This will allow time for the US markets to adjust and for bidding consortia to finalise their bids. While the Ansett situation

is unfortunate, the fact is that there will always be a demand for air travel in Australia and an airline industry to meet that demand.

Senator HUTCHINS—I ask a supplementary question. You have admitted that you have sought expert advice. Could you tell us whom you have sought expert advice from? Secondly, can the minister inform the Senate how many consortia are currently involved in the bid process?

Senator ABETZ—Senator Hutchins and the Labor opposition can remain assured that when we do seek advice it is good advice and that when we engage in property sales and in property dealings generally we deal on the basis of proper, expert advice. We do not engage in any of the sort of sleazy activities that the Australian Labor Party did with Centenary House.

Centenary House

Senator BRANDIS (2.02 p.m.)—My question is directed to the minister representing the Minister for Finance, Senator Abetz. Given the Howard government's proven commitment to the prudent expenditure of taxpayers' money, are there any Commonwealth leases which do not represent value for money?

Senator ABETZ—I thank Senator Brandis for his very timely question and for his ongoing interest in this matter, along with my colleague Senator Ian Campbell. This Sunday, 23 September, marks the eighth anniversary of the now infamous Labor Centenary House rental rort. Senators will remember that in 1993 the Labor government arranged for the lease of a Canberra property owned by Labor and called Centenary House to the Audit Office. The lease was for 15 years, considerably longer than the usual Commonwealth lease of around five years. To make matters worse, the ALP imposed a rental increase of nine per cent per year or the increase in market rents, whichever was the larger. This Sunday, that ratchet clause kicks in yet again. The annual rent will rise by \$403,244, to an obscene—

The PRESIDENT—Order! Senator Ian Campbell, remove that document! That I regard as a deliberate breach of the standing orders.

Senator ABETZ—This Sunday that ratchet clause kicks in yet again and the Australian taxpayer will be slugged an extra \$403,244, making a total of \$4,883,733.50c—almost \$5 million for one year ripped out of the pockets of hardworking Australians and stuffed into Labor coffers. The Audit Office or, more correctly, hardworking Australians, will be paying \$775 per square metre, when just down the road similar office space is available at \$350 per square metre, or less than half. What is Mr Beazley's response to this shameful scam, to this rent rort, to this contempt for the Australian taxpayer? It is uncharacteristic silence, guilty silence. Over the life of the contract Australians will have been ripped off to the tune of \$36 million. That is \$36 million above the market value of the rental.

Whilst Labor's moneybags might be getting as full as Mr Beazley's socks, Labor's credibility is diminishing—in particular, Mr Beazley's. Mr Beazley disqualifies himself from commenting on the behaviour of some corporate bosses and their bonuses when he is willing for the Labor Party to take \$36 million from the Australian taxpayer. Labor will use these ill-gotten funds to bankroll their slick advertising campaigns. You can buy advertisements but you cannot buy credibility—you have to earn that. Mr Beazley could earn credibility by saying that he repudiates the Keating era of sleazy deal-making and tell Labor to stop the rent rort and cancel the shameful lease.

Mr Beazley could earn some credibility on this issue and stop this rent rort by simply making one phone call. But he has had that opportunity for the past five years as Leader of the Opposition and he has failed to do so because he does not have the ticker to distinguish his leadership style from the sleazy style of the Keating era. If Mr Beazley wants any chance of winning the next election he has to product differentiate himself from the Keating era. But his ongoing and monumental failure in dealing with this issue for the past five years shows that he does not have the ticker to deal with the scams and the rent rorts of his own party and he is not fit to run the country. (*Time expired*)

Ansett Australia

Senator O'BRIEN (2.07 p.m.)—My question is to the Assistant Treasurer, Senator Kemp, and it follows my question to him yesterday about the conditions placed on the sale last year of the 50 per cent of Ansett held by News Ltd to Air New Zealand. Is the minister aware of a statement from an Ansett manager, Ms Sandy Brookes, that she was required by Air New Zealand to regularly transfer Ansett funds to Air New Zealand? Is he also aware of comments by the Ansett administrator, Mr Mentha, that sweeping Ansett accounts in this way demonstrated the entanglement of affairs of the two airlines? Given that I raised this matter yesterday, has the minister sought advice as to the government's knowledge of Air New Zealand's control of the management of Ansett putting that airline—Air New Zealand—in breach of a key condition imposed on the company by the Treasurer and the Minister for Transport and Regional Services?

Senator KEMP—I think Senator O'Brien's question is a little bit wider than the issue he has raised in the last couple of days. On the issues Senator O'Brien mentioned about the transfer of funds and the activities of management, ASIC has commenced a formal investigation into the collapse of Ansett. I am advised that the replacement of the Ansett administrator does not disrupt ASIC's investigations, and ASIC will work with the new administrator in the same way it worked with the previous one. The focus of the ASIC investigation will be on possible breaches of directors' duties under the Corporations Act and on compliance with the insolvency trading provisions of the act. Also, my advice is that ASIC has written to the New Zealand securities commission requesting that it conduct inquiries into the adequacy—and I think this goes to one of the points that you raised—of financial disclosures made by Air New Zealand. The matters touched on by Senator O'Brien deal with a much wider issue than is involved with the conduct of the management of Ansett. As I have mentioned to him, these matters are under investigation by the relevant authority, and it would not be appropriate for me to comment further on this.

The only other aspect of this I raise is that all of us would have wanted Ansett to continue. Ansett has a great history, and the failure of this company is one which has quite rightly caused massive concern amongst Australians—and I think we all feel very greatly for the 16,000 employees who are involved. While we would have preferred all of the conditions that were specified were met, the fact is that, once a company collapses, to our great regret, that does not appear to be able to happen. We recognise that and I think it is time the Labor Party recognised that, and I call on them to adopt a constructive approach to this serious problem.

Senator Robert Ray—You could get rid of Charles Goode straightaway!

Senator KEMP—Captain Nemo calls out his usual, entirely unhelpful comment. I was going to conclude my answer, but seeing that Captain Nemo has decided to get himself into the conversation—

The PRESIDENT—Senator Kemp, you should ignore interjections.

Senator KEMP—One of the criticisms of the Labor Party at the moment is that they have no policies and no fixed position. The hardest question that could be asked in this parliament is: what does the Labor Party stand for? The only thing I can see the Labor Party standing for is getting trade union bosses jobs in parliament.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Kemp, Senator O'Brien is attempting to ask you a supplementary question. Senators on both sides will come to order so that question time can proceed.

Senator O'BRIEN—Madam President, I ask a supplementary question. Given that the minister has made himself somewhat familiar with this issue, do I take it from his answer that ASIC is investigating what the government knew of Air New Zealand's flouting of the key conditions, or did he make himself familiar with the question of whether or not the government had any knowledge of Air New Zealand's breach of the key condition imposed? If, indeed, he has not sought that advice, can he undertake to

the Senate to do so and to advise the Senate before close of business today?

Senator KEMP—It is always a pity when a senator stands up but then fails to listen to the answer that is given. I sometimes wonder what the point is of standing up here and answering questions when no-one listens. The Labor senator has a supplementary question written down and he reads it, so whatever you have said is completely disregarded. I have mentioned to you, Senator O'Brien, the ASIC investigation and I do not plan to add anything further to that.

Economic Management: Australian Families

Senator McGAURAN (2.14 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Minister, will you outline the benefits for Australian families of the coalition government's strong economic management, and are you aware of any alternative policies?

Senator KEMP—I thank Senator McGauran for that important question. Senator Conroy called out 'Don't mention this!' and 'Don't mention that!' Senator, in deference to you, I will not mention Mr Carl Zimmerman. I will not even raise that issue. The last 5½ years have demonstrated the value of having a firm and steady hand at the helm of the Australian economy. This responsible approach of the government stands in stark contrast to the reckless and gross incompetence of the Hawke and Keating governments. All I have to mention is that famous Keating phrase which echoes down the years: 'the recession we had to have'. Through their gross incompetence, they deliberately plunged the economy into a recession.

I am pleased to say that even in what can obviously be described as very difficult times, the growth of the Australian economy has remained strong. I refer the Senate to the fact that the GDP grew at 0.9 per cent in the June quarter, placing Australia at the head of the industrialised world. So much for the efforts of the Labor Party to talk the economy down. So much for Senator Cook's effort to claim that somehow tax reform had mugged the economy. I believe there was no person in Australia more depressed than

Senator Cook when the latest national accounts figures came out and confirmed the very strong growth in the Australian economy and gave the lie to the Labor Party argument that somehow tax reform had held back the growth of the economy.

Further, the recent figures on the current account deficit show that, as a share of GDP for the June quarter, it was the best figure for 21 years. That is my advice. Let me remind the Senate that home mortgage rates have fallen to their lowest levels in some 30 years. Under Labor, home mortgage rates rose as high as 17 per cent and were heading north. Combined with this action on the growth front and on the interest rate front, let me also remind the Senate that we have delivered some \$12 billion of income tax cuts. Under the coalition, real wages have grown steadily, at an average of 2.5 per cent a year, compared with the almost stagnant growth under the former government. They gave us 13 years of stagnant growth in real wages. I do not often mention Senator George Campbell in a praiseworthy fashion, but Senator George Campbell has pointed this out himself.

Also I can point to the fact that independent research recently conducted by NATSEM shows unambiguously that families at all income levels are better off than they were under the Labor Party, and the poorest families in particular have benefited the most. Mr Stephen Gianni, director of social action research at the Brotherhood of St Laurence, had this to say:

The changes that have occurred have really benefited families. The Government should be congratulated.

Responsible management has delivered real and tangible benefits to Australian families. *(Time expired)*

Federation Fund Projects

Senator HOGG (2.19 p.m.)—My question is to Senator Hill, representing the Prime Minister. Why did the government completely disregard the Auditor-General's best practice guidelines for government grants programs in its administration of the \$906.8 million major projects component of the Federation Fund? On what basis does the Prime Minister claim, as he did in a letter to

the Auditor-General, that ministers should not be bound by the same processes which apply to officials administering discretionary grants programs? Is the minister aware that the Auditor-General has stated the complete opposite: that where ministers are assessing competing projects and subsequently making decisions, the same standards of rigour, transparency and due process that apply to any departmental assessment should also apply? Who is right—the Prime Minister or the Auditor-General?

Senator HILL—In a way they are both right. The government did not completely disregard the guidelines. The government took into account all the guidance the Auditor-General has given, over a range of reports, on the issue of discretionary grants. But the point the Prime Minister was making was that in the case of some very large grants—and in that instance we are looking at grants of the size of \$100 million for the Alice Springs to Darwin railway or \$148 million for the National Museum of Australia—there are national interest matters that a government may well wish to take into account that might not completely fit the detail of the guidance that is given by officials. Certainly, the starting point is the guidelines that are prepared but it is the view of the government that in relation to certain specific large grants it is legitimate to take other matters into account as well.

Senator HOGG—Madam President, I ask a supplementary question. Does the minister agree with the Auditor-General that 'the public interest is in assessing whether the processes provided confidence in the manner in which decisions were taken in order to achieve demonstrably the greatest public benefit from the expenditure of in excess of \$900 million in public funds'? If so, how does he respond to the finding by the Auditor-General that the public can have no such confidence, and that the lack of documentation surrounding the ministerial appraisal process and reasons for decisions precluded the ANAO from forming an opinion as to whether the proposals that were selected were likely to represent best value for money'?

Senator HILL—The Auditor-General was referring to the dilemma where, in instances other than a cabinet decision, if it is a decision by a minister, the minister has to have reasons which are stated and which may be published. In the case of cabinet, we run into the conflicting principle of cabinet confidentiality. I understand the issue. The Auditor-General understands the issue as well and he has brought it to the attention of the parliament through this process. He basically says that this is something that the parliament is going to have to resolve. Thank you for reminding me of what I have already read in the report. It is an issue that we as a parliament are going to have to wrestle with in the future, and no doubt we will do so.

Nauru

Senator BOURNE (2.23 p.m.)—My question is addressed to Senator Hill representing the Minister for Foreign Affairs. Is the minister aware that the OECD has recently re-listed Nauru as a non-cooperative country or territory in its efforts to stamp out money laundering and that it recommends that the OECD member states apply stringent counter-measures in their dealings with this country? Has the minister now had the opportunity to view last night's ABC *Foreign Correspondent* program and hear the allegations made of financial impropriety against the Nauru government? Would the minister inform the Senate of the full cost to Australian taxpayers of housing the *Tampa* refugees in Nauru? What transparency and accountability measures are in place to ensure that this Australian money will not be misappropriated?

Senator HILL—I do not have anything further to add to what I said yesterday.

Senator Ferguson—You should have stayed home and watched *Foreign Correspondent* last night.

Senator HILL—I was at a birthday party last night to celebrate my 20 years in the parliament.

Government senators—Hear, hear!

Senator HILL—I thank my colleagues for putting it on. So tonight I will get a tape

of the *Foreign Correspondent* report and come back tomorrow.

Honourable senators interjecting—

Senator HILL—I acknowledge that some of my views have modified over 20 years.

Senator Minchin—You are becoming more conservative every day.

Senator HILL—I have become a little more conservative; it worries me sometimes. This is a serious question; it deserves a serious, considered response, and I will bring that considered response to the honourable senator as quickly as possible.

Senator BOURNE—I congratulate the minister on his 20 years in the Senate.

Senator Harradine interjecting—

Senator BOURNE—Thank you, Senator Harradine. I look forward to him congratulating me on my 20 years in the Senate when it comes up. I thank him for undertaking to look at the *Foreign Correspondent* program tonight. I ask him if would also look that OECD report and I let him know that he can expect another question on this matter in the near future.

Senator HILL—I think I have answered the question.

Auditor-General's Reports: Government

Senator FAULKNER (2.24 p.m.)—My question is directed to Senator Hill, representing the Prime Minister. Minister, is it true that the Auditor-General, with yesterday's damning report on the million dollar Federation Fund, has now exposed this government's financial mismanagement in at least eight adverse reports dating back to 1997, including the first Telstra sale where the Auditor-General found that taxpayers were short-changed by \$12 billion because the government undervalued the share price; Commonwealth property sales, which showed that taxpayers will be paying millions of dollars more in rent than they have received from the sale process; and the IT outsourcing shambles? Is it not also true that not only has the minister for finance gone to war with the Auditor-General but now the Prime Minister is effectively telling the

Auditor-General to go and jump in the lake as well?

Senator HILL—Senator Faulkner invents these things. Yesterday's report was not an adverse report. It was a helpful report—helpful to this government and helpful to future governments. Senator Faulkner does this every time an Auditor-General's report comes out. He interprets it in a way which he believes would serve his short-term political interests and he basically communicates in that sense. I thought the *Australian* of 12 February last year expressed it well in relation to one of his previous exercises, stating:

Now, Faulkner is the type of fellow who can spot a misdeed where none exists.

All honourable senators can read the Auditor-General's report of yesterday. What those opposite wanted to find from that report was evidence of bias, but was it there? Of course it was not there. In actual fact, if you look at that report, you will find it was particularly generous to Labor seats. Did Senator Faulkner say that in his question? Of course he did not say that in his question.

Senator Faulkner—Because we all know that the Auditor-General criticised the process; you know that.

Senator HILL—If Senator Faulkner wants to talk about rorts of rent, he should refer himself back to his own party and to the Centenary House rort. Millions of dollars of taxpayers' money is being paid to the ALP because when the ALP was last in government they set a rent to be paid by the taxpayers that was beyond any economic value. That is a national disgrace. That is the real rort.

Senator Bolkus—You know that that is not the truth.

Senator HILL—It is the truth. Millions of dollars above rental value is paid by the taxpayer to the ALP because of a deal that the ALP did when they were last in government. That is a rort. The Labor Party could write a letter—Mr Beazley could write a letter today—and say, 'We will only take the market rent', but will they do that? No. They would prefer to take the millions of dollars in excess of market rent paid by the Australian taxpayer. That is a rort. That is what the ALP

should be putting their mind to—not this nonsense that they are inventing within the Auditor-General's report. This was a useful Auditor-General's report that helps in the administration of discretionary grants in this case. I have talked about one particular difficulty that it raised, which is going to have to be settled in the future, and I would invite Senator Faulkner to look at it in those constructive terms.

Senator FAULKNER—Madam President, I ask a supplementary question. If the report is 'not adverse but helpful'—they are your words—why then have Mr Slipper and Mr Fischer criticised the Auditor-General for the timing of the tabling of the report and suggested, in Mr Slipper's case, that the Auditor-General is 'playing politics'?

Senator HILL—I do not know the answer to that, but what I can tell you, and I think the Senate will be interested to know—

Senator Faulkner—Madam President, I raise a point of order. If Minister Hill does not know the answer to the question, should you not ask him to sit down? He is not going to take it on notice. That is the question. He has indicated that he does not know why Mr Fischer and Mr Slipper have made those outrageous, slanderous comments about the Auditor-General. He said that the report is 'not adverse but helpful'. If he cannot answer it, that is the end of the matter.

The PRESIDENT—I heard what the minister said. He was going on to say something else. I have no knowledge yet whether or not it is relevant to the question that has been asked. If he proceeds I expect him to be relevant to the question that has been asked.

Senator HILL—I draw to the attention of Mr Slipper and honourable senators that, interestingly, the coalition held some 64 per cent of the electorates but got 40 per cent of the funding. The Labor Party held 32 per cent of the electorates and got 44 per cent of the projects, representing some 60 per cent of available funding. If it was a rort, it was a rort in favour of the Labor Party.

Honourable senators interjecting—

The PRESIDENT—Order! We are wasting question time.

Ansett Australia

Senator HARRADINE (2.31 p.m.)—My question is addressed to Senator Ian Macdonald representing the Minister for Transport and Regional Services. The minister will be aware of the adverse effects that the Ansett collapse has had on Tasmanian families, Tasmanian industry and commerce—particularly the seafood and perishable goods area—and Tasmanian tourism. Has the minister's attention been drawn to the fact that the rural health conference with 250 delegates which was to be held this weekend in Port Arthur has been cancelled and that, at the moment, you cannot get a seat on a flight to Tasmania before next Wednesday? I want to get out of this place at the end of next week. What steps is the government taking to ensure that air services to and from Tasmania meet the urgent need—particularly to Tasmania because it is a popular place and there is much need there?

Senator IAN MACDONALD—I agree with Senator Harradine that Tasmania is a very popular place. I am conscious, Senator Harradine, of the difficulties being experienced by your state. I am aware of it from things you have said and things my colleagues in this chamber have said. A couple of Townsville students were going to the rural health conference in Tasmania. I can assure you, Senator Harradine, that they are bitterly disappointed at not being able to get to Tasmania. Senator Abetz is disappointed because he was going to open it. I am conscious of those difficulties. Tasmania is a great tourist destination. I am conscious of the impact that the airline difficulties are having on your state.

You asked what we are doing to try to correct the situation. You and Liberal senators from Tasmania have been in constant contact with Mr Anderson's office working through the issues and trying to ensure that the best services available can get there. Unfortunately, it is a matter of record that, with the Ansett planes going down and therefore the Kendell planes going down, there is simply not the capacity within Australia. I am advised that Launceston and Burnie will receive a limited air service for the rest of this week. Qantas and its subsidiary Southern

operated a return flight from Melbourne to Launceston yesterday and will again today and tomorrow. Burnie and Wynyard will be without services until Friday when a 36-seat Dash 8 will operate across Bass Strait. The Launceston to Melbourne run will be serviced by a BAe 146 seating approximately 80 passengers, with the exception of yesterday and today when a 737 will be doing that.

The main way we can help Tasmania is to get all the aircraft formerly used by Ansett into the air as soon as possible. The government is working with the administrator to the limit of our ability. I know the administrator is doing what he can to get those aircraft back in the air. There are aircraft available. There are pilots there willing to fly them. There are ground crew there willing to load them and there are certainly passengers there wanting to fly. Business commonsense would say that in the very near future something will happen. It is at this stage a matter for the administrator. The government is working very closely with the administrator. Anything we can possibly do to assist in that process we will do. We are trying to fix the short-term problem and I realise the short-term problem is very difficult. We really have to look towards the intermediate term and try to get those aircraft back in the air so that people who want to go to that magnificent destination, particularly at this time of year—I guess any time of the year—that great conference destination, Tasmania, can do so. The best thing we can do is get the airline system operating, and that is what the government is trying to do.

Senator HARRADINE—Madam President, I ask a supplementary question. I thank the minister. He mentioned Launceston and Burnie. Would he take it on notice—or perhaps his office could—to give to me afterwards information about Hobart and Devonport. Could I just ask the minister whether at this stage the government might consider the issue regarding a Bass Strait shipping service as though Bass Strait were a national highway.

Senator IAN MACDONALD—Again, I am sure Senator Harradine is aware of the Bass Strait Passenger Vehicle Equalisation Scheme, which the Howard government put into place and which, at Senator Abetz's

pushing, was recently extended to King Island. That is something that the Howard government has done to try to encourage vehicular traffic across Bass Strait, and it has been enormously successful: there has been a 100 per cent increase in the number of vehicles going across. I am aware, Senator, that the National Sea Highway Committee has had some proposals. I am aware that you have a great interest in it, as do my colleagues on this side of the chamber. We have had a joint working group looking at that, and the joint working group has reported to me and to the Victorian and Tasmanian governments. We have not yet released that report. We are considering aspects of it, although I understand, Senator, that the joint working group has recommended against the proposal of calling it a national highway, for a number of reasons. But I can go into that at a later time. (*Time expired*)

Mining Industry: Pasminco

Senator GEORGE CAMPBELL (2.38 p.m.)—My question is to Senator Minchin, the Minister for Industry, Science and Resources. When the minister said in his puff piece on the mining industry in question time yesterday, ‘That success, of course, does not come merely by good fortune; it has come from very good management on the government’s part,’ was he aware that Pasminco, one of Australia’s biggest miners, had gone belly up, with debts of \$2.79 billion, threatening the jobs of 3,800 employees? Since he takes credit for success in the mining industry, does he also take responsibility for the failure? When did he know about this major corporate collapse, was he deemed not sufficiently important enough to be told, or was it the case that he, like Minister Anderson, was given the information but failed to understand it?

Senator MINCHIN—This government is rightly proud of the fantastic success of the resources industry under its management. As I explained yesterday, there has been a record export success—\$56 billion in exports, up \$12 billion, largely the result of the economic management which this country has under this government. The fact is that, while our economic management of the nation is superb, that is not always repeated at the

corporate level. It must be said that Pasminco, regrettably, have run into significant difficulties, partly as a result of the collapse in zinc prices, over which no government or company can have any influence, but also, regrettably, over the way in which they ran their hedge book, which, if you have followed their activities, presumed that the dollar would go up; of course it has come down. That has affected Pasminco’s financial operations quite significantly because they had hedged the wrong way.

I have actually been following Pasminco’s fortunes very closely, particularly given its operations in South Australia and its smelter at Port Pirie. Indeed, on 12 September—I received the letter I think on 14 September or something—the Managing Director of Pasminco wrote to me about the company’s activities, saying, for example:

Firstly, and most importantly, Pasminco is continuing to meet its commitments with the support of its lenders.

Our asset sales program is proceeding well with strong interest being expressed in each of our mines.

Pasminco made it quite clear that in their view there was almost no likelihood of insolvency and, even if there was a question of insolvency, ‘it would be difficult to believe that an administrator would consider closing the smelters as creditors’ interests would almost certainly be best served by selling the assets as going concerns’. So the company, as recently as last week, were giving private and public assurances that their circumstances were satisfactory, and certainly to their credit they had made very good provision for their employees. The entitlements of employees rank ahead of unsecured creditors, and Pasminco have very few secured creditors, given their assets backing, et cetera. So, to their credit, they made sure that in their circumstances, if anything were to occur, their employee entitlements were covered.

I was pleased to receive that letter and the assurances of what is the new managing director of the company that their asset sales program was on track and that they expected in any event that their operations would continue, whether or not they were put into ad-

ministration. Yesterday afternoon, after question time, I was advised that they would be announcing yesterday evening that they would be placing the company into voluntary administration. Their statement and the advice to me at that time was that they would continue the operations, and that is indeed the case. I have said that the government are willing to do whatever we can to work with them to ensure those operations can continue and that we would do whatever we could to attract buyers for their assets.

This company does have a good suite of assets. It has some very good mines and some good smelter operations. We want to see them continue. It is regrettable that the management was such that the company has run into serious financial difficulties. It is in utter contradiction to the extraordinary success which the resources sector generally has experienced during our nearly six years of government.

Senator GEORGE CAMPBELL—Madam President, I ask a supplementary question. Minister, if the management of the nation is so superb under the Howard government, why did Minister Hockey not know about the \$5 billion-plus HIH collapse, why did Minister Alston get caught out by the \$1 billion OneTel collapse and why did Minister Anderson plead ignorance of the Ansett failure, which may ultimately cost the Australian economy 73,000 jobs? Why is it, Minister, if the economy is so good under the Howard government, that major corporations are regularly failing and thousands of shareholders, employees and people in regional Australia are losing their livelihoods?

Senator MINCHIN—What an extraordinary proposition from the representative of a party which wreaked absolute havoc upon corporate Australia and the Australian economy during its disastrous 13 years of government, particularly from a senator who was a member of a trade union that caused hundreds of thousands of job losses in the metal manufacturing sector—no concern for employee entitlements and companies falling over like crazy during the recession which the Keating government deliberately brought on in this country. We are very proud of our record and of the extraordinary performance

of this economy, one of the strongest economies in the developed world. You should be ashamed of your attack upon us, given your outrageous record in government.

DISTINGUISHED VISITORS

The PRESIDENT—I draw the attention of honourable senators to the presence in the chamber of a delegation from Indonesia, led by the Chairman of the People's Consultative Assembly, Professor Dr Amien Rais. On behalf of senators, I have pleasure in welcoming you and your delegation to the Senate. I trust that your visit will be informative and enjoyable. With the concurrence of senators, I ask the chairman to join me in taking a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Centrelink: Ansett Australia Employees

Senator PAYNE (2.45 p.m.)—My question without notice is to Senator Vanstone, the Minister for Family and Community Services.

Senator Bolkus—It always is. She writes them all for you, doesn't she?

The PRESIDENT—Senator Bolkus, you are out of order and you know it.

Senator PAYNE—As I said, my question is to the exceptionally talented Minister for Family and Community Services, Senator Vanstone. Will the minister inform the Senate of measures being taken by Centrelink to assist Ansett workers, showing how seriously the government takes this issue? Is the minister aware of any alternative policy approaches?

Senator VANSTONE—I thank Senator Payne for the question. Before I answer the question, I note that, when it was asked, Senator Schacht groaned, 'Oh no,' as if to say, 'Do we have to listen to what the government is doing to assist workers in Ansett?' The point made by one of my colleagues is perhaps the best point to make first: that everyone on this side of the chamber would have hoped that what has happened to Ansett had not happened.

Opposition senators interjecting—

The PRESIDENT—There are senators to my left shouting so loudly that I cannot hear

the minister answering the question. You are behaving in a disorderly fashion.

Senator VANSTONE—Nonetheless, Ansett and, in particular, its employees find themselves in a very difficult situation. Centrelink, the government's service delivery agency, is, as usual, doing everything it can to assist the workers of Ansett. Centrelink is in constant contact with Ansett, the administrators and the union movement—I am not entirely sure of what use that will be—to advise them of the arrangements and to work together with them for the benefit of the Ansett staff. For example, Centrelink is conducting seminars that are designed specifically to streamline access to services by Ansett employees.

Senator George Campbell interjecting—

Senator VANSTONE—I note that Senator George Campbell says, 'Whoa,' as if to say, 'Big deal.' Senator, if you were worried about your entitlements, you might be grateful for a seminar that told you what you could do and how you could get some income support. Of course, the party that alleges it is for the workers does not seem to care much about them. Ansett employees can avail themselves of the Centrelink call network employment services inquiry line, which will be open seven days a week, from 8.00 a.m. to 8.00 p.m. We have already received over 2,300 intentions to claim from Ansett staff. I would encourage Ansett staff members to contact Centrelink to discuss what their entitlements may be.

Contrary to some reports, staff can be considered as unemployed as soon as they are suspended from duties or are stood down. They may, in fact, be entitled to income support immediately. It is important that they understand that. Workers are often in a very difficult position when a company looks likely to fail. They are often stood down but not necessarily technically sacked.

Honourable senators interjecting—

The PRESIDENT—Order! The conversation going on across the chamber at the present time is disorderly and will cease.

Senator VANSTONE—They do not necessarily want to look for other work, because they are hoping that the company will be reformed in one fashion or another and that

they can go back to work. Centrelink, of course, is doing everything it can to assist these workers. We recognise that Ansett workers are rightfully worried about their entitlements in this situation.

In the past, it has not been the practice of governments to pick up the tab for lost entitlements in a corporate collapse. That was especially true during the eighties and early nineties, when a Labor government presided over the recession we allegedly had to have, when small businesses went bust and when people who worked in delis and small shops lost their jobs and got no entitlements. Was there anything offered by the Labor government to assist these workers? No, there was not. On the other hand, this government has determined that it will pay out entitlements to workers when their employer becomes insolvent.

Many people do not understand that the opposition, when in government, never proposed that course of action. In the 1980s, when businesses went bust across the country because of Labor's economic management, not one worker was paid their entitlements by the federal Labor government. Labor has never paid one cent to employees of a failed business in the recession 'we had to have'. On Tuesday, Minister Abbott announced what the government will do to guarantee 100 per cent of the statutory entitlements of Ansett employees. There is quite a bit to say in this context. We will pay annual leave, all long service leave, all unpaid wages and all entitlements for pay. (*Time expired*)

**Council of Australian Governments
Independent Review of Energy Market
Directions: Appointment of Mr Warwick
Parer**

Senator COOK (2.52 p.m.)—My question is to Senator Minchin, the Minister for Industry, Science and Resources. How does the minister justify the appointment, announced typically last Friday afternoon, of former Senator Warwick Parer as Chairman of the COAG—Council of Australian Governments—Independent Review of Energy Market Directions? Is the minister aware that Mr Parer has resumed the directorships of the various coalmining companies that he

held before becoming Minister for Resources and Energy? Given that these directorships were seen as a conflict of interest with his ministerial responsibilities, even by Mr Parer himself, is the conflict between his private interests and his public duty as chairman of a supposedly independent review of energy market directions not patently obvious? Does it not warrant his disqualification from that position?

Senator MINCHIN—I am delighted that Warwick Parer has accepted the government's invitation to chair this very important review of energy market directions. It is hard to think of anyone as well qualified as Warwick Parer to chair this very important review of energy market directions in Australia. He is a former Minister for Resources and Energy. He does—as indeed Senator Cook has just pointed out—have enormous experience in the business of energy, unlike most people in the Labor Party. I regard that as a particular attribute for performing this function on behalf of the nation. He will do a great job, and I look forward to working with him over the next 12 months in completing that review.

Under the COAG agreement it was always the intention that the Commonwealth would appoint the chairman and the states would appoint the two other members. We are still waiting for the states—most of which, as you know, are Labor—to come up with their appointments for this review. We want this review to get under way as soon as possible. We have done our bit under COAG in appointing an excellent chairman, and I wish that the states, most of which are Labor, would hurry up and give us their nominations for the other two members of this important review.

Senator COOK—Madam President, I have a supplementary question. I notice the minister never actually answered the question about a conflict of interest, and I now invite him to do so in the moments available to him for the supplementary answer. Did the minister at least consider Mr Parer's very substantial coal interests before appointing him to head this review? Did he consult all state governments about the appointment? If so, did all of them indicate their agreement

or was it the right of the Commonwealth without consulting the states? How much will Mr Parer be paid for this review. Finally, did the minister really mean to cite in last Friday's press release Mr Parer's 'wealth of experience' as a qualification for this job or did he mean 'experience of wealth'?

Senator MINCHIN—I have very little to add to my previous answer. The remuneration is in accordance with Remuneration Tribunal guidelines for activities of this kind. The appointment was on the basis, as agreed by COAG, that the Commonwealth would appoint the chairman and the states would be responsible for appointing the two other members. As I said before, I wish the states would hurry up and nominate the two other members of this review so we can get on with it.

Corporations Law

Senator MURRAY (2.55 p.m.)—My question is to Senator Kemp, representing the Minister for Financial Services and Regulation, and relates to the appalling management of Ansett by Air New Zealand. Minister, do you recall the outrage in June this year when it was learned that substantial bonuses had been paid to the directors of the failed company One.Tel? Do you also recall that the Prime Minister and the government promised to change the Corporations Law to allow troubled companies and administrators to reclaim directors' bonuses? Is that proposal still the government policy?

Senator KEMP—Thank you to Senator Murray for that question. I am able to provide some advice to Senator Murray.

Senator Chris Evans—So he told you beforehand?

Senator KEMP—He did not, actually, to be quite frank. That is the truth. But, because I always appreciate that Senator Murray is a man who always pursues real issues of concern, one is wise to prepare oneself for questions from him. So I am able to provide Senator Murray with some information on the advice that I have received. The Corporations Act already contains a provision to permit liquidators to apply, within certain time limits, to a court to reverse transactions made by a company while it is insolvent. In

such cases, the liquidator may be able to apply to claw back the money paid or property transferred by the company. This money or property would then be available for the payment of the company's creditors. In addition, the government has announced that it will be amending the corporations legislation—and I think this goes to the nub of the question that you asked me—to permit liquidators to reclaim payments made by a company to directors in the lead-up to insolvency.

Details of the proposed amendment are being finalised, and the government expects to be in a position to seek the approval of the Ministerial Council on Corporations on the amendment in the near future and to introduce the amendment shortly thereafter. In the light of Senator Murray's comments, I am sure that we can count on the support of the Australian Democrats for that proposal.

Senator MURRAY—Madam President, I thank the minister for his reply and ask a supplementary question. Is the government prepared to introduce that legislation urgently next week, and is the government prepared to make it retrospective to at least the commencement of September in order to ensure that the directors of Air New Zealand are caught within its provisions? Is the government prepared to enter expeditious discussions with non-government parties and Independents to see whether we can process that legislation very rapidly next week?

Senator KEMP—As I mentioned in my earlier remarks, the government expects to be in a position to seek the approval of the Ministerial Council on Corporations in the near future, and I will check with Minister Hockey on the status of those negotiations with the ministerial council. I cannot add anything further to the information that I have already given you, but I note your comments on the urgency of this matter and your other comments, and I will draw those to the attention of the responsible minister—Minister Hockey.

Ansett Australia: Gate Gourmet

Senator CONROY (2.59 p.m.)—My question is to Senator Alston, representing the Minister for Employment, Workplace

Relations and Small Business. Can the minister confirm that yesterday the Prime Minister said that the Ansett entitlements scheme did not apply to employees of Gate Gourmet, despite 96 per cent of the services performed by Gate Gourmet being for Ansett; the workers of Gate Gourmet being employees of Ansett until two years ago when, as part of the transfer of the catering business from Ansett to Gate Gourmet; the workers were forced to change employers, at that time the workers continuing to be employed under the terms of the Ansett collective agreement; the catering activities of Gate Gourmet being operated from the same premises as when those same activities were performed by Ansett; and the entitlements of Gate Gourmet workers, including annual leave, long service and redundancy payments accruing from when they commenced employment with Ansett? If the scheme does not apply to employees of Gate Gourmet, can the minister explain why the workers of Gate Gourmet are being discriminated against and not being offered the same level of support as Ansett employees?

Senator ALSTON—I do not have any details about the particular circumstances of Gate Gourmet employees but, as I understand the thrust of Senator Conroy's question, they were, until maybe two years ago, direct employees until they were effectively outsourced. If that is the case, they now stand in the same relationship to Ansett as do many other suppliers and companies with whom Ansett would be required to trade. Our commitment is in respect of Ansett employees.

Senator Conroy—What's wrong with the other workers?

Senator ALSTON—What is wrong with underwriting the entire economy, which is Senator Campbell's essential proposition? We are concerned to ensure that Ansett workers have proper entitlements, and it is a very generous scheme. It recognises the likelihood that there will be some unpaid salaries, long service leave and holiday pay entitlements and that there may well be some generous redundancies.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Conroy has asked a question and Senator Alston has the call. There are a number of other senators on both sides who are speaking loudly, and all of them are out of order.

Senator ALSTON—Again, I make it clear that the arrangements we have announced to date apply to Ansett employees, because they were the ones of particular concern.

Senator Conroy—Why just Ansett?

Senator ALSTON—Because they are the ones who are suddenly out of a job with the closure of Ansett. In terms of the wider problem that is caused with companies failing where employee entitlements have not been adequately protected, we are in the process of announcing the details of an upgraded scheme. The one that we have had on the table to date would have been adequate if you had not sabotaged it and encouraged your state mates to boycott it, because that is what has happened. It is a scheme that was designed to provide widespread assistance.

Opposition senators interjecting—

Senator ALSTON—Only John Olsen in South Australia.

Senator Chris Evans—A year later.

Opposition senators interjecting—

The PRESIDENT—Order! Your behaviour is outrageous. Shouting in that fashion is absolutely outrageous.

Senator ALSTON—Senator Evans says ‘a year later’, when Labor had 13 years to do something about employee entitlements. Have you ever heard an act of contrition from Senator George Campbell for the 100,000 jobs he cost the Metal Workers Union? Do you ever hear anything other than synthetic, last minute, catch-up concern about issues which you think play to your political advantage? Why on earth were you and Mr Beazley out there trying to encourage that rally—which was not an Ansett workers rally; it was a trade union rally—and trying to encourage the ACTU to effectively undermine the previous administrator because he would not cooperate with Mr Combet and give him his demands? All of those things

are very much against the interests of Ansett workers.

You have done nothing to assist the cause at all. What you want is widespread industrial mayhem. That is your agenda. You want this to go on for as long as possible, you want it to be as complicated as possible and you do not really want to see things getting back to normal. We have not only addressed the legitimate concerns of Ansett employees with unpaid entitlements; we have also put a levy in place, and we still do not know whether you support the levy. What did Mr Beazley say? He said, ‘If, at the end of the day.’ In other words: ‘If all else fails, we will come to the party if we have to.’ He has no idea. He has absolutely no commitment. He is not interested in the conditions of workers; he is interested in the political opportunities that might arise. If he can think of something better, then he might trot that out.

So not only are we addressing the legitimate concerns of Ansett employees and any unpaid entitlements; we are also going to be addressing the concerns of wider industry sectors and companies that have failed for various reasons. Once the details of that scheme are announced, then a lot of people who might have concerns now will also be eligible. *(Time expired)*

Senator CONROY—Madam President, I ask a supplementary question. Isn’t it the case that, if the Prime Minister’s brother were a director of Gate Gourmet, the workers of Gate Gourmet would now have their full entitlements paid by this government?

Senator ALSTON—I suppose Senator Conroy chooses to overlook the fact that the workers at National Textiles were in fact compensated in full because Mr Carr came to the party. That is why they got it. Let us all be grateful to Mr Carr, but why on earth should Mr Carr have to be out there on his Pat Malone? Why should Mr Carr be the only one with sufficient concern for the plight of workers? Why weren’t you out there urging other states to pick up the tab?

Honourable senators interjecting—

Senator Mackay interjecting—

The PRESIDENT—Order! Minister, resume your seat. The level of shouting and

breaches of standing orders are absolutely disgraceful. You have 24 seconds left, Minister.

Senator ALSTON—Why do you let Mr Bracks go out there and rabbit on about the federal government finding \$50 million for the tourism industry when he is not prepared to lift a finger to support our employee entitlement scheme? In other words, you are not interested in the real welfare of workers; you are interested in political opportunities. That is your problem. That is why you are in increasing political difficulty: because you stand for nothing and you are led by a flip-flop merchant. Many of you want to get rid of him—we know that—and we can well understand why you do. (*Time expired*)

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

Senator Chapman—Madam President, on a point of order: during the minister's answer to that question, I distinctly heard Senator Mackay allege that senators of this side were drunk. That is quite an inappropriate reflection on all members.

The PRESIDENT—Order! Behaviour in this chamber this afternoon has been disgraceful. I would suggest that some of you might like to watch a replay of question time. Senator Mackay, if you said that, it is unparliamentary and should be withdrawn. I did not hear it, which is not surprising in view of the level of noise.

Honourable senators interjecting—

The PRESIDENT—Order! I am on my feet!

Senator Mackay—Madam President, did you hear the alleged interjection?

Government senators interjecting—

The PRESIDENT—Order! I said that I did not hear it. I said that, if you had said it, it ought to be withdrawn.

Senator Mackay—I have nothing to withdraw.

Government senators interjecting—

The PRESIDENT—Senators on my right will come to order!

Senator Alston—Madam President, on a point of order: that was a deliberate defiance of your ruling. You said to Senator Mackay, 'If you said it, withdraw.' What she said, with the smarmiest of expressions, was, 'If you didn't hear it, I'm not going to tell you.' That is not what you asked her to do at all. Senator Mackay was asked to withdraw it if she had said it. She has not denied saying it. All she has done is pretend that, because you did not hear it, she is under no obligation when of course she is.

Senator Vanstone—Madam President, on the point of order: I do believe it would be helpful if you asked the senator to simply indicate whether or not she said it, not to answer in some other way. We have been through this once before, where Senator Jacinta Collins suffered from Carmen Lawrence disease and said that she could not remember what she had said three minutes before. This senator can remember what she said and I believe that you should ask her to directly tell you whether or not she said it.

Senator Patterson—Madam President, on the point of order: there are a group of us down here deciding whether we would call a point of order, because we all heard it at this end very clearly. I find it offensive. She should be asked to withdraw it.

Senator Abetz—Madam President, on the point of order: if Senator Mackay will not fess up, could I respectfully suggest to you that you ask Senator Lundy whether it was said, because she was speaking to Senator Lundy at the time.

Senator Faulkner—Madam President, on the point of order—

Honourable senators interjecting—

The PRESIDENT—Senators on both sides will come to order! Senator Faulkner has the call to speak to the point of order and I cannot hear him because of the noise behind him.

Senator Faulkner—I do not know whether Senator Mackay made the comment or not. That is the first thing. I am being frank about it. I do not know, so I qualify my remarks accordingly. I have heard a lot of unparliamentary remarks made in this question time today. It would seem to me to be

reasonable in this circumstance that if you have asked—and I understand that you have, Madam President; I think you should clarify this—Senator Mackay—

Government senators interjecting—

The PRESIDENT—Senators on my right, please be quiet enough for me to hear what is being said.

Senator Faulkner—Madam President, if you were to ask Senator Mackay or any other senator to withdraw any unparliamentary remark that was made, that would seem to me to be an appropriate course of action. As you know, Madam President—

Senator Ian Macdonald—You are a liar, Sue.

Senator Mackay—Withdraw!

Senator Jacinta Collins—You withdraw!

Honourable senators interjecting—

The PRESIDENT—Order! The behaviour is absolutely unseemly.

Senator Faulkner—The allegation that is made is that Senator Mackay by way of interjection had described a coalition member—or members, I do not know—as drunk. That is what this is about. Madam President, I think you should ask, given these circumstances and given the uncertainty about it—

Senator Ian Macdonald—And she denied it.

Senator Faulkner—There is uncertainty about it. But the way this has traditionally been dealt with and a way I think it could be dealt with here—and I am sure that Senator Mackay would comply with this—is that, if an unparliamentary comment has been made, any unparliamentary comment, it is incumbent on the senator to withdraw. If they do not withdraw, then of course other action can be taken. An awful lot of unparliamentary comments have been made in question time today. If Senator Mackay made that unparliamentary comment, it would be one of literally hundreds. My point is that I do not know why that one in potentially hundreds ought to be singled out. But, Madam President, I suggest that you follow the course of action that I respectfully put before the chair and single out this alleged interjection in this

circumstance so that we can just get on with it.

The PRESIDENT—This interjection was drawn to my attention by a point of order and I have asked Senator Mackay if she has made an unparliamentary remark, which I did not hear, to withdraw it. That is the customary way to deal with these things. I would expect that if that is the case she would simply withdraw.

Senator Mackay—If I made a statement which is unparliamentary, Madam President, of course I would withdraw it.

Senator Conroy—Madam President, on a point of order—

Senator Alston—That has never been acceptable, Madam President—

Honourable senators interjecting—

The PRESIDENT—The Senate will come to order! It is impossible to hear what is going on when there are so many people standing up and shouting. Senator Alston had the call. I noticed you rising, and you will be called next.

Senator Alston—Just to repeat, Madam President, that it has never been acceptable in this chamber for a senator to respond—

Senator Conroy—What is he doing?

Senator Alston—I am taking a point of order. It has never been acceptable in this chamber for a senator to respond in that manner. Madam President, if you direct her to withdraw an unparliamentary comment, she does not have the right to say, ‘If I did, I withdraw.’ She knows whether or not she said what is alleged. If she did say that, and she knows it, she should simply say, ‘I withdraw.’ She cannot qualify it in such a way with the sort of giggle and behaviour that not only is entirely immature but suggests that she is not at all interested in complying with the standards of this chamber. She should not be allowed to get away with those weasel words.

Senator Faulkner—Madam President, on the point of order: the reasons that a withdrawal is qualified like that are twofold. The first reason is that there are often questions raised by senators, as you would be aware, as to whether language used is parliamentary or

unparliamentary. Every senator in this chamber knows that that is the case. In the case of the words allegedly used here, there may be consistent rulings that such a comment is unparliamentary, and I would accept it if that is the case—no doubt about that. There is also another qualification, and that is whether any individual senator has said these words or not. I respectfully suggest to you, Madam President, that the sort of withdrawal that was generously given by Senator Mackay in this instance—

Senator Ferguson—Generously!

Senator Faulkner—Yes, generously in this instance—has often been used. I have often done it myself and I have heard many other senators do so. Frankly, I think we ought to get on with it. I do make the point that there has been a substantial number—

Honourable senators interjecting—

The PRESIDENT—Order! Senators on both sides will come to order. You are free to leave the chamber if you have nothing to contribute.

Senator Faulkner—A substantial number of unparliamentary interjections and comments have been made throughout question time today and, in fact, since the end of question time. It may be true, Madam President, that this particular one was drawn to your attention. I accept that you are in a difficult position in not being able to listen to all of them. There is a cacophony of noise—some you perhaps hear and some you do not hear. You certainly did not hear this one, and I appreciate that. I am sure that you did not hear a number of others that were made by coalition senators. I accept that and I appreciate it, but this is an appropriate way of dealing with this circumstance, given that there are often questions raised in this chamber as to whether words used are defined, or have been defined in the past, as parliamentary or unparliamentary or whether they were said. Surely, given that Senator Mackay has withdrawn any unparliamentary comments she might have made, we should get on with it.

Senator Hill—Madam President, on the point of order: I do not want to continue with this unnecessarily, but Senator Alston is ab-

solutely correct. The only way that you could say, 'If I said something unparliamentary, I would withdraw,' and be justified in doing so is if there was doubt as to whether what you said was unparliamentary. In this instance—

Honourable senators interjecting—

The PRESIDENT—Order! This is not a free-for-all debate. Senator Hill is addressing an issue.

Senator Jacinta Collins interjecting—

The PRESIDENT—Senator Collins, cease interjecting.

Senator Hill—In this instance, there can be no doubt about that at all: what was said was clearly unparliamentary. So, if she is saying, 'If I said something unparliamentary, I withdraw it,' she is implying that she may not have said it all.

Opposition senators interjecting—

The PRESIDENT—Order! This is not an exchange. Senator Hill, if you have something to say, address the chair.

Senator Hill—I am assuming that she is not trying to suggest to the Senate that she does not know whether she said it or not. I am assuming she knows what she said. There is no doubt that what she said is unparliamentary. There is therefore no other option for her under the standing orders but to simply say—

Senator Bolkus—You're in the business of wasting time.

Senator Hill—I am not; she can just withdraw it. I think that is clear and unambiguous. If this is left the way that it is now it is misleading, because the implication is there that she only may or may not have said it. That would be a wrong outcome in this instance. I am sorry that it is all taking so long, but it ought to be done correctly.

Senator Ferguson—Madam President, on the same point of order: I did distinctly hear what Senator Mackay said and what concerns me in this point of order is that when you asked her about this and she said to you, 'Did you hear me, Madam President?' and you said, 'No, I didn't,' she then said, 'I have taken advice and I know that I don't have to withdraw if you didn't hear it.' My question on the point of order is: did she seek that

advice from you as President or did she seek that advice from the Clerk—or from where else did she seek that advice? We are going to get to the stage where someone says, ‘You can say what you like in this place and, as long as the President doesn’t hear, it is not unparliamentary.’ I would like you to please see whether you can ascertain where that advice came from—whether it came from you or whether it came from the Clerk.

Senator Faulkner—Madam President, on the point of order: with respect, there is a point of order that has been taken before the chair and Senator Ferguson makes another point by the mechanism of a point of order.

Senator Ferguson—It is the same point of order.

Senator Faulkner—It is not a point of order. What he is actually asking you, Madam President, is a series of questions about whether Senator Mackay has approached you or the Clerk. I might say that, as you are well aware, I think it is offensive for any senator to be asking publicly whether senators have approached the table and asked for the Clerk’s advice in this chamber. You should know a lot more about the procedures of this place, Senator Ferguson, than to be putting those things on the public record. Not only is it not a point of order, Madam President; it is a totally inappropriate mechanism—raising totally inappropriate questions—to be putting. There is a substantive point of order, which I think Senator Alston has addressed—I am not sure—but which certainly Senator Hill and I have addressed ourselves to. I think you should rule on that, and you should clearly rule, given the nature of the content of what Senator Ferguson has put before us, that that should be ruled out of order. If he cares to take a separate point of order on another matter he can, but what he said is clearly out of order and is not a point of order. He is attempting to make a couple of spurious and, in my view, totally inappropriate points under the guise and mechanism of a point of order.

Senator Vanstone—Madam President, this is the last point of order I will make on this matter—

The PRESIDENT—We are already dealing with a point of order. If this is a new one, we will have to wait to come to it. I am still hearing submissions on the point of order raised by Senator Alston.

Senator Vanstone—And that is the point of order I wish to speak to, Madam President. I am just indicating that this is the last time I will rise to speak on it. The reason it is the last time I will rise to speak on it—

Honourable senators interjecting—

The PRESIDENT—Order! The chamber is behaving in a disorderly fashion. Senator Faulkner and Senator Ferguson, cease your conversation.

Senator Vanstone—is that there are actually more important things to deal with in this chamber than with whether Senator Mackay is prepared to own up to what she said. I simply put before you that there has been a longstanding practice in this place that, if someone has said something which either is clearly unparliamentary or has caused clear offence and they are asked to withdraw, they do. The practice has been not that people get up and say, ‘Did you hear?’ and not that they get up and say, ‘If I said something that was unparliamentary, I would withdraw’; the practice in the Senate that has got some standards has simply been to say, ‘I withdraw.’ I will leave it at that. I heard what Senator Mackay said. If she wants to evade it and lower the standards of this place, fine. I just ask you not to allow her to do so.

Senator Newman—Madam President, on the point of order: it would appear that the senator has some doubts as to whether she said it or not and, as you did not hear it, I felt that it was important that those who have already spoken should be reassured, if necessary by every single member on this side who has been maligned by her allegation that we were all drunk, that nothing could be further from the truth. First of all, it is unparliamentary to treat colleagues in that way. Secondly, I believe it to be unparliamentary to, in a cowardly way, refuse to acknowledge what you have said or done and refuse to apologise and withdraw when asked to do so.

Senator Mackay—Do not patronise me.

Senator Newman—I will patronise you all you like because you're behaving like a silly—

The PRESIDENT—Senator Newman, the matter should not be being debated. Is there anything further on the point of order?

Senator Newman—Simply in relation to the final interjection, somebody who does not know how to behave clearly needs to be patronised.

The PRESIDENT—The question we are dealing with at the present time is the point of order which was raised by Senator Alston shortly ahead of when I was going to raise it myself. If an interjection was made—and it has been said by a number people that it was made; I did not hear it—and it was an unparliamentary comment, it should be withdrawn unconditionally. I would ask that Senator Mackay do that. There was a conditional withdrawal, but it ought to be complete. It has happened on many occasions that, when someone has attempted to withdraw conditionally, I have said, 'Withdraw it unconditionally,' and that has been abided by. I can think of many occasions when that has been the case.

Senator Mackay—I withdraw.

Senator Conroy—Madam President, on a point of order: I draw to your attention an interjection from Senator Ian Macdonald, who has now fled the chamber, when he accused a Labor senator of being a liar. I ask you to direct the Black Rod to bring him back to the chamber and withdraw.

Senator Mackay interjecting—

The PRESIDENT—You are shouting again, Senator. Did you have something you wanted to say?

Senator Faulkner—Madam President, may I say something on the point of order.

The PRESIDENT—You may.

Senator Faulkner—I would normally support Senator Conroy's points of order, because they have been very good over the years.

Government senators interjecting—

The PRESIDENT—Order! Senators on my right will abide by the standing orders and cease behaving as they have been.

Senator Faulkner—I have always really liked the Black Rod. He is a nice guy. Why would you send him off to Senator Macdonald's office? Fair dinkum! You don't know what might happen to him in there. He is a decent fellow and you should not do it to him.

Senator Conroy—Can I get a ruling on my point of order?

The PRESIDENT—I think I have been persuaded by Senator Faulkner's approach to the matter. I did not hear anything that was unparliamentary. I will take the matter up with the senator.

Senator Schacht—He said the senator was a liar.

The PRESIDENT—Nobody has said that.

Senator Conroy—I said that Senator Macdonald called the senator a liar.

The PRESIDENT—I heard what you said. I was persuaded by Senator Faulkner's approach to dealing with the matter. I shall speak to the senator about the matter.

Senator Alston—Madam President, I seek leave to make a personal explanation.

Senator Faulkner—Madam President, if I can make a point through the mechanism of a point of order: traditionally, and this is the approach we are going to take in this case, we do grant leave to any senator who requests permission to make a personal explanation. I think that Senator Alston knows, as do most senators in the chamber, or senators should know, that it will be granted after the completion of taking note of answers. That is the traditional approach and it should be applied on this occasion. Leave will be granted to Senator Alston at the appropriate time.

ANSWERS TO QUESTIONS WITHOUT NOTICE

**Council of Australian Governments
Independent Review of Energy Market
Directions: Appointment of Mr Warwick
Parer**

Mining Industry: Pasmenco

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.27 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Industry, Science and Resources (Senator Minchin) to questions without notice asked today.

Private interest and public duty: that is the matter which I wish to address my remarks to today. It is vitally important for those of us in public life that we separate our private interests from our public obligations so that we are seen to act in the public interest and not to serve our private investments. That is a fundamental principle and it is a principle that has been tarnished beyond recognition in the course of this government. It is now widespread—the currency of common argument—that the ministerial standards of this government are at an all-time low and that the Prime Minister, in refusing to enforce his code of ministerial conduct, is himself, therefore and thereby, culpable in lowering those standards and culpable in protecting those members of his government who have done things that have brought their private interests into conflict with their public duty.

The most recent example in which all editorial writers of all the major newspapers in Australia were of one view concerned the Minister for Small Business, Mr Macfarlane, who in his Liberal Party branch in Queensland was knowingly associated with a scam to evade the GST. All newspaper editorial writers called for Mr Macfarlane's head. They said that he should resign, but the Prime Minister defended him and thereby set a new low in parliamentary conduct. So it is not at all surprising that, given that example from the Prime Minister, we have an example from Senator Minchin, the Minister for Industry, Science and Resources, that emulates the very low standard of the Prime Minister.

All of us in this chamber know ex-Senator Parer. He has now been protected. He was protected by the Prime Minister when Labor discovered that Senator Parer, as resources minister, at that time had multimillion dollar shareholdings—

Senator Calvert—Rubbish! Rubbish!

The DEPUTY PRESIDENT—Senator Calvert! Order!

Senator Calvert—One dollar!

The DEPUTY PRESIDENT—Order! Senator Calvert!

Senator COOK—in the Jellinbah coal mine through a family trust. And you are out of order, and you know better.

Senator Calvert—One dollar.

The DEPUTY PRESIDENT—Order! Senator Calvert!

Senator Schacht—Instead of payments of millions, though, it was one dollar!

The DEPUTY PRESIDENT—Order! Senator Schacht, I am on my feet!

Senator Heffernan interjecting—

Senator Calvert interjecting—

The DEPUTY PRESIDENT—Senator Heffernan! Senator Calvert! Any interjection is disorderly and to yell across the chamber is, as the President has already said today, totally disorderly. So I would ask you to come to order and cease interjecting. If you wish to speak on the matter you can put your name on the list.

Senator COOK—The truth wounds, and the absolute truth wounds absolutely. Labor discovered that Senator—at that time—Parer had multimillion dollar shareholdings in the Jellinbah coal mine through a family trust. The Prime Minister, Mr Howard, refused to sack this then severely compromised minister. Senator Parer then reorganised his trust and called it White Rhinos Pty Ltd, so he was not a direct recipient, but the adult members of his family still are. Senator Parer stood down from the ministry after the 1998 election and quietly regained his previous coal industry directorships after leaving the Senate early in 2000. Now, ex-Senator Parer has been appointed Chairman of the Council of Australian Governments independent re-

view of energy market directions by his former ministerial colleague and mate Senator Minchin.

This is now a complete joke. Ex-Senator Parer is currently a director of Queensland Coal Mine Management, currently a director of Bluff Mining, currently a director of Bowen Basin Coal Pty Ltd, currently a director of Jellinbah Mining Pty Ltd, currently a director of Jellinbah Resources Pty Ltd and currently a director of Queensland Coal Mine Management Finance Pty Ltd. There is nothing wrong with him having those directorships, but there is a lot wrong with him having those directorships and pretending to be an impartial servant of the public interest inquiring into energy policy in Australia. He is, after all, 'Old King Coal' in Australia. To then make him chairman of an energy body compromises those with other sectional interests in energy generation in this country—the gas, the wind, the solar and other energy markets such as the hydrocarbon market—that will have to deal with this inquiry under his chairmanship.

It is about time this parliament ruled off the ledger on this confusion of public and private interest. Here is a clear case of a compromised individual being appointed to a public position. (*Time expired*)

Senator IAN MACDONALD (*Queensland—Minister for Regional Services, Territories and Local Government*) (3.30 p.m.)—I seek leave to make a confession and a withdrawal.

Leave granted.

Senator IAN MACDONALD—In the course of a meeting I was involved in, my staff interrupted me and indicated that the President had said something. I have not yet been contacted by the President, but I was told what the discussion was about. So I have come down to this chamber to say yes, I did accuse Senator Mackay of lying because she was, and I withdraw unconditionally.

Senator Cook—I take a point of order, Madam Deputy President. That is an unacceptable withdrawal in every respect. It is a totally unacceptable withdrawal in every respect because the withdrawal contained the assertion that the statement was true.

Senator Alston—That was a preamble.

Senator Cook—You ought to know better. You are the Rumpole of this chamber who rises on every occasion—

The DEPUTY PRESIDENT—Order, Senator Cook! I would like to rule on Senator Macdonald and ask him to unconditionally withdraw. He repeated his assertion. I would like him to unconditionally withdraw the whole lot.

Senator Cook—Smart-arse.

The DEPUTY PRESIDENT—Senator Cook, I will have you withdraw first.

Senator Cook—I withdraw.

Senator IAN MACDONALD—I am sorry; I was talking to my leader about another issue.

Senator Cook—Make a joke of it, why don't you!

The DEPUTY PRESIDENT—Order, Senator Cook!

Senator Heffernan—You're the joke!

The DEPUTY PRESIDENT—Order, Senator Heffernan!

Senator Cook—Where is Seyffer? Are you still hiding him?

Senator Alston—I presume *Hansard* records what Senator Cook said.

The DEPUTY PRESIDENT—I don't know, Senator Alston, that is not for me to decide. I am asking Senator Macdonald to withdraw unconditionally.

Senator IAN MACDONALD—First of all, Madam Deputy President, the President said she had not heard me. So I confess that I did say Senator Mackay was lying. Then I said, 'I withdraw unconditionally.' What more can I do?

The DEPUTY PRESIDENT—And please in future do not repeat that performance.

Senator IAN MACDONALD—I was only confessing.

Senator Cook—All too cute and smart.

The DEPUTY PRESIDENT—Senator Cook, can I have some order?

Senator Conroy—The electors will catch up with you.

The DEPUTY PRESIDENT—Order, Senator Conroy! Before you begin, Senator McGauran, if honourable senators are not in here to sit and listen to the contributions of honourable senators, please leave the chamber. I would like to have some silence and some order in the chamber.

Senator Cook—I take a point of order, Madam Deputy President. My point of order relates to the most recent form of words used by Minister Macdonald in withdrawing. My point of order is to ask you to check the tape to see exactly what he did say, because what he now says he said does not square with my recollection of what he said at the time.

The DEPUTY PRESIDENT—Senator Cook, I will ask Madam President when she is reviewing the situation to take that into consideration.

Senator Cook—Can I complete my point of order then, Madam Deputy President. Thank you very much for that assurance. Can the chamber be reported to with the exact words that Senator Macdonald said on the tape when he returned to this chamber and made his first withdrawal, because I sincerely believe there is a conflict between what he said then and what he is proposing he said now.

The DEPUTY PRESIDENT—Thank you. Senator McGauran has the call.

Senator McGAURAN (Victoria) (3.36 p.m.)—I go back to the matter raised by Senator Cook, which was just a personal attack on former Senator Parer— who gave up his ministry in the 1998 election and left the parliament several years ago. It was a pathetic attack which no-one would be able to link with today's politics. If ever we needed evidence that the Labor Party are not ready for this election, let alone government—when we well may be sitting into the last week of this parliament—we heard it today from Senator Cook. They put up the second-rate Senator Cook—

The DEPUTY PRESIDENT—Senator McGauran, please do not reflect upon—

Senator McGAURAN—I withdraw that, Madam Deputy President. They put up the fading star—

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order!

Senator McGAURAN—I withdraw, unreservedly. I have been prepared all week to speak on the Ansett collapse. The worth of this motion to take note of an answer is debatable—especially when it is on a broadcast day—but it is a forum for the opposition to raise issues and to question the answers of ministers. That is what it is there for. It is a useful forum for an opposition, particularly when an election is looming and there is possibly only one more week of parliament to go. It is a forum for the opposition to present their policies and articulate an argument, and they could not last. This is the fourth day of this week's parliament and they could not even maintain the debate on the Ansett collapse.

I have been ready to debate that issue. The government are quite happy to debate the issue with the opposition. It is of course an issue of moment. There has been an enormous collapse of a private airline, and this government is stepping in to support the workers et cetera. Why don't you ask us about that and debate that issue? It is Thursday and you have not been able to maintain the debate on that—let alone on all the other issues and policies you have had the chance to bring to this parliament.

Instead, what do we hear? We hear Senator Cook—not really a front line fighter for the opposition—raise the matter of a former senator's appointment to a government position, not even to a permanent position but just to carry out a review. He is highly qualified, with a team of others, to undertake that review. That is the extent of it. That is the extent of this 30 minutes of opposition time to debate issues. If ever you doubt that the Labor Party are not ready for government, that they have a leader without the ticker, that they have not a policy to put forward, it was confirmed today. Senator Parer—and I am sure he would not mind me saying this—has gone. He is not relevant to today's politics, let alone to this election. Why would you bring him forward? He is probably glad you did, because you have just killed half an hour of important Senate time. He knows that it is a total waste of time to raise this matter.

Talking about conflicts of interests, the greatest conflict of interest was that of the former Prime Minister, Paul Keating, and his piggery. I heard the opposition squeal when *Four Corners* recently raised that conflict of interest issue, the Commonwealth Bank issue and the so-called dealings of certain characters in seeking further information.

Senator George Campbell—What about Mr Seyffer and Senator Heffernan?

Senator McGAURAN—You know what I am talking about, Senator Campbell. You well know what I am talking about. You squealed when that was raised by *Four Corners*, saying that it was dirty politics. What could be dirtier than attacking former Senator Parer? What could be dirtier than attacking a normal judgment made by a minister to appoint a qualified man to the position? There is nothing underhand about this, there is no conflict of interest at all. It is part of the normal processes of government. Why don't you come into this chamber and start putting your policies down? When are you going to do this? You are not up to it and you know it, the Australian public have woken up to it and the polls are reflecting it.

Senator GEORGE CAMPBELL (*New South Wales*) (3.41 p.m.)—In the answer to a question I asked Senator Minchin in question time, he made the point of indicating that the management of the economy by this government had been superb in all respects and that all Australians ought to be thankful for it. I asked him specifically about the collapse of Pasmenco and he did not, in response to that question, deal to any extent with the implications of that collapse for the 3,800 workers employed by the company. They have 'managed the economy superbly' in a set of circumstances where major companies are falling over like tenpins. We have had today the announcement about Pasmenco, the situation with the Ansett collapse, and the threat to the 73,000 jobs, we have had the circumstances of the collapse of One.Tel—and the minister responsible for that in part is in the chamber and may want to respond—and HIH, both with significant numbers of jobs involved. But here is a government that is 'managing the economy superbly'.

What was the response by the ministers responsible for those policy areas when those companies collapsed? They said they did not know about it: 'We didn't know, we weren't responsible.' Senator Alston did not know about the One.Tel collapse. Minister Hockey did not know about the HIH collapse. Minister Anderson has no idea when he was told about the Ansett collapse, and certainly denies ever being told anything, despite a whole raft of evidence to the contrary to say that he was aware and that he had been advised about the Ansett collapse as far back as June this year. He vehemently denies knowing anything about it. We have also seen the spectacle, yesterday and today, of the responses by Minister Kelly to the consequences of the collapse of Ansett.

Here is a set of circumstances that are all occurring within a framework in which Senator Minchin is getting up and saying that they are managing the economy superbly. You have to ask the question: for whom are they managing the economy superbly? It is not for the workers who have been impacted by the collapse of those major companies, and it is certainly not being managed superbly in the interests of a range of companies who are currently under threat in terms of their continued operation within this economy.

But it is not unusual to hear that hyperbole or that ideological material coming from Senator Minchin because this is a minister who, since he has had the Industry, Science and Resources portfolio, has not had a clue what has been happening within his portfolio. He has been more concerned about being out there playing politics within the Liberal Party than he has been about running the policy agenda within Industry, Science and Resources. You only have to point to a couple of examples that have occurred to reinforce that message. Look at what happened over the TCF scheme, the SIP scheme. Here is a minister who sat around for 12 months on a scheme and allowed a major company in Victoria, Bradmill, to go under because he refused to provide resources and support for that company at the time when the company most needed it. He subsequently came to the point of amending the scheme to allow mon-

eyes to be made available after the company collapsed, not when the company actually needed the resources.

Here is a minister who has recently admitted he did not know that the ASIS scheme in the auto industry, which was supposed to be capped at \$2 billion, was going to cost the government \$2.8 billion. He did not know that. He had to be corrected by someone from his department. Here is a minister who is absolutely remote from what is happening in his portfolio. He is not in touch with what is happening in the industrial community. It is no wonder these companies are collapsing and these government ministers consistently say, 'We do not know about it.' (*Time expired*)

Senator LIGHTFOOT (Western Australia) (3.46 p.m.)—I rise to rebut some of the remarks made by Senator Cook and Senator George Campbell and to contribute some of my own. I was quite surprised that neither of the senators I have mentioned brought up much news, if any at all—except that I think Senator George Campbell mentioned the collapse of Ansett, along with that of a couple of other well-known companies, HIH and Pasmenco—about the fact that it now appears that 11 of Ansett's jets were sold off and leased back. The jets were four old 767-200s and seven of the more modern, later model Airbus 320s.

Instead they railed against the government for its excellent management of the economy, the figures of which are manifest everywhere—not least in low unemployment, low interest rates and high incidence of profits. This country is one of the best in the OECD. Of all the 29 countries in the OECD, Australia has the best growth potential. Even before the tragedy of the twin towers in the United States of America, the United States was going into recession. It was going to have two or maybe three quarters of negative growth. This country does not have that. This country is going to have at least 3.8 per cent annual growth, probably more. In spite of the unfortunate collapses of those major companies—and they are major companies; HIH was a major insurance company, Ansett is a major icon company carrying 40 per cent of Australian passengers and Pasmenco is one

of the big lead zinc smelters of the world—this economy is actually booming.

But I was surprised that no effort was made on Ansett. I think that no effort was made on Ansett by the senators I have mentioned simply because they have lost it. The opposition has lost it. When the opposition brought out the Transport Workers Union heavies, to get them involved and demonstrating, I heard some of those people speaking in grunts or monosyllables and I do not think that anyone in Australia could understand what they were saying. Why not come out and say: 'Let us look at what has happened to this company of Ansett. Why did it collapse? Why was it allowed'—if this proves to be the case—'to sell off 11 jets only a few months ago, with Air New Zealand pocketing the money and letting the liability stay with Ansett?' What is wrong with that? Why rail against a government that has done so well for this economy since 1996 when we came to office.

In the 13 years that Labor was in power, it retreated. You will recall 11½ per cent unemployment. It was quite extraordinary. There was \$90 billion worth of foreign debt. Some of the legislation that was passed then was with respect to regulatory interference in the Australian economy. This is what this opposition is talking to today. They are saying that the government should interfere in the private sector. We know what happens when government interferes in the private sector.

This government is saying, 'Not only will we roll back the GST and partly destroy a cash flow—a growth tax—to the states, but we are going to give part of that GST—6½ per cent—to local government. We are going to raise spending on research and development, we are going to raise spending on the universities, and we are going to raise spending in all other areas and we are going to roll back taxes at the same time.' Then they are going to say that their government should pick up the tab for collapsed companies. They are going to say that not only should they pick up the tab for private sector companies that collapse, but they should also pick up the tab for foreign companies that

collapse in Australia. How bloody ludicrous! How absolutely silly!

The DEPUTY PRESIDENT—Order!

Senator LIGHTFOOT—I withdraw ‘bloody’. How absolutely ludicrous. Where is the money going to come from? My advice to the opposition, if they ever get back into power again, is to stay out of the private sector, keep your noses out of this business, keep your trade union leaders under control and you may get somewhere. You are frightening the people and you are doing it just before an election. I think that is rather good. *(Time expired)*

Senator SCHACHT (South Australia) (3.52 p.m.)—Firstly, I cannot help but respond to the remarks of Senator Lightfoot when he said that the Liberal government does not want to interfere in private enterprise. What was the Prime Minister doing when he bailed out his brother’s company when it went broke—

Senator Lightfoot—What was Paul Keating doing when he bailed out the pig farm?

Senator SCHACHT—You stated that you don’t want to interfere, but when the company of which the Prime Minister’s brother is the chairman goes broke, with entitlements at stake and losses being incurred by individuals, the Prime Minister intervenes and pays the full entitlement. The reason that happened is that he did not want the heat or an investigation on his brother which might lead to charges being laid about the company trading while it was insolvent and about incompetent management. He got his brother off the hook. That was interference to help his brother. That is what the Liberal Party policy is about—helping your mates.

I turn to the specifics of the question asked today of the Minister for Industry, Science and Resources, Senator Minchin. Yesterday, he said the government was doing a wonderful job with the economy. Over the last several months small businesses have experienced higher than normal levels of bankruptcies which have been created because of problems with the implementation of the GST, the squeeze on cash flow and the unnecessary paperwork. That is a bellwether

mark about how bad the economy is going at the hands of the government, through its own work. We have seen the collapse of major companies— One.Tel, HIH, Ansett and, today, Pasminco. In total, the collective debts are running at well over \$10 billion or \$12 billion. Even if you were Alice in Wonderland, like the minister, you could not say that the economy was doing well. Major companies are going down the gurgler leaving massive debts and workers are losing their jobs. There has not been a period like this, with such major companies falling over, for many years. The only problem that these companies have is that Stan Howard is not their chairman. If Stan Howard had been the chairman of One.Tel, HIH, Ansett and Pasminco, on the track record of the Prime Minister they would all be bailed out.

Senator Watson—What has happened to workers at Ansett?

Senator SCHACHT—The Prime Minister has made it clear that the full entitlements under the award will not be paid. They were for National Textiles—Stan Howard’s company—but they will not be for Ansett. There is a limit on the entitlements because it is not his brother’s company. The minister for industry is telling us that the economy is going well. We have the government blaming the board of Ansett. I noticed yesterday that the Speaker of the House of Representatives, a member of the Liberal Party, ruled that it is now unparliamentary to call someone a New Zealander. That is how stupid this situation is and how low this government has gone. It is unparliamentary to call somebody a New Zealander, because of their attack.

Why don’t they point out, as we did yesterday, that one of the major directors of Air New Zealand is Sir Charles Goode, a scion of the Melbourne establishment—a man who is the bag carrier, the fundraiser, for the Liberal Party. He is on the board. He is chairman of the ANZ bank. He is part of the old boys’ network which collectively shares it around amongst themselves, and he is a senior member of the Liberal Party. Wasn’t he telling his mates, like the Prime Minister and the minister, ‘Listen, something is going wrong with the company I am a director of, Air New Zealand. We have made a stupid acqui-

sition. We can't run, we can't manage, we can't fund Ansett.' No, apparently he did not tell John Anderson. This man who runs the Liberal Party in Victoria, who is the fundraiser, did not tell anybody in the Liberal Party how bad things were. He is going to have to face the music. He may well have breached the Companies Act by trading when the company was insolvent, which is a clear breach of the act. (*Time expired*)

Question resolved in the affirmative.

Nauru

Senator BARTLETT (Queensland) (3.58 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) to a question without notice asked by Senator Bourne today relating to the costs associated with the processing of asylum seekers in Nauru.

This relates to just one tiny aspect, but a tawdry aspect on its own, of this massive, shameful imbroglio and farcical approach that is being played out by the federal government in relation to the asylum seekers issue. The Democrats have repeatedly asked, including today and yesterday—and many others have asked—what the full cost is of housing the *Tampa* asylum seekers in Nauru and what the long-term cost is. We know that there is a \$20 million special sweetener. We know that there are millions and millions of dollars in expenses for the Defence Force. We know that extra money has been spent on construction of facilities. But we do not know what the costs are; the government will not tell us, nor will they state whether there are any accountability measures to ensure that the money is directed to what it is intended for. This is an important matter—it is always important to have accountability measures—particularly given the facts that are coming to light about the nation of Nauru and the issue of financial impropriety there.

The ABC's *Foreign Correspondent* program made serious allegations concerning financial impropriety in the business dealings of the Nauru President. The Nauru Justice Commission also believes that there has been a serious misappropriation of funds by the Nauru government and the Nauru Phosphate Corporation. The OECD believes Nauru to

be a significant money-laundering centre and its recent report recommends member states apply countermeasures in their financial dealings with it. Money laundering can be linked with both organised crime and, most interestingly in the current circumstances, the financing of terrorism.

The Australian public is entitled to know what role the Nauru government will have in administering funds—substantial amounts of taxpayers' funds—that are provided in relation to this issue; what businesses the Australian or Nauru governments have engaged to provide services to the asylum seekers from the *Tampa* and others, and quite probably for future asylum seekers as well; the extent to which Australian taxpayers' funds will be passing through the Nauru financial system; and, the extent to which the Australian government has complied with the OECD recommendations on financial dealings with Nauru. The minister was not able to and did not answer that today.

In speaking of engaging services on Nauru, we find in a report which has come out from the ABC in the last few hours that the local police in Nauru have imposed an information block-out on the camp in the centre of the island where the asylum seekers have been transferred. The police have blocked the only access road to the camp on the orders, they say, of the private security firm hired to act as guards at the camp. Once again, this is outsourcing on top of outsourcing. This is a private security firm instructing the police what to do. How much are they being paid? What controls are in place? Where are the accountability measures? This government will not tell us.

The government's approach to this issue has been a shambles from start to finish. It has had a totally inadequate and unworkable approach to the serious issue of asylum seekers, refugees and displaced people. Even in this one area millions of dollars of taxpayers' money is being spent with no accountability. We have no idea of how much is being spent. We see the clamp down again—no information is allowed out. This action to block access to the camp came after a number of detainees came to the fence of the camp to speak to reporters. What a crime! How terri-

ble it is to speak to reporters! Obviously, we cannot have that.

It is clearly the intent of this government, wherever possible, to prevent access to information even about the reality of the human situation that these people have experienced. The government is not providing information about the money being provided, the accountability mechanisms that are in place and whether they have followed the OECD recommendations to counteract and deal with money laundering—the widespread financial impropriety that is identified in that OECD report. This is a significant money laundering centre. It is probably one of the worst in the world, if you look at that report. It breaches all sorts of criteria on all sorts of grounds. There has been no information on this from this government. It is typical and says it all. This is the one place the Australian government has managed to find to assist it out of the debacle that it has got itself into. It has had to get the bribe from the federal government to go ahead. The federal government is basically buying its way out of this debacle of a policy with no accountability and with a nation that has any number of black marks against it and it is providing no information at all. (*Time expired*)

Question resolved in the affirmative.

PERSONAL EXPLANATIONS

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.03 p.m.)—by leave—Some four weeks ago Senator Ray said in the chamber:

If I were a real muck-raker, I would have run out the fact that a senior Liberal minister went down to the panel beater at Collingwood and got his electorate car repaired and paid for the repairs with cash.

Having since, on a number occasions across the chamber, made calls to me to come clean about why I paid cash to panel beaters in Collingwood, Senator Ray then threw caution to the winds yesterday and had no inhibitions at all about naming me publicly in the Senate. He said:

I asked Senator Alston by way of interjection why he took his taxpayer funded car down to the panel beaters at Collingwood, got it repaired and paid for it in cash ... The explanation from the panel

beaters was that he was trying to dodge paying GST. ... I have got no idea whether the story is right or not, but I do not mind floating it around ...

Senator O'Brien—That is not what he said.

Senator ALSTON—That is what he said. It is a direct quote. These allegations are very revealing. They make it plain that Senator Ray does fall within his own definition of muck-racking and that he made inquiries into the matter. He said, 'I investigated it and found that the full GST was paid.' He also referred last night to an explanation given by the panel beaters. So it is quite clear that Senator Ray has taken the time and trouble to make some inquiries into the matter and on that basis is quite happy to make very serious allegations about possible impropriety, even though he says, 'I have no idea whether the story is right or not.'

The facts are as follows. Since 1 July last year, which of course is the relevant date, given the allegations relating to the GST, to my knowledge my Commonwealth funded car has not been repaired at Collingwood or anywhere else. However, my private family bomb was involved in an accident when it was being driven by one of my family members and was taken to a panel beating shop in Collingwood for repairs to be carried out and paid for by the vehicle's comprehensive insurer. At the same time, we took the opportunity to have the same panel beater carry out repairs to damage which had been inflicted some time earlier and which was unrelated to the accident. When this work was completed, I attended the panel beaters with my wife, paid for the repairs, being \$1,150 plus GST of \$115 totalling \$1,265, by way of credit card. I have both a copy of the original invoice, which makes it clear that the total amount including GST was paid in full, and also a photocopy of my credit card statement, which shows that the same amount was debited to my account on the same date, 21 October 2000. In these circumstances, it is beyond comprehension how Senator Ray could have made inquiries of the panel beater and yet not bothered to ask, firstly, in whose name the vehicle was registered—

Senator O'Brien—Mr Acting Deputy President, I raise a point of order. I think it is

quite in order for Senator Alston to explain where he has been misrepresented, but it is not appropriate for him to reflect upon Senator Ray in the context of that explanation.

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—I did not take what Senator Alston had said to be a reflection on Senator Ray in the terms we normally regard reflections on other members of this chamber. There is no point of order.

Senator ALSTON—He could have asked, secondly, whether the invoice disclosed the payment in full and, finally, how such amount was paid. It is very difficult to believe that the panel beater would have claimed that the amount was paid in cash when they must have known from their records that it was not. I have since endeavoured to make contact with the panel beaters, but I understand that they have gone out of business. The more likely explanation is that Senator Ray heard that a car belonging to me had been repaired by the panel beaters and in his breathless excitement to dig up dirt somehow allowed himself to be persuaded that the amount had been paid for in cash. The only other explanation is that Senator Ray knew at all times that it had not been paid for in cash but just thought he would throw around some dirt. It will be very interesting to see whether Senator Ray is now prepared to apologise. If not, I would certainly hope that he would be prepared to repeat his allegations outside the chamber so I can buy myself a decent new car.

DOCUMENTS

Auditor-General's Reports

Reports Nos 12 and 13 of 2001-02

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—In accordance with the provisions of the Auditor-General's Act 1997, I present the following reports of the Auditor-General: report No. 12 of 2001-02—*Financial Control and Administration Audit - selection, implementation and management of financial information systems in Commonwealth agencies*; and report No. 13 of 2001-02—*Performance Audit - Internet security within Commonwealth government agencies*.

COMMITTEES

Public Accounts and Audit Committee Report

Senator CALVERT (Tasmania) (4.08 p.m.)—On behalf of Senator Gibson and the Joint Committee of Public Accounts and Audit, I present the following report of the committee: *report No. 385: Review of Auditor-General's Reports, 2000-2001, second and third quarters*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator CALVERT—I move:

That the Senate take note of the report.

I seek leave to incorporate the tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

Madam President, on behalf of the Joint Committee of Public Accounts and Audit, I present the Committee's Report No. 385—Australian Taxation Office Internal Fraud Control Arrangements, Fraud Control in Defence and Defence Estate Facilities Operations. This is our Review of Auditor-General's Reports for the second and third quarters of 2000–2001.

Madam President, the Committee held a public hearing on Friday, 2 May 2001 to discuss these ANAO Reports with the relevant Commonwealth agencies. I will briefly discuss issues in each of the selected reports in turn.

Audit Report No.16 examined the **Australian Taxation Office Internal Fraud Control Arrangements**. The audit of fraud control arrangements in the ATO forms part of a series of performance audits by the ANAO on the management of fraud control in Commonwealth agencies.

The prevention and detection of fraud within the Commonwealth public sector is not only important to protect Commonwealth revenue, expenditure and property, but also to maintain the Parliament's and community's confidence in the staff and operations of public sector agencies.

The Committee acknowledges that the ATO is moving positively in the areas of fraud control planning and staff education and training. This is especially relevant for outsourced programs.

The Committee believes that when work is contracted out by an agency, the contractors' staff should be put through the same security checks as the agency's own staff and should have the same level of fraud awareness. The ATO must actively

manage the risks of change, and should have a high awareness of what those risks are.

The Committee is aware that the Attorneys-General have been working with agencies to reach an agreed definition of fraud. The community understanding of fraud, both in Australia and overseas, would not generally encompass acts such as inappropriate accessing of taxpayer files. The Committee considers it would be useful for the ANAO, in its preparation of a better practice guide on fraud control, to develop subcategories of fraud to clarify the nature of the fraud for the purposes of fraud reporting. The Committee has recommended accordingly.

In the second report selected, Audit Report No. 22, the Committee examined the strategies developed for **Fraud Control in Defence**. It was cognisant of the fact that there was scope for improvement in Defence's corporate governance with reference to fraud control. For instance, Defence's Chief Executive Instructions did not comply with the Commonwealth fraud control policy requirement to review its fraud control arrangements every two years. The audit found that Defence lacked a suitable fraud intelligence capability, thereby making it difficult for Defence to estimate accurately the extent of fraud in or against Defence.

Although the Committee accepts that the amount of fraud detected in Defence has been fairly consistent over the past five years, the Committee questions whether Defence has been as diligent as it could be in detecting fraud, given that its asset register 'is not in good shape' and fraud investigation is undertaken in four separate areas: the Inspector-General's division and the military police in each of the services.

The Committee is not convinced that the financial and administrative systems Defence has in place are sufficient to obtain an adequate organisational view of the occurrence of fraud in Defence. The Committee recommends that Defence address the shortcomings in its asset registers and develop a fraud intelligence capability.

I now turn to the final ANAO report the Committee reviewed in this quarter—Audit Report No. 26, **Defence Estate Facilities Operations**, which sought to assess the efficiency and effectiveness of the management of the Defence estate, given its importance in supporting Defence in the achievement of its mission.

The Committee was told that following its creation in 1997, the Defence Estate Office (DEO) had made a significant effort to develop and implement a strategic, corporate-focused framework for the delivery of maintenance work through its

Facilities Operations Program. Initiatives, such as the Comprehensive Maintenance Contract, focus on economies and efficiencies that earlier approaches and/or methods lacked.

Having considered the evidence, the Committee is not satisfied that all the problems have been addressed effectively. Defence's poor record in contract and project management shows that Defence still has a long way to go before DEO staff are able to effectively exercise their responsibilities for properties and assets with a gross replacement value of \$14.8 billion.

May I conclude, Madam President, by thanking on behalf of the Committee, the witnesses who contributed their time and expertise to the Committee's review process.

The Chairman has asked me to thank my colleagues on the Committee who have dedicated their time and effort to reviewing these Auditor-General's reports. As well, I would like to thank the members of the secretariat who were involved in the inquiries.

Madam President, I commend the Report to the Senate.

Senator CALVERT—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Works Committee

Reports

Senator CALVERT (Tasmania) (4.09 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present the following reports: No. 9 of 2001—*RAAF Base Townsville Redevelopment Stage 2, Townsville, Queensland* and No. 10 of 2001—*Redevelopment of the Army Aviation Centre Oakey, Queensland*. I seek leave to move a motion in relation to the reports.

Leave granted.

Senator CALVERT—I move:

That the Senate take note of the reports.

I seek leave to incorporate my tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

Introduction

On behalf of the Parliamentary Standing Committee on Public Works I would like to make some brief comments on the two reports I have just tabled. They are:

- the Committee's Ninth Report of 2001 titled, RAAF Base Townsville Redevelopment Stage 2, Townsville, Queensland; and
- the Tenth Report of 2001 titled, Redevelopment of the Army Aviation Centre Oakey, Queensland.

RAAF Townsville

The first report relates to the ongoing redevelopment of RAAF Base Townsville.

RAAF Base Townsville is one of a chain of airfields maintained for defence and surveillance of the northern areas of Australia.

Together with the RAAF Base Scherger in Weipa, North Queensland, RAAF Base Townsville provides operational and support facilities for the air defence of northern Queensland and its approaches.

The Base is a joint user airfield, supporting both military and civil aircraft operations. The civil aviation facilities are capable of accommodating general aviation, domestic and international operations.

The Defence White Paper 2000 has reiterated the importance of cover over the maritime approaches in the defence of Australia. I should note that a Defence presence in northern Australia has bipartisan support.

Over the last five years the RAAF Base in Townsville has become the largest mounting Base of the Australian Defence Force. During regional crises such as those that occurred in Bougainville, the Solomon Islands and East Timor, the Base was used primarily to train personnel for overseas activities. During the East Timor crisis, there were 17 nations training at the Base.

Since 1972 continuous upgrading of the RAAF Base Townsville have been the subject of Committee reports. The most recent report was the Stage 1 Redevelopment tabled in 1999.

The need

During its inspection of the Base, the Committee saw at first hand inadequate and aging facilities. The Committee needed little convincing that the redevelopment project was appropriate and timely.

Staged Development

I would like to make some comment about staged development projects submitted to the Committee by the Department of Defence.

The Committee was concerned to learn during the course of the inquiry that some elements in the Stage 1 redevelopment were deferred to a subsequent stage, even though they were considered a priority for Stage 1.

In particular, I refer to:

- the Ordnance Loading Apron that was approved by the Committee during the Stage 1 inquiry; and
- the cancellation or possible deferral for 10 years of the Light Tactical Aircraft facilities.

The Committee is of the view that it must be able to determine the relationship between the individual stages of proposed developments in order to enable it to make considered recommendations for each individual stage. The Committee has therefore recommended that Defence provide in its statement of evidence for each stage, an overview of the full scope of the redevelopment, including the specific cost for each element of the proposed work.

With regard to the Stage 2 Redevelopment at the RAAF Base Townsville, the Committee recommends that the project to proceed at the capped budget of \$72.5 million.

Army Aviation Centre

I now turn to the second Committee Report I have tabled today.

This Report refers to the Redevelopment of the Army Aviation Centre at Oakey in Queensland. It involves the upgrading of the Army Aviation Training Centre and includes facilities for the introduction of the armed reconnaissance helicopter and the Army component of the Australian Defence Force Helicopter School.

The Committee has found the proposed work necessary and recommended it proceed.

Need

The need for the redevelopment of the Army Aviation Centre has four elements. They are:

- first, the Government's decision to move the Army component of the Australian Defence Force Helicopter School from Canberra to Oakey;
- secondly, the strategic decision to retain the Oakey base in the long term;
- thirdly, the acquisition of a new armed reconnaissance helicopter for the Australian Defence Force; and
- fourthly, the inadequacies of existing facilities at Oakey.

The training of pilots, ground crew and maintenance technicians for the armed reconnaissance helicopters will be undertaken at Oakey.

Redevelopment Options

Defence advised the Committee that, in view of the decision to retain the Oakey Base in the long term, the options of rebuilding elsewhere or demolishing the majority of existing buildings and starting again were not economically viable.

To rebuild elsewhere would not only incur the budgeted cost of this project estimated at \$76.2 million, but would also incur the additional expenditure to replace existing suitable infrastructure.

There would also be significant costs associated with the relocation of personnel.

Defence also advised the Committee that considerable scope exists at Oakey for refurbishment of existing facilities and this will be further examined during the detailed design phase.

Project Cost

The estimated out-turn cost is \$78.5 million - that is the current estimate of the cost of the proposed works, including escalation and contingency.

Defence informed the Committee that it will refine the details of the scope of works through value management workshops and further develop the designs for each facility.

Defence is confident that the project will be able to be delivered within the budgeted out-turn cost of \$76.2 million.

Other Issues

While Defence does not believe that there are heritage issues associated with the project, the Australian Heritage Commission expressed concern about the possible impact on areas of both cultural and ecological significance. The Committee has therefore recommended that Defence consult with the Australian Heritage Commission to ensure that sites of both cultural and ecological significance are protected.

Defence has assured the Committee that in line with the Commonwealth's commitment to improve energy management and the need to reduce greenhouse gas emissions, energy efficiency is a key objective in the design, development and delivery of Defence facilities.

In this context, the Committee welcomes the commitment by Defence to consult with the Australian Greenhouse Office on energy efficiency matters on all future major Defence facilities projects. The Committee also welcomes Defence's decision to engage an expert energy adviser for the Oakey project.

An important aspect of the Committee's investigation of public works is the opportunity for stakeholders to raise concerns with the Committee about a proposed work.

In the case of the Oakey project, the Jondaryan Shire Council, within whose boundaries the Oakey base is situated, raised a number of concerns. They concerned:

- the proposed new civil terminal;

- the impact of Base traffic on local roads; and
- the need for additional water supplies and sewage treatment.

The Committee has recommended that Defence continue to consult with the Jondaryan Shire Council on these issues.

On the evidence presented by both Defence and the Jondaryan Shire Council, the Committee is satisfied that a mutually beneficial outcome will be agreed to.

Conclusion

As I have already indicated, the Committee supports the redevelopment of the Army Aviation Centre at Oakey and has therefore recommended that the proposed work proceed at an estimated cost of \$76.2 million.

Senator CALVERT—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2001

First Reading

Bill received from the House of Representatives.

Motion (by **Senator Boswell**) agreed to:

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

Bill read a first time.

Second Reading

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.10 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Bill amends the Indigenous Education (Targeted Assistance) Act 2000 to provide additional funding for projects involving partnerships between communities, industry and education providers as well as projects which provide support for vocational learning for Indigenous secondary students. This funding is being targeted in response to recommendations in the "Participation Report for a more Equitable Society", the final

report of the Reference Group on Welfare Reform, chaired by Patrick McClure.

In particular, the Government will provide \$8.6 million over 4 years to promote better links between communities, industry and education providers and build self-reliance for Indigenous people through encouraging Indigenous secondary school students to complete Year 12 and to progress to tertiary and further education. Funding will be used to implement programmes aimed at promoting early intervention strategies to improve education outcomes for Indigenous school students.

The initiative will draw on the experiences of the Polly Farmer Foundation 'Gumala Mirnuwarni' project which has been successfully operating in Western Australia. The project vision of the 'Gumala Mirnuwarni' project is to improve the educational outcomes for Aboriginal students in the Roebourne area to a level commensurate with the broader population so that they are able to compete effectively for apprenticeships and commercial cadetships, or to pursue further education and employment opportunities. This partnership model and related networks will be used to seek out interested communities, businesses and industry bodies willing to participate in the initiative. The outcomes will be achieved by the students themselves as participants with the active support of their families; individual schools supporting improved outcomes for the students; the businesses that offer the students workplace learning and post-school training opportunities; the TAFE/VET providers that may be engaged to deliver elements of the students' skills development; and other 'auspicing' type bodies such as Indigenous education consultative bodies.

The Bill also amends the Act to provide funding to non-profit Aboriginal and Torres Strait Islander organisations following changes in the operation of the Fringe Benefits Tax Assessment Act 1986. The changes, which came into force on 1 April 2001, restrict the eligibility of charities and other non-profit organisations to tax concessions to a maximum of \$30,000 of the gross taxable value of the benefit per employee. This requires organisations to pay Fringe Benefits Tax at the rate of 48.5 cents in the dollar on the taxable value of these benefits - about \$30,000 per employee.

This will have a significant impact on some Aboriginal and Torres Strait Islander organisations which must offer competitive salary packaging to attract suitably qualified staff, especially in remote areas. The Bill provides \$2.86 million over 4 years to ensure that Aboriginal and Torres Strait Islander organisations can continue to provide competitive salary packages which is a significant

way in which Indigenous organisations attract suitably qualified staff, especially to organisations located in remote areas. This will ensure that such organisations, and the students who are educated by those organisations, are not disadvantaged by these changes.

I commend this Bill to the Senate.

Ordered that further consideration of this bill be adjourned to the first day of the 2001 summer sittings, in accordance with standing order 111.

EXCISE TARIFF AMENDMENT (CRUDE OIL) BILL 2001

First Reading

Bill received from the House of Representatives.

Motion (by **Senator Boswell**) agreed to:

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

Bill read a first time.

Second Reading

Senator BOSWELL (Queensland—**Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services**) (4.11 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Excise Tariff Amendment (Crude Oil) Bill 2001 contains amendments to the Excise Tariff Act 1921.

On 15 August 2001, the Government announced an overhaul to the Excise Tariff Act to encourage oil exploration and production both onshore and offshore, perhaps leading to associated increased gas discoveries. The changes, which apply retrospectively from 1 July 2001, will streamline current legislation and reduce certain crude oil excise rates.

The changes arise from the Government's response to concerns raised by industry groups that the high excise impost on old oil fields versus new discoveries discourages full commercialisation of those existing valuable resources.

These amendments will promote exploration, with a view to higher production levels of oil and gas. Ultimately, the consumer and Australia will benefit from efforts to meet future energy needs

and enhance Australia's self-sufficiency in oil and gas.

Increased domestic gas production is an important alternative source of energy for Australian industry. New discoveries of gas, in particular, could underpin the Government's efforts to promote a gas to liquids industry in Australia.

Full details of the measures in the bill are contained in the explanatory memorandum.

I commend the bill and present the explanatory memorandum.

Debate (on motion by **Senator O'Brien**) adjourned.

**BANKRUPTCY LEGISLATION
AMENDMENT BILL 2001
BANKRUPTCY (ESTATE CHARGES)
AMENDMENT BILL 2001**

First Reading

Bills received from the House of Representatives.

Motion (by **Senator Boswell**) agreed to:

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

Bills read a first time.

Second Reading

Senator BOSWELL (Queensland—*Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services*) (4.12 p.m.)—I table a revised explanatory memorandum relating to the *Bankruptcy Legislation Amendment Bill 2001* and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**BANKRUPTCY LEGISLATION AMENDMENT
BILL 2001**

Bankruptcy was devised as a shield that might be used, in the last resort, by an impecunious debtor to seek relief from his or her overwhelming debts.

Over the years, some unscrupulous debtors have learned to use bankruptcy as a sword to defeat the legitimate claims of their creditors.

This Bill will clamp down on those who use bankruptcy in a mischievous or improper way.

By doing so, we will protect those in the community who must become bankrupt, from the odium and stigma caused by a few who abuse the process.

By restoring the integrity of the system we will promote confidence in it.

This aim will be achieved by a series of linked measures.

There will be a new discretion to reject a debtor's petition where it is apparent that the petition is an abuse of the bankruptcy system.

The early discharge provisions, which have permitted some bankrupts to emerge from bankruptcy after only 6 months, will be abolished.

The trustee will be given stronger powers to object to the discharge from bankruptcy of uncooperative bankrupts, thus extending their bankruptcy for 2 or 5 years.

A new 'cooling off' period of 30 days will be introduced so that most debtors will not become bankrupt until 30 days after presenting their petition.

This will allow creditors an opportunity to negotiate with the debtor about alternative strategies.

Finally, the Courts' power to annul a petition which is an abuse of process will be specifically confirmed as available even if the debtor is insolvent.

Bankruptcy will still be available to people in severe financial difficulty who simply need a fresh start.

However, these new measures will encourage people who can and should avoid bankruptcy to consider carefully other options, such as a debt agreement, and will make bankruptcy tougher for those bankrupts who do not co-operate with their trustee.

Consultation

The amendments proposed in the Bill reflect the outcome of more than two years of consultation with various stakeholders in the personal insolvency field.

In particular, there has been consultation with members of the Bankruptcy Reform Consultative Forum, a peak consultative body that the Attorney-General established in 1996 to facilitate better consultation between the Insolvency and Trustee Service Australia (ITSA) and key groups with a stake in the bankruptcy laws.

An Official Receiver's Discretion To Reject A Debtor's Petition

Official Receivers will be given a limited discretion to reject a debtor's petition where it appears that, within a reasonable time, the debtor could

pay all the debts listed in the debtor's statement of affairs and it is apparent that the debtor's petition is an abuse of the bankruptcy system, such as when the debtor has singled out one creditor for non-payment, or is a multiple bankrupt.

This measure is directed at blatant abuses of the system.

It is not envisaged that any petition will be rejected under this proposal without personal or telephone contact first being made with the debtor by experienced ITSA staff.

The exercise of the Official Receiver's discretion to reject a petition will be subject to external administrative review.

Early Discharge Provisions To Be Abolished

The minimum standard period of bankruptcy is 3 years.

However, about 60% of bankrupts are eligible for early discharge after 6 months, although only about half of those actually apply.

The Bill proposes the abolition of the early discharge provisions of the Act.

They are most often cited as the cause of concern that bankruptcy is too easy.

The reduced period of bankruptcy is seen to discourage debtors from trying to enter formal or informal arrangements with their creditors to settle debts, and provides little opportunity for debtors to become better financial managers.

Early discharge can also be quite discriminatory.

A debtor who has an income sufficient to make contributions to the estate, or whose estate has assets available for distribution to creditors (factors which disqualify them from early discharge) is by no means necessarily less worthy of early discharge than a debtor whose estate has no money.

In addition, allowing only those whose debts do not exceed 150% of income to apply, discriminates against women who have joint debts with, and generally a lower income than, their spouse.

Abolishing early discharge will overcome these anomalies.

Strengthening Of Objections To Discharge

For the unco-operative bankrupt, stronger objection-to-discharge provisions will mean that the bankruptcy can more readily be extended by a trustee filing an objection to discharge.

The objection-to-discharge provisions allow bankruptcy trustees to file an objection to the bankrupt's automatic discharge before the end of the 3 year standard period of bankruptcy. Depending on the grounds of objection, the bank-

ruptcy period can be extended by 2 years or, in a serious case, by 5 years.

The Bill proposes that certain grounds of objection be classified as 'special ground' cases, where only the facts will be needed to found the objection.

This will make it much easier to sustain the objection than is currently the case.

The special grounds will apply to deliberate actions by bankrupts which frustrate trustees, and add unnecessarily to the costs of administrations.

A reviewer will not be able to cancel an objection by taking into account any conduct of the bankrupt after the time when the ground first commenced to exist.

This will overcome a deficiency in the present law which can encourage a bankrupt to co-operate with the trustee only at the last moment, that is, when a review hearing is imminent.

Cooling-Off Period

The Bill proposes the introduction of a mandatory 30 day cooling-off period in relation to debtor petition bankruptcies under which debtors will not become bankrupt until 30 days after presenting their petition.

The protection from creditors afforded to debtors for the 30 day period will allow debtors who have acted hastily in petitioning for bankruptcy to reconsider their decision.

If, on reflection, they are satisfied that bankruptcy is not the best option for them, they will be able to withdraw their petition.

The cooling-off period also will allow the creditors the opportunity to negotiate with the debtor to choose an alternative that avoids bankruptcy.

The cooling-off period is not appropriate in cases where, for example:

- the debtor has attempted an alternative to bankruptcy in the past 12 months;
- the debtor is in business or has assets at risk of dissipation if a trustee is not appointed immediately; or
- a creditor proceeding to recover the debt, such as a creditors' petition, is pending.

The cooling-off period will not apply in these situations.

Strengthening The Court's Power To Annul Debtors' Petition Bankruptcies

Under present law, the Court may annul a debtor's petition bankruptcy where it is satisfied that the petition ought not to have been presented or ought not to have been accepted by the Official Receiver.

The Bill proposes to clarify the Court’s annulment power so that it can annul a debtor’s petition bankruptcy whether or not the bankrupt was insolvent when the petition was presented.

The amendment is intended to strengthen the Courts’ power to annul a bankruptcy which is an abuse of the bankruptcy process, for example, in the case of high-income bankrupts who may be technically insolvent (that is, unable to pay a debt as it falls due) but who readily could borrow or make other arrangements to repay the debt.

I emphasise that the amendment will not deny the protection that bankruptcy affords to debtors who genuinely need it.

Most people who declare bankruptcy are on low incomes and have relatively low levels of debt.

However, the bankruptcy of a person who, for example, has made a lifestyle choice not to pay tax, could be annulled under this provision.

Doubling Of Debt Agreement Income Threshold

To encourage the increased use of debt agreements, a low cost alternative to bankruptcy introduced in 1996, the Bill will double the eligible income threshold to approximately \$61,000 after tax in relation to debt agreement proposals.

This will ensure that a far wider group of debtors is eligible to make a debt agreement proposal to creditors, and thereby avoid bankruptcy.

Streamlined Bankruptcy Act Procedures

The Bill proposes many technical and machinery changes intended to improve the operation of the Act, and streamline bankruptcy administration processes.

Summary

In summary, the Bill introduces timely changes to bankruptcy law and practice aimed at ensuring that the interests of debtors and creditors are better balanced and at further streamlining technical and machinery provisions of the Act.

BANKRUPTCY (ESTATE CHARGES) AMENDMENT BILL 2001

The Bankruptcy (Estate Charges) Amendment Bill 2001 will amend the Bankruptcy (Estate Charges) Act 1997 to exempt any surplus in a bankrupt estate from the scope of the realisations charge.

It also will align charge periods with the financial year, remove current payment obligations for the interest charge and the realisations charge if the amount otherwise payable is less than \$10 in a charge period, and close some charge-avoidance opportunities.

Ordered that further consideration of these bills be adjourned to the first day of the 2001 summer sittings, in accordance with standing order 111.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Reference

Consideration resumed.

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—The question is that Senator Brown’s motion be agreed to.

The Senate divided. [4.17 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes.....	8
Noes.....	<u>41</u>
Majority.....	33

AYES

Allison, L.F.	Bartlett, A.J.J.
Bourne, V.W. *	Brown, B.J.
Lees, M.H.	Murray, A.J.M.
Ridgeway, A.D.	Stott Despoja, N.

NOES

Abetz, E.	Boswell, R.L.D.
Brandis, G.H.	Buckland, G.
Calvert, P.H.	Campbell, G.
Carr, K.J.	Chapman, H.G.P.
Collins, J.M.A.	Cook, P.F.S.
Cooney, B.C.	Crane, A.W.
Denman, K.J.	Eggleston, A.
Ferguson, A.B.	Ferris, J.M.
Gibson, B.F.	Herron, J.J.
Hogg, J.J.	Hutchins, S.P.
Lightfoot, P.R.	Ludwig, J.W.
Lundy, K.A.	Macdonald, J.A.L.
Mackay, S.M.	Mason, B.J.
McGauran, J.J.J.	McLucas, J.E.
Murphy, S.M.	O’Brien, K.W.K. *
Patterson, K.C.	Payne, M.A.
Ray, R.F.	Reid, M.E.
Schacht, C.C.	Tambling, G.E.
Tchen, T.	Tierney, J.W.
Vanstone, A.E.	Watson, J.O.W.
West, S.M.	

* denotes teller

Question so resolved in the negative.

In division—

Senator Brown—Madam President, I draw senators' attention to the provisions for senators' interests under the standing orders. Senators who have an interest in land, wood-chip corporations, plantations or other matters which could be affected by the regional forest agreements, should declare that interest.

Question so resolved in the negative.

GOODS AND SERVICES TAX: INTRODUCTION

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (4.21 p.m.)—I move:

That the Senate condemns the Government for introducing a goods and services tax after promising 'never, ever' to do so and for the damage that this regressive tax has done to small business, middle- and low-income earners, and particularly Australian families, through the botched way it has been implemented and continues to operate.

The Treasurer, Peter Costello, in the House of Representatives on 29 May last year, said:

All Australians will be better off under the new tax system.

I do not think that there is a single person in Australia—apart from perhaps those on the other side of this chamber—who would consider that this promise was kept. Indeed, even those on the other side of this chamber know in their heart of hearts that this promise has been broken. The new tax system, particularly the GST, has been extremely damaging in so many respects to the Australian community.

Let me address the implementation of this unfair and regressive tax. There is clear evidence that this tax is having a devastating impact on small business and ordinary Australians who are least able to withstand its impact. We already know that the GST has not spared the overall economy, with economic growth less than half the level it was before the GST's introduction and with almost weekly announcements of proud Australian companies going under, turning belly-up.

We also know that the GST has been bad for jobs. While Peter Costello's *A New Tax System* document promised 'the combination of higher growth and improved work incen-

tives will deliver more jobs and lower unemployment', we know that the GST has been devastating on employment. Since the introduction of the GST, the rate of job growth has flatlined and the unemployment rate has risen. We have seen the following: a fall in the number of full-time employed persons of 87,700; a fall in full-time male jobs of 68,400; a rise in the unemployment rate of 0.7 percentage points; a rise in the number of unemployed of 77,500; a drop in the rate of growth in jobs of 0.6 per cent, after peaking at 3.7 per cent in July last year; and a rise in youth unemployment from 20.8 per cent to 23.5 per cent. The source for those figures is the Australian Bureau of Statistics labour force figures of 13 September 2001.

In terms of the impact on small business, the Society of Certified Practising Accountants—the CPA—survey of 600 small businesses released this week shows that all sectors of small business believe the GST has had a negative impact on their business. The survey confirms small business anger at the new tax system can no longer be dismissed as a transitional problem. More than a year after the introduction of the new tax system a staggering 72 per cent of small business say that it has increased their workload; 56 per cent of small business believe it has had a negative impact on their cash flow; just 19 per cent believe it has improved their business, with 39 per cent rating it as having a negative impact on their business activities; and just seven per cent say it improved payments of debts, with 40 per cent finding that the new tax system slowed down payments by debtors.

Regardless of whether they are in the city or the country and regardless of their turnover, the findings are the same for small business: the GST has been a disaster. Government attempts to improve the hated—and I use that word advisedly, because everywhere you go the reaction is one of pure hate—business activity statement, the BAS certificate, have also been a dismal failure, with just 17 per cent of small businesses using the new form. This puts the lie to government claims that small business does not want further reforms to the GST and the BAS certificate and backs the claim by

Council of Small Business Organisations of Australia chief executive, Rob Bastian, that Labor's proposals for simplifying the new tax system have strong backing in small business.

We are now uncovering much evidence of how Australians outside of the major centres—the capital cities—have been particularly badly hurt by the GST. In this chamber, some months ago, I put up a proposition that the Senate conduct an inquiry into the impact of the GST on Australia, to see whether the promises made for it by the government prior to its introduction have in fact been kept by the government—in other words, an accountability inquiry, truth in politics. Has the government delivered what it promised to do? It is sad to report that this chamber did not find a majority to support that inquiry. Only the Labor Party voted for it.

As a consequence, since we were not going to conduct an accountability check—I was amazed that my parliamentary colleagues in the Australian Democrats, the so-called keep-the-bastards-honest party who hold accountability at the top of their totem pole as the *raison d'être* for their existence, did not want to conduct an accountability check to see what electors in this nation thought of their actions—the federal parliamentary Labor Party set up its own inquiry, and many of the findings of that inquiry submitted to us by ordinary voters and constituents in a number of electorates around Australia are very important. We set up this inquiry because we thought it was high time that Australians got to tell their own stories of how the GST has impacted upon them and how they see relief from the worst ravages of the GST being best targeted.

Our inquiry has found that its impact on regional centres and smaller communities across Australia has been devastating. In Queensland, for example, the inquiry heard that 38 small businesses have gone under in the Caboolture shire alone since the introduction of the GST. This is a matter that should be of concern to the member for Longman, who, in his capacity as parliamentary secretary for small business, was telling small businesses in the area that the GST would be a boon for them. The inquiry

found that the true story is very different, as 38 small businesses had in fact gone under. Small businesses in the Caboolture shire—those that are still in business—are in fact struggling to keep their heads above water. They are being buried under GST paperwork. 'Our paperwork has tripled' was a comment frequently heard by the inquiry.

The compliance cost of the GST continues to be a nightmare. The government would have small businesses believe that the problems associated with the GST have been bedded down. This is clearly not the case. On the contrary, small businesses resent being tax collectors for the government—another typical comment. 'I haven't worked 30 years in my business to turn out to be a tax collector for the government' was one small business comment we received. Comments similar to that were made everywhere our inquiry went. Here is another typical comment:

I'm in business to make money, not to provide the Government with a free service.

That was another frequently heard comment. That one was made on Bribie Island, also in the Longman electorate. A similar view was expressed in Gladstone and Bundaberg in the electorate of Hinkler. Mr Paul Neville is the National Party member for Hinkler, and in the local media he attacked the inquiry for listening to the electorate. It seems to me that the sooner the Labor candidate for Hinkler, Ms Cheryl Dorran, is elected the sooner the constituents of that federal electorate will have someone in Canberra prepared to represent their true grievances and their real wishes in this parliament and not someone who, like the current member, is simply prepared to patronise the genuine concerns of his own constituency.

Throughout regional Australia there was testimony on the tremendous costs associated with meeting Taxation Office GST requirements. The inquiry heard from one small business operator in North Queensland who, 15 months after the introduction of the GST, is still having to get a computer service provider to come in every week to ensure GST compliance. At \$60 per hour it is a cost they, understandably, can ill afford. These are real Australians putting forward their real con-

cerns about the real costs this regressive tax has imposed on them.

Beyond compliance costs, the hit the GST has made on the hip-pocket of small business customers has in turn led to a drop in the earning capacity of small businesses themselves. It is, after all, a vicious cycle. As one businessperson explained to the inquiry, 'It is not just the GST's direct impact on small business that is the problem, it is its impact on the spending capacity of our customers.' People simply do not have the disposable income anymore to support small businesses. The GST has destroyed small business cash flows in regional centres. Businesses told us that they could no longer afford to take on new staff, as a direct result of the costs of the GST on them. In some cases, they have had to reduce the staff devoted to their core business and, instead, direct resources towards GST compliance.

We did hear of two thriving occupations in the wake of the GST's introduction: accountants and computer salesmen. Needless to say, this development was not looked upon fondly by the small businesses that have to shoulder the burden of extra accountancy fees and extra costs for computers and other electronic accounting equipment. Nor did they say that the cash grant given to them by the government met anything like the real and genuine costs incurred by them in reconfiguring their accountancy systems and in having to buy new automatic and electronic accounting machines.

The cash flow problem is a serious one and one that is having an ongoing impact on small business. They are telling us that they simply do not have the capacity to expand or even maintain that business. As one small business damagingly said:

I've made more money than I ever have, but I'm now worse off.

Another said:

My [GST associated] bank charges have now overtaken my advertising budget.

Many small businesses are becoming disillusioned. One small business bluntly told the inquiry:

The GST is discouraging entrepreneurial activity. So business is not an attractive option anymore.

Labor's parliamentary inquiry has also heard how the GST has impacted on Australians least able to afford it. Pensioners, students, the disabled and low income earners dependent on charities are all worse off. In fact, the evidence points strongly to all low income Australians being worse off. The inquiry received in Wonthaggi in Victoria last week a submission from a woman who is completely dependent upon a disability pension. Her plight mirrored that of many people who have shared their stories with us. She detailed just how hard things were for her since the introduction of the GST. She said in her submission:

Before the GST I could manage quite well, but now I'm just not coping.

In another submission made to the inquiry, an ex-service pensioner from Sale in Victoria presented evidence to us of just how badly the GST has impacted on his livelihood. Not only did he receive a 1.6 per cent increase in his Comsuper pension, despite reasonably believing that all pensioners would get a four per cent increase in their pension—because that is what he was told by the government—but also his part-time job hours were radically reduced. Like many people, this gentleman has lost over 300 hours in work when compared with the previous year, and his employer told him quite unequivocally that it was the result of a dramatic fall in revenue at their hardware business since the introduction of the GST. The result of such a substantial loss in earnings, combined with having to pay the GST, has meant that this man and his wife have a substantial reduction in their already very modest way of life.

The reasons for this kind of impact are clear. The GST is an unfair and regressive tax. Those on fixed low incomes pay it on everything, except on some food. They pay it on their utility bills—that is, on their gas and electricity. They do not pay it on their water, but they pay it on the necessary requirement, especially in country Australia, of a telephone. They pay it on their household insurance, and following the collapse of HIH household insurance premiums have gone through the roof and the GST has risen as a consequence. They pay it on their education needs and, in the case of those with young

families, they pay it on everything associated with the raising of young children.

I am surprised that I have not heard anyone from the government benches say, 'But they do not pay it on education.' Go out and ask Australian families whether the GST is exempt from all education needs for a family, and you will receive a hoarse laugh. It is not payable on the direct education provision but it is payable on every other element of education needs, and for families with young children it is a significant slug. I was also told by a young mother, 'If you are going to roll back the GST, please, for families with young children in nappies, take it off nappies first.'

Australia's charitable organisations have been severely damaged by the GST. As one welfare organisation said to the inquiry, it is as if 'all welfare organisations have been tarred with the same brush as tax cheats'. I heard several times from those who volunteer their time for charitable and worthy community pursuits that they were very angry to hear the Treasurer, Mr Costello, call upon Australians to give up an hour a week to engage in voluntary work. As was pointed out to me by people coming forward from the community, the GST gave most non-profit organisations far more than an hour a week in additional paperwork and headaches. They do need an extra volunteer hour, but that is thanks to Mr Costello and the compliance paperwork mountain that charities now have to deal with weekly. These volunteers highlighted that many former volunteer bookkeepers and treasurers had given up assisting these organisations because of the stresses imposed on them by the GST.

Australians are desperate for some relief from this regressive tax. They understand that the government has scrambled the tax egg with the introduction of this tax and that any responsible future government cannot easily unscramble it. But they do not believe the Howard government and the Australian Democrats when they say that nothing can be done to make this tax fairer and simpler. They want roll-back and they want to return to a situation where tax compliance does not dominate their lives. Labor are committed to rolling back the GST on two principles: (a)

we make it simpler and (b) we make it fairer. This is Labor's agenda. We have been listening to the people of Australia and to Australian small business and, at the coming election, we will present the Australian electorate with a well thought out, thorough and considered set of measures that will make this tax fairer for all Australians and simpler for those who have to bear the paperwork burden so that small business can get back to its core activity of doing business rather than being tax collectors for the government.

I conclude my remarks by saying that no-one who spoke to us believes any of the promises that the government made before it introduced the GST. No-one believes that they are better off—as the Prime Minister said they would be—because of the GST. (*Time expired*)

Senator CHAPMAN (South Australia) (4.41 p.m.)—One might be unkind enough to suggest that Senator Cook has become obsessed with the GST when there are much more important issues around that warrant the time of this chamber. I recall on the last general business Thursday, which in sitting terms is only four sitting days ago, that Senator Cook and his Labor Senate colleagues raised the GST in a similar notice of motion in terms of the government's botched implementation of the GST. Today they are trying to go one better. In this unbelievable approach that the Labor Party seems to be adopting to issues, they are actually seeking to condemn the government for introducing the GST at all. What an absolute farce that is.

We heard Senator Cook today, apart from butchering the English language with terms like 'flatlining'—whatever that means—talk about 'real Australians' and their 'real concerns'. Let me tell Senator Cook and his Labor colleagues what real Australians want with regard to their real concerns. They want real leadership and real policies. That is what the Prime Minister and the present government are providing for them and that is why, as the polls show, support for the present government is overwhelming. The reason for that is that the government provides a very stark contrast to the Labor Party opposition

and its leader, who have no policy and no ticker.

We also heard Senator Cook talk about the fact that you cannot unscramble the eggs of the GST. Let me say to Senator Cook and the Labor Party that, if you genuinely and truthfully believe that the tax reform implemented by this government, in particular the introduction of the goods and services tax, is doing damage to Australians and, as you claim—I say falsely claim—in particular to small business and is regressive, you would commit to get rid of it. That is the logical approach to policy. If you believe that something already there is bad, you get rid of it and you replace it with something that you believe is better.

Senator Cook, at the end of his remarks today, said that you cannot unscramble the new tax system eggs. Earlier, we heard the Leader of the Opposition, Mr Beazley, say that you cannot change this new tax system, that you cannot get rid of it, because you cannot unscramble the eggs. The fact is that the present Howard government had the courage to unscramble the eggs of the ramshackle tax system we inherited from the Labor government. If you really want to unscramble the eggs of this tax system, if you really believe it is as bad as you assert it is, then of course you can unscramble the eggs. We had a tax system in place for decades that was well established and well entrenched, but the present government, as I said, had the courage to unscramble the eggs of that tax system and introduce a desperately needed new system.

What were the features of that old tax system? We had exorbitant rates of personal income tax, we had high rates of company income tax and we had a wholesale sales tax that was skewed because it taxed only goods and not services. The feature of that tax was that it was 50, 60 or 70 years out of date, because in its indirect aspects it was a tax system that was introduced in the 1930s. In those days, the bulk of people's spending was on goods and, therefore, an indirect tax system that taxed goods was quite reasonable. However, at the dawn of the 21st century, when most people spend their money not on goods but on services, which under

that old, outdated system were completely free of taxes, that tax system had become unfair. It was skewed against manufacturing industry, it was skewed against goods and, in particular, it was skewed against my state of South Australia, where the motor industry is central to the economy. The high rate of wholesale sales tax on motor vehicles was one of the features of the old, outdated tax system.

That is why we abolished the wholesale sales tax, as a very important part of the much needed tax reform we introduced. We also abolished financial institutions duty as being an unfair, unreasonable tax. We also significantly reduced income tax and company tax. Company tax is now down to 30 cents in the dollar, while the cuts we made to income tax are worth some \$12 billion to the Australian community in total gross terms. In addition, we significantly increased payments and pensions. Those are the changes; we unscrambled the existing eggs and made major reforms. If the Labor Party really believe that the system we have now introduced is as bad as they feign to assert it is, they can certainly unscramble those eggs and go back to the old system. But they will not do that, because in their hearts they know that the new system is so much better and that it is delivering benefits to the Australian community.

I referred a few moments ago to the motor vehicle industry. It has been enjoying boom times since the introduction of the new, fairer tax system, because we have removed a significant degree of the burden of taxation from goods and spread it more fairly right across the range of goods and services. In addition to that, as I said, we have introduced significant income tax cuts, which give people more spending power to spend across that range of goods and services. That is demonstrated in the strength and health of the Australian economy. That, above all, is proof of the benefit of the new tax system. Despite the fact that there is a general slowdown in the international economy and in many other countries, the Australian economy has remained strong, with the highest rate of growth in the OECD. That is a direct result of the fact that we had the courage and

the capacity to make significant changes to the tax system.

The opposition Labor Party lack that courage. They are a party with no policies. They simply flip-flop, hoping to surf into government on a measure of disaffection with some aspects of government policies. As I said earlier in my remarks, the disaffection now, as is clearly shown in the polls, is with the Labor Party and their lack of policies and their clear lack of leadership, and that will remain to haunt them through the election. The Labor Party are completely without policies in this and all other areas. It is rumoured that when parliament finishes sitting at the end of next week, it may well be the end of this session of the parliament. Although no-one knows, we may be about three weeks away from an election campaign, and yet we have heard absolutely nothing from the Labor Party in terms of the policies that they are going to put to the Australian people at that election. Again, that contrasts dramatically with what the present government did at the last election, when we spelt out our proposals for tax reform in great detail. We had the courage to put those details to the Australian people, and those details were endorsed at the 1998 election, and then we proceeded to implement the new tax system.

So, as I said, if the Labor opposition really believe that this tax system is not of benefit to the Australian economy and the Australian people, then they will change it and introduce a completely different tax system, and the only alternative is to go back to the old system, increasing income taxes, reintroducing the wholesale sales tax, reintroducing FID and reintroducing all the other outdated taxes this government got rid of, to the benefit of the Australian economy. The reality is that in their hearts the Labor Party know that this tax reform has secured lasting benefits for all Australians. In their hearts, they really support it. That is the real reason they have said they will not abolish it. It is not this furore about not being able to change it or to unscramble the eggs: as I said, that is quite possible.

Senator Ludwig—I am shocked.

Senator CHAPMAN—It simply requires some political courage, some policy courage

and some leadership, Senator Ludwig, which are things that you and your leader lack. So the real reason that they will not do that is that they know that this is the best system for Australia. They know that it is a tax system that is going to be effective for the 21st century, whereas the old system was a system for the first half of the 20th century, well outdated by the time we had the opportunity to reform it. They know the new system is good, so why do we have Senator Cook coming in here and criticising it week after week in one way or another?

Senator Ludwig—Because it is a bad tax.

Senator CHAPMAN—No, Senator Ludwig, he does that because you think that, because of some of the difficulties which were evident in the tax's implementation, you can simply surf into office on a bit of disaffection resulting from those factors. This government has been very effective in implementing the new tax. It was a massive change to the tax system and any massive change, whether it is a change to tax or to any other area of government policy, is going to have teething problems. However, the important point about this government is that we listened to the community and, when those teething problems became evident, we moved to deal with them and to overcome them. In particular, we simplified the business activity statement so that some of the complaints in relation to that were no longer valid. We offered small business the opportunity of only doing an annual reconciliation of their GST, and we made a number of other changes to the administration of the new tax system, to overcome those implementation teething problems.

The community appreciates that, and that is reflected in the rising support for the government in recent weeks—support which occurred well before any of the recent events. Well before any of the recent events the government's community support was on the rise; it has simply been re-emphasised and reinforced by the events of recent days. As I said, in their heart of hearts the Labor Party know that this system is going to be of benefit to our economy and to all Australians through the 21st century, and that is the reason why Labor will not get rid of it. Con-

tinuing their carping criticism, the opposition have introduced the notion of roll-back: 'We're going to have roll-back; we're going to keep the tax, but we're going to roll it back.' As the Treasurer said, it is not a matter of roll-back; it is a matter of roll-backwardness. What does roll-back involve? It either involves removing the tax from some items—

Senator Ludwig—Making it fairer and simpler.

Senator CHAPMAN—But how is this going to happen? Senator Ludwig, this will happen principally by removing the GST from some items.

Senator Heffernan—Are the states going to agree to that?

Senator CHAPMAN—We will come to that, Senator Heffernan. Labor would remove the GST from some items—that, I assume, is the way that Senator Ludwig believes it is going to be made fairer. Yet, on the other hand, they talk about the complexity of the system for small business—roll-back is only going to make it ever more complex. The more exclusions and exemptions you have from the GST, the more complex it is, the more difficult it is and the harder it is for small business to meet its compliance obligations. Everyone knows that the best indirect tax system is a system that is across the board on as many items as possible, at the lowest rate possible, so that compliance is relatively simple; and that is what this government has done in its tax reform program. It has introduced a simple system at a low rate, and of course that rate will remain low because of the safeguards put into the legislation.

What are the other options for roll-back? We can really only speculate because, as I said earlier, we have not heard any detail from the Labor Party. We do not actually know what they intend, so we can only speculate about it. They really need to put their policies down so that they can be analysed and assessed by the Australian people against—

Senator Ludwig—Where are your policies?

Senator CHAPMAN—Senator Ludwig, we have been in office for five or six years now and we have made major reforms. I have been talking for the last 10 minutes or so about our major tax reforms—something which the Labor Party in 13 years in government did not have the courage to do, despite the fact that Mr Keating at one stage wanted to do it. He was overridden by the unions and overridden by Prime Minister Hawke, who did not have the ticker to implement it. We have made major tax reforms. We have introduced major reforms to the area of workplace relations which have resulted in enormous gains in productivity in this economy. Of course, the consequential benefit of that for everyone is that we have had significant increases in real wages without the problem of inflation—unlike what happened with the Labor Party in government, when there were real declines in wages. The Labor Party are the party that claims to represent the workers, yet throughout their period in office they presided over declines in real wages. The Liberal-National government under Prime Minister Howard, on the other hand, have produced real wage increases of significance while keeping inflation low, because the workplace relations reforms we introduced unleashed a massive bout of productivity improvement—again, the best in the OECD. So that is another policy of ours, Senator Ludwig.

What other policies are there? We have had policies on gun control which were very important for this community, and there have been a number of other policy initiatives that have made Australia over the last five or six years a much better place in which to live and work. That is why the economy of Australia has performed so much better than the economy of any other developed country over this period. Our policies are out there; they have been implemented carefully and steadily over the last five or six years in government. In contrast, we have absolutely no policies and absolutely no leadership from the Labor Party.

Senator Heffernan—That is only because there is no wind blowing.

Senator CHAPMAN—That is right: the finger goes up in the air and they want to

know which way the wind is blowing, which way public opinion is going. But there is no wind there that they can detect, so absolutely no policy initiatives are being announced.

This attempt by the Labor Party to cuddle up to small business by supposedly highlighting the difficulties that small business have had with the implementation of the GST is just laughable. This party is the creature of, and is dominated by, the trade unions, yet it is cuddling up and pretending to be the friend of small business.

Senator Heffernan—What a nightmare.

Senator CHAPMAN—It is not only a nightmare, Senator Heffernan; it is not true. Their leader, Mr Beazley, acknowledged that it was not true on 7 July last year when he said on Radio 6PR:

We have never pretended to be a small business party, the Labor Party. We have never pretended that.

Yet we have Senator Cook coming into the chamber and raising allegations about the difficulties being experienced by small business. What a farce.

Senator Heffernan—And raising his blood pressure.

Senator CHAPMAN—We noticed that as well. It is just a farce: we know only too well that the Labor Party is the creature of the trade union movement. In this parliament, more than any other for many years, its members and senators come from trade union backgrounds. If a Labor Party government perchance gets into office at the next election, we know only too well where its policies will originate—the policies we have heard nothing about yet and probably will hear nothing about until after the election. We know where the policies, when and if Labor gets into government, will come from: they will come directly from the trade union bosses, who will force them down the throat of a compliant Mr Beazley, that would-be Prime Minister without any ticker.

There is the contrast between the two parties that will be vying for the support of the public in the next month or two for the future welfare of Australia. We have a government that has been in office now for five or six years and has had the courage to implement

massive reforms. We have put those reforms to the people in elections. We have sought and obtained mandates for those reforms. We have subsequently implemented them, and they have been of enormous benefit to the Australian community and its economy. In contrast to that, we have a Labor Party that will not provide any policies and will not provide any leadership. So the motion that has been put forward today simply does not stand up to scrutiny. The benefits of the tax reform that the government have introduced are clearly evident. They warrant support, and they will continue to have the support of the Australian community—as they did at the last election when we put them up as our policy and as they have retained since. There is no doubt that under a future Liberal-National Howard government this country will go forward beneficially. Its community will benefit strongly from this tax reform, as indeed it does from all of the other reforms we have initiated.

Senator McLUCAS (Queensland) (5.00 p.m.)—I am pleased to join the debate on the motion by Senator Cook here today. Essentially, the motion we have before us contains three issues. The first issue is the breaking of a promise. We all remember that it was the Prime Minister of this country who said and promised to the community of Australia that he would never, ever introduce a GST. The second issue goes to the impact of the GST on small business, on low and middle income earners and on families—something that I think the previous speaker knows little of. The third issue in the motion is about the botched implementation of the GST.

It is some months ago that the Labor Party, in this place, undertook to establish a full Senate inquiry into the operations of the GST. I think that was an eminently sensible thing to do at the time. There are good reasons to have an inquiry at the moment into the GST and into its impact and its implementation. The GST, as we know, is the most radical change ever to the tax system of this country. It is now more than 12 months since the introduction of the GST, and I believe it would be good public policy—in fact, it is good business practice in any operation—to undertake a review when major changes have

been implemented. I think, 12 months down the track, 12 months after such a radical and enormous change to the taxation system, there should have been a full Senate inquiry into the impacts of the GST and its implementation.

However, the Senate, and I believe the community of Australia, is aware that coalition senators in this place, along with the Democrats and other senators, did not want to open the GST and its implementation to scrutiny by the Australian public. I understand that. I understand that, for political reasons, the Liberals, the Nationals and the Democrats would not want scrutiny of their GST and its implementation. But I cannot understand that, for good, sound public policy reasons, these parties would not have wanted the Senate to do its job—that is, to review the implementation of government policy. It was an appropriate time to undertake a proper review to find out what has happened in the last 14 to 15 months and to find out if there was a way to make it better.

And so it was left to the Labor Party to fill the void and to conduct its own investigation into the promises that the government made about the GST, about its implementation and about its impact on the community. The Labor Party, over the last few months, has conducted an inquiry in over 30 centres across the country. I was part of the inquiry in the centres of Cairns and Townsville in North Queensland, and it was very beneficial to me to meet with a range of people—business-people, pensioners, students—who came to that inquiry. I would like to take this opportunity to thank those people for their participation, for their submissions and, most importantly, for their honesty and, in many cases, in opening up the books of their businesses to scrutiny. Thank you to those people.

The first issue that came to mind when going through the inquiry and the first promise that people talked about was that 'everyone's a winner with the GST'. You will remember that Mr Costello, in answer to a question on notice in May 2000, said:

All Australians ... will be better off under The New Tax System.

Unfortunately, we did not get a lot of evidence to support that contention. There was a small cafe operator in Cairns who came to the inquiry—a blue-collar cafe in a working-class area—and he certainly did not welcome the GST. He talked about the increased paperwork. He talked about the fact that his stock prices had risen 35 per cent to 40 per cent. Importantly, he talked about the impact on disposable income in the community and that, as a result, he had completely lost all his pensioner business as those people had less income to purchase his product.

But the most interesting observation that he gave to the committee was the story that he told about Mr Warren Entsch. He told us that Mr Entsch, the member for Leichhardt, came to his cafe before July last year. The cafe operator complained to him about the GST and what he thought would happen to his business as a result. Mr Entsch, at that time, bet him \$100 that his small business would not be worse off 12 months after the introduction of the GST. The small business person took that bet, and we heard how, some 12 months later, Mr Entsch returned to the cafe, admitted that he had lost the bet and paid his \$100. Through his actions, Mr Entsch has admitted that small business people, in particular this cafe, were worse off under the GST. He puts a lie to Mr Costello's statement that 'all Australians will be better off under the new tax system'.

To return to the actions of Mr Entsch: what did he do? He paid up on a bet. That is all he did. He has not done anything else in the parliament to assist this small business person or, in fact, all the small business people in the electorate of Leichhardt. In fact, at the time of the GST inquiry, one of the Howard government's ministers, Mr Tony Abbott, was in Cairns. We heard him on local radio saying how well he thought that small business was coping with the GST. Certainly, this cafe operator did not agree with that. It is a shame, I think, that Mr Abbott and Mr Entsch did not take the opportunity to talk with people who are grappling with this new tax system and its implementation.

We also heard from a woman who has established a small business as a wedding coordinator. It had been operating for 15

months prior to the implementation of the GST and we heard from her 14 months post. Prior to the GST she had arranged six Australian weddings—she does a lot of overseas weddings as well, but we will talk about the Australian experience—since the GST she has only arranged two, and one of those was booked prior to the introduction of the GST and without the knowledge of those people that a GST was charged. She was angry because it is a tax, she believes, on her service. There are no input tax credits that she can claim back. It is a tax on her ability to do her job. She believes that now that people have less disposable income they are undertaking to arrange their weddings themselves.

The second promise we canvassed in the inquiry was that no small business would go under because of the GST. We had some very sad evidence from Mr Brian Proudman, a bookstore owner from Cairns. Proudman's bookstore has been operating in Cairns for nearly 20 years. He warned prior to the introduction of the GST that there would be a problem. He said that there was confusion at start up and that there was no information from publishers. Prices increased. Paperbacks went from \$13.95 to \$16.95, hardbacks from \$35 to \$49. He said that as a result people were choosing to purchase their paperbacks, in particular, from supermarkets. He had completely lost what he called his cash business, the money that kept his family going.

Mr Proudman was a bookseller who took a lot of pride in ensuring that he had a wide range of books for the Cairns community. His business has closed down. He had a turnover of over \$750,000. We are not talking about a small operation here. He lost 50 per cent of his turnover and now this business is not in operation. That family planned to sell their business, probably a few years down the track, as a going concern and that that money would be for their retirement. They were proud businesspeople; they are now looking to the old age pension to keep them in their retirement.

We heard also from a bookshop owner in Townsville, who said, 'It is a tax against employment.' She said that there was no cash flow to pay the wages of her staff. The costs

were increasing so much that she was unable to employ more people even though in her case turnover had increased. We heard also from a person who provides Yellow Pages services in the north. She said that, of her 400 clients, many more two-person businesses simply did not answer her call when she rang to re-establish their bookings in the Yellow Pages. They were not there. We then move to the third promise that small business red tape will be slashed by the GST. We remember Mr Reith saying in 1998:

We've also taken the opportunity in our new tax plan to significantly reduce red tape for small business.

The taxi owner that we heard from in Cairns does not agree. He told the inquiry that he knew from personal experience that Mr Howard had broken his promise that everyone would be a winner and that the GST would slash red tape. He said that the GST had impacted on both his tourism business and the other major part of his business, which is pensioners who use taxis to get around. Since the GST, his business is down between 10 and 13 per cent from the year previous. On top of that, he complained of the paperwork. His drivers do a statement once every month, so he has to provide those figures for his drivers. He also has to do quarterly reports and he does four investment activity statements on top of his usual business and personal tax returns. He has gone from a situation where he had one form of compliance to some enormous number, when you add all of those up. Now he is faced with the Ansett debacle where he knows that the 40 per cent of his business that is tourist related will be significantly hurt. He also talked about the impact of the GST on petrol prices. No wonder taxi drivers are leaving the industry in droves.

We also heard from the operator of a quite significant guest house offering mid-range and backpacker accommodation. He has six full-time and five casual staff. It cost \$4,500 for his start-up computer costs. His wife is a fully qualified accountant and she estimated that it took her 200 hours just to establish the system so that they could comply with the GST. Now she takes half a day to complete the BAS. Remember, we heard from the

Treasurer that it was going to be a half-hour job. He also has problems with invoices and the itemising of the GST. He explained that every time he receives an invoice the GST has to be calculated on every single item, and he suggested that there may be another way that invoices are provided.

Senator Patterson—There is. Go and do a little accounting course and you might understand.

Senator McLUCAS—I might take that interjection. His invoices have GST inclusive and GST non-inclusive products, and the GST is placed on the bottom. He has to then transfer that GST cost to every single item, and that takes him time. That was part of the conversation about how you fix the GST—

Senator Patterson—And you are going to roll it back. That is what we are trying to explain to you.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—Senator Patterson, stop interjecting. Senator McLucas, address your remarks through the chair, please.

Senator McLUCAS—a conversation that I suggest people on the other side of this chamber have not bothered to engage in. He has had a business downturn, partly because of the Olympics but now as a result of the Ansett debacle he reports today that his business is down to 40 per cent.

We also spoke to a professional potter in Townsville. He described the GST as a tax on his kudos, a tax on his skills and a tax on his artistic talent. He initially registered with the Australian Taxation Office but found that the paperwork was so burdensome that he was doing more paperwork than potting. He has now deregistered himself from the ATO. The word to describe his attitude to the new taxation system is, I think, 'furious'. He was so angry and annoyed about what it had done to his operations that he was almost shaking.

The fourth promise that we looked at was that the GST would create more jobs. In August 1998 we heard Mr Costello say:

The combination of higher growth and improved work incentives will deliver more jobs and lower unemployment.

We heard from a small business called Aussie Bush Hats operating in Cairns that is ba-

sically reliant on the tourism trade. They employed 9½ staff and, as good small business people, they knew that they would have to use computers to operate their business after the GST. They installed a new computer and some new software. To this day they are still paying \$60 an hour for a technician to come and talk to them about how they can fix this computer and its software. The proprietor of that business complained that the government had provided her with very little advice and support about how best to purchase the computer systems and software that would assist her. Her partner works in the shop of an evening and she tells us that she spends until 11.30 every night correcting the computer and that, while she runs a computerised system, she does the whole thing by hand as well because she has no confidence in it. We also heard from a small business operator in Townsville who was told by the tax office that she was behind and would have to wait to receive the form to comply with the BAS. In fact, she said that they had to wait seven weeks. She made the interesting observation that in her business she finds that she cannot be seven weeks behind in the payment of bills and is surprised that the Australian Taxation Office can be.

The next promise was that the GST would not be a tax on a tax. The Townsville City Council told us that in fact it is. While they do not charge tax on their basic rates, the costs of compliance have led to an increase in the rates they have had to charge. They have had to pass on those costs to the community. We also heard from the Endeavour Foundation in Queensland. They talked about compliance costs too. They said that, as a large organisation, they have had the capacity to deal with the GST, although it has meant increasing compliance staff and fewer staff for their welfare services. But they made the very significant point that those very small charities with one or two employees that are essentially run by volunteers are really at risk and that they have had to pick up the slack of those organisations, which simply cannot do the work. We were told that a lot of organisations find it very difficult nowadays to attract someone to take up the position of Treasurer because of the

responsibilities of that position and the potential liability that position has.

Senator Jacinta Collins—And complexity.

Senator McLUCAS—And complexity, you are quite right. Finally, we heard from a student who talked about the impact of the GST on students. He said that he was very angry because the government had promised that the GST would not be a tax on education. He said that students do pay GST on textbooks and that everything has increased, from accommodation through to medical costs. He said that the GST is discouraging people from full-time education and that low income students—which most are—find it easier to just go and get a job and leave university. He also said that the GST is working against the long-term national interest.

I note that Senator Chapman said earlier that it would be simple to just remove the GST. That shows how out of touch this government is with the community. We have gone through a process of engagement with the community and, while everyone recognises that the GST is an unfair tax—it is a tax on distance and a tax that disadvantages those people who are less well-off—the cost to the community to change it again and go back to another system or find another system would in fact be too great to bear. All the small businesses that we spoke to said that the GST had been a nightmare, but they did not want enormous change. (*Time expired*)

Senator WATSON (Tasmania) (5.20 p.m.)—When perusing recently the September edition of *Charter*, the journal of the Institute of Chartered Accountants, I was attracted by an article by Kurt Rendall. Kurt is a partner of the chartered accountants firm Rendall Kelly and a man who is well versed in his experience with small business. The tenor of the article suggests that small businesses are starting to feel a lot more comfortable now with tax reform and the GST. He said that they are feeling comfortable despite the media hype and, might I add, despite the strenuous efforts of the ALP. It is not only the media but the ALP along with the media who are leading this campaign about the alleged problems. But Kurt's view in this article, through his experience with hundreds of

small businesses, was that they are becoming much more comfortable with the concept of tax reform and the GST.

No-one will honestly deny that there have been problems. Of course there will be when you tackle an issue of the enormity of tax reform and the GST changes. But do not forget that a lot of the changes were due to matters that were brought upon as a result of actions within the Senate. Mr Rendall concludes:

One year into it and it is beginning to work and, by a large, SMEs are now coping quite well.

I was interested in a number of the examples that were provided by the last speaker. I have to question a number of them. The comment was made that the lady who conducted the wedding business—and I presume she also provides food et cetera—had no input credits. Obviously, this lady is getting some very bad advice because, if she is not claiming any input credits, she is paying far too much tax. So rather than beat up this story, why not direct this lady to a proper accountant so that she pays the correct tax and not too much tax? I find it unbelievable that a person would be conducting a business of that nature and not be entitled, as was alleged here today, to any input credits.

Then she went to the taxi operator. Yes, there has been something of an exodus from the taxi industry, but what have we found? A lot of these people were part-time workers on social security. This has picked up on the black economy, because a lot of these people were working for cash and also often claiming social security. Now, of course, with better identification and business numbers, they have had to leave if they wished to retain their social security benefits. So, yes, there has been an exodus, but it is because this was part of the black economy that the GST has picked up on—people who should have paid tax but were not paying tax and people who were claiming social security and at the same time moonlighting.

Then she came to the potter. The potter was pretty smart, because he had a very small business. Actually, the complaints that I get are not from the potters of this world who have a low level of income derived from their business in crafts and hobbies and these

sorts of things. We are told that they are competing very effectively. As she admitted, the potter changed from being a GST business to not paying GST. But at the same time, the potter will have to pay tax on inputs. As we all appreciate, most of the work of a potter is in the creative process and the time that they take. They are personal services, which the previous speaker admitted, and, because there is no GST added to those personal services, those sort of people are in a better competitive position compared to those whose businesses are much larger.

The position of the Labor Party is that we have got to have roll-back. If you ask the professions and the business community about roll-back, they are appalled. They say, 'After all we have been through, we will have to start again and to change.' We have heard about l-a-w law under the Keating government. Will the state premiers, who get all this GST, allow a possible future Beazley government to roll back one of their most important sources of revenue? So, while Labor's intention might be to roll back the GST, what would be the reality? A number of state premiers have indicated their opposition to the concept of roll-back, particularly to the extent that has been suggested. The reality is that Labor would say, 'We tried, but the state premiers would not agree.' Where would that leave the credibility of Mr Beazley? These are issues that we all have to be very much aware of.

When I looked at the *Notice Paper* today and saw this motion, I thought, 'Senator Cook really must have an old gramophone, which he has got out, has wound up, and he has put on one of his favourite records—the GST,' because, after what I have just said about Kurt Rendall, it is out of date and repetitious. Given all the important issues that are facing Australia at the present time, we could have had a good debate on stranded passengers, Ansett problems, superannuation issues or the international scene. But, no, we go back and regurgitate issues of a couple of years ago that have really passed people by. People are now getting on with their lives.

The debate has failed to acknowledge the offsets. Labor has just looked at one part of the equation—the GST. There has been no

talk about the other tax reforms: the fact that 80 per cent of Australians pay tax at the rate of 30 per cent or less—a terrific incentive to work—and the withdrawal of all those other taxes that had been built into the system. We have not heard about the success of the Australian economy and the success of our exports. Yes, part of that success is due to the low value of the Australian dollar, but the other factor that has to be recognised is the absence of all those escalated costs—government charges in the form of taxes—that were there previously but are no longer there. This amounts to hundreds of millions of dollars for exporting companies. So it is not surprising that Australian exporters are doing very well due to a combination of two issues: the low value of the dollar and the fact that there is no GST on exports. Seldom have we seen so many primary industries doing so well at the same time. The Australian economy is going along quite nicely.

Another thing I could not believe is that we are talking about all the problems with the GST and, in the same breath, we are talking about the problems that seem to be associated with it—One.Tel, HIH and Ansett. I could not quite see the connection there because I am sure the GST must have had a very insignificant impact on any of those issues. Perhaps that has got clouded in the overall debate but, in the way it has been presented as a GST related problem in the context of the motion before us, I find it extraordinary to start talking about those sorts of failures.

I thought I would go back a little bit in history, so I went back to 1998 preparatory to the GST. A lot of people were in favour of it and we heard about the conditions that were going to be put down for tax reform and how different organisations were going to judge the government on the basis of whether it was fair, just and delivered. People spoke about making the system fairer and more competitive—fair enough. They spoke about the tax system making victims of low and middle income earners. I will tell you about the impact because these really are the big winners. There was a worry that it would destroy jobs. There were all the sorts of things that the Labor Party are regurgitating

now. But the reality is that all these concerns have dissipated in light of the way the government has responded with its GST. Another concern was that the states and territories would be starved of revenue. What did our government do? They made sure that all the GST, to the last cent, went to the states and the territories. Again, that worry has dissipated.

There were allegedly five foundation principles for the introduction of a better taxation system. One was the elimination of as many existing indirect taxes as possible. That elimination list is really quite formidable and I think we all know them. There was the wholesale sales tax, BAD and FID. We are all familiar with those. That was the first principle. Full marks on the first of the five foundation principles for a better tax system.

The next principle was the introduction of a national tax on consumption set at rates between 10 and 12.5 per cent on as broad a base as was practical. We introduced it at the lower limit of what was required—10 per cent—and no increase. That was going to be vetoed by all the state premiers. The third principle was a remodelling of federal and state financial relations to ensure the states and territories had access to sufficient sources of revenue to facilitate the rationalisation of their existing indirect taxes. Delivered 100 per cent—100 per cent of the revenue goes to the states. Full marks on point 3 to the Howard government.

The fourth principle was a reduction in rates of tax on income and simplification of business arrangements. What has happened to tax? At the corporate level, it has gone from 36 per cent to 34 per cent to 30 per cent. Delivered in full. What has happened at the private level? As I mentioned before, 80 per cent of Australians are paying tax at the rate of 30c or less. Marvellous! Full marks on that. The fifth principle was a reworking of the interplay between tax and the social security system to reduce the poverty trap confronted by low and middle income earners. If you are honest and look at people in the social welfare area, you will see we have done a great deal to remove poverty traps. We will never remove them all, but if we have not got close to full marks on that we

are pretty close. Ask ACOSS and all those sorts of organisations whether the government has made a genuine attempt to remove these poverty traps and it will rank very highly.

Out of these five foundation principles, the Howard government has performed exceedingly well since 1998. I thank Senator Cook for moving this motion, because this is probably an appropriate forum in which to use these measurements that were laid down well before the GST came in as to what society really required of tax reform. We would have to be in the high 90s on all of those, if not at 100 per cent on some of them. Helen Clark, the Prime Minister of New Zealand, believes the tax has been very well accepted and that no-one seriously thinks it will ever be changed. She was asked in an interview: 'Does it apply to things like tampons, for example, and, if so, have you ever thought of lifting the tax on items like that?' Helen Clark said no. I think it is true to say that, once you start differentiating between classes of goods, you get into anomalies which can be a bit hard to explain. So why don't you listen to your sister across the Tasman?

The Institute of Accountants says that the more products that are GST free adds to the complexity and that the poor shopkeeper who is selling a mix is going to find things more difficult. Whether you ask university people, whether you ask the Small Grocers Association or whether you ask the local accountant, according to Mike Bannon, who reports in Sunday's *Canberra Times*, more exemptions, as envisaged by Mr Beazley, will produce more uncertainty and disputes between the ATO and taxpayers, and self-interest groups will be relentless in their claims for more exemptions. And so the problem goes on.

Let us look at the situation when the Labor government was under the leadership of Paul Keating and even in the lead-up to the change of government, when there was still a Labor government. What did we find? A very perceptive Asian, former Singaporean Prime Minister Lee Kwan Yew, spoke quite often about what he called the 'white trash of Asia'. But what about Lee's successor? We have now come to a new generation, a new

Prime Minister and a Liberal-National coalition, and the position has really changed. There are different aspects. In many parts of Asia we are concentrating on fast growth, but in terms of forgetting the fundamentals he says, 'Australia didn't; they are winning the race.' In fact, now that Asian values like cronyism have gone out of fashion, Australian regulators have lent expertise to Taiwan, Indonesia, the Philippines, Vietnam and Hong Kong to help local authorities develop better regulatory and statistical services. In other words, in terms of winning the economic region's race, Australia is right up there, according to the Singaporeans—and so we are.

We overcame the problem of the Asian crisis and we were referred to then as a 'miracle economy'. It is true that the world has a lot of problems, but we are fairing much better than others. Why are we fairing so much better? We have got rid of a lot of government debt, and we have good economic management. We have repaid \$50 million and that money has been going to health, education and other areas. Where would we be in the future in terms of the needs of a growing elderly population if we did not have a strong indirect tax base? But we have it. We could not go on just slugging the workers with higher and higher rates of tax.

Under 13 years of Labor government there were problems. The perception of Australia was not good. The perception of Australia in terms of productivity was slipping, and that has been reversed under our government. We have an efficient form of taxation, we have a very fair taxation system as far as families are concerned and as far as business is concerned, and Australia is well positioned to meet the challenges of the 21st century.

Senator JACINTA COLLINS (Victoria) (5.40 p.m.)—I am happy to support and extend Senator Cook's and Senator McLucas's contributions to this debate. I think it serves, at this stage and following Senator Watson's comments, to go back to the motion proper. Senator Cook moved:

That the Senate condemns the Government for introducing a goods and services tax after promising 'never, ever' to do so and for the damage that this regressive tax has done to small business,

middle- and low-income earners, and particularly Australian families, through the botched way it has been implemented and continues to operate.

I am not sure where Senator Watson referred to issues such as HIH and One.Tel—and I admit that I was in another meeting during part of Senator Cook's contribution, so Senator Watson may have sought to make some reference to contemporary issues—but I am really not sure how we got to be talking about the 'white trash of Asia', either.

Today, I want to spend some time revisiting issues raised by a number of senators in this debate. I, as did Senator Cook and Senator McLucas, attended some of the inquiry meetings into the operation of the GST. I found this a very useful experience, involved as I was in the original Senate inquiry into the potential impact of the GST and a new tax system. The Senate Employment, Workplace Relations, Small Business and Education References Committee reported on its inquiry in March 1999, and it is interesting to note that many of the issues we foreshadowed in that report have become significant issues in the implementation of the GST.

Senator Watson referred to the issue of jobs, and I encourage senators to review a lot of what was said, with specific reference to a number of particular sectors and the likely impact of the GST on those sectors. The main one that comes to mind in contemporary circumstances is tourism. It is simply not the case that the tourism sector has not complained about the implications for employment of the introduction of the new tax system. In these contemporary circumstances, they are obviously even more concerned that they are, in a sense, bearing the double whammy of the current problems associated with Ansett and the ongoing implementation problems associated with the GST—not only in terms of their situations as business operators but also in terms of the level of demand for the products that they deal with.

I could spend quite some time today—and I suspect I will not have that time—going through a number of the issues that were raised at the meetings in both Boronia and Rowville in Melbourne by the large number

of people who responded and attended those inquiries into the GST. I need at this stage to remind the Senate, following some of Senator Watson's comments, that the Labor Party sought to establish a Senate review—and Senator McLucas has covered some of this—and it is disappointing that, given some of Senator Watson's comments, the government did not actually participate in that review. If he believes that, as in some of the examples that Senator McLucas raised, people have been badly advised or that their problems—and he accepts that their problems are legitimate—could be corrected through better advice than I am sure that that contribution from the Australian community that responded to information about this inquiry would have been very welcome. But, as Senator McLucas pointed out, the government and the Democrats did not want an inquiry—or, indeed, an inquiry that would report before an election.

Senator Chapman, referring to the Labor Party, said, 'They know it's good.' He said that we know the GST is good. However, Senator Watson pointed out by characterising Senator Cook as somewhat like a broken record that he is aware that we have consistently, repeatedly and for a very lengthy period of time, even before this government sought to introduce the GST in the first instance, referred to the problems associated with a GST. So where Senator Chapman gets the notion that we know it is good, I am really not sure.

I concur with Senator McLucas. This notion that, if we are really serious about the problems that we believe exist in the system then we should just get rid of it, reflects an approach that is simply out of touch. My experience in the inquiries and the discussions that I have had with people about the implementation of the GST is that the community does understand. I contemplated a few analogies of how they might understand that once this system has been put in place it is not something that can be simply undone. It is not a complicated notion. One example that was put to me was a rail analogy. You do not build a railway line and then shift its destination or change the infrastructure, but you can still change or deal in a different

way with how people get on or off the railway line and which people or which goods or which services get on or off. That is the situation with the GST.

We are left with a system that cannot simply be 'gotten rid of', in Senator Chapman's words. However—and the government has to acknowledge this as well, if you look at the changes that they have made in recent times—there are modifications to the system that can be made to improve it. Much was made about the concern of the business community with this notion of roll-back. I suspect that Senator Watson did not quite mean to say it this way and was perhaps not reading correctly from the note that he referred to, but he was suggesting that the article by Kurt Rendall suggested that business was 'getting more comfortable with the tax and the ALP'. I suspect he meant to say something else there.

But the community is also becoming reassured that the notion of roll-back is a notion of improving the system and if change is to occur, it is to simplify and remove anomalies. The best example of that is the business activity statement. Business is concerned about further changes. They have had enough difficulty dealing with the changes that have occurred thus far, but at the same time they also say that there are still significant problems and that the changes that have occurred to date have not resolved a number of them. That is a fine balance that you can resolve only through adequate consultation.

As I said, I could spend time today going through the individual experiences of the several people who gave us their stories in Melbourne, but the examples raised by Senator Cook and Senator McLucas covered a fair range of the situations and the issues affecting people. They also covered issues such as the anomalies in the system that could be rectified to make it simpler rather than, as the government seems to frequently suggest, make it more complex. They also gave examples of areas where simple and straightforward reform would make it in some ways fairer. The latest example of that arrived in my in-box today. It was a letter to the Prime Minister from Smokenders. This is

an example of their concerns with the GST. They say:

The GST is charged to smokers who use established counselling and cessation programs, while it is not charged for quit-smoking pharmaceuticals, patches, gum, quit-smoking hypnosis and acupuncture. This tax is costing the smoker more to engage in behaviour modification therapies than drug or alternate remedies.

The question is posed in the letter to the Prime Minister:

Why do counselling and cessation programs have to charge the smoker GST?

The reason I use this example is that it is not the only one. We have had evidence put to us in this inquiry on several occasions of examples where people have been asked by representatives of the government to put forward their issues, their anomalies and their problems and suggest how they might be managed or resolved. They often have done that and they have provided us with examples of what they have provided to the government but then afterwards the calls do not get through or the calls do not get returned. That raises the question that, if the government is prepared to accept roll-back, of a sense, in relation to issues such as the nature of the business activity statement, petrol, caravan parks and beer, what do these other organisations need to do to get some movement in terms of their areas of concern?

This review undertaken by the Labor Party has been such an important measure because we have said in a comprehensive way, 'This system has been in place 12 months now. Let us find out the details of the problems of its implementation and let us look at what can be done to improve that system.' Our view about improving is not, as has been beaten up by some, the notion of change for change's sake. It is an attempt to make this tax fairer and simpler. The response that Senator Chapman suggests of 'Just get rid of it' is obviously quite irresponsible. Senator Chapman suggested to us in this debate today that there are serious problems with our notion of removing it from some items. I listened to Senator Watson's contribution about this issue and he quite rightly pointed out that the exemptions to the operation of the GST were as a consequence

of a Senate action and this is why it was so important for us to review how effectively that Senate action is affecting the implementation of this tax.

Again, this is why it was so disappointing that both the government and the Democrats did not want to find out the answers to those questions before an election. We have looked at the consequence of that Senate action in terms of the exemptions that currently exist and we have looked at those areas where anomalies are creating problems. They are some of the issues that we will address when we look at how we review some of those matters.

Senator McLucas gave some examples of where you have businesses operating where the exemptions apply and the difficulties they have in dealing administratively with the components of their business to which the exemptions relate and the components to which they do not. I suppose the Smokers example is another one where issues such as the health type exemptions create problems and distort markets as well. But we have not seen the government take a serious look at any of these issues. There seems to be this blind, head in the sand type approach. Senator Kemp characterises it best by saying, 'Yes, but you like it; you are going to keep it, too', and that was reflected by Senator Chapman in commenting, 'They know that it's good', when the reality is that there are a number of implementation problems that need to be addressed. The only people looking seriously at trying to do that at the moment are the Labor Party. To continue down the path this government has gone down with these ad hoc pragmatic responses, which is the fairest way to characterise some of what has happened in relation to items in that list that I referred to before—BAS, petrol, caravan parks and beer—is not a systematic way of running an appropriate tax system. Until the government gets serious on that score, I think the cynicism that exists within the business community will continue.

Senator Watson, I do not know who Kurt Rendall is. I will refer to the article to which you brought our attention in this debate. But I think I should balance it with the concerns expressed elsewhere from members of the

business community. Before I do that, I will just make one point which reflects on some of Senator Watson's contribution. He said that the GST came in with a lot of promises. Yes, that is right. He made a select reference to those that he thought we had had a reasonable score on. But of course there are others. One such promise was, for example, that it would improve the integrity and simplicity of our tax system. I am not sure who believes that that has occurred. Another promise was that it would create a better quality of business, because GST reporting brings operators closer to their business. I am not sure who within the business community really believes that. Let us look at some of the other things that the business community has said.

On this anniversary of the GST's introduction, a survey by the Australian Industry Group found that almost 70 per cent of businesses were suffering GST related cash flow problems—70 per cent is very high—and that the GST was placing a massive burden on small companies, with a 40 per cent increase in tax administration costs. The Labor Party's small business spokesperson, Mr Joel Fitzgibbon, gave us a tidy representation of some of these surveys. I will refer to an excerpt of a speech that he made on some of these issues. Further, the AIG survey found that the time taken to administer tax has increased by 65 per cent to eight hours a week. This is precious time which small business owners and operators are forced to spend collecting tax for the government, when really this time should be devoted to the actual running of their enterprises. In the inquiry that we are running at the moment the small business view on this has been extraordinarily strong. The survey also found that the government's changes to the business activity statement had, as I mentioned earlier, only a minimal impact on the burden of red tape. So, according to the AIG survey, no, we still do not have it quite right. I am sure that small business operators have concerns about further changes but they would also be concerned to see it continuing as it is if they do not believe that it is quite right yet.

The CPA Australia survey that has been discussed most recently found that 39 per cent of small businesses believe that the GST

has had a negative impact on their overall business performance and 56 per cent said that the new tax system had a negative impact on their cash flow. A survey by Hall Chadwick looking at independent retail grocers found the average total cost of compliance for their members was more than \$12,000 per business. Senator Watson said that we needed to look at the compensations. Well, the comparison there in terms of that level of cost nowhere near matches the compensations given to small business.

A Victoria University small business research unit found last October that small business owners were devoting one full working day each week to GST related paperwork. Australian Business Limited's survey in May found that 65 per cent of small businesses cited the GST as hurting their cash flow. In May and August this year, the Yellow Pages index survey found that, of the seven most important reasons small businesses were critical of the federal government's policies, six were directly related to the goods and services tax and completion of the business activity statement, including key indicators such as cash flow, debt and profitability. The Australian Bureau of Statistics' national survey in June 2001 found that small businesses had the most pessimistic profit expectations of the business sectors, medium and large.

CPA Australia's July 2001 research found that 59 per cent of firms responding reported negative cash flow and only 22 per cent felt that the tax changes had improved their performance. Linking that back to the original promise of the system, I repeat that only 22 per cent felt that the tax changes improved their performance. Forty-two per cent—almost double—said that it had had an overall negative impact. Further, 84 per cent of businesses surveyed by PricewaterhouseCoopers in the same month believed their overall tax compliance was more complex than before the introduction of the GST, while 59 per cent of small businesses feel that their cash flow has been hit by the GST. A spokesperson for one of Australia's leading banks says, 'The feedback we're getting from small business is it is a tough competitive environment.' (*Time expired*)

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Order! It being 6 p.m., the Senate will proceed to the consideration of government documents.

Civil Aviation Safety Authority: Corporate Plan for 2001-02 to 2003-04

Senator O'BRIEN (Tasmania) (6.00 p.m.)—I move:

That the Senate take note of the document.

It is interesting to note that we have now reached the point in the proceedings where we are discussing the second government document listed on the *Notice Paper*—that is, the corporate plan of the Civil Aviation Safety Authority. I have spoken about the Civil Aviation Safety Authority and their corporate plan many times. It is interesting that they have tabled their corporate plan for consideration at this time. What is not before the Senate at the moment is the response by the Minister for Transport and Regional Services to the order of the Senate of yesterday for the production of documents relating to the Ansett catastrophe by 5 p.m. today, nor has there been an explanation for this.

Obviously, the minister and the government are quite happy to stand in contempt of the Senate on this matter. They obviously have no intention of explaining to the Senate why they have not met the timetable laid down by the Senate. I remind government senators and the minister that the wording of the return to order is on page 31 of today's *Notice Paper*. It required the production of documents by 5 p.m. today. I stress that the Minister for Regional Services, Territories and Local Government had the opportunity to come in here this afternoon and explain why they were unable to meet that timetable or what timetable they were able to meet or give some other explanation for their non-compliance with the order of the Senate.

They have chosen not to do so. They have allowed the matter to run on. I guess they are expecting that somehow we might forget that this was due today and they would simply get away with not responding to it. I can assure them that that will not be the case. If they think that we are simply going to accept that they will continue to hide from the pub-

lic the material which is essential for the public to understand just how culpable this government is in relation to the Ansett failure, then they are sorely mistaken. I remind the government that the Senate has authorised the Rural and Regional Affairs and Transport References Committee to conduct an inquiry into this matter. If they believe that that will not be pursued, then they are also sorely mistaken.

CASA is one of the bodies that has to be satisfied that Ansett, if it is capable of getting back into the air, is capable of meeting the obligations laid down under the regulations and administered and monitored by the Civil Aviation Safety Authority. Other aircraft brought into Australia have to be operated in accordance with the provisions of any air operating certificate issued by CASA. The aircraft have to comply with certifications given in relation to aircraft operated in Australia. All of those questions are relevant to what the future of aviation will be in this country.

In terms of the return to order, it would have been of great interest to the Australian public had the Minister for Transport and Regional Services done as he was required by the Senate and produced any analysis and report prepared by the Department of Transport and Regional Services relating to the application by Air New Zealand to the Australian government for approval to take 100 per cent ownership of Ansett Airlines. It is interesting to note that today Minister Anderson could not get his lines right as to whether his government was favouring Qantas or Ansett or taking an even-handed approach to that matter. The fact of the matter is that the government have done nothing to allay the concerns of the public in relation to this matter and they stand condemned. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Agreement on the Exploration and Use of Outer Space for Peaceful Purposes

Senator BARTLETT (Queensland) (6.06 p.m.)—I move:

That the Senate take note of the document.

I think this is an important treaty and probably one that has escaped the sort of attention

it should have in relation to a lot of issues. This treaty, along with others, was considered by the Joint Standing Committee on Treaties on Monday. Unfortunately, I was not able to get to that hearing because of other commitments. That was a source of frustration because there were a number of questions I would have liked to have asked on that treaty. The national interest analysis that was tabled along with the treaty states that it provides a framework for collaboration with Russia in a broad range of space projects. There are two proposed spaceports: the Asia-Pacific space centre proposed for Christmas Island and the spacelift facility proposed for Woomera, which would use wholly Russian launch vehicles, and the agreement is necessary to facilitate both. The agreement is a critical step in facilitating those proposed projects and any further projects that may emerge in the future.

The Democrats, including Senator Stott Despoja and others and I, have spoken a number of times about the importance of promoting science and the space industry. I do not want in any way to be seen to be talking against opportunities for expanding space exploration, on the proviso of course that that is done properly and effectively in a cutting edge way and in a way that is environmentally sound for Australia and global interests. The Democrats do have some concerns in relation to the history of the space exploration industry, the Russian space launch industry, particularly environmental aspects. This national interest analysis talks about it being necessary to facilitate some of these projects including Christmas Island and Woomera and others in my home state of Queensland, potentially including the almost pristine Hummock Hill Island in central Queensland, which is proposed for a rocket launch site. This national interest analysis talks about costs and benefits. There is not a mention of the environment at all in it. Surely the environment is part of our national interest and should be considered by the Australian government as part of an agreement. In the Democrats' view, you do not simply sign an agreement to enable transfer of technology without examining or putting in some requirements and procedures in relation to environmental matters. We be-

lieve that is a significant omission, and one that needs questioning.

Our concern relates to environmental performance. More than 2,000 tonnes of space litter from the Russian space program is scattered across areas of Russia, with major environmental effects that have only recently come to light. The safety council of the Russian federation assessed the environmental impacts of the release of toxic rocket fuels and noted that a serious ecological situation exists at the spent-stage fall sites for the first stages of rocket boosters, with ground and surface water toxic concentrations many times more than acceptable levels. Significant contamination of vegetation happens as a result of atmospheric transportation of vapours and aerosols with rocket fuels.

The fuel that has been used traditionally in the Russian space industry is not necessarily the same fuel that is likely to be used on Christmas Island. I understand that kerosene and liquid oxygen is the proposed fuel for Christmas Island. But there are still concerns about that fuel that I believe need to be properly considered. The Democrats have received information that Russia's space industry has done so much damage in Uzbekistan that Uzbekistan has terminated the Russian space program there and is giving Russia two years to wind up their program. So in that circumstance we think we need to look at what we are doing in expanding our operation in that direction.

In June this year a conference in the Netherlands discussed the viability of green rocket fuels. The Democrats believe Australia should be at the cutting edge of that sort of technology with rockets and rocket fuels. What is the future of green rocket fuels and can Australia be part of this innovation, rather than relying on old fuels and countries with particularly poor environmental records? I am not saying we should not explore the space industry with Russia, but we should ensure that we do it in a cutting edge way that ensures environmental issues are properly addressed. Mr Acting Deputy President, I seek leave to continue my remarks later.

Leave granted.

Multilateral Treaty Action

Senator BARTLETT (Queensland) (6.12 p.m.)—I move:

That the Senate take note of the document.

I will speak briefly on this also, partly to highlight the importance of this document and again to highlight the fact that often these things are not properly considered. This list contains a range of proposed multilateral treaty actions that are currently under negotiation or consideration by the Australian government or are expected to be so within the next 12 months. There is a significant number. Whilst a lot of them are what might seem to be fairly benign machinery ones, there are also others that are potentially extremely significant. This is not a bad thing at all. The Democrats are strong believers in international cooperation in a range of areas, and the more constructive multilateral agreements we can get in place the better. But the important thing, from the Democrats' view, is that there is proper scrutiny and adequate scrutiny of those negotiations and what those agreements may lead to. The treaties committee that has been established, one of the positive initiatives of this coalition government, does provide some mechanism for doing that, but it tends to look at treaties after they have been developed and tabled, such as the one I was just speaking to previously. It tends not to be able to engage very often in the preliminary stages, and this is an area of concern.

One area of concern relates to economic treaties, particularly in the area of trade and the World Trade Organisation. One of the effective activities of the treaties committee, where it did look at something before it was locked in and was still under consideration, was the multilateral agreement on investment. Sufficient concern raised by and generated from the community level by a whole range of groups, including the Democrats and many others, created enough pressure for the committee to have a look at it. When they had a look at it, they saw a lot of flaws, sufficient that the whole thing fell over.

I know the agenda is still there and that people are still working away behind the scenes within some bureaucracy to try to reinstate some of that in another guise,

which shows the importance of ongoing vigilance. There are other ongoing discussions and negotiations that I think also need to have the spotlight shone upon them. The treaties committee is tabling a report into the World Trade Organisation next week, I think, so I will not pre-empt anything that is in that. But there is significant concern developing in the Australian community about what is known as the GATS—General Agreement on Trade and Services—agreement and an agenda on the part of the federal government and other governments, or probably even more so on the part of the Australian bureaucracy in many parts, to advance that particular agreement which, if adequate safeguards are not put in place, could significantly endanger the quality of provision of basic public services such as education, health and a whole range of other areas.

There has been very little public discussion or debate or even awareness of the fact that this is under way. Indeed at the next stage of negotiations later this year it is potentially going to be advanced further and we are likely to again find ourselves in a situation, if there is not sufficient scrutiny of negotiations such as these by the Australian government, that agreements such as these will find us locked in and potentially unable to prevent inappropriate international competition in areas of basic public services. In the Democrats' view, there are inadequate safeguards in place at the moment to prevent that from being so.

Already there are examples in other countries of public interest provisions being put in place by governments in relation to public services and environmental measures that are being challenged and overridden on the grounds of free trade in those service areas, and that is a great concern. Whilst some may want to argue that there are positives in that and that it should be embraced, the Democrats do not share those views, but we are willing to have the debate. The key thing is that we need to have the debate, but we do not believe that the debate is occurring or that the awareness is there. We certainly wish to flag our concern about that particular issue and the need to have proper consideration of significant treaties and agreements such as

that in advance, rather than after the fact. That is not occurring in the area of the GATS agreement, and the Democrats strongly support moves to have more attention given to that proposed agreement.

Question resolved in the affirmative.

Consideration

The following orders of the day relating to government documents were considered:

Airservices Australia—Sydney Airport—Maximum movement limit compliance statement for the period 1 April to 30 June 2001. Motion to take note of document moved by Senator O'Brien. Debate adjourned till Thursday at general business, Senator O'Brien in continuation.

General business orders of the day no. 1 relating to government documents was called on but no motion was moved.

COMMITTEES

Privileges Committee

Report

Debate resumed from 19 September, on motion by **Senator Robert Ray**:

That the Senate take note of the report.

Senator HOGG (Queensland) (6.16 p.m.)—This evening I rise to set straight the matters which pertain to me in this report. I was a full member of the inquiry into the Sex Discrimination Amendment Bill (No. 1) 2000. I replaced Senator Cooney for the purpose of that inquiry, and I was therefore a full member, with full voting rights. The report that was brought down by the Privileges Committee refers, at paragraph 5, to this fact:

The Legal and Constitutional Legislation Committee met during a break in estimates hearings, that is, before the article based on the draft report appeared in *The Australian*, to discuss the matter. It made admirably exhaustive but ultimately unsuccessful attempts to discover who might have disclosed the draft report.

I believe that was a meeting that was held on the night of 20 February and I, unfortunately, was not invited to that meeting. The following day I received from the secretary of the committee, Ms Pauline Moore, an email which confirms that very fact. The email says:

Dear Senator Hogg

I am sorry that we did not get in touch with you yesterday about the meeting held last night. This was the result of each of two groups thinking the other had contacted you.

With respect to the letter from Senator Payne—a written response to Senator Payne is required from all those who either had access to the report (the Secretariat) or were sent a copy (Senators and their staff, where applicable).

It goes on to say that the committee will meet to consider the matter. I responded to that email, and my response to Senator Payne, dated 22 February, was as follows:

Dear Senator Payne,

I cannot explain the disclosure.

I was not invited to the private meeting of the Committee held on 20 February and so I am not familiar with the circumstances relating to any alleged disclosure.

Anyway, whatever the circumstances, it wasn't me, if that is what you were asking or wanted to know.

Yours faithfully

John J Hogg

So I made it quite clear in my response that I had not been invited to the meeting of 20 February, when the issue of an unauthorised disclosure of a draft report of that committee had been raised, and nor was I aware of any alleged disclosure.

The report of the Privileges Committee then goes to the issue of the conduct of the inquiry into whether there was a breach of privilege because of the early disclosure of the draft report. On the conduct of the inquiry, the report notes at paragraph 10:

On receipt of the reference, the Committee of Privileges wrote to the editor in chief of *The Australian*, as well as to all current members, and the secretary, of the Legal and Constitutional Committee, seeking comment on the matter. All responses to the committee's letter are included at Appendix B to this report...

Unfortunately, the secretariat of the Privileges Committee for some reason did not write to me. There was no letter to me at all; I was not consulted. When one reads appendix B, one will find that there is a response from Senator Cooney, who at that stage was a participating member of the committee, and you will find no response from me at all.

The real reason I am speaking tonight is to get to the tawdry response of the secretary of the committee—and that is the only way to describe it. The response of the secretary of the committee leaves me outraged and appalled at the unprofessional and scurrilous attack on me, the Clerk Assistant (Committees), Senator Bishop and, undoubtedly, others by innuendo. Let us look at the scurrilous way in which I was attacked. The letter from the secretary of the committee, Ms Moore, to the Chair of the Privileges Committee, Senator Ray, in no way mentions my letter of 22 February to Senator Payne, but says:

I refer to your letter of 13 August on the above matter. The following events may or may not have some connection.

‘May or may not’—that is trying to have a go at my character and that of others who are associated with me. The heading reads:

Prior to the unauthorised release of the above report:

I requested the Clerk Assistant (Committees) to advise Senator Hogg that the Secretariat was far too busy to write what amounted to a separate report on issues essentially irrelevant to the inquiry ...

What a hide for them to determine that I do not have the right to a dissenting report if I wish to write it! This is what we have got from this upstart of a secretary of the committee. The letter goes on:

... and that, as this ‘dissenting’ report was being requested long before the Chair’s draft was available, as well as being irrelevant, it was contrary to Standing Order 38(2).

So what! I am a member of this Senate and, if I want to put in a dissenting report, I will do so. It then goes on:

I was subsequently advised by the Clerk Assistant that Senator Hogg insisted on the report proceeding—

of course I did; of course I insisted that there be a dissenting report—

and had told the Clerk Assistant this dissent was a ‘payment of a debt’, or words to that effect.

What does that imply about my character and my relationship with the Clerk Assistant (Committees)? This is a load of rubbish. No-one in their right mind would write this. It goes on—and this gets better:

Senator Hogg requested that the Chair’s draft, when available, be emailed to Senator Bishop.

Let me say that, in my ignorance at that stage, I thought that Senator Bishop was a participating member of the committee and was entitled to a copy of the report. When it was pointed out to me by the secretariat that that was not the case, fine, I backed off. But let us look at how this is used. It goes on:

As Senator Bishop was not a member of the Committee, Senator Hogg was told by the Secretariat this was not possible.

I accepted that. But then they include a paragraph entitled ‘After the unauthorised release’. What do we have here? Innuendo after innuendo. It says:

Two of the Secretariat staff working on the dissent went to Senator Hogg’s office by appointment to meet with him and Senator Collins to discuss it; when they arrived, they were told to return later. Shortly thereafter Senator Bishop left the office.

What do we have—spies running around this place trying to check up who is in whose office? Anyone who knows my office knows that the door is wide open. You look straight into my office. There is no secret about what goes on in my office, and if people want to walk in to talk with me they can. But we get this nonsense from this person who claims to be a responsible and professional member of the secretariat of a committee of this Senate. All I can say is that it leaves a hell of a lot to be desired when they can write this letter and not include anything about the fact that I had written to the chair of this committee—and the secretary of the committee would have been aware of the letter in which I clearly outlined that I had no knowledge of, or no association with, any leaking of any report. To impute that some association between me and Senator Bishop then led to some form of leaking is completely scurrilous, completely unwarranted and, when one reads this within the context of the report, leaves my character open to quite a deal of question which is quite unfounded and quite baseless. I believe it shows that there is a lack of professionalism and a lack of any integrity in the secretariat of that committee. I can understand why that committee must have difficulties in

working with the secretariat when they have such a person leading the secretariat.

I believe that an unequivocal apology is due to me. This letter was given under the privilege of parliament, and this is the only place that I have to redress the issue that I raise here tonight. This letter, singly, is a disgrace to this Senate and to a committee of this Senate and I would like to see at some stage a total withdrawal of any inferences in that letter made public by the author of it.

Senator MARK BISHOP (Western Australia) (6.26 p.m.)—In taking note of the 100th report of the Senate Committee of Privileges, I refer to page 10 of the report—the page just referred to by Senator Hogg—and read into the record some comments made about me in the last paragraph of the letter dated 27 August by Ms Pauline Moore, the secretary of the committee, to Senator Ray. Under the heading ‘After the unauthorised release’ it says:

Two of the Secretariat staff working on the dissent went to Senator Hogg’s office by appointment to meet with him and Senator Collins to discuss it; when they arrived, they were told to return later. Shortly thereafter, Senator Bishop left the office.

That is the end of the letter. It seems to me that that raises a number of issues. For the record, I want to state that I never participated in this particular committee report, did not attend any of its deliberations and never had access to or saw the committee report until after it was a public document tabled in this place. It seems that this letter from Ms Moore to Senator Ray raises two issues. Firstly, it is apparently the practice of this committee and this secretary and some or all of her staff members to keep records of the attendance of members of parliament at various offices in this place. How is it anyone’s business that a member of parliament, either in this chamber or in the other house, attends the offices of other senators—as they do regularly all day every day—to discuss routine or other business? And why is it the business of the secretary of the committee and her staff to keep written records of the activities of members of parliament in this place and then put them in public documents under privilege? As Senator Hogg said, it is

simply outrageous. The apparently grossly improper activities of committee secretariat staff in keeping tabs on the activities of members of parliament should be the subject of an inquiry by the Clerk of the Senate. I formally request that.

The second issue it raises is that of the professionalism and the ability of Ms Pauline Moore to carry out her duties as a member of the staff providing support services to the various senators in this place. I say that because there is a clear implication in her correspondence of improper behaviour by me. She linked attendance at a meeting with later events without a shred of evidence suggesting any such linkage at all. So, in my view, it would be quite pertinent for the Clerk of the Senate to pay heed to this correspondence and the comments that are now formally on the public record and to institute an inquiry into the professionalism of Ms Moore and other persons who may have been involved in these activities and report accordingly.

Senator ROBERT RAY (Victoria) (6.30 p.m.)—First of all, I thank Senator Hogg for warning me that he was going to raise certain issues out of the 100th report of the Senate Committee of Privileges. I also indicate to Senator Hogg that there was a failure by the committee to write to him on these matters because we wrote to current committee members and not to people who had been substituted in. This was a failure on my part: not only did I not remember that I suggested that he go on this committee and suggest to Senator Carr that he replace Senator Cooney on it; it completely escaped my mind when all the correspondence came to me to send to existing members. That was an oversight by the chair. I apologise for it.

Secondly, I do not think any member of the committee ever thought that Senator Hogg would be responsible for leaking to that particular journalist. It is inconceivable that a member of the Right faction of the Labor Party would leak a story to a former Centre Left member of the Labor Party—unless you are exceptionally clever! I have to say—and Senator McGauran is present tonight and a honoured member of the Senate Committee of Privileges—that we do have enormous difficulty in tracking down leak-

ers. I have to say—and I have said it for the record before—that leakers of Senate reports are inevitably senators. Let us not cast a shadow of doubt over other organisations, secretariats and all the rest; these reports are inevitably leaked by senators. The odd senator has been caught. We did catch one two or three years ago because he gave a televised press conference leaking the report. He did throw himself on the mercy of the Senate. So it does happen, but normally you do not catch a leaker. If you look at the report, at least one of my colleagues in the Senate was pretty straightforward. He said:

It would appear that the document in question was 'leaked', and that such a leak may have been calculated to politically damage a member or members of the Legislation Committee, given the political context and the subject matter at the time. Certainly, that seems a credible theory.

That is code for: there was a Liberal Party preselection in New South Wales and maybe it was leaked for that purpose. Who knows? I do not know. I have no idea who leaked it. I could have a good guess—

Senator McGauran—Don't.

Senator ROBERT RAY—But I will not. You are right: I will not have a guess whatsoever. And Senator Greig, at least, does not have a guess either. But one thing I think he is right about—and I am probably right about—is that it was a senator who had access to the report. As I said, tracking down any leaker is usually beyond the powers of the Senate Committee of Privileges, no matter what talent is therein assembled.

Could I also say that the committee—and I am not going to go into the discussion of the committee—did receive a letter from Ms Moore. It was noted, I think, by committee members that maybe it was a strange letter. I have to also say that we never had any intention to censor any letters. I think it is our responsibility to publish all the replies unless they are totally defamatory, and I do not think this falls into that category exactly. However, I do not think this is a very wise letter. In the very opening paragraph, the letter states:

The following events may or may not have some connection.

If they do not have any connection, we do not want to hear from the person. The last sentence in the larger paragraph, where the letter mentions 'a "payment of a debt", or words to that effect' is pure scuttlebutt, second-hand hearsay knowledge, and I do not know why it is there. It has no relevance to our inquiries into leaking. As for the reference to Senator Mark Bishop, I have say for the record that, whether or not Senator Bishop is on this committee, Senator Hogg has the right to discuss those issues with Senator Bishop or a staff member any time he likes. There is, of course, a requirement on Senator Bishop not to disclose any of this material, and he would not. But we do discuss issues with colleagues and with staff.

For heaven's sake, we have had plenty of these committee reports find their way into a minister's office and then over to departments, and that does take things a little too far. We have been a bit cross about that over the years when it has occurred, and we have had grave suspicion that some of the minority reports to references committees have been departmental reports, et cetera. But the more innocent explanation is really that the department wanted to be prepared to respond properly. Quite often, we have found that departments do not understand Senate privilege. Many of them have taken education courses of late and have made progress in this regard, and that is quite pleasing. The letter goes on to state:

After the unauthorised release:

Two of the Secretariat staff working on the dissent went to Senator Hogg's office by appointment to meet with him ...

Yes, Senator Hogg may well have been busy, but then it goes on to state:

Shortly thereafter Senator Bishop left the office.

So what? He has left my office on a few occasions. Sometimes he has been happy, sometimes he has been unhappy, depending on the nature of our conversation. More often than not, I think he will concede, he has had a very nice coffee there.

Senator Mark Bishop—That's right.

Senator ROBERT RAY—But so what? In summary, we are not in the position of ever censoring the material that comes to us.

I do not think that is appropriate. The only time we ever censor material is in a section 5 right of reply, which we are instructed to do—and always in terms of negotiating with the complainant. So we had no choice but to put that letter in our report. But it was a very strange letter. It was one that I think drifted aimlessly all over the place. It is full of innuendo—for what purpose, though, I cannot divine. I think it would have been better not to have come.

One of the things possible here is that the Clerk Assistant may well draw that committee secretary's attention to all of the previous correspondence sent to the Privileges Committee by other secretaries. That would be a very good educative process, to see how all of the other secretaries over the years have responded. Nevertheless, if such a letter had come in and referred to me, I have to say, Senator Hogg, I would have been pretty concerned, as you were tonight.

I would like to finish by saying that we have had a record number of references of leaked committee reports. Really, it is getting beyond the pale. Why do people leak committee reports? They leak them basically for brownie points, don't they? They leak them to pre-empt the rest of their colleagues or to do damage to someone. It is not really a proper procedure to do that to your colleagues. Often it is only to get a bit of publicity a day or two before the report is about to be published.

If you think that you are getting brownie points with journalists by doing it, I can tell you that as soon as you make a mistake they will be the first ones to attack you. They will attack you because they do not even respect you. They do not respect leakers along these lines. They know deep in their own hearts that it is part of their job to obtain this sort of stuff and to publish it. That is part of their job. That does not mean it carries respect with it.

When it is things like in camera evidence it becomes even worse and we wreck the whole committee system that actually is the joy of the Senate. We are all frustrated by aspects of the committee system, sure, but we have to have something productive that at least delineates us from the other place, that

justifies our existence. It is little wonder that various parliamentary institutions from around the globe come here to see how the committee system operates—the estimates committees, the standing committees, the references committees and the legislative committees—because rarely is it so accurately defined and effective as in this chamber. Senators have to take responsibility for protecting that committee system, and they will not do so by leaking reports and by leaking the internal discussions within those committees. You would have to say that an overwhelming majority of senators in fact abide by the rules and respect their colleagues.

It is a real disgrace, I have to say in conclusion, that we are up to the 100th report of the Privileges Committee. I cannot remember what the number was when I took over the chairmanship, but I think it was about 55 or 60. We have had all of those cases, the majority of which have been leaking cases. In conclusion, I think these matters can be resolved internally. They had to be raised here. They could be raised nowhere else, because this letter itself was a privileged document.

Question resolved in the affirmative.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia's relations with the Middle East. Motion of Senator Calvert to take note of report called on. On the motion of Senator Forshaw debate was adjourned till the next day of sitting.

Superannuation and Financial Services—Select Committee—Report—Prudential supervision and consumer protection for superannuation, banking and financial services—Second report - some case studies. Motion of Senator Lightfoot to take note of report agreed to.

Community Affairs References Committee—Report—Lost innocents: Righting the records. Motion of the chair of the committee (Senator Crowley) to take note of report agreed to.

Privileges—Standing Committee—99th report—Possible unauthorised disclosure of a submission to the Parliamentary Joint Com-

mittee on Corporations and Securities. Motion of the chair of the committee (Senator Ray) to take note of report agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 11 of 2001-02— Performance audit—Administration of the Federation Fund Programme. Motion of the Leader of the Opposition in the Senate (Senator Faulkner) to take note of document called on. On the motion of Senator O'Brien debate was adjourned till the next day of sitting.

Order of the day no. 1 relating to a report of the Auditor-General was called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Aussie Boats for East Timor

United States of America: Terrorist Attacks

Senator FORSHAW (New South Wales) (6.42 p.m.)—At the outset of my remarks tonight on the adjournment I place on the record my sincere sympathy and condolences to all of those who lost their lives in that terrible tragedy last week in New York. I particularly wish to acknowledge the death of Andrew Knox of Adelaide, who has already been referred to in other remarks by members of this chamber. Andrew was a former official of the Australian Workers Union, a union that I had the privilege of being an official of and general secretary of for a number of years. I pass on my sincere sympathy to his family and friends. Just as we have seen out of that terrible tragedy in New York the goodness in human spirit rise to the fore with the efforts of the many volunteer service workers such as firemen, police, ambulance officers and thousands of members of the general public of New York to assist in the recovery and rescue operations, I also

wish tonight to refer to some work being done by two Australians.

Some weeks ago I was visiting my duty electorates on the North Coast, Cowper and Page. I met Mr and Mrs Barry and Michelle Wicks, who live at Harwood on the Clarence River, just north of Grafton. Senator Ridgeway, who is in the chamber tonight, would know this area very well. Barry and Michelle Wicks are retired people. Barry is a retired boatbuilder. They were distressed by the devastation that was inflicted upon the people of East Timor after the vote for independence there. They were particularly distressed to see the destruction of many thousands of fishing boats and the consequent destruction of the livelihoods of many East Timorese people living in the coastal regions.

As I said, Barry is a retired boatbuilder. He and Michelle decided that they would try to do something practical to assist the people of East Timor. Barry set about using his skills and the equipment in his garage at home. He put in some capital of his own and last year he commenced building some boats, some canoes, which could be used by the fishermen of East Timor to try to get their lives back together. As part of this project, which has become known as Aussie Boats for East Timor, they also sought sponsorship. Since they first began this project, they have managed to involve community organisations such as Rotary, surf clubs and shire councils, including the Maclean Shire Council near where they live, which have contributed funds and other resources to the project. One of the ironies of the project is that early this year, while Barry and Michelle were involved in building their first couple of boats for delivery to the people of East Timor, major floods occurred in the North Coast region and their property was flooded. It was with some degree of irony that Barry found himself trying to build these boats while his property was under severe flooding. But he pushed on and the first boat, out of a target of 100 boats, was delivered to the East Timorese people earlier this year.

Since then, he was informed that the Chinese government had donated a large number of outboard motors to East Timor. This provided a certain degree of synergy to his proj-

ect. He then set about redesigning the initial boats that he was intending to build and came up with a design which could incorporate the outboard motors that the Chinese government has donated. He and Michelle have now constructed a number of these boats. The cost is about \$1,200 per boat, so it is not a huge amount; but, when you are talking about building 100 of them, of course it adds up. A number of the boats have already been delivered to the people of East Timor.

There is another side to this very generous and practical voluntary work performed by Barry and Michelle Wicks. They have also taken on some local unemployed people, who have been assisting with the project. In the process, Barry has been teaching them skills such as how to operate machinery, some basic woodwork skills and boatbuilding skills. Michelle, who runs the administrative side of this project, has been teaching these people some computer skills. So there is a positive spin-off from this project to assist local unemployed people in the region.

Tonight I want to put on the record my immense thanks to Barry and Michelle and also to give public acknowledgment to what I believe is a very worthwhile project. As I have said, they are intending to produce—and are well on the way—over 100 of these canoes, which will be sent through to East Timor and will certainly restore the livelihoods of many of the fishing people there. There is an old saying that I am sure we are all aware of: if you give a person a piece of fish, you can possibly feed them for a day; but if you teach them to fish, or provide them with the means to fish, you can feed them for a lifetime. That is what Barry and Michelle have done: they have given back to these people a means to earn their livelihoods.

Their work has been acknowledged by the newly formed Fisheries and Marine Environment Service of East Timor. Mr Richard Mounsey, the United Nations Principal Fisheries Adviser, wrote to Barry and Michelle in June this year:

Dear Barry and Michelle Wicks,

The Fisheries staff of East Timor's newly formed Fisheries and Marine Environment Service (FMES) thank you both for your efforts to help

the poorest fishermen in East Timor. The fishing group in Fatu Hada also thank you most sincerely. The new boat (fatty) is performing well and the fishing group testing it are reporting that they now have a real chance to get back on their feet. Three families are operating the boat and they are feeding themselves, putting some money away for future repairs and maintenance, able to buy basic fishing gear and still make a modest income ... They also believe things will get better as they learn new skills and can afford better gear.

It is a project that I believe we should all give great support to. I understand that approaches for assistance have been made to government departments including AusAID but as yet it has not been forthcoming. Indeed, I wrote to AusAID at the end of August—27 August, I think—asking them why they had not provided any assistance to this most worthwhile project. To date I have not received a reply and I hope that I get one soon. I commend to the Senate this most worthwhile project which is helping the people of East Timor.

Care of Indigenous Children

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (6.52 p.m.)—I rise tonight to speak about the care of indigenous children in this country. I note that the Parliamentary Secretary to the Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs, Ms Chris Gallus, spoke earlier this week about the need for state governments to do more for indigenous children, particularly in relation to meeting their responsibilities to protect indigenous children that are suffering from violence and trauma. That is a fair statement to make. Our state governments certainly do have considerable room for improvement when it comes to the care of indigenous children—just like the parents have.

I know in my own state of New South Wales, the Department of Community Services has publicly acknowledged that it does have to do a lot better, especially when it comes to those children who are at risk. One of the first things that the Director-General, Ms Carmel Niland, did when she took on the role was to deal with the suffering and circumstances within the community by first of

all apologising to Aboriginal and Torres Strait Islander peoples in New South Wales for the role of the department in the removal of children from their families. She went on to say sorry and, on behalf of the department, expressed her regret about the department's involvement over a long period of time—and even in recent days—in that dark chapter of our history. DOCS also, as an adjunct to dealing with the symbolism, revised its policy on service delivery to Aboriginal people, and it essentially based its new commitments on the principles of self-determination and participation.

It took a lot of courage to recognise that the department was contributing to the problems, that it had a bad track record with Aboriginal people and that it needed to do something to redress that perception as well as look at what was happening substantively out on the ground. Essentially that meant looking at the questions of inequity in relation to services, the lack of access and the absence of opportunity to participate in a lot of the matters affecting communities and affecting children. The department also responded by drawing up a new corporate plan and a new business strategy, and I believe it is implementing a much more rigorous and transparent reporting mechanism to better meet the needs of Aboriginal children in New South Wales.

I am not suggesting for a moment that these measures by DOCS have comprehensively addressed the needs of Aboriginal families in New South Wales. At this stage it is perhaps too early to draw any conclusions one way or the other. Nevertheless, I think it is a positive initiative and one that is heading in the right direction. There are genuine efforts being made in some states to turn their record on the care of indigenous children around, and I acknowledge that these positive steps are being taken.

I also acknowledge that some states are making a much more concerted effort than others, according to the degree to which they prioritise the need to improve the lot of indigenous children. The inconsistency in response between the states lies at the heart of the problem, and is one of the indications of the fact that there are no legislative or policy

standards being set by the Commonwealth with regard to the wellbeing of indigenous children. It is not good enough for the Commonwealth to simply point the finger at the states and territories and tell them, as the parliamentary secretary did earlier this week, that they 'need to do more'. We all know that. But, as in so many other policy areas, the Commonwealth need to be raising the standards, they need to be setting the benchmarks and they need to be providing a national legislative framework that all jurisdictions can comply with.

This is a message that has been delivered to the Commonwealth on many occasions, and not just on this occasion in response to what has been said by the parliamentary secretary. We only have to look at the reports that have said exactly the same thing over the past 10 years. The first being the Royal Commission into Aboriginal Deaths in Custody in 1991, the Human Rights and Equal Opportunity Commission's *Bringing them home* report into the separation of children from their families in 1997 and, only last year, the Senate committee report into the stolen generations that I had the privilege to participate in.

Each of these landmark documents have recognised that many of the social, economic and cultural problems that confront indigenous communities stem from past removal policies and contemporary practices. The reality is that some of the contemporary removals are often brought about by the fact that the juvenile justice system operates more to remove children from their families rather than for remediation and rehabilitating them within their own community. The lack of parenting skills in the Aboriginal community is a result of parents themselves having been removed from their own families in communities. Contemporary removals are also often brought about by the cumulative effects of poverty, domestic violence and poor access to support services to address these problems.

As the Senate Legal and Constitutional Committee reported last year in its inquiry into the stolen generations—and the various statements from numerous witnesses—the key solution to some of the current separa-

tion practices is to implement national standards legislation regarding the treatment of indigenous children. That conclusion was supported by the Australian Democrats in our minority report to the same Senate inquiry. More recently, the Secretariat National Aboriginal Islander Child Care—or SNAICC, as it is commonly known—issued nine principles that it regards as critical to the achievement of a better future for indigenous children. As the national peak body representing indigenous children's interests, these nine points represent the minimum acceptable policy response that we should expect from both the present government and the opposition, particularly considering that we are possibly only a few weeks out from a federal election being announced.

In light of the gravity of this issue, I think it is important to bring to this chamber's attention the nine principles identified by SNAICC. The first principle deals with acknowledging, in the symbolic sense, and dealing with the question of an apology. The second looks at the need to reduce the number of children being removed from home for child welfare and poverty related reasons. It is important to point out that the current rate for the removal of indigenous children is six times the rate of removal for all children. The third point is about providing access to family support services to prevent family breakdown and reduce the number of indigenous children removed from their families by state welfare authorities.

The fourth point that SNAICC makes is the need for a national commitment to early childhood development through the expansion of the Multifunctional Aboriginal Children's Services and other early childhood services. In terms of behaviour, we have to get in there early and recognise that unless you actually try and stem the tide of behaviour in terms of what children see, unless you actually deal with the habits that are developed from such an early age, then we run the risk of children from a young age through to adolescents ending up with the wrong types of habits and repeating a lot of the mistakes of the past. We have an opportunity to make sure that we can establish national benchmarks for government services. I would hope

that, given the comments that were made by the parliamentary secretary, Chris Gallus, the government is not shirking its responsibility and that it is prepared to lead on this matter. Quite frankly, when you consider the range of legislative options that exist out there amongst the states and the Territory, they are not delivering those options and they are exacerbating the problems already in the community.

The aim is really to show that our kids are important, to put a human face to it and somehow to draw attention to the needs of those kids and their situation. I think the challenge for us is to think about our behaviour and its impact upon children. Children learn from observing our behaviour—not just behaviour within families and the behaviour of friends and community members but also the behaviour of political leaders and governments. Too often children witness behaviours which carry messages of violence and neglect and indifference instead of all of those qualities that are required to support the nurturing process and provide encouragement.

In closing, our children will continue to face an uncertain and difficult future if our political leaders fail to respond to the issues being put forward by SNAICC. They are worthy of consideration. Perhaps the government may read them and perhaps the government and opposition will take them on board.

Ansett Australia

Senator McGAURAN (Victoria) (7.02 p.m.)—I do not think there is anyone in this parliament, or in Australia for that matter, who does not greatly regret the collapse of Ansett Airlines—the long troubled Ansett Airlines. That would even include Qantas. It is very regrettable because all of us, or most of us, have used Ansett at one time or another. Some of us, like myself, were regular customers of Ansett. The founder of Ansett, Sir Reginald, was a Victorian identity, a very colourful one and a much liked one. There is no doubt that we Victorians greatly regret the collapse of Ansett Airlines, if we were not greatly surprised by it.

Senator Carr—Why doesn't the government do something about it?

The PRESIDENT—Senator, you can have your opportunity later.

Senator McGAURAN—The liquidation has directly affected many thousands of employees—loyal and long-serving employees—and has greatly reduced competition within this particular industry. But Ansett did not collapse because of any government policy, nor can competition policy be blamed for the collapse of Ansett. It really is a question of management of this particular company. This was a private company fully owned by the board of directors of Air New Zealand. The Air New Zealand board cannot claim to have been at arm's length from Ansett. It was fully 100 per cent owned by Air New Zealand. Some of the board directors have attempted to claim that they have pawned off Ansett, that it was not integrated in every single way with Air New Zealand. To think that the directors had the cheek to pay themselves a bonus in regard to their performance that year! That is highly questionable and greatly mystifies all who stand back from the board and see the collapse of Ansett. It needs to be looked into.

The government believes that there is, in fact, scope for the board to be brought to account within the law, if possible, and we are going to pursue why the board misled the public in regard to their responsibilities for Ansett Airlines. The government has taken steps in the meantime in regard to guaranteeing the statutory entitlements of the Ansett workers; and this includes 100 per cent of long service leave, 100 per cent of unpaid annual leave, 100 per cent of unpaid wages and 100 per cent of unpaid pay in lieu of notice and up to eight weeks of their redundancy entitlements as per the community standard.

This is the safety net the government has put in place. No-one is sure of the end cost. It is around the \$400 million mark, a substantial contribution by this government. With such a massive collapse of a major airline, we cannot expect that there will not be a wave effect throughout regional areas, and there was. There was an immediate effect of stranded passengers within the rural and re-

gional areas. And as a National Party senator, I can say this was our most immediate concern.

One week or thereabouts on from the collapse, the regional services have come back to near normal. Qantas already had many of those routes, so there was just the delay factor—waiting in the queue to get a seat. Qantas also picked up many of the time schedules that the Ansett regional services were unable to pick up and that disappeared from sight, the main Ansett regional service being Impulse Airlines. Qantas stepped into the breach very well. They have picked up most of the regional services. But other regional airlines, not connected to Ansett, have been able to pick up many of the routes and take the extra passengers. The market in regard to rural and regional services has worked.

Of course there is still a delay, as there is already for us to get out of the parliament—and I don't mean my speech, either! Most of us go home on a Thursday night, myself included, but we will have to wait until tomorrow morning. That is a minor concern, a minor problem, compared to the problem of the collapse of the whole industry.

It also has a cascading effect, as we know, on the tourist industry, which the government is looking at, and I have no doubt that it will take the proper steps—within the bounds of what a government can do at the collapse of a private industry—to help the tourist industry. Adjustments will and have been made to meet the new demand, and there is going to be a reduction in the competition factor. We hope, in the medium to long term, that Qantas, Virgin Blue and other airlines will step into the breach and address that competition factor—because we simply cannot leave Qantas as the only airline servicing the domestic market.

We must recognise that this is a very difficult situation that has affected many people—particularly, as I have said, the employees—and will affect the Australian economy or, if nothing less, this industry. It has a knock-on effect. The opposition have managed to attack us in the Senate for three days on this issue, asking, 'What are you doing?' We have told them what we are doing with

regard to the employees. I notice that, come Thursday, they have not been able to sustain the argument. The question has to be asked: what would the opposition do? Do they have the skill to manage this most difficult problem? Do they have the care to manage this situation?

There was a precedent set when they were in government. Such problems always blow up in government, and a government must have the management skill and the care to be able to handle these problems. No government is going to sail through their term trouble free. There will always be problems. The issue is how you manage them, whether you have the skill and whether you have the cabinet and the Prime Minister to handle the problems as they blow up. What did the Labor Party do when they were faced with a similar situation—the collapse of Compass Airlines? They did nothing. They did nothing at all. There were thousands of employees attached to Compass Airlines. Did they get their entitlements underwritten by the government? No, they did not. Thousands of ticket holders were stranded. Did the government step in with measures to ensure that those who were stranded or those who lost the value of their ticket were supported? No, they did nothing of the sort. Of all they have asked us to do, they did none of it when they were in government.

The tourism effect of the collapse of Compass Airlines, particularly in the state of Queensland, was enormous, particularly the knock-on effect. Did the Labor Party do anything to prop up the tourist industry? No, not at all. In fact, Mr Beazley, on the announcement of the collapse of the Ansett Airlines, told us to step in and keep this private business going, saying that it would cost us only \$100 million for the next two weeks or something. But what did they do when Compass collapsed? The Prime Minister used the following quote in question time in the House of Representatives on Tuesday, and I will repeat it in the Senate. Brian Gray, the former chief executive of Compass Airlines, on 22 December 1991, said:

I went to the government on Wednesday and I asked for some relief—

some support—

Kerin, Beazley and Collins—

who was then the minister for transport—

... came in and sat down and before I even opened my mouth, Kerin simply said there could be no cooperation from the Commonwealth government. He said, 'Under no circumstances will we help you by any means.'

The then minister for transport, Senator Collins— who has since left this parliament—said:

It would not have mattered, frankly, if the airline had asked the government for \$1 billion or \$10 ... the facts are that the government is not a private bank for private airlines.

What opportunism you have taken with the collapse of Ansett Airlines. We have underwritten the employees' statutory entitlements, but when you had a chance in government you did nothing. (*Time expired*)

Ansett Australia

Senator WEST (New South Wales) (7.12 p.m.)—I have not spoken on the issue of the Ansett crash all week, but I am driven to refute and highlight some of the myths that are being perpetrated by this government and members opposite. To say that we now have a service in the bush is absolutely ludicrous. The other day in the debate to take note of answers at question time Senator Sandy Macdonald said that, for those of us who live in Bathurst, all we now had to do was drive up to Orange. Orange used to have three to four services a day operated by 36-seater aircraft. Bathurst had three services a day: two of them were operated by 19-seater aircraft and the other service was operated on a share basis with a 36-seater. Can you tell me that one 18-seater aircraft takes the place of those seven services? Of course it does not.

Senator McGauran—Extra flights have been put on.

Senator WEST—Senator McGauran does not even comprehend that there is only one service a day going into that community—or there will be until this weekend. There is one service a day going into Orange to cover the two communities—in fact, to cover three because it has to cover Parkes as well. You are adding a couple more services there. I am talking about something like 20 services a day. And you say that one service with an

18-seater aircraft will cover that when the minimum seater aircraft that were running were 18 or 19-seaters and most of them were 36-seaters. Let us get this fact out there and known by people.

Broken Hill, the absolute wonderful epitome of the Australian bush, the outback, mining, unionism and history of this country, is only getting a service from today—and that is one 19-seater service a day via Parkes which they have to share. It used to have one 36-seater service to and from Sydney a day and two 19-seater services from Adelaide a day. There are no services to Adelaide for Broken Hill. Broken Hill now also has to contend with the issue of Pasmenco going into voluntary administration. I know that the line of lode or accessible ore body there is just about finished, but the community does not need that.

They operate a lot of their health services through the Royal Flying Doctor Service. It is a Royal Flying Doctor Service base, so it has a base hospital. But, if people in Broken Hill require treatment and care at the teaching hospital level, they have to go to Adelaide. There is now no regular public transport service by air for families to get down to Adelaide to be with their sick and injured and presumably—because they have been transferred to Adelaide—critically ill family members unless they take the six- or seven-hour drive down the road. They cannot go by air to Adelaide. Adelaide is the city that Broken Hill relates to for its specialist treatment and specialist services.

The other thing that has happened to Broken Hill because of all of this, I hear today, is that a mining conference that was going to be held in Broken Hill at the beginning of October has now gone to Adelaide. This is what this community is having to suffer through the crash of Ansett Airlines and, more to the point, of the subsidiaries, because it was Kendell and Hazelton that operated the flights to there. They operated excellent services. They were a bit pricey but at least they had a service.

The government keeps talking about competition. To hell with competition. We want a service. Competition is fine where you have a large community, but we are talking about

rural and regional areas that do not support competition because they are not large enough. We have to have the service. In a community like Broken Hill, with a 20,000-odd population, they have a right to have some sort of decent air service. As I say, they are going to have a part-time share one through Parkes at present on a 18- or 19-seater aircraft, when they used to have one from Sydney on a 36-seater which they shared with Dubbo. But, from my experience of taking that flight, very few people got on and off at Dubbo. It was a refuelling spot only for the Saabs.

They do not have that Adelaide connection, and that is critical. The RFDS are having to run flights down and back to Adelaide each day to take down the necessary pathology specimens and things that need to be read and need to be handled in Adelaide and they are bringing back urgent pharmaceuticals that are needed and urgent blood supplies that could be needed. Because this is a base hospital, they do a lot of surgery. These are the sorts of things that are going on, and the government members and the minister say, 'Oh, but there are services, there are now planes flying.' They are flying, but they are flying in such reduced quantities that it needs to be recognised that these communities are still suffering in a major way.

On the issue of Hazelton and Kendell, and Hazelton in particular, both of those airlines were commenced by individuals who were pioneers in the Australian aviation industry. In the last two years or so, they have been taken over by Ansett. When the Hazelton takeover was under way and being negotiated Qantas also expressed an interest, but the ACCC said, 'No, Qantas cannot have it because there will be no competition.' Fine. On the routes that were operated into Armidale and Tamworth and Dubbo there would have been competition with Qantas, and maybe on some of the routes up the North Coast, but on the routes to Orange, Bathurst, Parkes, Narrandera—which still has not got any service back yet—Griffith, Moruya and Merimbula there was no competition because it was the only airline going in. We did not care who took over those airlines because all

we wanted was a viable airline to keep operating.

I put out a press release in February of this year when this was being discussed and negotiated and when the ACCC had said 'Competition above all else'. I put out a press release and basically said to the ACCC, 'You can take your competition policy and do whatever you want with it, we want a service and we want a service with an airline that is viable.' When I read back my press release this last week, I thought how prophetic my words were, that I actually could pick the issue that was going to be of major significance.

Senator McGauran—How pathetic!

Senator WEST—You think it is pathetic that I was concerned about that, Senator McGauran? I am appalled that a National Party member in this place thinks it is pathetic that I am concerned and that I place a priority on service above competition in rural and regional areas. I am appalled at that attitude, because this is a vital issue. This is about the life and death of many rural communities.

Senator Carr—He lives in Collins Street; what do you expect?

Senator WEST—I do not live in Collins Street, Senator Carr. I live in Bathurst and I operate an office out of Orange. I am out there all the time and experiencing this. I am so annoyed and so frustrated by the comments that I keep hearing from the government saying, 'But there is a service operating.' They say to the Riverina, 'There is a service operating.' Qantas have some services going into Wagga, because they recently went down to Wagga. Of course, when Hazelton were taken over by Ansett, we saw a reduction in the services operated by Hazelton and Kendell Airlines in the town and people lost jobs then. But Qantas, fortunately, does have some presence in Wagga

and in Dubbo. But we are down to half or even less than half the services that used to be there.

In Wagga, we have an Army training base and an RAAF school. These are big communities. These are substantial communities and these services are integral not just to that particular town but to the whole region. As far as Narrandera is concerned, we are told that there is a service going down to the Riverina. It is going to Griffith. Griffith is an hour away or more by road and, if you happen to get a flight that is in the evening or the early morning, you are going to be chasing the emus and the kangaroos off the road as well.

Senator McGauran—Come on!

Senator WEST—Come on, Senator! He has obviously never driven the Hay Plain. I get so upset about this. He is another example of a National Party senator making light of the kangaroo and emu problem on the Hay Plain road, the Sturt Highway. These comments are just beyond belief. This issue is of grave concern. I welcome the return of Hazelton tomorrow. I hope that they can go for more than seven days and I hope that we do start to get some services back, but it will be no thanks to this government and no thanks to the comments of the members opposite.

Senate adjourned at 7.22 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Australian Bureau of Statistics Act—Proposal No. 11 of 2001.

Class Rulings CR 2001/2 (Addendum) and CR 2001/46-CR 2001/48.

National Health Act—Determinations under Schedule 1—PHI 20/2001-PHI 22/2001.

Taxation Ruling TR 2001/9.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aged Care: Accommodation Places**(Question No. 3251)**

Senator Allison asked the Minister representing the Minister for Aged Care, upon notice, on 19 January 2001:

- (1) Of the 14,000 additional aged care places announced this week, how many were in each of the high care, low care and community aged care packages.
- (2) When these are taken up, what will be the total number in each of these categories.
- (3) Will any of these places provide for specialised accommodation for young disabled people.
- (4) How will the \$44 million of new capital be distributed.

Senator Vanstone—The Minister for Aged Care has provided the following answer to the honourable senator's question, in accordance with advice provided to her:

- (1) The large round of 14,174 aged care places, together with the 1999 Round, resulted in 22,000 places being released. This was necessary to make up for the deficit of 10,000 places which the Auditor-General found had been left by the previous Labor Government and to provide for growth in the over 70 years population. Detailed information is available on the Aged and Community Care Website. The round was made up of 478 high and 7,164 residential low care places, and 6,532 Community Aged Care Packages.
- (2) Following the allocation of places in the 2000 Aged Care Approvals Round, the total number of allocated places, as at 31 January 2000, was 182,214. In the year 2001 Round there are 9,541 new aged care places taking the total of allocated and released beds (subsidy for which is guaranteed) to 191,755.
- (3) Younger people with disabilities are provided for by State Governments, with funding provided by the Commonwealth Government through the Commonwealth/State Disability Agreement. Under this agreement, States and Territories are responsible for providing accommodation support and respite for people with disabilities. A younger disabled person may be accepted for accommodation and care in a residential aged care home on compassionate grounds where no alternative is available.
- (4) This information is available on the Aged and Community Care Website. 74% of this capital has been allocated to rural and remote areas.

Transport: Road Trains**(Question No. 3698)**

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 11 July 2001:

- (1) Since January 1998, how many accidents involving road trains have occurred in the Northern Territory.
- (2) How many of the above accidents: (a) involved a vehicle roll-over; (b) resulted in death; (c) involved another vehicle.
- (3) In each case: (a) what investigation was carried out into the cause of the accident; (b) did the vehicle have rear air suspension; and (c) what was the outcome of each investigation.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) The Australian Transport Safety Bureau (ATSB) does not have information on the number of accidents involving road trains that have occurred in the Northern Territory since January 1998. The ATSB does however, have summary information on fatal crashes involving articulated trucks between January 1998 and June 2001, but road trains are not separately identified. During the period 1998 to June 2001 ATSB records show there were 8 fatal crashes involving articulated trucks in the Northern Territory.
- (2) (a) The ASTB does not yet have detailed information for the period after January 1998.

- (b) See answer to questions (1) above.
- (c) During the period January 1998 to June 2001 ATSB records show that there were 2 fatal crashes involving at least one articulated truck and at least one other vehicle in the Northern Territory.
- (3) (a) Details on fatal accidents since January 1998, which generally include information on investigations and vehicle characteristics, are not yet available.
- (b) See answer to question 3 (a) above.
- (c) See answer to question 3 (a) above.

Transport: Road Trains
(Question No. 3699)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 11 July 2001:

- (1) Since January 1998, how many accidents involving road trains have occurred in Queensland.
- (2) How many of the above accidents: (a) involved a vehicle roll-over; (b) resulted in death; (c) involved another vehicle.
- (3) In each case: (a) what investigation was carried out into the cause of the accident; (b) did the vehicle have rear air suspension; and (c) what was the outcome of each investigation.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) The ATSB does not have information on the number of accidents involving road trains that have occurred in Queensland since January 1998. The ATSB does however, have summary information on fatal crashes involving articulated trucks between January 1998 and June 2001, but road trains are not separately identified. During the period 1998 to June 2001 ATSB records show there were 102 fatal crashes involving articulated trucks in Queensland.
- (2) (a) The ATSB does not yet have detailed information for the period after January 1998.
- (b) See answer to question (1) above.
- (c) During the period January 1998 to June 2001 ATSB records show that there were 80 fatal crashes involving at least one articulated truck and at least one other vehicle in Queensland.
- (3) (a) Details on fatal accidents since January 1998, which generally include information on investigations and vehicle characteristics, are not yet available.
- (b) See answer to question 3 (a) above.
- (c) See answer to question 3 (a) above.

Transport: Road Trains
(Question No. 3700)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 11 July 2001:

- (1) Since January 1998, how many accidents involving road trains have occurred in Western Australia.
- (2) How many of the above accidents: (a) involved a vehicle roll-over; (b) resulted in death; (c) involved another vehicle.
- (3) In each case: (a) what investigation was carried out into the cause of the accident; (b) did the vehicle have rear air suspension; and (c) what was the outcome of each investigation.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) The ATSB does not have information on the number of accidents involving road trains that have occurred in the Western Australia since January 1998. The ATSB does however, have summary information on fatal crashes involving articulated trucks between January 1998 and June 2001 but road trains are not separately identified. During the period 1998 to June 2001 ATSB records show that there were 51 fatal crashes involving articulated trucks in Western Australia.

- (2) (a) The ASTB does not yet have detailed information for the period after January 1998.
 (b) See answer to question (1) above.
 (c) During the period January 1998 to June 2001 ASTB records show there were 50 fatal crashes involving at least one articulated truck and at least one other vehicle in Western Australia.
- (3) (a) Details on fatal accidents since January 1998, which generally include information on investigations and vehicle characteristics, are not yet available.
 (b) See answer to question 3 (a) above.
 (c) See answer to question 3 (a) above.

Transport and Regional Services Portfolio: Missing Laptop Computers
(Question No. 3741)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 25 July 2001:

- (1) Have there been any laptop computers lost or stolen from the possession of any officer of the department and/or agencies within the portfolio during the 2000-01 financial year; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.
- (2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action commenced; and (d) in how many cases has this action been concluded and with what result.
- (3) How many of these lost or stolen computers had departmental documents, content or information other than operating software on their hard disc drives, floppy disc, CD ROM or any other storage device.
- (4) (a) How many of the documents etc. in (3) were classified for security or any other purpose; and (b) if any, what was the security classification involved.
- (5) (a) How many of the documents etc. in (3) have been recovered; and (b) how many documents etc. in (4) have been recovered.
- (6) What departmental disciplinary or other actions have been taken in regard to the computers in (1) or in relation to the documents etc. in (3) or (4).

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

Departmental Response

1	Yes
1 (a)	0
1 (b)	4
1 (c)	\$13,500
1 (d)	\$3,500 each (Items are leased under the outsourcing arrangement – no cost incurred by the department)
1 (e)	3
2	Yes
2 (a)	2
2 (b)	0
2 (c)	0
2 (d)	0
3	Not known, but little, if any
4 (a)	The department believes that if there were any files they would have been unclassified

4 (b)	-
5 (a)	Nil
5 (b)	-
6	None

Australian Maritime Safety Authority (AMSA) Response

1	Yes
1 (a)	One laptop computer was lost.
1 (b)	Two laptop computers were stolen.
1 (c)	The total value is about \$15,900.
1 (d)	The average replacement value is \$5,300.
1 (e)	The laptop computers have been replaced.
2	Yes
2 (a)	Police investigated the incident involving the two stolen computers.
2 (b)	The Police investigations have concluded.
2 (c)	No legal action has commenced.
2 (d)	Not applicable
3	The three laptop computers contained no departmental documents.
4	Not applicable.
4 (a)	Not applicable.
4 (b)	Not applicable.
5	Not applicable.
5 (a)	Not applicable.
5 (b)	Not applicable.
6	Not applicable.

Civil Aviation Safety Authority (CASA) Response

1	Yes
1 (a)	NIL
1 (b)	3
1 (c)	\$12,000
1 (d)	No capital outlay. Items leased from IT outsourcer
1 (e)	No
2	The Civil Aviation Safety Authority notified the Australian Federal Police
2 (a)	NIL
2 (b)	NIL
2 (c)	NIL
2 (d)	NIL
3	General unclassified information only
4	
4 (a)	NIL
4 (b)	NIL
5	NIL
5 (a)	
5 (b)	
6	NIL

National Capital Authority (NCA)

No laptops have been lost or stolen from the possession of NCA officers during the 2000-2001 financial year.

Airservices Australia Response

1	Yes
1 (a)	NIL
1 (b)	5 Stolen 1 stolen from Conference Room during renovations to a building 1 stolen from motel room 2 stolen from an internal office during a building break-in 1 stolen from motor vehicle (boot)
1 (c)	\$13,946.00
1 (d)	\$5228.4
1 (e)	Replaced
2	Yes – in all incidents
2 (a)	5
2 (b)	NIL
2 (c)	NIL
2 (d)	NIL
3	2 Laptop computers had PowerPoint presentations for the functions and services of that area.
4	NIL
4 (a)	NIL
4 (b)	NIL
5	
5 (a)	NIL
5 (b)	NIL
6	No disciplinary action taken, as no individual or group could be held accountable for the theft. Policies and procedures are in place under the Fraud Control Plan and Security Manual. Staff awareness program is in place.

**Telstra White Pages
(Question No. 3859)**

Senator Allison asked the Minister for Communications, Information Technology and the Arts, upon notice, on 29 August 2001:

- (1) What is the Government's position with regard to the separate listing in the White Pages of people who share the same telephone line but not the same surname.
- (2) What is the current procedure if customers request separate listings.

Senator Alston—The answer to the honourable senator's question is as follows:

- (1) Telstra is required by its Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 to produce an alphabetical public number directory. The Declaration requires that Telstra not charge a customer of a carriage service provider for one 'standard entry' in this directory. A standard entry must include a name and address, and one public number that is either the customer's geographic number or, if requested by the customer, the customer's mobile telephone number.
- (2) Telstra has advised that, if persons sharing the same residential telephone line require separate listings under their own alphabetical position in the Telstra White Pages directory, one entry is provided free of charge and subsequent entries for the same number are charged a residential entry charge.

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