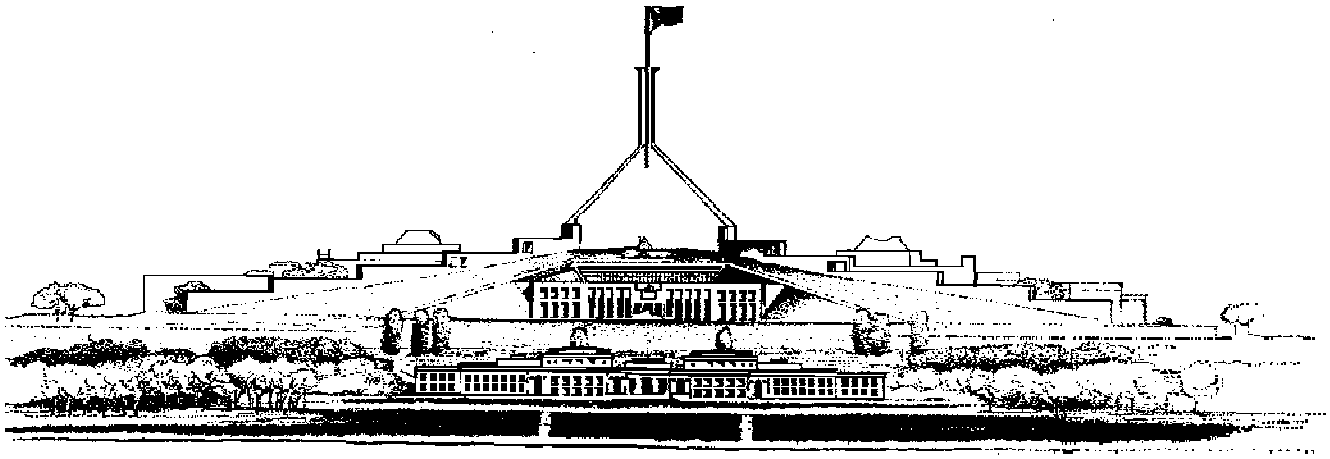
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

WEDNESDAY, 25 JUNE 1997

THIRTY-EIGHTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

BY AUTHORITY OF THE SENATE
CANBERRA

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Wednesday, 25 June 1997

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

AGED CARE BILL 1997

AGED CARE INCOME TESTING BILL 1997

AGED CARE (CONSEQUENTIAL PROVISIONS) BILL 1997

AGED CARE (COMPENSATION AMENDMENTS) BILL 1997

Second Reading

Debate resumed from 24 June, on motion by **Senator Campbell**:

That these bills be now read a second time.

Senator BISHOP (Western Australia) (9.31 a.m.)—There is a general trend with this government with regard to public policy. It is a trend that has seen the government blame those people who are worst hit by this government's policies for their predicament. Rather than government policy that encourages participation, assists in economic growth and provides a safety net for those worst hit by dramatic changes, we have a government that seeks to make budgetary cuts which at best may be characterised as inappropriate. We have witnessed this trend in many areas over the past 12 months. These are reflections of a government that appears to have no strategic plan to resolve the issues confronting Australians.

Health care for the aged in Australia is one of the most compelling issues facing governments in this country. The Australian population is increasingly moving towards an age of dependence. This requires a policy that seeks to adequately provide top quality health care and support services for the aged population. The policy needs to take a strategic view of the necessity to combine the need for improved service delivery and maintenance standards with the reality that government outlays will inevitably be reduced.

Clearly, more efficient and effective ways of spending money must be found, but at what cost to our elderly? As I said, this needs to be a strategic policy. It requires a proposal to mix the reduction in funds with better service delivery. The acceptance of fewer funds should not be used as justification in itself for financial cuts. Improved service provision is an integral part of the framework in which aged care must be designed.

In understanding the proposals of this government in regard to aged care, some historical knowledge of the portfolio is required. In the 1970s and 1980s, there was a dramatic increase in the number of homes opening up to care for the aged. This growth, however, was unchecked and concerns arose regarding poor standards of accommodation and care. It additionally appears that there was an overemphasis on institutionalisation. Access to care was not universal around Australia and differed significantly in each of the states and territories.

The result of those concerns was the introduction of the aged care strategy in 1985 by the Hawke government which at that time received bipartisan support. The strategy established a system of care that was based upon standards of dependency and care required. For example, the distinction between nursing home and hostel was established. Additionally, entry to a nursing home was by way of assessment by the aged care assessment teams.

In 1990, there was a review of the strategy, and modifications were introduced. The emphasis placed on providing care for the aged was not viewed as a burden by the government. Rather, it was accepted as an important function of government. In 1985, the government spent $1.2 billion on aged care, and this was increased to $2.6 billion by 1993-94. This money was not seen as a burden by the government. Rather, it was money designed to ensure that an ageing population had appropriate care.

Equally, the dollar value was not the only focus of the government's strategy. The Labor government had a strategic view of aged care and ensured that it was funded adequately and targeted appropriately. Labor's view was, and

is, that nursing home care should be available to all Australians equally on the basis of clinical need. The quality of this care is paramount.

Nursing home care is exactly that: a care issue. It is not, as the government views it, an accommodation issue. This has not been the approach of the current government. The Howard government's Aged Care Bill is not about upgrading and improving health care services to this nation's elderly. It is not designed in a framework that seeks to address the issues of health care for the aged. It provides no proposals to improve and enhance service delivery. It is a bill that stems from last year's federal budget, which was about cutting federal expenditure.

The Aged Care Bill was designed by the minister to ensure that her department played their part in the cuts on government spending. This is the undeniable truth. The bill is a cost cutting exercise, not an improved health care bill. The issues addressed should be more about effective service delivery, better targeting of problems and groups affected. The issue addressed should not be cost cutting.

The government has introduced this cost cutting exercise in relation to aged care in two main ways. Firstly, there has been an up-front entry fee of the so-called up-front accommodation bond. The Labor Party believes that this will result in a two-tier aged care system: one tier for those fortunate enough to be able to pay the uncapped up-front fee and those who do not have the financial means available for top quality care. The wealthy and the better off will get top quality health care, and the poor and those less fortunate will receive a substandard service. An assets test will determine ability to pay the fee and, importantly, the family home will be classed as an assessable asset. Only those with a spouse or a relative who is a carer on a government benefit and has been resident in the family home for five years will not have to sell.

There is no upper limit to the size of the entry fee. The only requirement is that the person must be left with $22,500 in assets. The nursing home is able to hold the money in trust, keep the interest earned and draw down $2,600 per annum for five years. For those government senators who argue that Labor claims regarding up-front entry fees are a scare campaign, I would point out the fact that the current average entry fee for hostels is $40,000 per person. The sums mentioned are already real.

It is easy to see that people who are wealthy will be able to afford health care, while those who are less fortunate will be left with less than satisfactory health care. The government attempts to argue away this problem by pointing to the service provided by not for profit aged care providers. This, though, is a weak argument. Clearly the trend is a shift towards user-pays.

As government funding for aged care is further reduced and dries up under the Prime Minister, Mr Howard, not for profit homes will have little to no capital to adequately provide their service. The result will be either a complete reduction in building facilities and service provision, with not for profit homes closing eventually, or the need for them to commence charging up-front fees in order to raise the capital required to continue, thus destroying the purpose for their existence.

It is important that senators also understand the legal requirements that for profit nursing homes have upon them that force them to leave the disadvantaged people behind. This issue has been discussed in some detail in the House of Representatives, but I believe that it requires discussion here also. Senators need to understand that under corporations law the managing directors of the nursing home, particularly if it is listed on the stock exchange, are obliged to do everything in their power to maximise returns to shareholders. That is their obligation under the law.

Therefore, if there is one bed available, and one person has a $200,000 home to sell for the entry fee, another person only has half that amount to sell and another person has no money at all but clinically needs the care, the nursing home is obliged under corporations law to give the care to the person who can pay the maximum amount. A failure to do so would be a breach of fiduciary duty to their shareholders. Even if the directors wanted to

assist the disadvantaged person, they could not. That is the effect of this law.

However, the impacts do not stop here. The fee will also result in most people having to sell their homes. While the legislation makes some allowance for relatives and carers who have been in the house for five years, there is no support or protection for single persons. Statistics show that around 90 per cent of those entering nursing homes have been living alone. Therefore, for 90 per cent of entrants, selling their house will be a requirement. The government has attempted to cover this up by providing a subsidy for concessional residents. The subsidy is $5 per day, subject to later amendments that were agreed to yesterday, as I understand it, between the Democrats and the government.

This measure creates an obvious problem. If nursing homes have to choose between those who receive the agreed amount and those who have a home to sell in order to pay the fee immediately, the nursing home will accept the person with the home. The person selling the home can provide the nursing home with a larger income than the person receiving the government subsidy. Thus, we create a two-tiered health care system for the aged. Equally, if the fee is uncapped, what will stop the nursing home allowing entry to those with $200,000 homes, who can therefore afford a higher fee, against those with $80,000 homes, who can afford only a lesser fee.

The minister in the House of Representatives argued that there was no need for pensioners to sell their homes. The minister argued that pensioners could move into a nursing home and rent out their house, using the rent to make periodic payments to the nursing home.

Let us consider a fairly typical problem, and here I rely upon a document provided by the Department of the Parliamentary Library Information and Research Services headed *Accommodation bonds for residential aged care: will we need to sell our homes?* I refer to page 7 of that draft document, where there is a discussion of options available to persons in this category. There they give a fairly typical example of a widow, Mrs Smith, who lives alone in an inner Brisbane suburb. The market value of her home is around $250,000. The market rent is about $250 per week net. Her personal effects and furniture are minor, and she has no other assets.

In the example, Mrs Smith needs nursing home care. She is hopeful of returning to her own home when her illness is over, but she needs to rent the family home to meet the periodic payments of the nursing home. As I said, her rent is $250 a week and her pension is reduced to $76.10 per week, giving her a total income of $326.10. She pays tax of $33.19 and resident fees of $197.95, determined according to the formula in the act. Her net income before the periodic payment is $94.96, and the periodic payment for the accommodation bond is $99.

So Mrs Smith, at the outset, is $4 per week short of the periodic payment option. Even if the rental on her home were $350 per week, she would still only have an additional $8.75 per week. The position would be worse if higher bond figures were used. So the draft of this report concludes:

> The combined effect of the reduction in the pension, increased resident fees and taxation along with the high interest component of the period payment is to eliminate this option as an alternative to selling the home for someone in Mrs Smith's circumstances.

The Minister for Family Services (Mrs Moylan) has commented several times that no-one will be forced to sell their home to pay an accommodation bond. It is difficult to see that Mrs Smith has any option but to sell her home to raise the amount necessary to pay a bond. However, she may be able to avoid this if she is willing to move to an area where there may be excess capacity in nursing homes and where bonds are not charged or where they are very low. So the option put by the minister—and constantly referred to her in debate and in discussions—is, in fact, no option at all for persons in the situation of Mrs Smith.

The Prime Minister attempts to argue that this measure is designed to arrest the decrease in funds available to health care by injecting private sector funds into the aged care system and to make accessible to nursing homes the

funds required to immediately, and into the future, upgrade their facilities. There is, however, a flaw in this argument, and it highlights the devil in the detail.

The Aged Care Bill only allows certified nursing homes to charge an entry fee. However, the nursing home will have to meet certain standards before it can get certification. The nursing homes will be in a position where they will not be able to charge the fees required to upgrade their services because they are not certified, and they have no way of improving the condition of their buildings and services without capital injection.

This is a flaw the government is yet to explain. Even if this flaw were rectified, the government faces one further problem with the capital injection rationale. There is no requirement in the legislation for the nursing home to spend the entry fee on upgrades and improved service provision. They may, if they so please, take the fee as profit. The only requirement for the nursing home is that the draw-down money of $2,600 per year be used for maintenance.

The second method in which the bill cost cuts rather than improves health care is through the increased charging of daily fees. As the situation stands at the moment, all residents pay 87½ per cent of the pension. By way of this bill, there will now be an extra daily fee of 25c in the dollar above the pension free area of up to $60 per day. If a pensioner earns $1 more than $50 per week then the government will impose an additional tax. This will be a tax on people earning just $51 per week while Mr Howard gives $450 in a savings rebate to those who choose to go down that path.

A 25c in the dollar tax for anything over $50 per week is a blatant attack on the elderly in this country. When this is calculated in addition to the Medicare levy, the income tax on extra earnings, the withdrawal of the pensioner rebate and a social security pension reduction, Australian pensioners stand to pay an effective marginal tax rate of 75c to 91c in the dollar.

I now turn my attention to the quality of care that will be provided under these new changes. Firstly, there is no auditing process in place to monitor the quality of care and to ensure the service provision is adequate. We are already aware that the self-funded homes are pushing for self-auditing. This would be a situation where a nursing home could charge any entry fee it likes, take that money and place little emphasis on health care once agreements have been signed and the money has been handed over, and then audit its own procedures. Additionally, there is no guarantee or proposed measure to ensure that moneys received by the nursing homes from the Commonwealth are spent in specified areas. There is no suggestion that the Labor requirements for usage of Commonwealth money for nursing homes, requiring expenditure or a refund to the Commonwealth if not spent, not profit delivery, will be retained.

Quality of care is an issue that received significant attention from the Senate committee inquiry into the funding of aged care institutions. The committee had various concerns in this regard. Firstly, the committee was concerned that the quality of health care would be significantly reduced. The committee was particularly concerned that highest quality nursing care would be available to residents and that this would be provided by qualified and trained staff. Another concern of the committee was the auditing process through which the quality of care provided could be assessed.

To this effect the committee has proposed the establishment of the new Aged Care Standards Agency. The intent would be for the agency to have sufficient power to investigate the quality of care and rights of nursing home residents and to ensure they meet predetermined standards. Additionally, the agency should have enforcement mechanisms and would require funding accordingly. The committee also expressed concerns regarding the loss of acquittal through the care aggregated funding formula. In this regard, the committee recommends that nursing homes continue to be required to acquit that proportion of their funding expended on nursing and personal care.

There will be much debate over the recommendations of the committee and the response from the government in due course will be

interesting. Regardless of the final position of all senators and their parties, the committee report has highlighted the large degree of concern generated in the community in relation to nursing homes and aged care. This high level of concern, which is a result of self-interest and concern for family members who do or will require support, must be understood and acted on. A resolution must be sought in regard to funding issues rather than simply deciding to cut funds and leave the end result to market forces.

User rights is a further issue that requires a more detailed explanation before it is considered satisfactory by the opposition. The issue of user rights is at the core of the debate regarding the appropriateness or otherwise of marketplace practice being applied to health care for the aged. It should be remembered by the government that in excess of 60 per cent of people entering nursing homes do so after an acute illness. This may be a heart attack or severe stroke. This means that patients are literally forced by their illness to immediately enter a nursing home. There are currently no proposals to ensure that where the nursing home becomes essential, there is adequate counselling, advice and protection for those signing nursing home agreements.

Finally, I make the point that the issue of health care is one that does not face Australia alone. It is a problem being confronted by many other governments world wide. In this regard, it is not a crisis. It is an issue for government planning and action. I am always sceptical of governments that push the crisis button. It is done by governments to create an atmosphere and environment that will encourage, allow and justify draconian actions like wide, sweeping budget cuts. The Aged Care Bill is an important one for Australians to confront.

Our senior citizens do not deserve to be told that they should sell their homes—the ones they have worked for all their lives—to move into nursing homes the government is not prepared to ensure provide certain standards of care. The government has often talked about family values and returning to the days when there was self-respect and community respect, where Australians treated each other with dignity and respect, particularly when relating to our elders. In my view, this bill makes a sham of that view put forward by the government. This bill does little to show respect and care for our elderly.

(Quorum formed)

Senator HOGG (Queensland) (9.52 a.m.)—Whilst it was good of everyone to come, I point out that I have a few brief comments to make on the aged care legislation we are considering this morning. I want to refer to part of the introduction from the Australian Nursing Federation submission to the Senate committee inquiry into this legislation where they state—and I think these words ring true:

> The public and consumers ought to be able in 1997 to have a reasonable expectation that an appropriate level and quality of care will in most circumstances be provided to nursing home residents. This reasonable expectation is due in part to previous scrutiny of nursing homes.

Having said that, I think that really gets to the nub of what this legislation is about. Whilst I am not going to canvass all the issues, I think of importance from my perspective is that this piece of legislation will inevitably threaten the safe staffing levels within nursing homes and also the quality of life of the patients within those nursing homes.

Under this legislation we will see a proposal for single funding, which removes the requirement for funding for nursing care to be quarantined from other nursing home expenditure. In the report of the Senate committee at page 56 this particular issue is addressed. Paragraph 4.13 says:

> Many organisations, including the ANF and the New South Wales Nurses Association, expressed concern at the proposed abolition of CAM funding and the adoption of single non-equitable payment systems.

So it is this issue that is of concern today—we are going to see the care aggregate module, which looks into specific issues such as the nursing component, the personal care component, and the therapy component, collapsed into a single non-equitable payment system. The basis of the care aggregate module is currently, on nominal staffing hours, 32½ per cent for registered nurse time, 59½ per cent for enrolled assistant nurse time, and eight per cent for therapy, which includes

physiotherapy, diversional therapy, occupational therapy, speech therapy and podiatry.

Clearly, the system is accountable and currently ensures that the money is spent in accordance with the basis of the funding. So we have a system which guarantees quality care to the patients in nursing homes. The money that is not spent on the staff currently must be returned to the government. This I believe will not happen under the new system. The current system is transparent. There is certainty about it. There is predicability about it. That leads to, in turn, predictability of staffing levels and the care and the attention that will be given within nursing homes.

Whilst it was before my time, I believe that all of this arose out of the excesses in the 1960s and 1970s culminating in the Giles report in the early eighties. The Giles report, as I understand it, established clear links between staffing levels and the quality of care. Prior to the Giles report, the industry was riddled with claims of exploitation and abuse of nursing home residents. Surely we do not want a return to the past. We do not want to have to go down the path of a further Giles report in years to come.

The current proposal, as I have said, seeks to abolish the strictly supervised funding categories that exist and have just one single non-equitable payment system. In replacing this with the single category, there will be no requirement to justify the spending as applies under the current scheme. Whilst some people may maintain that there are some warts on the current scheme, at least it delivers a quality of care which is clearly understood, clearly defined and clearly ascertainable when one goes into a nursing home. However, we will see the removal of these requirements and this will see that there will be no nominal staffing hours as currently occurs under care. As a result, the care, I believe, of the patients in nursing homes will be compromised.

Personal care and nursing costs must be kept separate from other funding to maintain standards. Care will be sacrificed for profit if we go down the current path. Of course there is no substitute for quality when it comes to the care of elderly persons in nursing homes. Basically, with the single non-equitable payment system, we will see the current strict auditing process replaced with an accreditation program for all nursing homes by the year 2000. This must lead to a weakening in the standards that must apply within the nursing homes themselves.

Once we have a system of accreditation in place and once we have a system where there is a single non-equitable payment system, surely one must hold one's doubts as to the standards that will be maintained within particular nursing homes. Undoubtedly, what we will see is the entrepreneurs driven by the profit motive seeking to maximise their profit and thereby jeopardise the standards that apply to the elderly within their care.

I do not believe we should have a market forces driven nursing home system. Currently, I understand that many nursing homes—whilst their figures are not published and part of the public record—record profits which vary between eight to 18 per cent per annum, which of themselves are not insignificant profits in this day and age. This particular measure will see the nursing standards put at risk because people will be driven by an opportunity to make even more profit than the already reasonable profit they make now. Very simply put—

Senator Patterson—It is simple, I can tell you. It's very simple.

Senator HOGG—Good. It really is about the standard and quality of care in nursing homes. As far as I can see, the concerns that have been expressed to me in respect of the standard of care that is given in nursing homes is well founded. This should be well and truly taken on board by this government. I do not think it is in any way addressed by the Australian Democrats in their compromise situation. I believe that we should avoid under all circumstances a return to what previously existed in the nursing home area.

Given that I only wanted to say a few things in this debate, it is worth while looking to the Department of the Parliamentary Library report *Accommodation bonds for residential aged care: will we need to sell our homes?* I think the conclusion in that document says everything better or as well as I could ever say it myself. It is worth while

putting on the record, if someone else has not already done so in the debate. It states:

> It can be argued that it is the nature of our society that those who can afford to pay and do pay receive better quality goods and services than those who cannot. It would therefore be hardly surprising if those who can afford a bond found themselves in a single ensuited room in a quiet corner of the nursing facility, whilst those who cannot share a room and a bathroom with one or more people at the front of the facility near the road.
>
> However, what needs to be ensured is that the standard of care provided is uniformly high.

And that to me is what this is about. It is about ensuring that aged people are cared for in a proper and fitting way. They look to having the registered nurse on site to care for their needs and to tend to their every concern.

This report says 'that the standard of care provided is uniformly high', and I think that there is no more important place where that applies than in the staffing of the facilities themselves. It is not only the matter of the bond, which a number of my colleagues have covered on other occasions here, but also the level of staffing. It continues:

> Within a facility there should be no distinction in the level of care provided to someone who has paid a bond and someone who has not. Between facilities there should be no distinction in the level of care provided at a facility occupied primarily by bond paying residents (excepting the minimum level of concessional and assisted residents) and a not for profit facility with high ratio of concessional and assisted residents.

This is the dilemma that we are going to run into in this particular piece of legislation. The people who are least able to afford the quality of care will be disadvantaged because we now have everything folding into one single non-equitable payment system which really will be without any scrutiny once the accreditation has been given. So these people in the longer term must suffer.

I urge the government to be very careful with this piece of legislation. I think it will cause a great deal of uncertainty out there amongst aged persons. They do want access to professional staff, registered nurses. They do want quality aged care but they do not want to go back to the 1960s and 1970s. *(Quorum formed)*

Senator O'BRIEN (Tasmania) (10.05 a.m.)—There have been a number of contributions to the debate on the Aged Care Bill and associated bills to date. I feel the need to address this matter also. Some significant potential consequences of this legislation do concern me. I also have some concerns about what appears to be an arrangement reached between the Australian Democrats and the government in respect of matters relating to concessional residents in nursing home facilities, and I want to deal with that. I imagine it will receive more substantial coverage when we come to the committee stage of this bill.

In relation to this bill, however, a primary concern has arisen out of the submissions to the inquiry undertaken by the Community Affairs References Committee of this chamber which you, Madam Acting Deputy President, chaired. In my opinion, from the witnesses to the inquiry, there was a focus on the lack of real detail provided at the stage the inquiry was held. I realise that subsequent material was provided, but I think it was difficult for some of the participants in that inquiry to grasp the totality of this package and to be satisfied that the system being put in place would be a workable one.

There is much concern that this lack of detail, combined with the poor consultation process, will result in the community completely misunderstanding the intent of this bill. Aged Care Australia, for example, whilst generally supporting the direction of the bill, said:

> . . . the government has provided insufficient information for our members to be confident that the proposals are viable and that they will enable the provision of adequate care for their residents particularly low income consumers . . .

I think that is highlighted by the fact that the subsequent statement by the minister with regard to the provision of a concessional resident subsidy has very recently been altered—and there are some comments which I will make later about that.

Further evidence was given to the inquiry on 23 April by Professor Picone, Executive Director of the New South Wales College of Nursing. He said:

We believe the bill in its current form is only partially drafted and we would have to say that that is our area of deepest concern and therefore, it is really totally inadequate.

Also, a public meeting was held on 7 April this year at the masonic centre in Sydney. Convened by the New South Wales Aged Care Alliance, that meeting carried a resolution which, in part, stated:

This meeting calls on the Federal and State governments to delay any implementation of proposed changes to aged and community care (including the Aged Care Bill 1997) until all impacts have been fully explored and debated . . .

Many of the concerns of the inquiry's witnesses centred around the question of how the low income sector of the community—perhaps better described as the sector of the community not being endowed with significant assets—given the impact of this bill, would be treated by it. Moves towards competitive service delivery and increases in the user pays systems present serious problems for older people, particularly those with a low income or asset base. It has been stated:

For most Australians superannuation will supplement rather than replace the aged pension in retirement . . .

at least for the next 30 years—

The proportion of aged pensioners with superannuation income was 9.3% up from 8.9% in June 1995. Some 62,141 or 3.9% of age pensioners were paid under the assets test. This has declined from the June 1995 level of 4.5% of age pensioners.

Some of the data suggests that there is a higher level of financial resources among age pensioners. However the data also show that of those who do receive a full rate pension, there is an increased proportion of people with no other income . . .

I have taken that quote from *DSS Clients—A Statistical Overview 1996* which, I think, was presented to the committee in a joint paper from the Alzheimers Association and others.

So what we have at this part of the equation is the potential for a two-tier level of care which can arise from this bill. I know that some of the government senators to the inquiry have a different view of the matter. But allow me to develop mine.

Professor Gregory, when he inquired into the structure of nursing home funding and presented a review, I think in 1994, specifically devoted a chapter of his report to the deregulated fees model with entry contributions. He begins that chapter by saying:

Chapter 4

showed that deregulated fees alone would probably lead to only a few

homes becoming self sufficient for capital.

Perhaps I should say that, essentially, Professor Gregory found that there was in excess of a $500 million need for capital funding to upgrade existing nursing home stock and to replace a few of the nursing homes to have a satisfactory capital structure level for the nursing home industry. To continue:

This Chapter examines the possibility, which may allow more homes to become self sufficient, of allowing entry contributions as well as higher fees.

In that paragraph, under the subheading 'The Nature of Admission', he says:

The circumstances under which clients seek access to nursing homes are considerably different from hostel clients. Approximately 60% of nursing home admissions are from hospitals. This is one indicator of the fact that nursing home entry is often urgent, motivated overwhelmingly by the need for nursing care.

The sheer size of entry contributions and the impact on a client's life of having to agree to sell assets to receive care would be a considerable barrier to entry. Thus, while allowing residents who can afford it to pay extra may be the fairest way to provide the extra funds needed for nursing home stock, the substantial increase in the amount that could be paid by allowing entry contributions seems too harsh a measure.

Even if entry contributions were only allowed for long stay nursing home residents, the emergency entry would mean that issues such as how much might be charged some time in the future are unlikely to be thought through properly when entry was being sought, leaving the resident effectively bound to whatever was agreed.

In contrast, most people entering hostels have time to look for the hostel of their choice, taking into account factors such as how much will be charged.

There has been some attempt to suggest that there is no problem with these measures being proposed in this bill because they are modelled on the hostel regime, with some modifications, and that has worked reasonably well. I draw attention to that passage from Professor Gregory's report to indicate that he had given consideration to the question of entry

contributions and made those findings. His summary, which appears on page 33 of the report he presented, says:

> While it would be practical to charge entry contributions to nursing home residents who stayed for a substantial period, the balance of the other factors relating to the circumstances of entry and lack of effective choice diminish it as a viable option for nursing homes.

That was the framework under which, I suppose it is fair to say, this government prepared its proposed regime for funding the capital needs of the nursing home sector.

What is proposed is an arrangement whereby there is a period of grace of six months for residents who enter nursing homes. For that period, an administration fee which totals over the period, as I understand it, $1,300, can be charged. A significant number of nursing home residents stay for less than six months. There are also significant numbers of nursing home residents who stay for more than six months—I think it is approximately 60 per cent. With the bond system that is proposed, that will raise the issue for those residents of whether they have to sell their home.

I say 'raise the issue' because the question of whether they will be concessional residents and entitled to the subsidy the minister proposes per day of occupation towards the capital cost of the home will be determined by their assets. Their assets in this case will be tested, including the family home. This is the only assets test which is applied, as I understand it, to any recipient of, for example, social security benefits where the family home is part of the assets for the purposes of the test. So the issue will arise for a number of people as to whether they are confronted with selling their home. In most circumstances, as I understand it, if a resident of a nursing home owns a home it is probable, particularly in the larger metropolitan areas, that they will have assets which put them above the level at which they would attract the government subsidy as it is proposed. That would see them faced with that choice.

Selling the home for people in those circumstances will not be essential, but if they do not sell the home they will be required to agree to accept whatever the entry contribution is as a notional figure with an amount of interest calculated on that notional figure which can be required over a period of time. That will ultimately raise the issue of selling the home, depending on their period of occupancy, and may affect other family members, for example, who live in the home either immediately or subsequently. It will also affect the decision that some elderly people will take about whether they wish to enter a nursing home.

There is no doubt that in the senior community there is some resistance to the proposal of having to sell their homes. I know that members of this government have said, 'What's wrong with people having to sell their homes?' In terms of managing the capital base of nursing homes I can understand where they are coming from. But the reality is that there are a lot of older people in the community who will strenuously resist agreeing to the concept that they will never return to their home and that they must sell it. This bill will almost require them to sell it. That will motivate people, where they have any choice, against making that decision.

I know from conversations with my parents, who are no longer with me, that there would have been strong resistance from them to the idea that the home would be sold while they were alive. They saw that as their base, their connection. My father, particularly, after my mother died, saw it as his continuing connection with my mother who he was no longer able to be with because of her death. I have no problem imagining his response to this legislation were he alive today. I believe that there are a great many people in the community who will respond to this measure in that way. They will strongly resist selling their home. They will be offended by the proposition put to them that they need to sell their home.

As I say, it will motivate some people, where they have some choice, not to go into nursing homes when it is recommended that they do so by their doctors or other practitioners, such as nursing staff who are able to assess the condition of elderly people in their homes and recognise that these people need to have ongoing and specialist care in a

nursing home. But that resistance will arise under this legislation.

I put that proposition to the government not just on the basis of the information that was put before the inquiry but on the basis of my personal experience with my family. There are probably many other senators who are able to draw on their own circumstances. There may be differing ones, but I would respectfully suggest to the government that that will be the sort of response it gets in a significant number of cases.

That does not even deal with the concept, for example, of a dependent daughter who has been looking after an elderly parent and living in the family home for years and who does not have an income, apart from the carer's pension, because she has become a full-time carer. She does not have assets available to her. Such people will also be put in difficult circumstances. I will be interested to hear what the Parliamentary Secretary to the Minister for Health and Family Services (Senator Ellison) has to say in response or during the committee stage.

There has been a lot of talk about capping of fees and two-tier systems. In the short time available to me, I will not be able to deal with that matter. Hopefully, I will have an opportunity, if it is not dealt with by others, to contribute during the committee stage.

I say in conclusion that, with regard to the money that is going to be raised by this measure—that is, the interest on the bonds lodged with proprietors and the administration fee of $2,600 per year that is able to be drawn down from the capital—I understand that it is only mandated that the draw-down amount of $2,600 per year must be used for the purposes of capital replenishment. Firstly, am I right in that regard? Secondly, if that is the case, is that a proper measure if what we are trying to do with this bill is to create a capital base for the industry. *(Time expired)*

Senator COONEY (Victoria) (10.25 a.m.)—Looking around the chamber at the moment, I would have to say that I, more than anybody else in the chamber, with the possible exception of Senator Heffernan, would have to declare a vested interest. Madam Acting Deputy President, I am not in the full vigour of youth that you are still enjoying. The same can be said for Senator Neal. Senator Forshaw is still very wet around the ears.

Senator Forshaw—I'll take that as a compliment.

Senator COONEY—It is. Senator Ellison still has the vigorous walk that is needed. As I say, the one who comes nearest to me is Senator Heffernan. His vigorous tilling of the soil has kept him in a proper state of fitness.

It is for that reason that I asked my staffer for her thoughts on the Aged Care Bill 1997 and related measures. Lidia Argondizzo has looked after me well for some years. She prepared these words which I thought were very apt: 'The aged are those we should hold in high esteem, and offer them the greatest respect and thought and not stress them with cuts and changes and more changes on an ongoing basis.'

That proposition, that we should hold the aged in high esteem, is absolutely correct. In other cultures and societies it is much more readily accepted than it is here. I do not want to in any way denigrate the efforts that have been made with regard to the aged by governments of both views over the years. The introduction to the second reading speech bears that out. It states:

> As Australians we all believe that we should be able to maintain the same high standard of living that we have enjoyed throughout our lives, when we become older. The vision that this government has for older Australians is to build an aged care system that will maintain comfort and dignity in a way that is viable and sustainable. To build a safe and secure future.

People could not disagree with that. The next proposition that my staffer, Lidia Argondizzo, puts is a proposition that does require debate and has been talked about by previous speakers. She says that bean counting should not be a priority when talking about the aged, the sick and the needy. That does not mean that fiscal responsibility should not be a major factor in the debate about aged care, but it does mean that it should not be a priority, that there are other forces that should be allowed to work. Those forces are the natural care and affection we should have for the more elderly

in the community, that we realise we live as a community, that we all have responsibilities as a society and that, to paraphrase the words of John Donne, no person is an island. It is in that context that we ought to approach this debate.

The next proposition that Lidia Argondizzo puts is that we need to understand that cost cutting undoubtedly leads to cuts in services. That is so. We should try to make sure that any cuts are not such that they will diminish the quality of care for anyone. That is a proposition that has been put before again and again.

Lidia Argondizzo says, 'A user-pays system for our aged care is not the most user-friendly method I can think of. An entry fee will, no doubt, lead to tiered level of care. There will be many levels depending on purely how much one can pay and the service being provided accordingly.' That is a matter I need not delate on because it has been discussed by previous speakers.

She also makes the comment, 'The entry fee is ambiguous in itself. There is no upper limit and there is no indication of exactly what people will have to pay as an entry fee and for what reason.' By the end of the discussion on these bills, one thing we should have done is made clear just what the situation is with people going into aged care. I think that requires us to clarify two things: just what the financial issues are and just what a person is faced with when he or she goes to a nursing home. We need to do that.

That has been, I readily concede, much discussed for some time now, but one thing we could do in this debate is make clear to people listening, to people who are undertaking care of the aged and to the aged themselves—to all those people—exactly what is involved financially. If we can do that, we would make a great contribution. I think that is why the committee stage is going to be so important.

The other issue I want to raise in this context is not so much the rights that people have under this legislation—and there are rights held by the service providers, the people who run the nursing homes, and there are rights held by the people who will use the nursing homes, the people going into them—but, more importantly, how those rights can be enforced.

One of the great issues facing us as a community at the moment is to work out how people who are recipients of services can enforce what rights they have. This is perhaps not so much in this area but in other areas where there is going to be a change from services provided by government to services provided by the private sector. Where that happens there should be a ready means for people who are recipients of those services to be able to enforce their rights. The private sector has provided a lot of aged care up till now and we have got some history as to how rights can be enforced.

Any legal proceedings are likely to be stressful not only for the aged but for anybody. It is essential that we as a legislature ensure as far as possible that the system we set up does not have to be enforced by legal remedies. I note that there is an amendment being suggested to set up a system of committees that will listen to complaints and will ensure that rights are enforced properly and as expeditiously and cheaply as possible. Perhaps that is a matter we can discuss in the committee stage.

I am glad to see that Senator Ellison is taking this aged care legislation through the committee stage because he does have an appreciation of what is involved when people want to enforce rights that they have under legislation. It is not simply a matter of giving people rights; it is a matter of seeing how well and how efficiently they can be enforced so that, where the provider and the recipient of services are in conflict—not that this would happen all that often; at least I hope that the it does not arise all that often—the conflict can be resolved.

I think there needs to be a remedy whereby aged people, who perhaps are more vulnerable than they might otherwise be and do not want to be worried by stress and strains, have a way through any conflict, whether it is potential or real, that spares them as much as possible. That is perhaps a matter that we can discuss in the committee stage.

This is legislation that does change the situation that presently operates. There are problems in terms of the finances that are available, in terms of how people who have to use these services are going to contribute to the cost of those services. People listening to this debate have already heard those matters raised. There is the issue of rights and there is the issue of how those rights can be properly enforced. I look forward to the committee stage.

Senator WEST (New South Wales) (10.37 a.m.)—Aged care is a subject that I have a great deal of interest in. Before I start, I should declare some interest here as I am by profession a registered nurse, and I am a member of the New South Wales College of Nursing and of the Royal Australian College of Nursing. Both of these organisations have expressed some extreme concerns about the impact in some areas of this legislation, and I will deal with those later.

This has been something that the government certainly has talked about—not in a great deal of detail but for quite some considerable time. When we were in government, the then opposition had several attempts at abolishing the separation of CAM and SAM, which is the care model and the other model for funding, and abolishing the acquittal of how the moneys were expended. They were not successful when they were in opposition but now they are having another go.

The minister tabled an exposure draft of the bill in late February and gave about 15 days for the industry and everybody else to comment. This would have to be the shortest exposure draft and commenting period that I think has ever been given in the history of this parliament or any other parliaments. Not only did they leave the exposure draft for only 15 days, but also there were insufficient copies of the bill available for the industry. Some of the peak bodies and interest groups were able to get access to the exposure draft, but not all the nursing homes, aged care hostels and ACAT teams out there were. Many did not get a copy of that exposure draft until six to eight weeks later, and in fact members of parliament had difficulty getting hold of exposure drafts, so we could not even provide them for interested community members.

It was not as if it was only a 10-page document. This exposure draft was a 300-page document. What it did not tell you and what you had to read to discover was that associated with it were a whole lot of principles. It was the principles that would be able to tell the institutions the finer details of the mechanisms involved in the administration of the changes. The principles did not come out until the end of March or early April. That was another 300-page document. There were a few more copies of that available but it was still hard to get hold of.

So what happens when we get to the back page of those 300 pages? We discover that the nine key principles are yet to be released. In the interim, they have been dripping out like a leaky tap—every now and then you will get another principle coming out and another principle will be announced. There may be one week, three weeks or five weeks for the industry and for people to comment in. In fact I understand there are still some exposure documents out there from the department and the minister on which it is still open for people to comment.

We are being asked to pass this legislation before all the comments have been received from the industry on all the principles and all the aspects of the bill. This is like buying a pig in a poke. It would be funny and it would not be serious if it was not aged care and if it were not elderly citizens, the frail aged, the frail and people with disabilities in this community who are going to be affected—the group in the community whose members have the least ability to speak for themselves. In nursing homes something in excess of 50 per cent of the group's members have dementia and confusional problems so they may not be in a position to make considered and well-balanced decisions, and this is the group that this is being foisted on.

We are told repeatedly by the government in debate that Professor Gregory said there needed to be additional expenditure in the aged care area, and I am not disagreeing with that. As for the aged accommodation bonds, the government says forcing some of the

people to sell their homes prior to admission to nursing homes will provide the increased funding level, but I have not seen anywhere any figures that clearly indicate what the expected income is for nursing homes on accommodation bonds. What the government has done though is cut its side of expenditure to nursing homes and aged care institutions.

We know now that, with some of the amendments and with some of the pressure that has been put on the minister, there have been some amendments to increase this funding. But it is ludicrous, given that the ageing population in this country is growing, mainly because in 15 years time we babyboomers will be hitting the time frame when we will start to need nursing home care and nursing home assistance. The time when this is growing is not the time to be cutting the government's commitment to aged care. It is a real worry and a real concern, but it does not seem to bother this government.

I have some grave concerns about accommodation bonds because there is no maximum level, and for the first time we are seeing, in assessing accommodation bonds, the use of the family home in assessing an asset. Not only are we seeing the use of the family home as one of the criteria for assessing an asset, but we are also seeing the contents of that family home involved. I know that in Sydney there are some family homes in which people have lived for 50 years or so where, with the passing of time and with the craziness of land prices in Sydney, those people may well be living in million dollar houses. But I will wager that those homes are probably in need of significant repairs and have a great deal of sentimental value.

But there are a lot of places in this country where homes have not appreciated like that. I was talking to one of the general managers of one of the councils in western New South Wales yesterday about this very issue of the provision of aged care services in his community. He estimates that something like 70, 80 or 90 per cent of the people in their institutions may have a home, but the home is of such a value that in some cases it possibly still has earthen floors.

That is fine, but people forget when they talk about their homes that there are still places like that in this day and age. There are still people who live in caravans out in this shire. There are still people who are not doing much more than live in tents. A huge number of people are still living in housing commission accommodation. They are gravely concerned because there is no market for the sale of their homes in this community. It is a very slow market. It is a very low market. They cannot estimate, they cannot work out, how they will get adequate revenue from the accommodation bond to make up the additional money that they will need to undertake the maintenance and refurbishment that may well be needed. It is of grave concern to these people.

Also, when we are talking about aged care and accommodation bonds, I mentioned earlier that in excess of 50 per cent of people going into nursing homes have dementia or some confusion. We have also been told by the departments that about 50 per cent of people sell their homes when they go into nursing homes. What they have not been able to tell us is whether that 50 per cent includes those with dementia or not. How will somebody who has dementia be able to undertake the sale of their home? How can we ensure that they are not ripped off; that their family will not want the home sold and the money invested because they see that as their inheritance right? That is an argument that we might want to get into at another stage.

My concern is that there are families out there who not want to see the family home sold. They will do everything they can to keep either mum or dad at home. I am assuming that most of the people in this situation are single people by this stage because their other half, their spouse, has died. They are single people, so they are in a situation where the home will need to be sold in order to access the accommodation bond. The only asset, the only source of income, that that family has got is the home. I am assuming that.

I want to know if anybody has looked at what the impact will be on the workload of the Guardianship Board and the Office of

Protective Commissioner, as it is called in New South Wales, and the other states' equivalents. I do not think anybody has. There will be an increase in the number of people who need to utilise the Guardianship Board and the Office of Protective Commissioner. It will also involve taking cases to the Supreme Court. The big thing with this is: does anybody know what the current timing is—how long it takes to get cases dealt with by the Guardianship Board or by the Office of Protective Commissioner or how long it takes to get cases through the Supreme Court? It takes weeks.

When this legislation changes people will be expected to sign up quite quickly. Sure, they have got six months within which to make their payments, but that can be the length of time it takes for the Guardianship Board to get all the processes through the Supreme Court alone. There will be an increase in the workload of the Supreme Court and the Guardianship Board, but there seems there be no cognisance of this or any discussions with the states about what the implications are in budgetary terms for the states.

While we are talking about the states, we also have the crazy situation where a number of the states require the nursing homes and institutions to have lodged their budgets for this coming financial year some weeks ago, yet we still have this Commonwealth government fluffing around at the last minute making decisions about what they should be doing, how they should be funding it and what the waiting time will be for the different classifications. It is only in recent times that nursing homes have been able to have a go at making some financial decisions and judgments about what their budgets are going to be for this coming financial year, yet these are the same institutions who have been required by state laws to have their budgets registered with the states.

It strikes me that this government has not consulted. That is the cry that we have been getting for the last three months across the board from organisations within the industry: organisations that represent nursing homes and institutions, church groups, organisations that represent consumers and organisations that represent those who actually provide the hands-on care, such as the nurses. They are all saying it. A number of them are saying, 'We like accommodation bonds.' I have a problem with that. But what they are all saying is, 'There has been inadequate consultation.'

We already know that the minister has had to defer the implementation of this legislation from 1 July this year until 1 October this year. This legislation is too hasty. There has been inadequate consultation. I know the department is going to say, 'We had this meeting, this meeting and this meeting with all these organisations.' But what these organisations tell you is that the department came and told them. The department and the minister have not sat down and consulted and taken on board the various problems and issues that have been raised. As for trying to get groups and individuals in to see the minister to discuss the problems, I may as well go and talk to a brick wall.

I have had requests in since the end of March, early April, for several organisations to meet with the minister. I am still waiting for a date. The minister has now decided that these organisations should talk to the department first, and then she may decide to meet with them. Some of these organisations are in the business of the provision of aged care. They know how aged care is administered. They know all the problems. They do it every day, five days a week—and probably for a lot longer in their own personal time. They are being told, 'Oh, talk to the department and we'll see if we can't sort the problems out.' This has been going on for months. I find that highly unsatisfactory.

Before I run out of time, I want to raise a key issue of concern which, as I said earlier, with my nursing experience and background, I share with the two colleges and with the unions: nowhere in the bill does it stipulate that nursing care has to be provided by registered or enrolled nurses or by people with training.

This is a grave concern to those in the industry, because we have seen over a period of time that the sickness and the debilitation of the residents of nursing homes have in-

creased. There are now many more residents with multisystem problems. When I was involved in aged care, it was a lot of hard, heavy, basic nursing care. Certainly, in a nursing home you very rarely saw the use of even oxygen and there was no intravenous therapy. Now it is not at all uncommon for people to have intravenous therapy in nursing homes. Oxygen is frequently used. They are even using hyperalimentation, that is, ventral feedings, which is feeding via tubes either into the stomach or into one of the major blood vessels, to provide adequate nutrition. I am told by the colleges that we are seeing people who are on dialysis in nursing homes.

This is helping to relieve the pressure on the acute care hospital system, but it also means that because of the level of nursing care provided in the nursing homes they absolutely need registered nurses. If you look closely, there are a number of procedures that, legally, should be provided by registered nurses. But there seems to be nothing in this legislation that is going to ensure that aged people in nursing homes are provided with adequate nursing care.

I draw your attention to a discussion paper by Julienne Onley, Professional Officer of the New South Wales College of Nursing, titled *The importance for the Australian community of maintaining a professional nursing presence in residential aged care facilities*. It deals with high levels of acuity and associated care needs. She says:

> The findings of studies reported by Rantz and Naylor are supported by Australian researchers, O'Hara, Hart, Robinson and McDonald (1996). Their findings indicate that, in a study conducted by a major Victorian teaching hospital, 30% of patients who were transferred to long term care facilities died within four days. Older age was reported as a significant factor in death after discharge, whether to long term care facilities or elsewhere. Of the 60 to 69 year age group, 21.6% died within 28 days of discharge, in the 70 to 79 year age group the percentage was 31.3%, and in the 80 plus group, 29.9%.

She then goes on to say:

> The authors question the timeliness of transfer as a factor in the higher rates of death within a shorter period of time for those transferred to long term care, saying they may have been "in extremis and less salvageable than patients who were transferred to other acute treatment centres".

The quote in that last sentence is from O'Hara et al 1996:47.

The quote from Onley's discussion paper continues:

> . . . or they may not have been expected to recover anyway. Their findings indicate the need for a high level of nursing care, including palliative care skills, in long term care facilities which receive patients transferred from the acute care sector.

That quote opens up a whole minefield of ramifications for the changes that are taking place in the aged care industry. I also quote from the *Collegian*, the journal of the Royal College of Nursing, Australia, Volume 4, No. 2, April 1997. Part of the editorial, titled 'Unregulated care workers . . . the thin edge of the wedge', by Helen Hamilton, says:

> Deregulation has meant that care is provided according to the type of organisation in which the person is located, and sets aside the concept of providing care in accordance with the needs of clients. Nursing homes and hostels provide a significant amount of care with unregulated workers. It is little wonder, then, given the high levels of medical intervention and increased use of technologies, that there are all-too-frequent anecdotal reports of unregulated workers providing care well past their level of skill and competence, raising concerns about the quality of care provided.

This has just scraped the surface of this major issue. In fact, the department did not include the Royal College of Nursing in its consultations in the initial stages, because they had not even realised that the Royal College of Nursing is in fact the organisation, along with the New South Wales one, that is there to provide the professional standards for nurses in this country. They were ignored. That is the sort of lack of consultation that has taken place. *(Time expired)*

Senator MARGETTS (Western Australia) (10.57 a.m.)—There is obviously a lot of emotion in this debate. I believe this is appropriate, because the interesting thing about politics in the last few years is that the word 'certainty' is used by industry to beat governments around the head. It is used as an excuse to remove the rights of workers and of indigenous Australians and to trash the environment. It seems that industry, especially big industry, has the right to certainty. Whatever

they want they often get. Often, they are fully involved in the discussion, they have put forward the suggestions in the first place.

But what about the certainty that ordinary people want? What about the certainty of people who are concerned about their lives as they move into their elderly years? What sort of certainty is it when the government has used the two-thirds rule in order to shove through a piece of legislation which should have been carefully considered and is going to affect everybody in one way or another in our community? The legislation is creating a great deal of uncertainty in our community and the government has used a mechanism to try to shove it through without proper community consultation—I mean 'community' consultation. We have had it at the eleventh hour.

This is a dreadful version of the ideological preference for user pays and government cuts. We are going to be moving from duty of care to duty of profit or duty of governments to provide profit. In the end, what we will be doing with this badly thought-out proposal that we are being asked to consider is consigning the elderly to the market—often when they are in the least favourable position to be able to make choices. If large amounts of money are involved, that level of fear that many people have about what their final years might be will be exacerbated—the fear that basically that choice may become a one-way street or become very difficult to reverse.

How many of us have experienced the situation where people we know of or relatives have gone into a facility, have been concerned about it, and then have been taken out by relatives immediately or at some later time? Loving families do not always know immediately about the quality of care that is provided because people who are consigned to that care are not always capable of properly articulating their concerns about their treatment.

I believe it is a dreadful situation when people can be forced to make large contributions but are not guaranteed quality care. Even in those nursing homes that are providing quality care, we will find that the market will force them to reduce that level of care so as to cut employment costs.

We should be spending more time on these bills. There is an unseemly rush to deal with something of such major importance to all Australians. And I am not the only one who believes this. Yesterday, the Australian Nursing Federation put out a press release entitled 'Aged Care Bill 1997—Democrats let residents and staff down'. I will quote from this press release:

> The Australian Nursing Federation (ANF) today slammed the Australian Democrats and their Aged Care spokesman, Senator John Woodley, for caving in to the Federal Government over the Aged Care Bill 1997 and failing to force changes that would keep nursing home proprietors honest in terms of staffing levels, nursing care and the cost to residents and their families of accommodation bonds.
>
> ANF acting federal secretary, Denis Jones, said the break-neck speed at which they sought to do a deal with the Government has sidelined the issues of cost to consumers and accountability in the use of Government funding.

Yes, there is government funding used here, and we are talking about outcomes—those things we do not properly consider in the rush to privatisation and user pays. The press release goes on:

> He criticised Senator Woodley for his selective representations to the Government on behalf of church organisations, because they ignored the interests of aged care staff and consumers.
>
> "They also ignored the fact a Senate Report on this Bill has been tabled and is still to be considered. The interests of nursing home proprietors have been put ahead of residents.

This is not good enough. It is not good legislation. The argument cannot be made or pulled through in this debate that what has been achieved by this very fast deal is a great advance for aged care or for the elderly. It is not. If it was such an advance, we would be taking the time to look at it properly. But this is not being done.

The suggestion that this legislation should have been held over until at least next year is a very good one. Other than the government wanting to pull out of its responsibilities to provide quality aged care for people in Australia, I cannot see any justification at all for proceeding now. The government wants to make sure that people are involved in user

pays; it does not want to be responsible. That is the only reason I can think of for pushing this through with such unreasonable haste.

There may be commercial considerations here, but these should not be our primary motivation. Our primary motivation should be outcomes. And our primary motivation should not just be outcomes for aged care but outcomes for people who are concerned about their living choices in their final years. We should not be doing this to our aged population; we should be thinking about how we can be a caring and reasonable society and how we can act reasonably, compassionately and responsibly in the use of public funds. I think the speed in this matter is deplorable, and I do not support the fast tracking of these bills.

Senator MURPHY (Tasmania) (11.04 a.m.)—I rise to speak in opposition to the Aged Care Bill and related bills. Senator Margetts has just read from the Australian Nursing Federation press release regarding the agreement reached between the government and the Australian Democrats on certain aspects of the bills. It has been a very hasty agreement that has been reached, I agree, and I also agree that we need a much longer period of time to consider the legislation because the amendments agreed to by the government and the Democrats demonstrate that the legislation has not been thought through thoroughly.

This is very important legislation which proposes very important changes to the aged care system in Australia. It is of importance to Tasmania because the ABS statistics indicate that the aged population in Tasmania will be significantly higher on average than that of the national population. The ABS estimates that the proportion of the population aged 65 and over in Tasmania will be between 28.2 per cent and 32 per cent by the year 2051, yet nationally the statistics indicate that the proportion of people aged 65 and over by 2051 will only be between 22.5 per cent and 24.3 per cent.

Any final agreement we get on the Aged Care Bill will have an important impact on Tasmania because of the fact that we now have and will have a significant degree of people over 65 in our population compared to the national average. And, of course, our economic circumstances are significantly worse than those in most other states.

What does this legislation seek to do? Firstly, it seeks to cut the guts out of public funding for aged care in Australia. In 1996, the government cut more than half a billion dollars out of aged care funding. I think the effect and the impact of that are yet to be felt, and we are going to see a significant decline in aged care facilities. There is the fact that the government has, in part, used as its argument for this legislation the report that identified that Australia's nursing homes were suffering. The infrastructure spending was some $900 million short of bringing them up to what is currently the standard that is required.

So I cannot see the logic of cutting public funding at a time when we do not know whether or not this proposal from the government can even meet those funding needs. Of course, the proposal is to introduce a system of accommodation bonds. What is an accommodation bond? An accommodation bond is something that, apparently, a potential resident for a nursing home negotiates with the potential provider of the service. There is no particular level that the accommodation bond can be, except that I think it has to be above $13,000. A person who has no financial means other than their home will have to sell their home—which the government says you do not have to do—to provide the bond. So a single person will be left with $22,500, and a couple will be left with $45,000.

The government put out a series of question and answer papers to explain their new legislation. As I said, in terms of the accommodation bond, they say, 'Well, you negotiate it. So long as a single person is left with $22,500 or a couple is left with $45,000, that is all we are really interested in.' There are no real prudential arrangements in place to ensure that, although the Democrats somehow think that they have achieved an agreement for an independent tribunal in each state to consider any disputes in relation to aged care matters.

But, before we even get to that point, we already know that it is very difficult for aged

care recipients around this country to actually know whether or not they are being ripped off. There would be many aged care nursing home claims. Over time we have seen claims where people have not been receiving the level of service and the level of care that they ought. They have been ripped off. We really do not know, from a financial point of view, whether or not people are being ripped off. There have been a number of claims that they have been.

There was one claim in particular in my own state, and I am quite curious about the government's position, because I have raised this matter before in terms of the standard. They say, 'Well, nursing homes that do not meet the standards that we set down cannot charge accommodation bonds and should not receive funding.' There is a nursing home in Launceston called Cadorna House, and there are claims that the management of Cadorna House have been ripping off the residents. The home does not meet the standards, yet it received government funding.

I would be very curious when we get into the committee stage of this legislation to hear some explanation about how the government intends to deal with these issues. What is going to happen to some of these homes that do not meet the standards, as they currently are, and have been receiving government funding? It is going to be very interesting to turn around now and say to them, 'Look, you can't charge an accommodation bond until you get up to standard.' They have residents there. In the case of Cadorna House, in particular, I think $500,000 was needed to bring it up to standard. If you look at the accommodation bond and the application of it in terms of it being the new provider of infrastructure and redevelopment and maintenance funds, as I understand it, the legislation says that current residents do not have to pay an accommodation bond.

You are talking about replacing hundreds of millions of dollars of infrastructure funding over the course of the next two, three or four years that was taken out of the 1996 budget. If existing residents do not have to pay a bond, how are homes going to generate sufficient income? What about those who can negotiate accommodation bonds? Where are they going to get all of this magical money from? How will those private homes and some of the charitable homes manage? Some will manage. The private sector ones will manage. Some of them probably already charge some form of bond or entry fee. They will benefit, I would think, if now you have legislation that says there must be an accommodation bond. They will benefit significantly, and they may well have standards within their nursing homes that are above standard.

So it really comes down to where the fairness and the equity are in that sort of an approach. I guess that is why the government gave in to the Democrats' pressure, albeit small amount of pressure, and increased the daily fees in those homes that have between 40 per cent and 100 per cent of concessional residents, who are charged $12 per day. Why did they do that? That surely is a clear acknowledgment that there are going to be real problems with those homes that have concessional residents, and that is a significant number of them, probably the vast majority. How will they derive their money to either maintain the standard of the home or upgrade the home to meet the standard? There is no answer in this legislation for that.

I suppose the converse of that is, where you have a home that already meets the standard and is doing very nicely and can charge an accommodation bond now through legislated means, the owners of the home may well pocket the interest earned. There is nothing in the legislation that says there is an obligation that the interest earned from the money that is banked by the home has to be put back into the system and the maintenance of care for the residents of those homes. There is nothing at all.

You may well see around this country that some homes that are privately owned and do meet the standards are able to profit from this legislation. Then we will have the others that are desperate and have residents that do not have the financial wherewithal to actually pay an accommodation bond or pay the types of fees we are talking about, and they will battle and struggle.

If this legislation goes through without significant further amendment we are going to end up with a two-tiered aged care system in Australia. There is no doubt about that. There is one to a limited degree now. This will draw a very distinct line between socio-economic groups in different states. My state in particular is going to end up with a sub-standard arrangement in terms of aged care. There is no doubt about that.

The government has allocated $10 million for 1997-98 for infrastructure funding. That is nowhere near enough. I received a letter from an operator of a nursing home who said that it would be an abrogation of the government's responsibility if it were to cease public funding of nursing homes before such time as the standards have been achieved. That is right. Some people do not have the financial wherewithal to actually contribute. Those homes that will have to say, 'You will have to sell your home to pay to come in here,' will not be able to attract residents. They will be head hunting people who have homes of higher value so that they can get more money.

It is just like the Australian banking system. The banks do not want to know the punters that have no money. That is what you are going to breed into aged care in this country. You are going to develop a system where those people who do not have significant amounts of money and do not do reasonable transactions that are in the interests of the banks of this country will be fobbed off to a building society or friendly society to do their banking. They will be left out in the cold. That is what is going to happen to a lot of aged people in Australia.

I want to deal with the accreditation system and standards. I am curious about the government saying that until nursing homes reach the standard they cannot charge an accommodation bond, but a resident can agree to go into a home on the basis that when the home achieves accreditation and meets the standards they can pay an accommodation bond. I come back to the question: how do those homes get there in the first place?

We have seen homes in Tasmania close down because they do not meet the standards. On the basis of the income they derived under the old system where they actually had infrastructure funding, they could not meet the standards. Why would homes not seek out those people who can pay. Of course they will. Another question I put to the government is: why should a person be forced to sell their home at a time of depressed housing prices? Why should they be forced to sell their home because the time has arrived when they need to go into a nursing home and there is a depressed housing market in a particular state and region and therefore the real value of that property that might be realised cannot be realised due to the economic circumstances in that region or state. Therefore, they could be looking down the barrel of having to sell their home for a much reduced price.

Why should people have to do that? Why should that be the case? Why should we not have a fairer system for people? Surely the government has a responsibility to actually provide for—and I remember the old slogan 'for all of us'—all of them on an equal basis. From a government point of view we should provide for Australia's aged people equally. This legislation does not do that and, at the moment, has no hope of doing it. Even with the very small changes that the Democrats have negotiated—and I note Senator Woodley has come into the chamber—

Senator Woodley—I came to hear you, Senator.

Senator MURPHY—I appeal to you, Senator Woodley, that these changes are simply not enough. We have to seek a far greater explanation of this from the government and ensure that, at the end of the day, we will have legislation and changes, if we are to change the existing system, that are fair and equitable and will apply equally to all Australians needing aged care. Right now they simply will not.

I urge senators to have a long debate and give this serious consideration. The opposition has a number of amendments. They will at least go some way to making this legislation a lot better than it currently is and will make it a lot fairer than it is. I hope that the Democrats will take note of that and will see their way clear to support what would be some very positive changes to the legislation. The

one underpinning problem I think the government has is that this will not deliver an equitable system. I think one of the greatest shames in terms of the government's proposal to change something that affects people is that they will deliver something that is going to make a very unfair, two-tiered aged care system in this country.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (11.22 a.m.)—in reply—At the outset I thank honourable senators from the opposition, the Democrats and the Greens for their contributions. The aged care bills before the Senate today represent a fresh start for aged care in this country and a chance to build a better future. The history of aged care in this country is one of change. As the Senate Community Affairs References Committee acknowledged, we have an ageing population and increasing demand. It is this dynamic which has required aged care to evolve to meet new challenges as they arise. I wish to acknowledge the work of the committee and note in particular the efforts of the chair, Senator Bishop, the deputy chair, Senator Knowles, and also Senator Woodley from the Democrats.

The structures we have in place today were appropriate for their time but they do not meet today's challenges and they are not sustainable. The government's reforms embodied in these bills address today's pressing issues and put in place a structure which will support quality care and accommodation in the future. Our reforms will ensure major and sustained investment in nursing home buildings and infrastructure—investment which will deliver the quality home-like accommodation, privacy, dignity and comfort that older Australians deserve.

Some opposition senators have also claimed that these reforms will take $550 million out of the system. This is utter nonsense. This package provides for older people who can pay a little more to do so and the $550 million is not a cut on previous government outlays. In fact, each year expenditure is growing steadily, reflecting the growth in the older population. The opposition claims capital funds have reduced, but I note in the last year of Labor's government capital funds for nursing homes were only $10 million and that could not hope to meet the demands or the recommendations made by the Gregory report.

In fact, while I am on that, let me just say that it is utter hypocrisy for the opposition to attack this government for trying to reform aged care because it is 10 years, since 1987, when the opposition introduced the CAM and SAM modules. In that 10 years nothing has happened. In fact, while the Labor government was in power they were called on repeatedly to address the issue of capital funding and to address the problems in aged care. Before my time in this place I noticed that Senators Patterson and Knowles raised these issues repeatedly. Senator Patterson from Victoria and my colleague from Western Australia Senator Knowles repeatedly called on the then government to do something about aged care. Today they will not be speaking in an effort to minimise the amount of time that this bill takes so that it can get through this week—that is the urgency that we face.

The opposition should not misrepresent the facts about the Gregory report and misquote aspects of it to suit themselves. The Gregory report, which the opposition commissioned when it was in government, stated that there was a need for ongoing funding of $125 million if the aged care system was not to fall over. The opposition should not misrepresent the facts about the family home. Nobody will be forced to sell the family home. It is specifically protected where there is a spouse or dependent child in the home and there are also protections for close family members and long-term carers. This, I believe, answers Senator O'Brien's claim that family members would be disadvantaged.

Senator O'Brien also raised concerns about accommodation bonds. I would point out to Senator O'Brien that services must refund all of a person's bond except for the modest retention amount of $2,600 each year for a total period of five years. There are specific protections for the family home in the cases

I have mentioned. In other cases, there are a range of payment choices that will allow people to pay an accommodation bond other than by selling their home. It is on this point that Labor should be condemned for their fear campaign. They are responsible for causing alarm amongst a group of vulnerable people in our community. Labor does not have the facts. It does not have a strong enough argument to attack this well-considered aged care package, and it must be remembered that it did nothing when it was in government.

The reforms that we have before us will bring the focus back to the individual. The new funding system will bring an equitable distribution of funding according to need and, more particularly, ensure that people are funded according to their care need and not according to what sort of building they are in. Another aspect is the improved funding for dementia care. That is a major objective of these reforms. Funding for the average hostel resident with dementia will increase by 30 per cent. The industry has been crying out for proper funding for dementia care for years and they strongly support the changes we are making.

For example, I received a copy of a letter sent to Senator Harradine from Mr Peter Miller, the President of the ADARDS Nursing Home—a specialist dementia nursing home in Tasmania. Mr Miller says that in the past governments have declined to acknowledge the cost of dementia care. He says:

> It would be catastrophic if this legislation was not passed.

Mr Miller goes on to support the introduction of accommodation bonds. He says that this is a positive measure that will ensure building quality. He says:

> The other alternative is to do nothing and let nursing home stock deteriorate and eventually close for want of maintenance.

I point out to those people who want to put this legislation off till next year or, as Senator Margetts says, until at least next year, that we do not have the luxury of time. We have to act now if we are to be responsible as a government.

Senator Forshaw said that the government had lied about accommodation bonds and the difference between nursing homes and hostels. He said nursing homes and hostels were so different that you should not extend the system currently in place in hostels to nursing homes. Senator Forshaw, I would submit, with respect, is living in the past. Let us face it: there is now a significant overlap between nursing homes and hostel residents. Probably 50 per cent of dementia hostel residents would be eligible for nursing home care. Many older people tell us that they want to age in place; they do not want to move from a hostel to a nursing home. This reiterates and reinforces the point that the government is making. We do not want this existing two-tiered system to carry on. We want to combine the two systems into one for the benefit of older people.

The reforms also bring a new approach to quality care—a new approach which will involve industry and consumers as partners in pursuit of quality care, an approach which will bring incentives for quality and excellence as well as swift action for non-performance. I would point out to Senator Bishop who said this was only a cost cutting measure that we are interested most importantly in outcomes and not just cost cutting. It is in fact our preoccupation with outcomes that causes this government to address this important issue at this time and not put it off until next year or the year after, as others would have us do.

These reforms bring substantial improvements to consumer protection. We have built on the existing framework to ensure much stronger and clearer protections than the existing system provides—protections for spouses and dependent children for carers and family, protections to ensure that access to care is based on need and need alone, not means.

As I said, the government's reform package has been considered by the Senate Community Affairs References Committee. That committee has issued a report, together with minority reports from government senators and the Democrats. It is important to acknowledge that this report makes some useful and constructive suggestions to improve the reform package. In fact, of the 28 recommen-

dations, you will find that, if not in whole, in part, most of those recommendations are to be found in this reform package.

The government has listened to these concerns, as I have said, and has decided accordingly to make three major policy changes in response. I will now deal with each of those in turn and explain them. The first relates to an independent complaints mechanism. I have talked about the importance of quality care and the moves the government will take to secure improvements here. But it is also important to recognise that a vital part of any quality assurance system needs to be the people's right to complain and have their complaints addressed fairly. I believe this is the point Senator Cooney raised. It is vital that consumers are able to complain about any aspect of an aged care service that makes them unhappy. Similarly, providers need to be able to complain about actions by the department. It is always preferable that, where problems arise, they can be promptly resolved by those concerned in the individual facility.

However, the government agrees that all parties to the aged care reforms should have access to an external complaints handling system. The bill currently makes it the responsibility of service providers to operate an internal complaints mechanism, to advise people of any other complaints mechanisms that are available to address complaints and to allow access for authorised officers to investigate and assist in resolving complaints.

The minister has listened to a range of concerns as to how this will operate in practice. These indicate that the community is looking for an independent mechanism for resolving complaints, a mechanism which is clearly promoted and accessible to everyone. The Australian Democrats have also raised these issues with the minister. They have been very focused on consumer outcomes, and the Democrats have made a strong case. We have responded to these concerns. We now propose to implement a comprehensive complaints handling system which is not connected to the complaints mechanism operating in each facility and propose two amendments to the bill to carry this out.

There will be a well-known, easily identified contact point for anyone wanting to make a complaint, supported by a well publicised free call phone number. There will be complaints units under the auspices of the department providing national coverage through staff skilled to handle and resolve the complaint in a timely manner. The complaints units will work to committees which include community representatives who will review and evaluate the operations of the complaints handling system and will have the power to make determinations, where necessary, to resolve the complaints. The committees will report to the minister on a regular basis. The complaints units will be able to refer standards issues to the Aged Care Standards Agency and possible breaches of legislative requirements, such as overcharging accommodation bonds, to the department for action.

Where the department confirms a breach of legislative requirements, it will also inform the standards agency to ensure that this is considered in deciding a facility's accreditation. Where an issue arises which the complaints handling system does not have statutory power to handle, referrals will be made to other more appropriate bodies. This approach will allow people's complaints to be handled independently and fairly. It will ensure that, where necessary, action is taken to resolve them. This I believe takes care of any opposition concerns about the enforcement of people's rights. Another aspect is the funding for concessional residents. The minister has listened to concerns from the Democrats and also from some of the churches who are major providers of aged care. As I said, this government has a paramount concern to ensure equality of access for all. There are a combination of strategies in place which relate to this. Assessment teams, mandatory quotas and a supplement as an added incentive will achieve exactly that.

There were, however, concerns that providers who care for a large number of concessional residents, often providers in poorer areas of Australia, would not be able to generate enough funding to maintain building quality over time under the $5 supplement that the government had previous-

ly proposed. We had strong representations from the Uniting Church, the Anglican Church and the Catholic Church. The minister consulted with the Democrats at length on this issue. It is appropriate to acknowledge in particular the contribution of Senator Woodley, who is in the chamber today, and Senator Lees. They were strong and effective advocates for a different approach, and I thank them on behalf of the government for their willingness to engage in constructive dialogue and to grapple with the real policy issues which underlie this complex issue.

The minister has developed a response which meets these concerns and which she believes has the endorsement of these key players. The new arrangements will provide for a $7 a day concessional resident supplement for those facilities which cater for up to 40 per cent concessional residents. Facilities which have over 40 per cent, those primarily being religious and charitable operators who pursue a mission to care for the financially disadvantaged, will receive $12 a day for each of their concessional residents.

In addition, the assisted resident supplement has been increased from $2 per day to $3.50 per day. This new structure will provide maximum support to those facilities which specialise in concessional residents. It provides an unprecedented level of recurrent funding to those facilities and will enable them to maintain quality accommodation over the long term. I am sure that this measure will be widely supported in the aged care industry.

The final policy change that I have mentioned is that of commitment to review of the aged care package. This change highlights the willingness of the minister and the government to listen to the concerns of the community and those in the aged care field. From the beginning, when the minister announced the structural reform package back in the 1996 budget, the intention was to work with stakeholders in developing detailed arrangements to take account of their concerns and to create a system which was workable and practical.

The opposition has had the audacity to suggest that there has not been sufficient consultation on these reforms. Let me say that this reform package has been on the table as a result of the budget last year, and has been open for discussion since February this year—not to mention the four working groups and a number of subgroups that have been working constantly to develop these reforms.

There was, for instance, the funding and implementation issues working group, which considered the major funding and policy arrangements; the accreditation working group, which is developing the new quality assurance system and the standards agency; and the technical reference group, which oversaw the development of the new resident classification instrument; and the certification working group, which developed the building certification process. These people will tell you that they felt they were actually being listened to, that they were actually contributing and that they were partners in the process.

The minister intends to maintain this theme of consultation and partnership in the implementation of these reforms. The government commits itself to reviewing the aged care package, once implemented, as follows. Within three months of implementation—that is, from the date of proclamation—the government will review the operation of the resident classification scale to ensure that the relative care needs of residents have been adequately determined, and that the resident classification scale is operating consistently with the government's objectives. This review will also consider the implementation of the resident classification scale and, in particular, the training of staff to ensure that this is adequate.

Following implementation of the package, the government will commence an overall review, including the effect of the subsidy scale of $7 per concessional resident for facilities, which takes up 40 per cent, and a flat rate of $12 for every concessional resident for those facilities catering for over 40 per cent of concessional residents. This will enable both the policy and its implementation to be reviewed in an ongoing fashion over the course of two years.

The government's two-year review will be chaired by an independent person who will be assisted by a committee comprising industry,

consumer, union and departmental representatives. The review will consider evidence from all parties involved in the reform process, and will incorporate the capacity for recommendations such as remedial funding for inadequate care subsidies. While the review will be expected to monitor issues relating to the ongoing implementation of the package, it will also be expected to deliver a progress report at 12 months and two years. These reports will be tabled in the parliament.

Madam Acting Deputy President, I know that you have had a long interest in aged care, and I believe these changes that the government has announced today will strengthen the reforms and help to ensure that older Australians get the quality care and accommodation they deserve now and into the future. It is time that the opposition realised that it is alone in the community on this issue and that, with these policy changes, with these reviews, with the independent committee looking at complaints, we now have a reform package that will deliver to older Australians but with ongoing protections to ensure that this reform package does what it was set out to do.

Question put:

That the bill be now read a second time.

The Senate divided. [11.45 a.m.]

(The Deputy President—Senator S. M. West)

Ayes	40
Noes	26
Majority	14

AYES

Allison, L.	Alston, R. K. R.
Boswell, R. L. D.	Bourne, V.
Brownhill, D. G. C.	Campbell, I. G.
Chapman, H. G. P.	Coonan, H.
Crane, W.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Kemp, R.
Kernot, C.	Knowles, S. C.
Lees, M. H.	Lightfoot, P. R.
Macdonald, I.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Murray, A.	Newman, J. M.
O'Chee, W. G.	Parer, W. R.
Patterson, K. C. L.	Payne, M. A.
Stott Despoja, N.	Synon, K. M.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	Woodley, J.

NOES

Bishop, M.	Bolkus, N.
Brown, B.	Childs, B. K.
Collins, J. M. A.	Collins, R. L.
Colston, M. A.	Conroy, S.
Cook, P. F. S.	Cooney, B.
Crowley, R. A.	Evans, C. V.
Faulkner, J. P.	Foreman, D. J.
Forshaw, M. G.	Gibbs, B.
Hogg, J.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Neal, B. J.	O'Brien, K. W. K.
Sherry, N.	West, S. M.

PAIRS

Abetz, E.	Ray, R. F.
Calvert, P. H.	Reynolds, M.
Hill, R. M.	Denman, K. J.
Macdonald, S.	Carr, K.
Reid, M. E.	Schacht, C. C.

*** denotes teller**

Question so resolved in the affirmative.

Bills read a second time.

In Committee

AGED CARE BILL 1997

The bill.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (11.49 a.m.)—I table supplementary explanatory memoranda relating to the government amendments to be moved to the Aged Care Bill 1997 and the Aged Care Income Testing Bill 1997. These memoranda were circulated in the chamber on 24 June 1997 and 20 June 1997 respectively.

The TEMPORARY CHAIRMAN (Senator Knowles)—The committee will consider the first item on the running sheet, which is amendments Nos 1 and 2 to be moved by the government.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary

Secretary to the Attorney-General) (11.50 a.m.)—by leave—I move:

(1) Clause 56-4, page 218 (line 6), at the end of paragraph (d), add "; and".

(2) Clause 56-4, page 218 (after line 6), at the end of paragraph (1)(d), add:

(e) comply with any determination made, in respect of the approved provider, by a committee of the kind referred to in subsection 96-3(1A).

Government amendments Nos 1 and 2 will allow for the establishment of an independent committee or committees to coordinate and review the resolution of complaints made by aged care recipients or their representatives about aged care services and facilities or about the administration of the aged care legislation. Such a committee would have the power to make a determination requiring an aged care provider or the department to undertake action if, in the committee's view, this was required to resolve a complaint. These amendments propose that it will be an additional responsibility of an approved provider to comply with such a determination. There is no financial impact in relation to these two amendments.

Senator FORSHAW (New South Wales) (11.51 a.m.)—The opposition will agree to the three amendments that have been circulated by the government. We are currently dealing with amendments 1 and 2. Each of the amendments relates to the establishment and activities of complaints committees.

I listened very closely to the parliamentary secretary in his closing remarks in the second reading debate. I would like to make two comments leading into consideration of some issues that arise out of the government's amendments. Whilst we will not oppose these amendments, in our view there is still a long way for this government to go—and, indeed, the Democrats agreed with the government in this respect yesterday—before it gets this legislation right.

Senator Ellison said that the opposition, the Labor Party, was alone out there in respect of issues relating to this legislation. I can assure Senator Ellison that that is far from the case. If you have a look at my in-tray and the letters that I have received and that the shadow minister and members of the opposition have received even as recently as a day ago complaining about this legislation and expressing their concerns about it, then you will see that we are not alone. In fact, we are very much in tune with the expressions of concern by providers and people affected by this legislation.

Senator Ellison tried to indicate that this was legislation that was going to take us into a new era and that the Labor government had done nothing whilst it was in power. Again, we reject that, and as we come to deal with the issues in the legislation during the committee stage, we will be pointing out quite clearly just what the former government did to advance the provision of aged care over the course of our years in government.

With respect to these amendments, I want to turn to the media release and the announcement made yesterday by the government and the Democrats regarding the deal that they have reached whereby the Democrats were prepared to support the legislation this week rather than deferring it to allow further opportunities for people with all these concerns to continue to negotiate with the government.

The deal that has been reached between the Democrats and the government goes to two key areas. The first part of the agreement relates to the concessional resident subsidy, which we will no doubt come to later. We have welcomed this as an improvement and as a recognition by the government that its original proposal was totally inadequate, but it still does not go far enough. The second part of the agreement relates to the review of the entire aged care reform package in two years, annual reporting to parliament and a review of the operation of the single instrument within three months. The Democrats have made great play about this aspect of their deal with the government. They claim that they have forced the government to undertake a complete, independent, wholesale review of this legislation in two years and that they will also be conducting a review very soon, after three months operation, of some key aspects of the legislation. They have put great store in this. What they say is, 'There are still a lot of concerns out there; we're

going to be monitoring them and we've forced the government to establish procedures whereby this monitoring will be undertaken.'

When the government came back into this debate and brought in amendments which arose out of its acknowledgment of concerns expressed by the industry, the opposition, the Democrats and other minor parties, you would have thought that they would have come back with proposals that gave effect to what is highlighted in the Democrats' announcement about a deal on this legislation. But, no, there is nothing at all in these amendments that in any way relates to the establishment of a process of full review. There is nothing in here which relates to the establishment of an independent review of the entire legislation. There is nothing in here that relates specifically to having a review after the act has been in operation for three months; rather, what these amendments deal with is specifically related to the reviewing and resolution of complaints about matters dealt with in the Aged Care Bill or in the principles made in relation to the legislation.

The amendments fall a long way short of expressing what it is that the Democrats have claimed they have negotiated with the government and what the government has stated. Senator Ellison, in his closing remarks in the second reading debate, directed a lot of attention to this. It was said that the government was going to get this legislation through the parliament this week. That is the government's intention.

Notwithstanding the fact that they claim they have got experts on their side of the parliament who have long followed this issue—and Senator Ellison named them and said that they had actually decided not to get involved in the debate in an effort to push this legislation through this week, just as they used their numbers in the House to guillotine it through in a matter of a few hours a couple of weeks ago—they have said that they are not going to get their so-called expert speakers in here to even debate these issues. These issues are still of major importance to the aged community, to the people involved in providing aged care services and to the families of the elderly who, of course, are dramatically affected by this legislation and by decisions that have to be made.

So what do we get? We get these amendments which only amend, in a minor way, provisions in the legislation which relate to the reviewing and the resolution of complaints. I would ask the parliamentary secretary and the Democrats how they can reconcile the agreement that they have supposedly made and have trumpeted so loudly out there in the community, which is to provide for a wholesale review of the legislation, with these very simple and straightforward amendments which only relate to dealing with complaints. I ask the parliamentary secretary to respond to that. You would have thought, as I said, that the key element of the deal would have been reflected in amendments that the government was bringing back in.

I note in the explanatory memorandum that has been circulated that it also acknowledges that the amendments will allow for the establishment of an independent committee or committees to coordinate and review the resolution of complaints made by aged care recipients or their representatives about aged care services, facilities or the administration of the aged care legislation. That is not what the deal is supposed to cover.

I also have some questions that I wish to put to the parliamentary secretary in due course about the formation of these committees. I think we can get on to that shortly, but I would ask the parliamentary secretary and the Democrats—and I would be interested to hear what the Democrats have to say—just how it is that these amendments reflect the deal that they have made that they say is so important.

Senator LEES (South Australia—Deputy Leader of the Australian Democrats) (12.01 p.m.)—I begin by just going back a little bit for Senator Forshaw. The actual amendments we are dealing with now together by leave are government amendments Nos 1 and 2. Therefore, we are only dealing with those amendments relating to complaints resolution. I will go back over the negotiations that the Democrats had with the government, with the Minister for Family Services (Mrs Moylan) and with the churches.

The specific issues on the table for the industry related to the actual amount that they were going to get for those people who were not going to be able to pay any sort of a contribution by way of a bond. Also they related to the two reviews: firstly, the three-month review—if I can clarify that for Senator Forshaw, that is just about the single instrument—and, secondly, the longer review, the two-year review, which is really an overview of the legislation itself.

I put on the table during those discussions and that debate another issue that was of concern to me and to Senator Woodley, following evidence given at some of the hearings, having read the various submissions and letters that, no doubt, you have also received and having listened to the phone calls and contacts from the industry. They wanted a resolution of some of the issues in nursing homes, which in some cases have been unresolved for many years. I have been in the unfortunate position where I have had to go through the processes of reporting homes. There were not easy resolution processes, believe me.

As well as the issues the industry pursued as its primary interests in those last few days of discussions, the complaints issue was taken up by me as a specific thing I wanted to see resolved in order to really take notice of those last minute letters some of which are still coming in, the longer term complaints and problems that have been within the industry as well as the various comments that were made during the committee process.

What we are setting up here with these two amendments is only that last resolution process. We are not doing any more. We will discuss the other amendments as we come to them.

Basically, we wanted a one-stop shop. We did not want people to have to look around as to where their particular complaint belonged, who they should ring and which department they should go to. How were they ever going to get to square one? We wanted a single authority that could make the basic decision as to whether it could deal with it, whether the minister should really see it or whether it could go out into a range of other possible areas and be dealt with back there.

On the understanding we have, the basic format is that there will be five complaints committees: one over in the Western Australia, one for South Australia and the Northern Territory, one for Victoria and Tasmania, one for New South Wales and the ACT, and one for Queensland. Based in the relevant capital cities, they will be supported by existing Department of Health and Family Services complaints staff in those cities. You will have to agree that is adequate national coverage. If the parliamentary secretary could add any more details there, we would be quite happy to have those now.

The complaints committees will also include people who are external to the departments, independent representatives. Because the complaints committees are being established under the auspices of departments, their decisions will be subject to review and appeal under the Administrative Decisions (Judicial Review) Act.

Complaints can be made by anyone, as I said. It may be a complaint from a resident, a family member or a service provider. Indeed, it could be a complaint from staff, employees. A few of the late faxes I am getting through I believe will be sorted out once people understand how the legislation works, but, if some of those complaints continue, this is the sort of body that could handle those.

Those complaints can then go off perhaps to the minister or to one of the independent review bodies that we have just set up. I think particularly the two-year review will be hearing some of the messages that are coming through to the complaints body. It may be a complaint that should be handled by the state. It may be an issue under state regulations that has been overlooked, that is not being dealt with and that has to be referred back to the states.

The determination has to be within the ambit of the act and its principles. So there is some limit as to what the complaints committee can force a provider or the department to do. There are still some specific issues to be discussed here. We will get some more details

as we look at how it is all going to be worded.

The intention is that the complaints committees would only make determinations as a last resort. Their prime function is as a clearing house. I suspect, from looking at some of the issues referred to me, some of that will go straight back to the state. But people still need the confidence and they still need to understand they have one place they can go where the problems can be sorted out for them. They are not going to get the run-around. They are not going to be shuffled between various departments and between various levels of government.

I hope that Senator Forshaw has a better understanding of what we are doing now. I will let my colleague Senator Woodley go through and talk through this with you, if you so wish. I stress again that this is separate from the reviews; we are looking at government amendments Nos 1 and 2. Then the parliamentary secretary can answer any additional questions as well on the reviews.

Senator FORSHAW (New South Wales) (12.07 p.m.)—Senator Lees, I am quite aware of the fact that these amendments relate to that issue of the complaints. The point that I was making is that what the Democrats have signed off relates to reviews of the legislation. There are no other amendments coming from the government, and I do not see any from the Democrats, that put into place in the legislation a capacity for that wholesale review to occur in two years, for a review in three months and for a single instrument.

The only measure that exists in the legislation is this one that relates to handling of complaints from individuals. Senator Lees has spoken about that and, as I have said, we do not object to that. We will support these amendments, but there are no other amendments that reflect this agreement. The point that we are trying to make and to which we want some answers is: why not? At the end of the day, what you are left with is simply still a mechanism for individual complaints to be dealt with. Does this process also allow, for instance, for systemic complaints to be made—complaints that go beyond the complaints of individuals? If it does, how does it do it? That is the point that I am making.

Whilst I understand that we are specifically dealing with amendments 1 and 2, amendment 2 actually refers to clause 96-3 in the bill, which relates to the establishment of committees and which presumably could also at least provide for potential establishment of some broader based committee looking at broader issues. Amendment 3 contains a specific amendment to clause 96-3, so the point is that you cannot actually discuss amendments 1 and 2 without reflecting or commenting upon what is contained in amendment 3.

I understand precisely what Senator Lees is saying, but we want to know where in these amendments and where in the legislation there will be any legislative basis for conducting the review and assessing the operation of the instrument, which has been identified by the Democrats and the government as being so crucial to their agreement, to getting the Democrats to now support this legislation. Only a matter of a couple of days ago, it was understood they probably still had major concerns. Where is it? We cannot see it. It is not there. It should be there if it is so integral to the operation of this legislation as it is brought on stream over the next year or so. That is the question that we want answered. Clearly it is not there. The question is: why not? It appears to us that the Democrats have been sold a big con here.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.11 p.m.)—In response to that last comment of Senator Forshaw: the Democrats have not been sold a big con. I cannot add anything further to the eloquent description by Senator Lees of the operation of these amendments. With respect to your question, Senator Forshaw, as to a systemic complaint, yes, one is possible under this amendment. As for your other point as to where in this proposed legislation there is mention of the review, there is not. It is a commitment given by the government in this chamber that there will be, within three months of the proclamation of this legislation, a review of the operation of

the resident classification scale and that there will be a review at the 12-month period and two-year period. A commitment on the record in this chamber is as good as legislation.

Senator NEAL (New South Wales) (12.12 p.m.)—I seek leave to speak from a chair that is not usually my own.

Leave granted.

Senator NEAL—I must say that I find it quite an interesting situation to have Senator Lees explain the position of the government on aged care. I am sure she does it very well, but I do not think I have experienced that in the past and maybe that is something that we will be seeing more of.

There is some major concern about the failure of this legislation to really provide for a two-year review and furthermore for a review of some sections of this bill within three months. I certainly understand the statement of the Parliamentary Secretary to the Minister for Health and Family Services (Senator Ellison) that in his view an undertaking provided in this place has the same force as legislation, but I would suggest to him that in fact there are many decisions that say quite the contrary. I would like to ask him to explain, on the next occasion when he is on his feet, why, if these undertakings are of the same force and of the same effect, this government is not prepared to put them in a legislative form and amend the bill accordingly.

The other issue that I wish to explore in some detail is this proposition that systemic complaints can be dealt with by this complaints committee rather than it just dealing with individual complaints about the application of the bill, the regulations and the principles made pursuant to the proposed act. In my experience of the normal construction of complaints committees such as these, there is generally a limitation on such a committee looking at the experience of the complainant, seeing whether they have been dealt with properly in line with the legislation and its subordinate legislation, and then advising and making recommendations based on the existing legislation.

I would like to ask the parliamentary secretary whether, by saying that systemic complaints can be dealt with, he is in fact saying that an elderly person who has been dealt with unfairly under this legislation can come along and say, 'Because of the way this legislation operates, I only receive this sort of subsidy; I think that I should get more for it to be fair,' and that the complaints committee can recommend a change to the legislation and it will have effect.

Possibly the parliamentary secretary could outline in more detail exactly how these complaints committees are going to work. It has been indicated by Senator Lees that they will be set up in various states. Maybe the parliamentary secretary could confirm that. Maybe he could advise us when they will be set up, who will be appointed and what sorts of persons will be appointed. Who will have the power to appoint the members of the committees? Could the parliamentary secretary advise us whether either house of parliament will have some input into who is appointed?

Once these complaints are made, what power and authority do these committees have to make decisions? What effect can they make to their decisions? Will they only be able to conciliate and discuss the problems with the complainant and the person against whom the complaint has been made or will they be able to make decisions which will then be implemented? If they can make decisions, how far can they go? Can they give directions to a nursing home? Can they make recommendations about amendments to the legislation? If they can make recommendations, will they have effect per se or must they be brought back to the minister? Must they be brought back to this house or both houses?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.17 p.m.)—At the outset, with great respect, Senator Neal misquoted me. I did not say an undertaking provided in this place has the same force as legislation; I said it is 'as good as'. That is a political comment that would, of course, have the political effect of opening

the government to attack if it were to renege on any undertaking or statement given in this chamber. I never said it had the same force as legislation, because, of course, that is silly and it is incorrect.

As for the other questions that Senator Neal raised, I will deal with each in turn. Firstly, can a person complain that the legislation does not provide a certain benefit or bestow one upon them? Yes. Secondly, what happens if such a complaint is made—what power does the committee have? The committee can make a report and will report on a wide range of matters to the minister. It has no determination power at that stage, because if any changes are to be made to the legislation, that would be up to the parliament. Thirdly, yes, I can confirm that these committees in the respective states will be as outlined by Senator Lees.

Fourthly, as to who will be on these committees, I could not possibly give you any names; it would be entirely improper for me to do so. Fifthly, as to where these people will come from, they will be community representatives across the board. I touched on those in the second reading speech. Sixthly, as for any decision by the committee, your question was: what powers would the committee have in relation to determinations? Yes, it could direct a nursing home. As I said, the determinations would form part of a wide-ranging report to the minister. I think that covers the questions.

Senator NEAL (New South Wales) (12.18 p.m.)—I want to clarify that issue. You said that the committees would have the power to direct nursing homes. The usual provision in this sort of situation is that that power to direct can only be in accordance with the legislation and its subordinate legislation. I would like your indication if that is not the case. That would mean, of course, that a complainant could only come along and say, 'Under the act and the principles I should have received this benefit. I am not receiving it.' The committee could then direct the nursing homes to provide that benefit in compliance with the legislation. But our fundamental concern—and our concern with this whole proposition of review and this complaints mechanism—is that if the complainant came along and said, 'I am receiving the benefit that I am entitled to under the act, but I believe it is unfair and I should receive more,' it is my understanding that, in the usual course, the committee could not direct the nursing home to do something that was outside the legislation or in excess of what was required by the legislation, and in fact could not direct the government to provide a different subsidy to the nursing home than is provided for in the legislation.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.20 p.m.)—In relation to the last point dealing with the direction as to a certain subsidy to be delivered or a level of subsidy, that is a question of policy, and one which would have to be determined by the government. In relation to the power to direct a nursing home, of course it goes without saying that the powers of the committees would only be exercised within the ambit of this legislation, because to do so otherwise would be to act ultra vires. I think that speaks for itself. Of course, the direction could only be made within the legislation and the principles announced by the government.

Senator NEAL (New South Wales) (12.21 p.m.)—You see, Parliamentary Secretary, that is exactly our point. The obvious difficulty is that you really cannot use this mechanism to make systemic complaints, because fundamentally a committee which is a vehicle of this legislation is bound to remain within its confines.

You made a comment about the level of subsidy being a matter of government policy, and you rightly pointed out an issue that we wish to canvass later on: that there is nothing contained in this legislation that specifies a level of subsidy, and that that is something that the minister will deal with direct. Can these complaints committees examine the level of that subsidy and make a direction which is binding on the government as to a level of subsidy if a complaint is made to them by a resident or another interested party?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.22 p.m.)—I think that in this situation you need to separate the two sorts of complaints—that is, one that pertains to the individual and one which is systemic. If one says to the committee, 'Look, I think the level of subsidy granted by the government to this class of resident is inappropriate', that is a systemic complaint. But if the individual says, 'I qualify for a category 2 or category 3 subsidy and I am not being assessed as such', that is one which pertains to the individual.

In the latter case the committee could make a determination as to where that person could fall. But in the former case we have a systemic complaint, and that is one on which, as I stated previously, the committee could only say in its report to the minister, 'Look, we've come across these problems and there seems to be problem here. We report to you, Minister, that you might want to have a look at this.'

But you cannot make a determination about a systemic complaint. That is a matter for government because it deals with a policy issue. In relation to the individual matter, though, there is a determinative power in relation to the committee. The two are quite different.

Senator NEAL (New South Wales) (12.23 p.m.)—There is an issue in relation to the report to the minister. As you have properly pointed out, there is no capacity for the committee to make a general direction about the level of subsidy; they merely report to the minister. Firstly, is there any requirement on the minister to take any action at all—even to report to the parliament? Secondly, will the report that is made to the minister be a public document so that the public and other members of both houses can be aware of the difficulties that have been shown to that committee?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.24 p.m.)—Such a report would be picked up by the 12-month and two-year reviews. It would be a public matter and there would be transparency attached. There would be no compulsion on the minister to act, other than the political forces at work. I would put to you that such transparency combined with the reviews would give you the assurance you seek.

Senator NEAL (New South Wales) (12.24 p.m.)—You said there would be transparency, but I was not completely clear whether the words you spoke actually meant that the report made from the complaints committee to the minister would be a public document available to anyone interested.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.25 p.m.)—In answer to your question, there will be published an aggregate of the complaints received. That will be published. That will not be a private matter.

Senator Neal—With respect, Parliamentary Secretary, that was not actually an answer to my question. You said that an aggregate of the complaints, which is a list of the complaints, will be provided. But will the report that is forwarded from the committee to the minister be a public document?

Senator ELLISON—I took it from the outset that you were wanting to protect the privacy of the individual, and that is how I approached my answers. Of course, the details of the individual could never be revealed; you could reveal only the subject matter. That is why I say an aggregate, because you could not go into 'Mrs Jones complained about this matter.' What you could say and what would be appropriate is that there were these complaints, without revealing the identity of the people concerned. We are dealing with elderly people and a vulnerable section of the community, and I believe that the community would not want those sorts of details divulged in the public forum. So what we would be looking at is the content of the complaint being revealed but not the identity of the people concerned. That is why I put my answer as I did.

Senator NEAL (New South Wales) (12.26 p.m)—Parliamentary Secretary, I would have thought that the report that is provided to the minister would not have contained the names of the individual complainants. Are you suggesting that names would have been provided to the minister? If that was your understanding, it certainly was not my assumption. Having taken out the actual names of the individuals, would the report, and in particular the recommendations and analysis of the committee, be a public document?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.27 p.m.)—Yes, provided that it does not reveal the identity of the person concerned. It may be that in a report to the minister the committee would not be doing its job if it did not confidentially as well report to the minister the identity of a person, because that person might want to take the matter further in any event. I think that is a judgment for the committee.

But from the public point of view, there would be no divulgence of the details of the person or details which would give them up, so to speak. There may be instances where the committee would want to take the matter further at the instigation of the person concerned so as to advance their cause.

Senator BISHOP (Western Australia) (12.28 p.m.)—I refer the parliamentary secretary to section 96-3 of the bill at page 358, if it is appropriate to pursue this at the moment. In particular I refer him to subclause (2)(g) where it says:

> The Committee Principles may provide for the following matters in relation to a committee:

Paragraph (g) says:

> . . . fees (if any) that may be charged, on behalf of the Commonwealth, for services provided by it.

Could the parliamentary secretary inform the Senate on the following matters. Are there any guidelines yet established for the charging of those fees? If not, is it the intention of the government that those guidelines be established and published? Is it the intention of the government that applicants who use the review procedures via the committee process will have to pay some or all of the fees involved in that process? Is it the intention that the committee have power to award costs? If so, will costs follow event, that is, successful determination of an application to the committee? What is the government's intention in regard to filing fees and ancillary costs necessarily involved in application lodgment? Finally, is it the intention of the government that applicants for process review via this committee system be able to avail themselves of funding via legal aid services where review matters involve matters of law?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.30 p.m.)—In answer to Senator Bishop's questions, might I say that the question of fees mentioned in subclauses (2) and (3) of clause 96-3 relates more to other committees which may be set up. It refers to the minister being able to establish committees for the purposes of this act, and it is not envisaged that those fees would apply to, say, an individual who is lodging the complaint. That is not the case. So, if an aged person goes along to the committee and makes a complaint, there is no fee attached.

Certainly it is not envisaged in relation to this amendment that this committee would have the ability to award costs. The question of fees is being looked at more in the context of other committees. I think that that really covers the questions you raised.

Senator BISHOP (Western Australia) (12.31 p.m.)—Perhaps I misunderstood the amendment being moved on behalf of the government. It inserts the new paragraph (1A) that provides for the committee to coordinate and review the resolution of complaints for principles made under section 96-1. The committee is essentially the review process for that coordination and resolution of those complaints. The committee appears to have express power to charge fees and, as I understand you, you are saying it is not the intention of the government that applicants who avail themselves of that review process will be charged any fees at all for use of that process. Is that the government's position?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.32 p.m.)—It is the government's position that this particular committee would not charge fees as alluded to by you where there is an individual lodging a complaint. In accordance with this section, any committee could only charge fees in accordance with the principles.

I fail to understand why you say that this committee is given carte blanche to charge fees as it pleases because in (1A)—amendment (3)—it is talking about the administration of the act and principles, and the act and the principles are the instruments under which the committee would operate. Are you saying that this provision allows the committee to charge fees willy-nilly, because that is not the position of the government.

Senator BISHOP (Western Australia) (12.33 p.m.)—No. I just make the point that that is not the intention of the government. Paragraph (3) does seem to open up that avenue, but I accept the undertaking you have provided. My colleagues indicate they wish to pursue this, amongst other issues, at a later stage, so I will not pursue it at this time.

I might refer you to another matter, to the section 96-1 principles, and then over to 96-2, where it is the intention for officers of the department to be given delegated authority to create the regulations and principles under this section 96-1 principle. I might pursue that later.

Senator FORSHAW (New South Wales) (12.34 p.m.)—The issue that my colleague has raised is also covered by amendment (3) where we will have some matters to raise. That is the clause that relates to the amendments that you are putting in respect of clause 56 and the operation of a separate committee.

Can I invite Senator Woodley—I notice he has not yet risen to his feet to participate in this discussion—through you, Chair, to indicate what is the position of the Democrats, who have said that they have reached agreement with the government? On behalf of the government, the parliamentary secretary said that there is no proposal for this most important issue to be enshrined in the legislation—that is, the fact that there will be a review in two years of the entire operation of the act.

There is an undertaking from the government—I am not sure whether it is a core or a non-core promise that has been made. Given the government's track record so far in adhering to promises I would be concerned if I was Senator Woodley that it may not come to pass down the track. I would have thought Senator Woodley would be wanting to ensure that, in the legislation, there was specific provision for that review and also for the three-month review on the single instrument.

After all, if it is appropriate—and we acknowledge that it is—for the legislation to provide a complaints mechanism dealing essentially with individual complaints, and if it is appropriate to heed Senator Lees' concerns about the operation of a single instrument dealing with complaints from residents and providers within individual nursing homes, then, if it is deemed appropriate by the government to accept those concerns and to reflect them in the legislation by the amendments that are now before us—if that has been accepted by the government and, as we are told, insisted upon by the Democrats, which we support—why is it not appropriate that the legislation also make provision for these important areas of concern that you signed off on yesterday, namely, the two-year review?

I would have thought that the concerns with respect to the entire operation of the act and all of those issues which, as you know and I know, are still a matter of concern out there in the aged care sector would assume monumental importance. If we are going to have complaints procedures identified in the act and enforced, then it is not good enough, I would have thought, to just have the word of the parliamentary secretary on behalf of the government—as honourable a man as I know Senator Ellison is. As I said, is this a non-core or a core promise?

We have just gone through a debate this week where the government made a solemn promise to have a convention on the head of state issue. They never told the public how they would establish that convention, what

would be the procedures for it, how the delegates would be elected and so on. They never gave any of that information out, but they said, 'We'll have a convention to sit around and discuss this most important issue and have community involvement.' That is a review process of the constitution and of the issue. They brought the legislation into the Senate and, because the Senate did not like it and said it should be a compulsory vote, the government says, 'Hang on, all bets are off. We may not even have the convention any more. Our promise does not hold good.'

I put to Senator Woodley and to the government that it is not a dissimilar position. As we understand it, what we have here is an offer, a proposal, a commitment by the government that the issue of aged care is an extremely important issue. It is new legislation. It is important that it be considered and reviewed in two years, but we are not going to tell you anything about how we are going to do it. We are not going to put into the legislation how we are going to do it. So we are all opening ourselves up, obviously, for arguments down the track about whether or not it even takes place, how it will occur, et cetera.

So I am also concerned, Senator Woodley—you are also an honourable senator—that you have signed off on this agreement, knowing that all of those concerns are still out there. All you have is a verbal commitment from the government. There is nothing in writing that we have seen. There is nothing proposed by way of amendment to this legislation. I would have thought that was the very least you would have been demanding before you accepted this legislation.

Senator WOODLEY (Queensland) (12.40 p.m.)—Firstly, let us deal with the non-core and core promises. I would draw Senator Forshaw's attention to the work for the dole legislation, which you will remember the ALP gave an incredibly strong affirmation to. When it went to the other place and came back again, all of a sudden the core promise had evaporated. The Democrats did not change their vote. The Labor Party changed their vote. So I would say to you, Senator Forshaw, that you ought to examine your own performance in terms of core and non-core promises, because it really does not shape up too well in this place.

Secondly, I have a letter from the Minister for Family Services (Mrs Moylan) in relation to the complaints mechanism. I will ask the minister if she is happy for me to table that letter. If she agrees, then I certainly will table that letter, because it does address some of the issues which you were asking me about.

Thirdly, there is the issue about the independent review. I am prepared to debate that at the appropriate place, particularly in relation to your own amendment, which is quite extensive. I think it is appropriate to deal with that issue at that point, rather than deal with it at this point.

Senator NEAL (New South Wales) (12.42 p.m.)—I notice that the parliamentary secretary indicated in answering some questions that I put to him—and maybe I put too many altogether—that an undertaking is as good as legislation, not that it has the same force. But he failed to answer my direct question, and that is: what reason does the government have, in view of that proposition put by him, not to include the two-year review as part of the legislation if they are of equal quality?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.42 p.m.)—There is no need to. The government has made its position quite clear.

Senator COONEY (Victoria) (12.43 p.m.)—I want to ask the parliamentary secretary a question about the complaints mechanism, as set out in 56-4. There is a couple of things I would like you to take up. It says that the provider must establish a complaints mechanism. Then it goes on in subclauses (2) and (3) to talk about the complaints resolution mechanism being provided for in resident agreements. Can you see that that may present difficulties for residents on two bases? If this legislation comes into operation, the act will say that it is the provider that must set up the mechanism and that the client has two problems: first, to perhaps sue on a contract to see that that mechanism is set up; and, second, to

have no part, as it would seem, in the personnel of that complaint mechanism.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (12.44 p.m.)—In answer to Senator Cooney's question, Senator Campbell, in his second reading speech, mentioned that in the first instance it is better if the complaint could be sorted out within the facility concerned. So that, in the first instance, this is where the complaint goes. Of course, the government is also setting up an external facility for that to be reviewed. So it is by no means the end of the story, but that is how the government looked at it. It is best if you go within the facility first. If it is resolved, all to the good but, if not, there is somewhere else for the person to go.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Banking System: Deregulation

Senator COONAN (New South Wales) (12.45 p.m.)—The matter of public interest I wish to raise today is the implications for consumers if credit unions and building societies are permitted to compete with banks. The Wallis report into the Australian financial system, which was released in April this year, recommends sweeping reforms to financial regulation in Australia. Speaking at the Sydney Institute following the release of the report, chairman Stan Wallis said:

> Expressed simply, the Inquiry is about achieving competition in more areas of the financial system, more efficient outcomes and lower costs for users, whilst at the same time maintaining or improving the safety and stability of the system. These improvements can be brought about by a thorough modernisation of the regulatory framework.

Key recommendations designed to introduce greater competition and contestability involve opening up access to banking and other financial services to new entrants in the banking market such as credit unions.

The Wallis report asserts that greater competition in banking can best be fostered by bringing all deposit taking institutions, including credit unions, building societies, banks and insurance companies, under a single national prudential regulator—the Australian Prudential Regulation Commission, the APRC. The recommendations, if implemented, will have far-reaching consequences for credit unions and consumers. Credit unions are now the sixth largest financial institution with more than 3.4 million members and $16.5 billion in assets, geographically spread throughout metropolitan, rural and regional centres in all Australian states.

One in 10 adults use a credit union as their main financial institution. Not surprisingly many Australians, particularly those needing or perhaps comfortable with using credit unions, have become disenchanted with traditional banking services. Credit unions are distinctive in that, as mutual organisations, they are owned by and for their members and their customers are not subject to the usual pressures from shareholders. Each member is both a customer and a shareholder in their credit union and has a say in how credit unions are run.

Although credit unions have hit upon a style or service that their members obviously like, Credit Union Services, the peak industry body, asserts that complexities of the state based financial institutions scheme, which regulates the credit union industry, flows into the cost of regulation and hinders the capacity of credit unions to compete with banks.

The Wallis report found that Australia has the highest charges in the world for regulation of our financial system. It costs users in excess of $40 billion annually—an amount which by comparison exceeds the residential construction sector or indeed the entire retail sector. Wallis found that in 1995, banks accounted for the largest proportion of the total cost of the financial system at $22 billion, life companies and general insurance a further $7.3 billion, money market corporations and financial corporations $3.4 billion and building societies and credit unions about $1.4 billion.

When compared to other developed countries, 1996 OECD figures on bank profitability show the cost of the Australian banking system to be at the high end of the middle range. The report then estimates that $4 billion can be saved and costs permanently reduced by making banks compete and by making regulation more efficient. The potential for savings in the financial system is noted on page 3 of budget paper No. 1 where it states:

> The Wallis Inquiry into the financial system made a large number of recommendations to improve the regulatory framework, and therefore the efficiency, of the financial system, noting that even a 10% improvement in efficiency in the financial sector would translate into cost savings for the economy in excess of $4 billion per year. The Government will consider these recommendations over the coming months, assessing how best to adapt the regulatory regime to the changes produced by globalisation, technology advances and consumer preferences.

If implemented it will mean that banks will no longer have special status and will have to compete with other financial institutions on a more level playing field.

So what are the obstacles currently inhibiting the ability of credit unions to compete? Credit Union Services claims that Australia has the highest charges in the world for regulation of our financial system and costs are passed on to the consumer. The most costly regulatory system is said to be the state based financial institutions scheme or FI scheme which regulates the credit union industry.

The financial institutions scheme inhibits the credit unions and building societies from effectively competing in the financial system by preventing credit unions from lending more than 10 per cent of their loan book to small business when they dearly would like to do so and by preventing credit unions from offering financial services to members in another state without first registering as a foreign society. Moreover, credit unions have been held up for over the past four years in efforts to seek approval to provide home loans similar to those innovative products offered by Aussie Home Loans and Rams.

It is somewhat ironic, I think, that with these barriers to competition facing the credit unions it is easier for a foreign bank to compete for retail customers in Australia than it is for a credit union, owned by its members in one Australian state, to trade interstate. The former chairman of the financial institutions scheme's central institution AFIC, Professor Geoffrey Carmichael, was a member of the Wallis inquiry and is obviously in favour of the financial institutions scheme being replaced.

In recommending reform of the system so that all deposit taking institutions are regulated by the same megaregulator, the Wallis report has identified several underlying factors as driving the need for change in the financial system. I think they bear recalling.

They are, firstly, the changing needs of and attitudes of customers. As the population ages there is an increased emphasis on savings and security for retirement. Increased consumer awareness has meant better access to information and ability to use new technology and a willingness to shop around for the best deal. Secondly, ongoing technological innovation has significantly reduced associated handling costs and data processing while software capable of being tailored to individual consumers' needs has reduced the need for staff at counters.

Thirdly, deregulation of the financial system and policy initiatives such as the development of compulsory superannuation, changes to taxation and privatisation have had enormous impacts on the financial sector. These factors and others have all led to a changing financial landscape and a regulatory framework no longer appropriate for this changing environment.

The Wallis recommendations have sought to promote competition amongst banks, credit unions and building societies, to reduce the cost to consumer of banking regulations, to ensure competitive neutrality between the various institutions offering deposit taking and other banking services, to encourage innovation and to promote uniform protection for all depositors. It is prudent to ask, as many depositors do, how safe are credit unions? How safe are your savings if deposited with a credit union?

Historically, the conservative loan policies of credit unions have ensured that they have not experienced the level of bad loans suffered by the banks. As Credit Union Services point out, over the last decade credit unions have had continued strong growth in assets. They have continued to have a high capital ratio comprised almost entirely of retained earnings which is high quality for prudential purposes, and the credit unions compare favourably with the safety and stability of banks. Predictably, there has been some criticism of the move to create a single prudential regulator and concern that that function should not be carried out by the Reserve Bank.

While it is prudent to have concerns about the safety of customer savings, the Governor of the Reserve Bank, Ian MacFarlane, has said that such concerns have little foundation and that, as the regulator will have complete coverage of all deposit takers, it will be in a position to monitor the soundness of those institutions. Since the Wallis report the new Labour government in the United Kingdom has announced a reorganisation of prudential supervision essentially along the same lines as the Wallis recommendations with the transfer of supervision from the Bank of England to an independent regulator.

Implementation of the Wallis recommendations are in accordance with world's best practice and, according to inquiry member Bill Beerworth, represent 'a sensible evolutionary approach to prudential reform'. The government recognised the relevance of these recommendations to credit unions and building societies in the 1997-98 budget papers, where it is said:

> A central thrust of the report is to increase competition and efficiency in the financial system. This is likely to benefit all Australians, including those in regional areas . . . Of particular relevance is the proposal to put building societies and credit unions, many of which have strong regional associations, on a more equal standing vis-a-vis banks in terms of common regulatory and prudential framework.

It seems that the practical good sense of offering credit unions and building societies the opportunity to compete with banks has not gone unnoticed.

Of course implementation of the reforms may be difficult and time consuming, involving the transfer of responsibility for non-bank institutions from the states to the Commonwealth. It will involve, no doubt, extensive negotiations to do with some constitutional limitations and the transfer of other responsibilities.

The underlying rationale is increased competition and we cannot afford to have one of the recommended pathways to competition obstructed. Essentially, if it means that the reforms will promote efficiency, lower industry costs and increased benefits for consumers in an environment that is safe, we will need to find a way. I commend the recommendations of the Wallis inquiry in as much as it will affect credit unions and ultimately Australian consumers.

National Crime Authority

Senator CONROY (Victoria) (1.00 p.m.)—On Monday, at the joint standing committee investigating the NCA, a witness, Mr Peter Scanlon, launched an attack on the NCA and quoted from the transcript of his interview with the NCA and referred to the prosecution case. Mr Scanlon accused the NCA, the former chairman of the NCA, the prosecutor—Mr Woinarski—and the staff of the NCA of conspiring to destroy him. He also accused the NCA of burglary.

The chairman of the Joint Standing Committee on the National Crime Authority, Mr John Bradford, ruled that the prosecution statement case could not be tabled in an open session of the committee, the NCA transcript of the interview with Mr John Elliott could not be tabled and the evidentiary statement by Jane Yuille, Manager of the Price Waterhouse team responsible for the Elders audit in 1988, could not be tabled.

The question the Senate has to address is: if Mr Elliott and Mr Scanlon are voluntary witnesses before the committee—who claim they have been treated unjustly by the NCA and who have commenced proceedings to claim damages of $200 million against the NCA—how can the joint committee do justice to the matter before it, namely the performance and motives of the NCA and its future,

without examining in an open forum all the documents that are related to the case against Elliott, Scanlon, Jarrett, Biggins and others?

Why does the chairman of the committee shut down the investigation? The answer is simple. An examination of the transcripts and Jane Yuille's statement shows that: Mr John Elliott authorised the $39 million foreign exchange loss and that Mr Peter Scanlon's interview disclosed that, despite his claims to the contrary, he did initiate contact with Alan Hawkins and do the deal that resulted in Jarrett going to jail.

The NCA transcripts of the interview with Mr Elliott and Mr Scanlon are very damaging because they completely contradict the version of events that Mr Elliott has been peddling since the trial. The chairman of the committee, Mr Bradford, is using his position to protect the witnesses and has admitted as much.

The NCA is currently investigating the sale of Elders convertible bonds to BHP and the names of the beneficiaries. Mr Elliott maintains he does not know who the beneficiaries were. He has, in fact, claimed they may be Belgian dentists.

If he has nothing to hide, why is he resisting attempts by the NCA to establish who the beneficiaries are? Why has the NCA reduced the size of the investigative team covering the case to one staff member? Why is the chairman of the joint parliamentary committee, Mr Bradford, discouraging and limiting opportunities to question Mr Scanlon and Mr Elliott on these issues?

The only way for this issue to be handled is for the Senate to agree to the tabling of the Jane Yuille statement, the NCA interview with John Elliott, the NCA prosecution case statement and the NCA interview with Mr Woods, the banker involved. If the evidence produced and prepared by the NCA is made public, it will show that the NCA was justified in investigating Elliott, Scanlon, Weisener, Jarrett, Biggins, Woods and others.

With regard to the Elliott testimony before the NCA, I refer the Senate to the following excerpts from the transcript which demonstrate why it should be published. On page 661 and 662, Mr Elliott:

it became apparent that nothing had transpired on that exposure . . . and we still had not done anything to cover it. So we basically agreed that we ought to get it done and Mr Jarrett who obviously was the senior corporate person in charge of Finance in the Group was told to go and fix it.

On page 634, Elliott:

. . . we have got to do something about it and you have got to think about it Ken and see if you can figure out how to do it and what we ought to do.

On page 663, Elliott:

He told me that it would be done . . . that there was an industrial company . . . associated (with) Hawkins which I presume was Equiticorp that would be prepared to do the transactions.

On page 663, Elliott:

And so, I agreed with him that he ought to take the 120 million pound cover but that it ought to be done through a bank.

On page 665, Mr Rozenes:

Well you gave an approval, I take it in principle?

Elliott:

I said, that is fine, do it.

On page 665, Rozenes:

Well now, did you know which bank was going to be used?

Elliott:

. . . it would be someone like the BNZ who were used.

On page 665, Rozenes:

Do you recall when it was that you learned it was the BNZ?

Elliott:

. . . Well, the next time I really remember having any dealings about that transaction was in January when I—I suppose I hit the roof about it.

On page 666, Rozenes:

Well now you say the next knowledge you have of this transaction is in January of '88 when you hit the roof. What were the circumstances of that?

Elliott:

What I do recall is that it was reported that we were, you know, we had a cash outflow of $30 plus million . . .

On page 667, Elliott:

. . . Here we are paying out cash to cover, and it is a straight cash loss . . .

On page 667, Elliott:

I said, you cannot leave this thing over this cash exposure all the time to meet the other side of the hedge transaction, so I said close it out.

On page 667, Mr Rozenes:

Did you become aware of this problem before you had to pay $39 million, that is, before the contract was closed?

Mr Elliott:

Yes I mean I became aware of it—I told them to close it. I said, you know this is hopeless.

On page 669, Mr Rozenes:

. . . when you realised that there was going to be a $39 million or thereabouts cash outflow that you hit the roof and said—this is not the way to do it—is that right?

Mr Elliott:

Yes.

On page 699, Mr Elliott:

. . . it was brought to my attention there is no doubt that we are going to have a cash outflow of $39 million that you get in and say well why? You know.

On page 670, Mr Rozenes:

The authority to close the contract; is that right?

Mr Elliott:

Yes, I have the authority.

On page 670, Mr Rozenes:

Well now what happened?

Mr Elliott:

Well that was it. It was closed out.

On page 670, Mr Rozenes:

Do you understand who was going to suffer this loss, what entity of Elders?

Mr Elliott:

. . . but in fact it is not a loss. I want to make sure that you understand that.

On page 671, Mr Rozenes:

There was a cash outlay?

Mr Elliott:

Yes all right.

On page 673, Mr Rozenes:

What about the third paragraph?

Mr Rozenes is referring to the reply from Elders to NCSC, which states:

The company is unaware of the reasons for the NCSC request and . . . unaware of the identity of that party.

On page 674, Mr Elliott:

Well again . . . I knew and Jarrett knew . . . that Hawkins was the person whom we thought was on the other side of the transaction . . . I knew the bank was going to be in the middle . . .

On page 675, Mr Rozenes:

What about the second transaction?

On page 675, Mr Elliott:

(it) was really a hedge against the profitability of NZFP

On page 676, Mr Rozenes:

So what was done about that to your knowledge.

Mr Elliott:

Well, to my knowledge it was reported to me that a deal was transacted.

On page 676, Mr Rozenes:

Who reported that to you?

Mr Elliott:

Mr Jarrett.

On page 676, Mr Elliott:

and I do recall that we got it wrong so we did decided to close it out pretty quickly.

On page 676, Mr Elliott:

Well, no, I know that I talked to Jarrett some time in mid July, so I had been there.

On page 677, Mr Elliott:

Well, I learned that . . . we are down . . . 27 it turned out.

On page 677, Mr Rozenes:

How do you fix 15 August?

Mr Elliott:

I think that was the day of an Elders Finance meeting.

Mr Rozenes:

And at that stage you realise that you are down some dollars?

Mr Elliott:

That is when it would have been reported—that you see it first up.

Mr Rozenes:

That you were down?

Mr Elliott:

Yes.

On page 678, Mr Elliott:

. . .—you take your losses and you take your profits on those sorts of ones. . . .

On page 678, Mr Rozenes:

Were you pushing for a closing out or were you resisting the closing out or what?

Mr Elliott:

I told them to close it out.

On page 678, Mr Elliott:

. . . It seems to me you have got to keep limiting your risk all the time and if the thing runs against you, you have got to wear your losses . . . . obviously we got it wrong.

On page 678, Mr Elliott:

Obviously we got it wrong.

On page 679, Mr Elliott:

Basically I just said to Jarrett—look, we have got to close this out; we are not going to speculate on this any further. Again, I am not sure that it is profit effective or not, but certainly cash effective.

On pages 679 and 680, Mr Rozenes:

Now if I can just take you to this meeting again of the 15th August . . . why do you say it was this day that the discussion to close out . . . .?

Mr Elliott:

I do not know it is the 15th, but I think it was . . .

On page 680, Mr Elliott:

I remember hitting the roof and I remember it was at a meeting.

Mr Elliott:

All I know is I wanted it closed because the spec was not working.

On page 680, Mr Elliott:

that is when I was told for the first time that the transaction had been completed and we had a loss.

Mr Rozenes:

A loss?

Mr Elliott:

You have asked me but I am almost certain that is when I found out.

Now I will move to further extracts, from the statement of Jane Yuille:

. . . Now produced and shown to me is exhibit MX37698/007 to 009 being a copy of a report from Mr THOMSON to Mr DIXON summarising the audit of Elders IXL and dated 19 August 1988. This document also mentions the BIGGINS transaction twice under paragraph B, which is headed, EXTRA ORDINARY FOREIGN EXCHANGE GAINS AND LOSSES OF: ELDERS IXL TREASURY DIVISION, ELDERS IXL TREASURY (Aust) Ltd, AFI Ltd.

Initially this transaction is mentioned on exhibit MX37698/007 where it states:

This amount includes losses of $33,367,779 relating to a corporate transaction referenced to K Biggins.

The second mention occurs on exhibit MX37698/009, where it states under a sub-heading, 'Corporate referred to as Biggins: The result comprises a loss of $39,521,669 which occurred on the 120 million pound transaction and gains of $6,153,890 resulting from FX contracts and options to hedge UK profits of approximately 45 million pounds'. The statement, 'Position: Nil' would appear to indicate this transaction has been closed out and finalised.

Now I would like to turn to an extract of an NCA interview with Mr Woods, one of the employees at New Zealand Bank. On page 295, Mr Woods:

What I recollect is that I had, again, a request from Brian Fitzgerald to meet with him at some time I believe in August 1988. He said he wanted to undertake a similar transaction as the one that was done earlier in the year, December 1987. What he said was that he would like me to prepare some numbers for him in relation to some foreign exchange deals. What he said was this time that he did not want just a single contract . . . .

. . . I prepared some numbers . . . I asked Vic Psaltis to assist me with it as I was very busy, but that would be perhaps the origin of the document.

On page 369, interviewer:

And this request from Mr Fitzgerald to prepare some numbers, how did it take place?

Woods:

This was at a meeting that I had with Brian Fitzgerald at head office.

Interviewer:

Did you attend a subsequent meeting with Mr Fitzgerald?

Woods:

Yes I did, and on that occasion it was with Vic Psaltis . . . This time I would like to do a series of foreign exchange contracts and can you prepare some numbers.

On page 369, interviewer:

And what did you do to prepare the numbers? How did you go about that?

Woods:

He gave me an outcome that he wanted.

On page 376, interviewer:

Did Mr Psaltis understand that what you had done was to work up a set of transactions to effect a certain loss?

Woods:

You are asking me did he understand that? I am sorry, I—Well, you might know because you might have told him . . .

On page 377, Woods:

. . . I think he knew I was just—I was preparing some numbers . . . Because I was sitting there, as I had said to you ten minutes ago, that I was doing some work with him on the computer. I can recall that one night.

Now we can move to an extract of the NCA interview with Mr Psaltis. On page 300, Psaltis:

. . . The first conversation with Michael was along the lines that Michael came in and said, Brian Fitzgerald would like to do another deal, and I said, well, if you can give me the details we can start to proceed that deal . . .

. . . Well, we sat down one afternoon. I believe there was a call in the morning. We sat down one afternoon and compiled rates which resulted in a $27,000,000 movement in favour of Equiticorp.

The NCA prosecution statement reads as follows:

The NCA prosecution case statement contradicts John Elliott's evidence before the NCA in relation to the second transaction with Hawkins. In his evidence John Elliott said that the $27 million loss had occurred and had to be paid by August 15 when in fact the transaction had not commenced until well after that date.

I now quote from the NCA prosecution case statement, paragraph 118:

. . . On or about 28th August 1988 Jarrett was in Hong Kong and advised Brian Wagar, the Chief Executive of Elders Finance Group in Asia that the payment was to be made through Hong Kong by back-to-back deals with Elders. The 'figures' were to be forwarded from EMF.

Paragraph 119:

During August 1988 Fitzgerald approached Woods to see if the BNZ would be prepared to enter into another transaction for and with Elders and Hawkins of the nature which had enabled the first payment to be made. The BNZ was.

Paragraph 121:

Between 26th August 1988 and 7th September 1988 Camm and Richards prepare a series of fictitious foreign exchange trades that resulted in a 'gain' to Hawkins of approximately $27 million.

There are a number of other things, but I would like to make a couple of points in my last couple of minutes.

At no stage did John Elliott tell the NCA, in his evidence, that the transaction which he was authorising with Hawkins through Jarrett had anything to do with an options straddle, as they now claim. They claim that they told Jarrett to pay the so-called options straddle and that it was an indemnity over BHP transactions. But they did not tell that to the NCA. They did not tell that to their auditors.

It is quite clear that Scanlon, Elliott and Biggins are all on record that the money that went to Hawkins was over a £120 million hedge against Courage sterling and their exposure. And that is their evidence.

Scanlon says he has lost the paperwork on the options straddle. He wrote a note and he has lost the paperwork. I ask Fosters: it appears that at no stage did $66 million from this options straddle ever actually get across to New Zealand to Mr Hawkins that they say they owed him. So does Fosters still owe Alan Hawkins $66 million? According to the records that Mr Elliott, Mr Biggins and Mr Scanlon want you to believe, they must.

An article in Friday's *Herald-Sun* states:

Mr Scanlon argues the $200 million plan was part of a separate strategy which did not proceed to reduce foreign exchange risks after Elders spent $3 billion—

(Time expired)

Mobile Phones: Radiation

Senator ALLISON (Victoria) (1.15 p.m.)—I rise to speak on a matter of great public importance. For some time now my office has been piecing together the details of the Telstra mobile phone study on mice and cancer, conducted in Adelaide. This is a very important study and it was my intention to draw it to the attention of the Senate—something, I must say, that neither the Minister for Telecommunications and the Arts (Senator Alston) nor the Minister for Health and Family Services (Dr Wooldridge) appears prepared to do.

Yesterday, however, the task was made somewhat simpler for me by Mr Stewart Fist, a journalist whose work on telecommunications reportage for the *Australian* is both well known and respected. Mr Fist outlined very clearly the context in which the Telstra study was received by the industry and by the

federal government. I think it is important to have his article recorded in *Hansard*. Mr Fist begins:

IMAGINE that the Government has decided to prohibit the consumption of sugar.

It allows three chemical companies (one owned by the Government) to offer a sugar substitute called glyco-saccharine-megagunk (GSM).

Imagine that, a few years later, the Government-owned chemical factory finally caves in to pressure from health activists, and funds a test on GSM's safety, using 200 mice housed at Adelaide hospital.

After 18 months of feeding half the mice with a tablespoon of GSM a day (the other half getting normal sugar), the researchers find the GSM-fed mice have a tumour rate 2.4 times that of the sugar-eaters.

Think of the consequences if no-one released these results for two years; imagine if the chemical companies didn't fund another study to confirm the first.

What would happen when the story broke?

I bet, for starters, that GSM would disappear from the supermarket shelves overnight.

I bet there would be an uproar in Parliament at the delay in reporting—and I'd hazard a guess that the jobs of the ministers responsible would be on the line over the government's handling of the whole affair.

This is a direct parallel to the Adelaide Hospital study, which showed that 18 months of exposure to standard GSM digital cell-phone handset radiation more than doubled the tumour rate in transgenic mice.

This was not an isolated finding, as the industry propaganda would have you believe; it's just another (albeit vitally important) piece in a jigsaw puzzle which has been coming together for about 20 years.

Now we are beginning to see the whole picture—and that picture is very disturbing.

But Communications Minister Richard Alston sees it differently.

In the Senate on May 7 he said: "About the most one can say at this stage is that if there are mice in the community who are genetically predisposed to developing lymphoma, they would be well advised not to use mobile phones . . . That applies to rats as well, I should say."

Mr Fist says:

It's nice to see the Liberals turning the clock back, but I hadn't realised they aimed to revive the great Australian cultural cringe.

Senator Alston's comic remarks have now circulated around the world through *Microwave News*, the key global publication reporting on biomedical research into radio-related problems.

The May/June issue of this publication was largely devoted to the Adelaide Hospital study and its implications.

I might say, too, that Senator Alston's intemperate remarks about Dr Neil Cherry in the Senate—Senators will remember his accusations about snake-oil merchants and shameless charlatans—have similarly enjoyed wide coverage overseas. Mr Fist goes on:

Given the frivolity in Parliament—

and I ask the government to reflect on that perception out in the public arena—

you may not realise how important these findings are in confirming the fact that low-level, pulsed radio signals can promote tumours.

Three major animal studies now show low-level microwaves have a cumulative effect on cancer promotion.

There are also literally hundreds of cell-culture studies looking for possible mechanisms.

At the molecular level, radio waves can disrupt the growth patterns, controls and functioning of cells—particularly brain cells and nervous tissue.

For many years, biomedical scientists have been claiming that these dangers exist with cell phones; now they have confirmation.

The Adelaide study shows with absolute certainty that the oft-repeated claims of "proven safety" are totally untenable and have been for some time.

Around the world, there is widespread fury at the delay in releasing this information.

The Swiss Institute of Technology's Dr Neils Kuster—probably the world's expert in how cell-phone radiations focus in brain tissue—said in a newspaper interview with SonntagsBlick: "It is incomprehensible to me that industry did not replicate this study 18 months ago, when the preliminary results become known."

Dr John Goldsmith, probably the leading epidemiologist in such environmental exposure problems, was reported in the *Jerusalem Post* as saying the Adelaide results "present startling new evidence that must be carefully evaluated."

Mr John Stather, of the UK's National Radiological Protection Board agrees that "this needs to be investigated thoroughly".

So, far from being an 'isolated study' of 'no direct relevance to humans' as the cell-phone industry has been claiming, this is widely seen around the world as a major finding of immense significance.

Israel, which has a high dependence on GSM mobiles, is proposing to mount an inquiry into safety.

A committee of the European standards body CENELEC has recommended a substantial reduction in their exposure standards.

In his 1995 report to the government, Dr Stan Barnett of the CSIRO's Radio Physics Laboratory, noted the absurdity of cell-phone exemptions from national exposure standards: 'It is odd that cellular telephones should be exempted when they represent a unique device that operates with its transmitter placed against the user's head.'

In reference to the Adelaide study, Dr Barnett says: 'The effect reported in this paper appears to be substantial.'

Dr Gregory Lotz, of the US National Institute for Occupational Safety and Health, agrees.

'The findings are very significant,' he says. 'They used a sizeable number of animals, and it appears to be a clear effect.'

It's important to note that most of these findings appear to specifically implicate GSM digital handsets—not analog AMPS devices.

It's the strobe-like, pulsed nature of GSM power output that appears to be the main problem—although some scientists still don't exonerate the non-pulse technologies.

The dangers posed by pulsed transmissions have been well known in radio research areas for years, yet no health research was ever undertaken on GSM handsets over their decade of development and sale.

The Adelaide Hospital study is the first animal study to look specifically at these frequencies—and it came 10 years too late.

. . . . . .

The veteran virtuoso of cell phone/brain research, Dr Ross Adey of Loma Linda, California . . . believes strongly that it is the pulsed nature which causes the problems.

Dr Adey has published hundreds of papers dealing with the ways in which cell growth and functions are disrupted by fluctuating magnetic and electrical fields. He notes that the Adelaide findings match his own.

'We now appear to have two, non-thermal effects, both linked to pulsed fields, and once again we must investigate the possibility that it is the low-frequency modulation that is the essential element,' he says.

Dr Henry Lai, whose years of research at the University of Washington first revealed double-strand DNA breaks in rat brain tissue following brief exposures to pulsed microwaves of a level comparable to cell phones, also sees the Adelaide study as confirmation of his work.

Double breaks in DNA strands are widely regarded as precursors of tumour growth or of genetic mutations.

'The main point is that RF radiation promotes cancer,' Dr Lai says.

He also has some harsh words to say about the release of the results: 'It is irresponsible and unwise to keep the data secret for two years, knowing their implications.

'The secrecy only reinforces the suspicion of the public that the industry is trying to cover up.'

Dr Lai and his associate, Dr Singh, have now shown fairly conclusively that the cause of the DNA breaks lies with free radicals.

These are generally modified by anti-oxidants and hormones, including melatonin—but melatonin inhibition appears to be a common finding in cell-phone exposure research.

So I'd suggest that, in the past few years, the responsibility has shifted from the critics' need to establish that there are possible adverse health effects. to the cell-phone industry's need to establish that its products are safe.

In my opinion, the situation has changed from questions about the 'possibility of cancer promotion' to one of 'probability', with the major research now seeking to understand the mechanisms and to gauge the likely community health implications.

It is possible the dangers are in the same order as cigarette smoking, but it's too early to judge accurately.

When you get a doubling of the tumour rate in mice with only 18 months of handset-level exposure, it must be regarded as probable—

and I repeat 'probable'—

that, over an 80-year life span, the more susceptible members of the human population will experience a substantial promotion of their genetic and environmental cancer rate.

During the years I've been writing and speaking about this subject, I've tried to fence-sit, then warn, then cry out for more research—while not initiating a scare campaign. But such obvious risks need to be articulated loudly.

Independent biomedical scientists are, virtually to a man, convinced that the potential long-term adverse health effects of GSM are serious.

This is indeed a serious matter, which the government cannot continue to ignore. The Democrats think it is time that the Minister for Communications and the Arts and the Minister for Health and Family Services

stopped defending the industry and listened very carefully to science.

Adult and Community Education

Senator TIERNEY (New South Wales) (1.25 p.m.)—I rise today to discuss the recommendations of the recent report on adult and community education of the Senate Employment, Education and Training References Committee. The report was titled *Beyond Cinderella—towards a learning society*, and it follows on from the first landmark report of the committee in 1991, which was titled *Come in Cinderella*. The explanation of the use of the name Cinderella is that, in many ways, the adult and community education sector, which includes over a million students in this country, is the poor cousin of education in terms of the resources provided to it. However, it is a dynamic, robust and very successful sector of education which deserves the encouragement of the Senate and the federal parliament. That is why I rise to speak about it today.

The attachment that I have to this sector first arose when I entered the Senate in 1991, when the first inquiry, which resulted in the report *Come in Cinderella*, was just starting. As someone who came from different sectors of education, that inquiry opened my eyes to the great potential and possibilities of adult and community education in this country.

Members of the committee went to some very different places in Australia to see adult and community education in operation. We went to a place called Merredin, which is 300 kilometres east of Perth, out in the wheat belt of Western Australia. We were in a hall, with Hansard and all the operations of the Senate in place, speaking to this isolated community about its needs and the ways in which those needs could be fulfilled for the adults of that community. For example, we spoke to a Turkish lady who had been a qualified accountant in Turkey but could not get enough English language training under the system as it existed to become a practising accountant in Australia.

We discovered that the fourth sector of education—which adult and community education is sometimes called—is extremely diverse. It includes operations such as neighbourhood centres, where people who have had particular difficulties in formal education, people who often have failed in formal education, take their first tentative steps back into the education process. Those centres are often great vehicles for the disempowered in our society. They allow them to gain better educational qualifications and, therefore, to have a wider range of opportunities and life experiences.

Some of the diversity of the sector was reflected in places like the prison we visited near Darwin. The prisoners were mainly Aborigines, but they had the opportunity in the environment of that prison farm to undertake a number of courses and acquire skills which would help them gain employment when they got out. At another prison, a murderer appeared before us. He was in gaol for 15 years. He had already finished a bachelor's degree. When we spoke to him, he had just completed his master's degree in education and he was about to start his PhD on prison education. He had used his imprisonment time productively and in a way that would equip him to do well when he finally left prison.

A chef appeared before us who wanted funding to undertake courses such as Japanese cooking. Under the ANTA arrangements, that was not counted as vocational, but as recreational. However, as a cook, it was obviously going to increase his skills. Thus, various types of education are going on in this country. They are often short courses. They give people new skills. They empower people to improve their lot in life.

The second aspect of adult and community education is that there is a large group of people around the country doing it. One million people are involved in short courses, from basket weaving through to advanced short courses in computing. That is all part of this wonderfully diverse and extensive adult and community education system.

The other major features of this system are that it is very disorganised and often quite spontaneous. There is a saying in government 'if it ain't broke, don't fix it', and when we first looked at this sector, we discovered a

sector that was flourishing on very few resources. It was probably the most cost-effective area in education. We wondered for a while whether, perhaps, we should touch it at all, because it was doing so well. But as I indicated, a lot of it is on a shoestring, and it does need some assistance. In terms of what we recommended in our first and second reports, we certainly started the Commonwealth off in a role in that area—and I will get back to discussing that in a minute.

I want to focus on why it is so valuable and such good value for money for the Commonwealth to spend money on adult and community education. The particular aspect I want to focus on briefly is the work of groups like University of the Third Age, and I will just explain that concept briefly. The three ages, of course, are education, being in the work force, and—the third age—retirement, and those in this last group call themselves the University of the Third Age.

It is not actually a university; it is spontaneous training in things that people who are retired are interested in so that they can lead a more fulfilling and active retirement. ACE has a very significant role in this group, which is becoming a major group in the Australian community. It is estimated that by 2010 the proportion of people in our country over 65—which probably includes a lot of us here—will have changed dramatically. Increased longevity means that people can expect to enjoy, compared with earlier times, up to 20 more years of life. It is important that people in this time be given the opportunities to access services such as education which can make their time in retirement much more rewarding. Indeed, we can see a move across the country indicating that people in this category want to pursue a much more active retirement to optimise their quality of life, to avoid their dependence on others and to continue to contribute as active citizens in our society. Adult and community education often provides an ideal environment for these sorts of aspirations to be realised.

Apart from the nation's obligations to respond to the legitimate needs of its citizens, financial considerations also require that governments look closely at how they can allocate funds across a wide range of services. With an ageing population, the cost to the public purse of retired people's dependency, whether in aged care facilities, hospitals or services related to the home, will continue to escalate. Every effort must be made by governments to investigate strategies which will alleviate dependencies and postpone the need for entry to nursing homes.

Research is demonstrating that considerable savings are available if we encourage people to engage in activities such as the University of the Third Age. The direct health benefits are very apparent. It appears for example, that sustained mental stimulation delays the onset of dementia and similar medical conditions. The personal and social benefits of older people retaining active connections with the community are almost incalculable. The fourth sector, ACE, by its nature holds the key to transforming and empowering individuals in this situation.

So in 1991 the federal government, based on the report on adult and community education *Come in Cinderella*, took its first tentative steps in this area by developing a national policy as recommended by the committee and undertaking research, setting up an office, collecting data and implementing 11 out of the 33 recommendations of the report. We have been highly critical over the last few years that the other 22 recommendations were not implemented, but it was a start.

Since that report came in there has been a change in the focus of effort in the training sector. We have a national policy now but, unfortunately for this sector of adult and community education, in some ways its efforts have been somewhat deflected by the development of another national policy over that time, and that is in the training area which took form with the development of the Australian National Training Authority. The problem this created for adult and community education was that access to public money was often dependent upon the fact that that money should be spent where people were in training for particular job outcomes. Of course, under that sort of arrangement the bulk of the adult and community education work was not accredited.

We have taken a very hard look at those developments under the previous government up to 1996 and we have recommended a different direction so that adult and community education can get a fairer go. Quite often, even though the Australian National Training Authority does not classify the sort of education that is going on as having work outcomes, in reality it does. An example is the cook who undertook Japanese cooking. That increased his credentials and improved his employability, but that is not recognised under the guidelines of the Australian National Training Authority.

So what we would like to do—and this is the main thrust of the recommendation in our report—is to bring the adult and community education sector alongside the training sector—not create any new national body but put them all under the one umbrella, the Australian National Training Authority, and expand its charter and role. That would help the groups that are in adult and community education to access more public funding than they were able to under the previous arrangement.

We have suggested that the main requirement is that they be registered, particularly under state bodies. With that registration what can happen is that they can access funding under three different categories. Category A covers specific industry education and training; category B, non-specific industry education and training; and category C, general education and training. This will then facilitate a wide range of programs that will be able to access this from what have previously been termed skilled and non-skilled areas.

The recommendations that were made to support this new approach were made across parties. We had coalition members, Labor members, Democrats and Independents all supporting this change in emphasis in the work of ANTA so that the million people who do adult and community education get a fairer chance. We feel that this change in emphasis will help create in Australia a learning society. Industry, education groups and professions under their related peak bodies will be able to move in a far more effective way towards the realisation of what they are trying to achieve.

The task of creating a learning society is probably one of Australia's most important challenges and this change in arrangements we believe will help facilitate that. The Senate committee does set out this challenge to the government but also we set out this challenge to other providers in education across Australia to change our system to help more people access education and training so that we can truly move towards a learning society.

Salmon Imports

Senator MURPHY (Tasmania) (1.39 p.m.)—I rise on a very serious matter of concern about an action taken by the Minister for Primary Industries and Energy, Mr John Anderson. It is my understanding that Minister Anderson has directed AQIS, the Australian Quarantine Inspection Service, to conduct an import risk assessment on the importation of fresh, unprocessed salmon from New Zealand. I raise this concern because for some time now Australia has been dealing with another import risk assessment in relation to imported, unprocessed, fresh and frozen salmon from Canada and the United States. That matter is currently before the World Trade Organisation Disputes Tribunal.

What causes me great concern—and I know causes great concern to the salmon industry in this country—is that, whilst we have that matter being dealt with at the World Trade Organisation level, this minister has proceeded to get AQIS to conduct a further risk import assessment into salmon from another country that are, in the main, affected by diseases that are the same or very similar to those that are currently before the World Trade Organisation in respect of Canada and the US.

Apparently, about June last year, the minister wrote to his New Zealand counterpart advising him that once the Canadian and US matter was out of the way Australia would consider, as a priority, New Zealand's application to sell salmon into our market. Why has AQIS now commenced this import risk assessment? The four diseases that are of primary concern in New Zealand are already

covered in the risk assessment that is before the WTO. There is no reason and, indeed, no justification—even based on what I understand the content of the minister's letter to his New Zealand counterpart to be—for proceeding now. But AQIS has, as I understand it, employed the staff to do this job.

The industry has had to pay some $500,000 to put its case, to AQIS in the first instance because somehow AQIS has a view that there is no problem with the importation of fresh salmon products from other countries. In the first draft risk assessment AQIS recommended that the current restrictions be lifted. But it has had to do some backing down on that, which really should have been the case in the first instance.

This matter is of significant concern because one particular disease, that commonly known as whirling disease, has the capacity to wipe out major sections of the fresh trout populations of Australia, particularly rainbow trout. Whirling disease will be a concern to the five million recreational anglers in this country. If they had any idea of what this minister, the government and AQIS, in particular, are proposing, I am sure that many more of them would be calling for the head of the minister and, I think, calling for a few heads in AQIS.

Whirling disease is a common name for an affliction that infects certain fish via a microscopic parasite known as Myxobolus cerebralis. It has a two-host life cycle, fish and worms. The parasite has a free-swimming stage that enters young trout, attacking the cartilage. In severe infections, inflammation around the damaged cartilage places pressure on the nervous system, causing the fish to whirl—that is, they will swim around in little circles. In seriously affected fish it obviously reduces their ability to feed. It makes them more susceptible to predators and mortality is very high.

The spores formed by the parasite whilst inside the fish are released upon death so that any infected fish when they die release the spores back into the water system. These spores are then ingested by a worm known as T. tubifex, which is prevalent and is found in Australian fresh water. So we do not have the disease but we have the host for it. That is why we have to be particularly careful when we are dealing with imported products that can be hosts for these diseases.

The disease is found in the muscle of fish. It is not easily detected and, as I said, it is released upon death. As was presented to AQIS previously, if imported fresh salmon comes into this country and is then sold through supermarkets, people will buy it, as is currently the case. People have a tendency to use fish for fish bait or, if they have not eaten all the product, they dispose of it in the rubbish where it can be picked up by birds and then transferred into the water system.

The other reason why this particular disease is of such great concern is—and I highlight this fact—that most of the diseases of salmonids came from Europe and they have been transmitted around the world. Not so long ago, New Zealand did not have the disease which is now known as whirling disease. It is understood that it was transferred into the United States of America in the 1950s. In many cases, it has lain dormant over long periods of time, but more recently it has had a very severe effect on many of the trout fishing rivers in the US. Some of them are very famous rivers.

In Colorado, it is reported that population losses have been identified in the Colorado, Gunnison, Arkansas, Rio Grande, South Platte and Poudre rivers. In a 1994 study of the Gunnison Gorge section of the Gunnison River, state fisheries biologist, Barry Nehring, reported that 95 per cent of the newly hatched rainbow trout in that river disappeared some time between August and November. In the upper Colorado River, between summer 1994 and spring 1995, Nehring reported a loss of 98 per cent of the 1994 crop of young rainbows. That in itself is a very clear indication of the impact of this one disease, let alone the other three diseases that are found in New Zealand salmon.

In Montana, whirling disease was reported in 1994, when a fisheries biologist, Dick Vincent, reported the presence of the disease in the Madison River. The Madison River is a very famous trout fishing river. He reported that 91 per cent of the rainbow trout popula-

tion disappeared between 1991 and 1994. That is a drop in population from 3,300 fish per mile of river down to 300 fish per mile.

The impact on tourism that that disease could have in this country, particularly for regions in New South Wales, Victoria and Tasmania, in relation to recreational fishing would be devastating. It is not acceptable to even consider a further risk assessment with regard to the importation of salmon product from New Zealand when, only as recently as 1990, it was rejected on the basis of possible infections being brought in through the product.

What has changed? Nothing has changed except that Canada and the US joined to seek access and that access was ultimately refused—and rightly so, I should say—by the government. The case is now before the World Trade Organisation disputes tribunal. The four diseases that are prevalent in New Zealand are also diseases that will be debated and resolved, whether or not they have an impact in the WTO process.

There is no gain to be had, except that it will impose a cost on the industry that it does not need, because it is already fighting the same arguments in another process. The minister should bring an end to this. He should direct AQIS to cease the progress of this import risk assessment until such time as, as I understand he indicated to his New Zealand counterpart, the WTO process—the Canadian-US process—has been brought to an end.

Why would you want to duplicate the process? Aren't the arguments the same? As I understand it, AQIS is not going to report on the risk assessment for New Zealand until either late this year at best, or more likely in February-March next year. So what is the point? Why does the government want to burden this industry, which is a very valuable industry and a very important one for Tasmania? Why do they want to burden it with huge costs again? They have already had to spend a half a million dollars defending their position—and they have rightly defended it so that they proved AQIS wrong in the first instance.

Why is the government proceeding down this line? Surely the minister ought to have the guts to stand up to AQIS. Either he runs AQIS or AQIS are running him. Right now, it seems that AQIS are running the minister. It is about time it was brought to a stop. AQIS may think that they have sufficient money to waste by employing additional people to do something that is already being done and that, at this point in time, is totally unnecessary. Or the minister thinks, 'Let AQIS give the industry a box around the ears, because they proved AQIS wrong in the first instance, and burden them with further costs.'

I know many government members and senators took a very strong stand with regard to the possible importation of Canadian-US salmon. I would urge them to go to their minister and request that he stop any further progress on this import risk assessment because, as I said, it is a worthless exercise and of no use at this point in time. I will briefly refer to what the Canadians are reported to have said—and this relates to their view about some of the diseases—in the revised draft of the salmon import risk analysis with respect to their application:

> Canadian authorities have also pointed out that the causative agents of the diseases of concern to Australia are unlikely to be present in sufficient numbers in headed, eviscerated product derived from wild-caught Pacific salmon to transmit exotic diseases to susceptible populations in Australia.

That has made the point about whirling disease alone. It is not just our salmon industry, because our salmon industry could actually deal with it from the point of view of treatment. It will not be a problem for them if we get whirling disease. The problem will be to the freshwater species of fish in this country and, in particular, to very important trout fisheries that, in the case of my home state, deliver significant tourism dollars.

We should not stand by and see those things wiped out. It is totally unacceptable. I call on opposition senators and members to go to their minister and get him to stop this ridiculous process.

Salmon Imports

Telstra

Senator O'CHEE (Queensland) (1.54 p.m.)—I am grateful for the opportunity to speak very briefly. It is interesting to hear Senator Murphy's contribution. Senator Murphy would not be in a position to make a contribution in respect of the World Trade Organisation were it not for the fact that the Minister for Primary Industries and Energy (Mr Anderson) and this government have already forcefully defended the Tasmanian salmon industry. I think that should be on the record: that this government has taken steps and that it is going to apply a strict and rigorous scientific approach to all of these things.

I know—I have discussed this matter with Minister Anderson myself, as have other honourable senators from the government side—that Minister Anderson takes the view that if the Canadians or others are going to make vexatious complaints against us in the World Trade Organisation, we have to have all of our scientific i's dotted and all of our t's crossed. That is why we have go through the process of thorough investigations of each of these claims. But that is not the matter I wish to draw to the attention of the Senate today; that is merely in response to Senator Murphy.

I wish to draw the attention of the Senate to what proceeded last night in the Senate Environment, Recreation Communications and the Arts Committee hearing into Telstra. It was very obvious that contrary to Telstra's indications that they intended to deal with CoT case victims in a fair, open and honest way, in fact, they set up a dirty tricks department whose task was to basically frustrate any attempt by CoT case victims to get any information, or to bring their claims against Telstra.

The highlight of the hearing last night was evidence by a former Telstra employee, Mr Lindsay White, who was part of this dirty tricks department that was the customer response unit. He said that in the case of one particular CoT case victim, Mr Graham Schorer, there were 10 people assigned to his case for years, and they were given one instruction: Mr Schorer and others had to be stopped at all costs. That was the Telstra attitude. Mr White should know because he was part of that team of 10 people assigned to target Mr Schorer.

That is the Telstra customer relations policy in action. The activities of this dirty tricks department call into question Telstra's commitment to resolving the complaints of CoT case members quickly and fairly. Worse still, they operated in such incredible secrecy. They kept secret files that were not made available to the customers, the Commonwealth Ombudsman, or the Telecommunications Industry Ombudsman. These things were kept secret for one reason alone: to frustrate these people, and to prevent them having an opportunity to actually find the information that Telstra had.

At one point in the proceedings, Telstra tried to say to us, 'We were happy to give over any document that somebody requested. If they could specifically request a document, we would give it to them.' We said, 'But did you tell them what documents you had?' They said, 'No.' We asked, 'Did you tell the Commonwealth Ombudsman or the Telecommunications Industry Ombudsman?' They answered, 'No.' I had to ask them, 'How were these people supposed to get the documents? Were they supposed to have a seance to know what you had?' This is the conduct in which Telstra have been engaged for years. It is very obvious that they ran a dirty tricks department, the cost of which is well in excess of $14½ million for the last couple of years. And that is without including the cost of FOIs or of legal advice provided by the Attorney-General's Department to Telstra. Telstra's conduct has been absolutely reprehensible.

Sitting suspended from 1.58 p.m. to 2 p.m.

QUESTIONS WITHOUT NOTICE

Superannuation Surcharge

Senator SHERRY—My question is to Senator Kemp, the Assistant Treasurer. Can the minister inform the Senate whether Australia Post management has agreed to pay the government's new 15 per cent superannuation tax on behalf of its employees who are eli-

gible for assessment for the new tax? If so, will the government allow all GBEs to pay the new super tax on behalf of their employees? Does this mean that Australia Post and other GBEs will be shifting the burden of this new tax to their customers?

Senator KEMP—Senator Sherry has raised the question about the superannuation surcharge—

Senator Sherry—Tax; it's official now—you can say it!

Senator KEMP—and the payment of it in relation to Australia Post. Senator Sherry, I do not have any information on what Australia Post have or have not decided to do. Of course, I will seek some information on that.

I am intrigued that you have again raised the issue of the superannuation surcharge. You were the person who fought hard and successfully convinced the Labor Party to vote against this important measure, which ensured that the very generous concessions which are given for superannuation are provided in a more equitable fashion. Senator Sherry, I am intrigued that, with your record on this particular issue, you have decided to raise this matter again.

Senator SHERRY—Madam Deputy President, I ask a supplementary question. Senator Kemp, you have constantly said this new tax is fair, but is it fair for ordinary taxpayers as customers of Australia Post to be footing the bill for this new tax, which is supposed to be paid by the higher income earners who are employed by these GBEs? Will you issue an instruction on behalf of the government to GBEs that the individuals should be paying the tax, not the customers of the GBE?

Senator KEMP—You did not want anyone to pay the superannuation surcharge, Senator Sherry. So for you to get up and speak about fairness is completely absurd. You were the person that convinced the Labor Party that it should not support this fair and equitable measure. In your supplementary question, Senator Sherry, there was an assumption which you have completely failed to sustain.

Greenhouse Gas

Senator TROETH—My question is addressed to Senator Alston as Acting Leader of the Government in the Senate. The minister will have seen media reports regarding the government's policy on greenhouse gas emissions. Can the minister inform the Senate of the rationale for the government's policy? Does the government's position enjoy bipartisan support?

Senator ALSTON—I thank Senator Troeth for the question. It is a very important one. I think it needs to be made absolutely clear where the government stands on this important issue. What was said overnight by the Prime Minister is particularly apposite. He said:

> Australia is an energy exporter. We are an efficient supplier of raw materials and a processor of those raw materials for the fastest growing region in the world. The implementation of the European proposal for fixed mandatory targets would block two per cent of Australia's GDP by 2010, would cut wages by nearly 20 per cent and would result in a huge welfare loss for the average Australian. It would also be self-defeating with strategic industries like aluminium smelting simply shifting to developing countries not required to meet the same targets.

The Prime Minister has made Australia's position abundantly clear. He has made it clear to all of the heavy hitters, including President Clinton, Prime Minister Hashimoto, Chancellor Kohl and Mr Blair. He has made it very clear that Australia knows where it stands. He is prepared to stand up for the Australian public interest. But what do we have from the other side of politics? What do we have from those people who profess an interest in this issue?

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! The level of noise from both sides needs to be reduced.

Senator ALSTON—You are drawing attention to the sandpit strategy—burying your head in the sand whenever you do not have a response to an issue, whenever you know that your position is indefensible—and indefensible it is. The truth is that the Labor Party supports the government on this issue. They are not out there arguing against our position; they are just not saying anything

about it or they are saying as little as possible.

What we had was a mealy-mouthed performance by Mr Beazley today on the ABC news. He said:

> We have opposed the idea of mandatory targets—

and then he went on as quickly as possible to say—

> but we have also tried to recognise a bit of reality. There is a bit of concern out there around the globe.

After 15 months of this sandpit strategy, Mr Beazley puts his head up for about 10 seconds to try to have it both ways. It is an absolutely pathetic response, but, more importantly, it is not in the national interest.

What the people overseas want to know is: why is Australia taking this position? They do not want to know why half of the country is taking the position. They want to know where the major parties stand on this issue, and they want to hear from the Labor Party. They do not want a mealy-mouthed 10-second performance.

If you look at the Labor Party's web site, for example, you will see that it is, again, an extraordinary performance. It states:

> Labor opposition is deeply concerned with the Howard government's greenhouse policy and will work hard to ensure that the Australian government accelerates rather than slackens its efforts towards addressing this serious issue.

It means absolutely nothing. It means having it both ways. It means wringing your hands, trying to curry favour with the environment groups, trying to pick up a vote by default and pretending somehow that you are on their cart when really you are on the side of virtue as far as the government is concerned.

That is a tragedy for Australia. It is no wonder that your candidate from hell, Wayne Goss, is now interested in coming on board. He is a middle-aged, aspiring, recycled Premier. He is also, of course, an aging Young Turk. He knows full well that you cannot possibly expect to go anywhere at the next election if you have Mr Beazley and Mr Evans taking the positions they do. Senator Parer made clear yesterday what former Senator Evans had to say in this chamber:

> Australia will play its part in reducing global greenhouse emissions but it will not take action which would have net adverse economic impacts nationally or on Australia's competitiveness.

That is a lot more than you have heard from this lot in opposition. You have not heard a word from Senator Faulkner. He is supposed to be the Leader of the Opposition in the Senate. He was once, as we well know, a failed minister for the environment. He had every opportunity to put his position on the record. Now that he has become the shadow minister for politics he has another opportunity to stand up for Australia. But he is not interested in doing it. *(Time expired)*

Child Care

Senator O'BRIEN—My question is to Senator Newman, the Minister representing the Minister for Family Services. Minister, is it a fact that Monica Dowd, the director of Lipscombe Child Care Centre, who was favourably referred to by Senator Calvert yesterday, has said:

> We are being forced to price ourselves out of the market—12 months ago all Tasmanian centres had waiting lists now the problem we face is under utilisation. Parents are being forced out of the centres into backyard, unregulated, unaccredited care.

Is it also a fact that Sue Nolan, the Director of Blackman's Bay Child Care Centre, has stated that they will have to increase fees to $175 per week and that staff are working weekends and 10- to 12-hour days in order to keep quality consistent? Minister, when are you going to stop blaming everyone else and accept the blame yourselves for the problems being faced by child-care centres? When is the federal government going to accept responsibility for the crisis facing child care?

Senator NEWMAN—It would be interesting to know when Senator O'Brien is going to reveal his personal interest in this matter. It is quite incredible that he would continue to ask questions on behalf of his union when he still has working in his political office—

Government senators—Declare your interest.

Senator NEWMAN—He is not prepared to declare his interest, yet he still has working in his political office an endorsed Labor

candidate for Bass who is also his former assistant in the union. It is also a fact, as I understand it, that her brother, David O'Byrne, is an organiser with the union.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Could I have some order on my left and right, please? Thank you, Minister.

Senator NEWMAN—When I was rudely interrupted, I was pointing out that not only is his staffer's brother, David O'Byrne, an organiser with the same union, but another union official, Pauline Shelley, is involved in the winding-up of the Ravenswood centre that he has been talking about for the last few days. I would ask Senator O'Brien, as I did yesterday, who is he really representing on this issue? Is he representing his union mates, or does he care a jot or a tittle for the parents and the children in the child-care centres? No he does not. The consistent theme from those opposite over the last few months has been to represent the interests of the work force in the union dominated community child-care centres.

Senator O'Brien—Madam Deputy President, I raise a point of order as to relevance. The minister has had two minutes now in answering the question and she has not addressed one item of the question yet. If she has chosen to seek to refer to other people that is her choice, but at this point in time she should be addressing the question and not the superfluous issues that she has been bringing forward.

The DEPUTY PRESIDENT—I am sure that the minister will get to answering more specific parts of the question.

Senator NEWMAN—Thank you very much, Madam Deputy President. They do not like to hear this but that is the truth. We sat through Senate estimates where the senators from the Labor Party asked questions continually about the work force in child care and not a single question about the parents and the families until I pointed it out to them. They had been going for a very long time before they mentioned the consumers and the families who need help.

When it came to out of school hours care they ignored those families altogether. When it came to child-care support for people in country areas they ignored that altogether. You are hypocrites. They are hollow sounds. You are only interested in your union mates. The reality is that you presided over a child-care system that was out of control. You actually set up child-care centres to fail financially because there were no planning controls at all. You would be interested to know that the shadow minister, Ms Macklin, has even acknowledged on *Lateline* that there is a great need for planning in child care and she acknowledged that that was something she supported.

Senator Jacinta Collins—You're a hypocrite!

The DEPUTY PRESIDENT—Senator Jacinta Collins, would you please withdraw that remark.

Senator Jacinta Collins—Madam Deputy President, I will withdraw that remark if the minister will withdraw hers.

The DEPUTY PRESIDENT—It was a collective one. There is no point of order. You have withdrawn. Minister.

Senator NEWMAN—I assume that the senator was referring to the *Lateline* program in which—

Senator Campbell—I rise on a point of order. Madam Deputy President, I ask that you ask Senator Collins to withdraw that unconditionally, please.

The DEPUTY PRESIDENT—I thought that Senator Collins had withdrawn it unconditionally. Senator Collins, it was an unconditional withdrawal, was it?

Senator Jacinta Collins—My withdrawal was that I would withdraw my comment—

The DEPUTY PRESIDENT—No—unconditional, Senator Collins.

Senator Jacinta Collins—I will withdraw unconditionally, but on a point of order, I seek the Deputy President to ask the minister to withdraw her comment that we were all hypocrites.

The DEPUTY PRESIDENT—It was not to individuals. Minister.

Senator NEWMAN—Thank you, Madam Deputy President. I thought that the senator wanted me to withdraw the claim about Jenny Macklin, the social security spokesman, who was representing Senator Neal, who was not prepared to go on the program with Maxine McKew on issues of concern to women. But that is another matter.

Ms Macklin was prepared to acknowledge that there was a need for planning and that she supported the government's moves to try to improve the situation which had grown like Topsy under Labor. We have too many child-care centres in financial difficulties because of the lack of planning by the previous government. Too many centres were opened in areas to compete against each other. Too many areas of Australia are without child care altogether because you did not care the slightest bit for child care in rural and remote Australia. So your noise is just designed to cover your own embarrassment. *(Time expired)*

Senator O'BRIEN—Madam Deputy President, I ask a supplementary question. In relation to the question that I asked, I do not believe that I have received any answer at all. I ask the minister if she will attempt to answer that question and, in addition, will she tell me what is wrong with representing the parents who, in terms of Mrs Dowd's statement, are being forced to use backyard unregulated and unaccredited care, and the families who are going to have to pay $175 a week according to this government's policies. Minister, when is your government going to accept responsibility and stop hiding behind other issues that are irrelevant?

Senator NEWMAN—Once again, the senator would not like me to make the point that something like 70 per cent of all families do not use your federally funded community based child-care centres. Of course, a lot of the families who use those are placing their children in child-care centres where they are having little or no fee increases at all.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order on my left!

Senator NEWMAN—We have heard scare stories by the Labor Party and its union mates since the beginning of this year, if not late last year, about what it would mean in terms of fee increases. The reality is that some of the Commonwealth funding changes did not take place until April, and the majority of them not until July. Therefore, there has been a gradual movement towards increase in fees, but usually nothing like the area that the Labor Party has been claiming.

Opposition senators interjecting—

Senator Alston—Madam Deputy President, I raise a point of order. It is quite clear that there is a deliberate strategy to ensure that Senator Newman is not able to be heard. Senator Crowley is deliberately provoking you by throwing the expression 'lies' around on three separate occasions. It is calculated to disrupt, it is calculated to provoke and it is designed to ensure that no-one can hear the answer. I think this is a deliberate challenge to your authority from your own side, and I am sure that you will have the courage to withstand it and ensure that proper processes prevail.

Senator Faulkner—Madam Deputy President, on the point of order: I really think we have a demonstration of Senator Alston as Acting Leader of the Government attempting to show how tough he is in front of the troops after the debacle of the last couple of days. On the point of order, I note no difference in relation to the way senators on both sides of the chamber have behaved in this question time from the way they have behaved in other question times, not only in this sitting week but in previous sitting weeks. I must also say to you, Madam Deputy President, that Senator Alston, as usual, is one of the worst offenders.

The DEPUTY PRESIDENT—Order! There is no point of order. However, I would appreciate it if the behaviour on both sides were to quieten down a bit and the sniping and commenting across in the chamber were to cease. Minister, have you finished your answer?

Senator NEWMAN—If I have any time left, I would really like to include this statistic in the answer because, with regard to the

closure of centres, it is not something new; Labor closed them down all over the place. *(Time expired)*

Social Security Fraud

Senator PATTERSON—My question is addressed to the Minister for Social Security. Minister, I am sure that you will remember former Labor ministers, former Senator Graham Richardson and Mr Peter Baldwin, boasting that the system under Labor for catching people who were defrauding the social security system was watertight, that it was of a world leading standard—we heard all of those descriptions—and that there was no more money that could be saved in the area of fraud and compliance reviews.

Minister, Labor might not have been able to achieve much in its 13 years in regard to social security compliance. However, in the short time since the coalition has come to government, the amount of fraud and overpayment has been massively reduced. It was with pleasure that I read your last compliance report, and I have told people about it all over the place. Could you inform the Senate of the government's progress in this area since that report? How much taxpayers' money has been saved, and how much will this assist genuine welfare recipients?

Senator Vanstone—Excellent question.

Senator NEWMAN—It is a very good question, Senator Patterson, as I would expect from you as a senator with a longstanding interest in the social security portfolio and now as the chairman of the backbench committee on social security. You have taken an interest in this matter, like most Australians, for a very long time. It is a very important issue.

When we came to government, I announced that I would report quarterly to parliament on the progress of my department's efforts to ensure that ordinary taxpayers' funds were only going to social security customers who were in genuine need. This government recognises that the majority of social security recipients are honest and in real need.

However, the Labor Party and its former social security ministers would have had everyone believe that the system was watertight. That is really rather odd when you think about it, because their own post-election review found that one of the reasons they lost the last election was that it seemed everyone knew of a welfare cheat. When I presented my last report to parliament, I was able to announce that our efforts in the previous six months were saving taxpayers around $12 million a week.

Senator Patterson—How much?

Senator NEWMAN—Twelve million dollars a week last time, and more than 90,000 people who should not have been on benefit had been taken off payment. So much for the Labor Party's watertight system. Our compliance efforts in the last nine months have removed nearly 138,000 people from payments altogether—

Senator Margetts—Shame!

Senator NEWMAN—and reduced payments to a further 65,500. This now saves the Australian taxpayer about $19 million every week—

Senator Margetts—Shame!

Senator NEWMAN—in payments that would otherwise have been paid out wrongly. That is right, $19 million a week. Over $264 million in debts have been recovered from 1 July last year to 31 March this year. That is a 46 per cent increase in the collection of debts when compared with the same period in 1995-96. Overpayments raised from reviews totalled $163 million compared with $114 million in 1995-96. That is an increase of 43 per cent. For the nine months, there were 1,794 convictions for fraud in the courts, which resulted in savings of almost $18 million.

Support from the public also increased, demonstrating that there is continued support for our activities in this area. My department reviewed over 40,000 customers as a result of reports from the public over that nine months, and I thank the public for their assistance. That is an increase of 22 per cent over the same period of the year before. This resulted in more than 8,500 people having their payments cancelled or reduced, with overpayments being raised of over $11 million.

However, it is the cheats and the rorters who continue to give social security customers a bad name, and I am determined to ensure that every effort is made to clean up the system for the benefit of taxpayers and honest customers alike. The Labor Party may have felt that the system was watertight. But $19 million in savings every week demonstrates just how out of touch it really was and how much taxpayers' money was being wasted because of its inaction. Knowing that it gives some confidence in the social security system to those battling taxpayers who are ready to support the needy but unwilling to fund the greedy, I am pleased to now table the department's third quarterly compliance report.

Senator PATTERSON—I have a supplementary question. Minister, Senator Margetts was shouting out during your answer, 'Shame, shame.' Could you tell me whether the sort of people who will now not be getting social security are people who have actually got a job who are now ringing up and saying that they do not require social security, rather than leaving it for two or three weeks after they have got a job, and who were therefore compounding the statistics with regard to people getting benefits when they should not have been? Are they the sort of people who we are now getting to comply? Was it right that Senator Margetts should be shouting out, 'Shame'?

Senator NEWMAN—The reality is as Senator Patterson points out but, further than that, all classes of payments are rorted to some degree or another—some in larger degrees than others. Whether it is elderly Australians, whether it is people who have gone back to work and have not advised the department, whether it is people who have received compensation payouts and have not informed the Department of Social Security and think they will get it both ways—there is a small core of people who are giving a bad name to those who are needy. We will not fund the greedy when it ruins the reputations of the needy. I am amazed that Senator Margetts would forget the taxpayers' needs—the battling taxpayers who may be no better off financially than the people they are supporting.

Senator Margetts—What about the poor—the people you are punishing?

Senator NEWMAN—We are not punishing anybody. We are trying to protect the needy and make sure that our community supports the safety net. *(Time expired)*

Department of Health and Family Services: Training Workshops

Senator GIBBS—My question is directed to the Minister representing the Minister for Health and Family Services. Minister, how do you justify the Department of Health and Family Services paying over $1 million to a consultancy firm, People First International, to conduct training workshops over the next 18 months for the department's senior executive officers? Isn't it true that this $1 million would restore more than two years funding for the community sector support scheme which your government has cut?

Senator NEWMAN—That is a matter for the minister for health and I will certainly get an answer from him as soon as I can.

Senator GIBBS—I appreciate that but I think it is a bit of a cop-out. While you are asking the minister, could you also ask her whether it is true that the Combined Pensioner and Superannuants Federation, the Australian Community Health Association and the Family Planning Association, who were all funded under the community sector support scheme, have now had their funding cut. Are you saying to these groups that $1 million is better spent on departmental training workshops than on them?

Senator NEWMAN—I have already been asked questions on the funding in Dr Wooldridge's portfolio. I presume you meant 'him' rather than 'her', although there are two ministers in that portfolio, one being a male and one being a female. I am ready to add your supplementary, but you have had answers on some of that already.

Greenhouse Gas

Senator LEES—My question is directed to the acting Minister for the Environment, who knows that I dispute his Megabare model as

it is deliberately designed to give us the worst possible scenario. Given that this is your model, don't you and your government delight in repeating the basic greenhouse policy—

Senator Patterson interjecting—

The DEPUTY PRESIDENT—Order! Senator Patterson, could we have some silence so that the minister can hear. Minister Parer is unable to hear the question because of the noise around him. Senator Lees, would you like to have another go.

Senator LEES—Minister, you are well aware that we dispute your Megabare model as the basis for Australia's much-ridiculed greenhouse policy as it is designed to give us the worst possible scenario. But given this, doesn't your government delight in repeating that a basic cooperative international greenhouse policy will cost each Australian $1,900? Isn't it true that you avoid going on to say that this figure within the modelling is spread over 25 years and that the modelling predicts that the average Australian over these 25 years will earn $1.75 million? So isn't $1,900 out of $1.75 million over 25 years quite a reasonable amount and, indeed, is certainly a reasonable amount to pay to try to protect this planet, to try to reduce the risk of a whole range of predictions, including increases in vector-borne diseases and extreme weather patterns?*(Time expired)*

Senator PARER—It is interesting to hear the way Senator Lees leads in with the question about the worst possible scenario. Of course, she means for the Democrats, who are anti-Australian on this issue. As I said yesterday, isn't it about time that the Democrats started to wake up and say, 'Who elected us to this parliament?' I know it was only a small percentage, but a small percentage of people elected you to represent them, not some foreign country.

The clear failing in Senator Lees's observation is that, firstly, that figure, as I understand it, has increased since the Megabare model has been reviewed. I am not sure of the exact figure but it is substantially higher than $1,900. Secondly, it is not spread over 25 years; it is the net present value.

Senator LEES—Minister, I would like to ask you to go back to your model because the model was done over 25 years. With regard to being un-Australian, I do not believe it is un-Australian to be concerned about extreme weather patterns, about vector-borne diseases spreading further into this country and about the extinction of many of our species. Minister, can you please tell us where this modelling supports the Prime Minister's outrageous claims today that the British option would 'cut wages by 20 per cent by 2020'? Where is your evidence—or did the Prime Minister just make it up?

Senator PARER—The initial remark by Senator Lees in regards to the Megabare model is again a repeat of the position they have taken before. We have made it very clear that, notwithstanding the fact that Australia's contribution globally to greenhouse is 1.4 per cent, we do recognise human influence and we intend to address it in a fair and equitable way.

The proposal being put by the European Union as far as we are concerned is not fair and equitable. The effect on Australia is some 22 times greater than on the European Union. What we are saying is that we are prepared to address it and we are prepared to do it in a fair and equitable way which will be to the benefit of the whole globe.

Senator Lees—On a point of order, Madam Deputy President: can the minister please address the Prime Minister's comments. Where is the evidence?

The DEPUTY PRESIDENT—Minister, continue.

Senator PARER—The evidence provided to this government and to previous governments in a totally unbiased way over the last 50 years comes from ABARE. *(Time expired)*

Minister for Small Business

Senator FAULKNER—My question is directed to Senator Alston, the Acting Leader of the Government in the Senate. My question goes to a matter of interpretation of the Prime Minister's code of conduct. You will recall that Senator Gibson was forced to resign for taking a decision involving a company in which he had a financial interest. Isn't it the

case that he had to resign, as the Prime Minister put it at the time, because 'he breached the requirement that there must be no appearance of a conflict of interest'? Isn't there at the very least an appearance of a conflict of interest in the Minister for Small Business and Consumer Affairs taking decisions such as the response to the fair trading inquiry which would involve his very substantial business holdings? Can you explain why Senator Gibson's actions were a breach of the Prime Minister's code, but Mr Prosser's actions are not? *(Time expired)*

Senator ALSTON—This has to be a desperate last attempt to resurrect an issue that is clearly going nowhere. The fact is that the Prime Minister's code of conduct is very specific in a number of areas and it makes it very clear that there are high standards to be observed and against which the actions of individual ministers must be measured.

As far as Mr Prosser is concerned, as I understood the question, it was essentially whether his taking decisions on the fair trading report somehow constituted a conflict of interest or the appearance of a conflict of interest because he had commercial interests. The fact is, as you well know, that in respect of retail tenancies Mr Moore will have responsibility for that.

Opposition senators interjecting—

Senator ALSTON—You can deal with those issues later if you want to. The fact is that this is yet another desperate attempt to try to smear Mr Prosser. If you had seen the *Daily Telegraph Mirror* editorial yesterday, you would have said that what Australia needs are more people with that sort of experience and expertise, not people who come from a very narrow background. Most of you have never had a real job in your lives. You have not had to get out there and roll up your sleeves. You do not know what success means except in terms of envy when you read about other people.

Opposition senators interjecting—

Senator ALSTON—I am grateful that you mentioned that because the average barrister is the classic small business man. He is a sole trader. He does not get any guaranteed income. He does not get shoehorned into parliament by his mates on the basis that it will be your turn next. He gets there on his merits. If he does not perform, if he does not win enough cases, he goes broke. In other words, there is a financial measure that is very significant in terms of success. That is what Mr Prosser has done. That is what really gets up your nose. He has been the quintessential success story.

You have spent the last four days trying to suggest that somehow Mr Prosser's interests constitute a conflict of interest. You tried to hook this on a telephone conversation he had with Mr Greiner. You would not for a moment accept that it might have been an innocent conversation simply seeking a contact point. Some of you have been here long enough to remember Richo and remember what it was alleged Richo did. Richo was ringing up the President of the Marshall Islands seeking a favour.

Senator Faulkner—On a point of order, Madam Deputy President: I asked Senator Alston if he could explain the situation in relation to the Prime Minister's comment at the time that Senator Gibson and Senator Short resigned because they breached the requirement that there must be no appearance of conflict of interest. I asked how that compared with the situation with Mr Prosser. I think it is reasonable, Madam Deputy President, that you direct Senator Alston to answer the substance of the question that has been asked of him.

The DEPUTY PRESIDENT—Senator Alston, you are required to at least bring your answer to something relating to the question. I am sure you are about to.

Senator ALSTON—In fact, I had already been, but let me be quite specific because the opposition are not in the habit of listening to answers that are given from this side of the chamber. The fact is that there is no appearance of a conflict of interest on the part of Mr Prosser.

What Mr Prosser has done is to take the decisions that are his responsibility. To make a phone call in the circumstances that he did, when he is merely seeking to make contact and not to exercise a favour, is in stark

contrast with what your previous minister did in this chamber. Yet we had Senator Evans saying that he was making a call not in any capacity as a minister representing or purporting to represent the government. He was quite explicit and articulate about that. In other words, you were prepared to believe Richo, but you are not prepared to believe Mr Prosser.

Mr Prosser's defence is an absolute one. It is perfectly clear that there is no conflict or appearance of conflict. That is all that needs to be said on the subject.

Senator FAULKNER—Madam Deputy President, I ask a supplementary question. Given the situation and the Prime Minister's comments in relation to Senator Short and Senator Gibson, I ask you, Minister, why isn't there at the very least an appearance of a conflict of interest in relation to Mr Prosser? In this circumstance, it would be the Prime Minister's intention, given your answer, that he would reinstate both Senator Gibson and Senator Short to the ministry—

Senator Alston interjecting—

Senator FAULKNER—Perhaps, Minister, you might like to explain—

The DEPUTY PRESIDENT—Would honourable senators like to address their remarks to the chair please. Thank you.

Senator FAULKNER—I acknowledge what Senator Alston says so I further ask him: can you assure the Senate that it is not the case that Mr Howard's code of conduct applies only to office holders in the Senate and not to office holders in the House of Representatives?

The DEPUTY PRESIDENT—Minister, you might like to address your reply to the chair, please.

Senator ALSTON—I apologise if I have not been doing that, Madam Deputy President. The fact is that there is no conflict of interest in respect of Mr Prosser. As far as any previous episodes are concerned, we do not make judgments on the basis of selective precedents; we make judgments on the merits. We make a decision in respect of Mr Prosser in terms of his conduct and whether it measures up against the standards that are set. We do not try to draw these cute distinctions.

Senator Bob Collins—You think that's consistent with Gibson?

Senator ALSTON—You can make your own judgments about that. The decision has already been taken in respect of Senator Gibson. Senator Gibson, I think very graciously, acknowledged that there was a conflict. All right? And it does him great credit because he understands the standards that ought to apply and that never applied to your lot at all. We remember Gerry Hand; we remember Michael Tate. We know you had no interest in standards at all. Carmen Lawrence: all you ever did was tough it out. The fact is that Mr Prosser has got nothing. *(Time expired)*

Indonesia: Maritime Boundaries

Senator MARGETTS—My question is to Senator Alston, as the minister representing the Minister for Foreign Affairs. I refer the minister to the bilateral treaty between Australia and Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, concluded in Perth on 14 March 1997.

Why has the government seen fit to ignore Aboriginal people's concerns about the protection of sacred sites and fish stocks in the area ceded to Indonesia? Why have we apparently ignored the principles of the law of the sea convention by determining boundaries on political grounds, rather than on bathymetric and biogeographic grounds that could have assisted in meeting our obligations to manage fish stocks and biodiversity under article 61 of UNCLOS? Did the government give consideration to the logistical problems and increased expenses that will now have to be incurred by CSIRO if they are to undertake important climate change related research in the region, particularly given the redefinition of boundaries in the Ashmore Island and Scott Reef areas?

Senator ALSTON—The treaty to which Senator Margetts refers represents the culmination of over a quarter of a century of negotiations and finalises the three maritime boundaries not covered by existing treaties. It

enhances the excellent bilateral relationship and demonstrates our ability to negotiate complex issues in a spirit of cooperation and understanding.

Senator Margetts asks why has the government seen fit to ignore certain concerns of Aboriginal peoples. I have to say that, in the limited time available, I have not been able to ascertain what those concerns might have been, but let me say that in general terms the negotiation of bilateral treaties is confidential to the two countries involved. This is particularly so in the case of maritime boundary agreements where questions of division of seabeds and fisheries resources may arise. In these circumstances, it is not feasible to hold consultations with parties other than the states and territories.

I am not saying that concerns expressed by the Aboriginal community, or indeed particular groups of Aboriginal peoples, were not taken into account; I am simply saying I do not know what they were. But, if they were on the public record and if they were addressed specifically to the Department of Foreign Affairs and Trade or to the minister, I have no doubt that they were taken into account.

I am asked why have we apparently ignored the principles of the law of the sea convention, and again there is an assertion that somehow we have determined boundaries on political rather than on other technical grounds. I am not aware that the government is alleged to have done that. I would be very surprised if it conceded that that was the case, but one would have to examine the principles of the convention to determine how the outcome measured up against those standards. But to the extent that the convention requires decisions to be made on bathymetric and biogeographical grounds, I would be confident that is what it in fact does.

In terms of consideration of the logistical problems and increased expenses that will now have to be incurred by CSIRO, all I can say to that is that the Department of Foreign Affairs and Trade did consult widely within the government, but I will certainly check whether CSIRO was specifically consulted and whether it raised any specific concerns that might have affected the matters that have been addressed by Senator Margetts.

Senator MARGETTS—I ask a supplementary question. Now is the minister's chance—the treaty has not yet been ratified—if he is talking about assessment. Will the issues associated with the methods of boundary determination, the implications for safety and rescue around Australian territories, CSIRO's access to important greenhouse research, fisheries management, biodiversity conservation, quarantine and Aboriginal interests be included in the national interest analysis? Is this treaty now a foregone conclusion, or will the government take community concerns seriously on this important issue and, if necessary, amend the treaty?

Senator ALSTON—The precise status of the treaty is clearly something for the government and, to the extent that it requires further consultations or inputs, I have no doubt that they will occur. If it has reached finality in terms of its form, without having actually been ratified, and the government has taken account of all the valid considerations, presumably it will not be prepared to amend. But if you have got any particular concerns, and you have expressed some today, no doubt they will be taken note of and, to the extent that they have some validity and there is scope for them to be taken further into account, I am sure they will be.

Native Title

Senator BOB COLLINS—My question is to Minister Herron. Last Thursday, the ATSIC chairman, Mr Gatjil Djerrkura, said in respect of the government's 10-point package on native title that the plan is 'discriminatory and unfair' and does 'very little to encourage our faith in the government's ability to deliver a fair result'.

Do you agree with Mr Djerrkura?

Senator HERRON—Madam Deputy President, no, I do not agree with Mr Djerrkura. The 10-point plan, as you know, will produce fairness and is a legitimate response to a decision that was handed down by the High Court, and we are proceeding with the drafting of legislation that answers those concerns. It is a little premature for Mr

Djerrkura to make that statement when the legislation has not been produced. My colleague Senator Minchin is responsible for that. By the end of this week, Mr Djerrkura will see the proposed legislation and then will be in a position to give a considered response to that.

Senator BOB COLLINS—Madam Deputy President, I ask a supplementary question. Minister, does the 10-point plan remove or erode rights given to Aborigines by the High Court?

Senator HERRON—I think that the principles of the 10-point plan have been clearly enunciated. The legislation will follow through with the principles that were espoused by the Prime Minister when the 10-point plan was produced.

Higher Education

Senator McGAURAN—My question is to Senator Vanstone, the Minister for Employment, Education, Training and Youth Affairs. Minister, as you would be aware, under Labor Austudy increasingly failed to target the students most in financial need and university participation increasingly cut out young people from lower income families, yet under Labor youth unemployment reached record levels and there was a lack of commitment to increasing apprenticeship and traineeship opportunities for young people. I ask, Minister: what reforms in these areas has the government made to ensure that we bring out the best in all young Australians?

Senator VANSTONE—Thank you very much, Senator McGauran, for the question. Senator, this government is committed to all Australians—not just the wealthy young Australians and not just those at university, but all. Under Labor, of course, university participation remained concentrated on kids from very wealthy backgrounds. A study of new students at Monash university, reported in today's newspapers, supports what the government has said before in relation to this matter. Middle- and upper-class people have a very large share of university education in this country: 54.5 per cent of the 2,500 students surveyed have fathers in professional and managerial occupations.

Labor, probably quite rightly, patted itself on the back about increased participation in higher education; that is, of course, a good thing. But it failed to ever give enough attention to the point that people from lower socioeconomic, rural and isolated backgrounds still had under-represented entry into higher education. It was definitely the kids from wealthy private schools—like the one that Senator Natasha Stott Despoja down there went to; a very wealthy school—who had the very best chance of getting into university. She does not like the full fee because she knows people like her might even end up paying.

Senator Stott Despoja interjecting—

Senator VANSTONE—She interjects because she does not like being reminded that she went to a wealthy school.

Senator Bolkus—What school did you go to?

Senator VANSTONE—I went to a wealthy school, relatively speaking—a church school. When I look up and see those school children up there, I know that, when they cannot go to school, they have to take a note. They get a note from mum that says: 'I can't go to school today.' Senator Stott Despoja is the only senator who has a note from her mum saying it was okay to go to a wealthy school. Do not frown at us, Senator. We have got the letter: 'Don't pick on Nattie. We had to drag her kicking and screaming to a wealthy school.' We have got the note from mum. It is usually kids at school who get notes from their mother. You are the only senator who has got a note from their mother. But of course—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Order on my right!

Senator Woodley—Madam Deputy President, I have a point of order on relevance. I really do hate to take a point of order. Because Senator McGauran has to ask dorothy dixers, he really does deserve an answer. I want to defend my friend Senator McGauran here so that he will get an answer that is relevant.

The DEPUTY PRESIDENT—Order! Thank you, Senator. Minister, would you like to address the question, please.

Senator VANSTONE—Yes, I am, Madam Deputy President, because that is the whole point. It is because the large proportion of kids who go to university come from wealthy private schools that we believe the introduction of a full fee option will be of benefit to kids who otherwise would not be able to get in. What will happen is that the kids from those wealthy schools will be enticed into paying full fees in order to get the university of their choice or the course of their choice. They will move out of government funded places and they will make way for other kids to get in, which is a very substantial equity measure. We intend to entice the kids from wealthier backgrounds into the fee paying places, leaving the HECS places for other children.

We found out from the study that, up until this year, about 68 per cent of Austudy recipients were in the independent category. Senator McGauran, I will tell you a bit more about this if you ask me a supplementary question.

The DEPUTY PRESIDENT—Order! Minister, don't canvass, please.

Senator VANSTONE—Just in case he did not understand what I have already said—

The DEPUTY PRESIDENT—Order! Please continue addressing the chair.

Senator VANSTONE—Less than 15 per cent of them come from low socioeconomic groups. Less than 15 per cent of the Austudy applicants come from low socioeconomic locations. Payment of Austudy to students from middle and upper income backgrounds was being made simply because they had turned 22—that was the only reason they got it. That completely supports the targeting of Austudy introduced by this government. *(Time expired)*

Senator McGAURAN—Madam Deputy President, I have a supplementary question. In the last day or so you have announced certain changes to Austudy and the actual means test. I would particularly ask you to—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Senator McGauran, would you just hold it for a minute, please, until I have got some quiet on both sides.

Senator McGAURAN—Minister, in the last day or two you have announced changes to Austudy and, in particular, the actual means test. Could you further develop the government's policy in this area of Austudy?

Senator VANSTONE—Thank you for your excellent question, Senator McGauran. This government is not there for the upper, middle and high income earners—not at all. We have done a number of things that will improve the opportunities for young Australians. We have got a raft of initiatives to boost small business. That is where the jobs are. We have got a youth allowance to get the incentives right, to get more kids into education and training. We are doing something about literacy and numeracy in schools, which the previous government left undone. We have finally got the work for the dole program—we are very grateful for the 100 per cent backflip. We are encouraging more apprenticeships and traineeships, and fiscal responsibility that underwrites low interest rates and job creation. A better package than that young Australians could not hope for.

Jabiluka Mine

Senator REYNOLDS—I address my question to Senator Herron. What action has the Minister for Aboriginal and Torres Strait Islander Affairs taken to ensure that the concerns of the Aboriginal people in the region of the proposed Jabiluka mine are being taken into account and fully evaluated by the government? Has the minister made representations to his colleagues, the Minister for the Environment and the Minister for Resources and Energy, about this matter?

Senator HERRON—I thank Senator Reynolds for the question. I have taken quite a lot of interest in this proposal. I am sure that the Minister for the Environment and the Minister for Resources and Energy are quite capable of looking after themselves and their portfolios in this regard. In fact, with me and the government, they are ensuring that Aboriginal people are given every opportunity for

economic advancement so that they can get away from the dependency attitude that they had with the previous government when it was in power. We have a plan to enable Aboriginal people to get employment. That is what it is about.

I have spoken to both groups who have concerns about this aspect of things. I have communicated, for example, with Miss Jacqui Katona in the last couple of days and have discussed her problems. As well, I have spoken to the Gagudju Association to discuss their concerns. So I have taken a keen interest in it—

Senator Forshaw—Wow!

Senator HERRON—That's more than you have, Senator, because you don't even know who those people are. I think you should be careful with your interjections.

We are taking into account the interests of both groups of people—the traditional owners in particular. As you know, Senator Reynolds, there is a dispute between those people. We also have an interest in the Aboriginal Benefit Trust Association, which disburses the mining royalties from that region. They are quite considerable, as you know, both to the Northern Land Council and the Central Land Council.

I am also pleased to announce that a very respected Aboriginal lady, Miriam-Rose Baurman, has been appointed chairman of the ABTA in determining the disbursement of those royalties. The dispute continues, as you know, and there is court action in that regard.

Senator REYNOLDS—Madam Deputy President, I ask a supplementary question. Minister, I note that you have taken an interest. But have you conveyed that interest and that concern to your colleagues? And is it true that most Aborigines living in the region are concerned about the proposed mine and that only a very small group believe that the mine will improve the financial status of indigenous people in the region? Will you take this up directly with your ministerial colleagues?

Senator HERRON—Of course, Senator Reynolds. We adopt a whole of government approach in this regard. They understand the problems associated with this. As we will at all times, we have at heart the interests of the Aboriginal people and the interests of Australia as a whole in that determination. I can assure you that my colleagues are taking a keen interest in it, as I am. We have adopted a whole of government approach and it will be in the best interests of Australia.

Greenhouse Gas

Senator LEES—My question is to Senator Parer, Acting Minister for the Environment.

Senator Vanstone—I raise a point of order, Madam Deputy President. I want Senator Stott Despoja to get a fair go. Senator Lees has had four questions in two days.

The DEPUTY PRESIDENT—Senator Vanstone, there is no point of order. Senator Lees has the call.

Senator LEES—Minister, it is now some seven months since your government ignored our warning that Australia risked becoming an international pariah by taking its irresponsible stand on greenhouse. It gives me no pleasure to see now that, amongst the powerful leaders and indeed the world's press, this prediction is coming true. Your government's differentiation model is leading to growing talk of economic sanctions. Minister, have you discussed the effect of continuing with your blinkered policy on front-line export industries such as the wine and dairy industries, which trade on a clean, green image and will be particularly susceptible to boycotts or sanctions? And aren't we likely to lose rather than maintain jobs by failing to embrace greenhouse targets and ignoring new technology and energy conservation? What is your plan B, now that the world has not accepted differentiation?

Senator PARER—We have the Democrats again taking a different position from the government's very clear position. And I think it is different from that of the Labor opposition but we are not too sure—we are not too sure whether they still stick to the former Senator Gareth Evans's position or not, because they have not made it very clear through the Internet.

Nothing seems to give the Democrats greater pleasure than to claim—because of the strong position we have taken, which is fair

and equitable, on addressing greenhouse gas problems throughout the world—that somehow we are international pariahs. I have heard that word before. And it seems to come from those multinational groups, the industry out there, that is against Australia's best interests.

Let me make it very clear that if we went down the track that the Democrats and some of the foreign countries—such as the European Union—would like us to go down, it would be to the massive detriment of Australia. We are prepared to address the greenhouse gas problem. What we are not prepared to do is put in jeopardy the jobs of many Australians. We are not prepared to put in jeopardy areas in my own state such as the Bowen Basin in Gladstone or places such as the Hunter Valley. We are not prepared to put at stake the jobs of people in the Illawarra or in the Latrobe Valley or in South Australia or in regions of Western Australia.

I think it is about time the Democrats woke up to themselves. They are either going to support a fair and equitable approach to Australia or they are going to support the European Union. The European Union, quite categorically, is talking about legally binding fixed targets.

Senator Kernot—They are taking global responsibility.

Senator PARER—Hullo, I have heard all that before!

The DEPUTY PRESIDENT—Minister, would you please address the chair and ignore all interjections.

Senator PARER—I do not know how many times I have said this, but I will say it again. Australia's contribution to greenhouse gas emissions is 1.4 per cent. So, if we closed the whole of Australia down and shot all the flatulent sheep, the total effect on greenhouse gases throughout the world would be negligible. Having said that, we are prepared to do our bit, and we are—

Senator Bob Collins—You've just upset a lot of your National Party colleagues with that comment.

Senator PARER—Well, they do object. But we are prepared to do our bit, and I think that it would be in the interests of all Australians that we take a common viewpoint on this. The worst thing in the world we want is what happened last time. When Senator Hill was overseas in Berlin, the Democrats sent a letter overseas decrying the Australian position, so much—

Senator Alston—Treason!

Senator PARER—Treason, says Senator Alston. I am glad you said that, Senator.

The DEPUTY PRESIDENT—Would you please ignore interjections; they are unparliamentary.

Senator PARER—I think the Australian Democrats have got a major problem. They have got to make up their minds whether they support Australia, whether they support a fair and equitable approach, or whether they are really representing some other countries, particularly the European Union.

Senator LEES—Madam President, I ask a supplementary question. I do not know where to start with the minister's answer because he missed the point yet again, but he did acknowledge that legally binding targets are on the international table. So I ask you again, Minister, have you discussed contingency plans with our industries—with our wine industry, with the dairy industry? Yes, you are putting jobs at risk—firstly, because you risk sanctions, and secondly, you are putting jobs at risk because there are thousands of jobs waiting to be done in energy conservation and with new technology. Are you going to have us in the position in 20 years time where we will have to buy in new technology from those countries that have gone ahead and developed it?

Senator PARER—To answer Senator Lees, let me say that there has been substantial discussion with industry throughout Australia, and we have total industry support for the stance that we are taking. The position being taken by Australia—I might say to Senator Lees, through you, Madam Deputy President—is no different from what the European Union are doing. They are going down the differentiation line. In fact, they are saying to some countries, 'You may increase your CO_2 emissions by 40 per cent, and someone else will reduce by 20 per cent', but, when we put

up a differentiation proposal they say, 'No, you can't do that.' They are acting through self-interest. We believe in addressing the problem but, I will tell you what, Madam Deputy President, Australia's interests will come first.

Senator Alston—Madam Deputy President, I ask that further questions be placed on the *Notice Paper*.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Industrial Relations

Senator ALSTON—Yesterday, I undertook to provide further information to Senator Jacinta Collins regarding a question without notice, and I seek leave to incorporate the additional information in *Hansard*.

Leave granted.

The answer read as follows—

In the Coal and Allied case, a Full Bench of the Australian Industrial Relations Commission recognised that "statutory provisions apart, it seems that strike action at least, and possibly most other effective unauthorised limitations on work are unlawful" (p.18):

The Workplace Relations Act l996 does not, of itself, render all unprotected action unlawful. Instead, the act specifically overrides the common law in certain limited circumstances so as to allow protected action as part of the agreement-making process, provided that certain formalities are met.

Section 127 of the Workplace Relations Act gives the commission the power to order that industrial action stop, or not occur. The Commonwealth intervened in the Coal and Allied case to make submissions about the circumstances in which this discretion should be exercised.

It was not the Commonwealth's position that orders under section 127 should issue "automatically" (as suggested by Senator Collins):

> instead, the Commonwealth submitted that, in exercising its discretion, the commission should be guided by the principle that unprotected action is inconsistent with the scheme of the Workplace Relations Act and, in most circumstances, should be ordered to stop;
>
> the Full Bench did not adopt this aspect of the Commonwealth's submissions, but nevertheless made orders prohibiting many types of industrial action at the Hunter Valley No.1 mine over the next 12 months.

Importantly, the full bench recognised that the WR act had brought about "fundamental" changes in industrial relations:

> the Bench accepted the Commonwealth's submission that section 127 applications should be determined speedily, and that cumbersome and lengthy bans clause procedures were no longer relevant to deciding section 127 applications;
>
> the Bench also made it clear that orders should issue in order to prohibit "illegitimate" action, stating that the previous actions of the unions at the Hunter Valley No.1 mine were "symptomatic of a kind of industrial conflict that no longer commands a respectable place in Australian industrial relations" (p. 42).

I should add that the commission has, according to the most recent figures available, made at least 15 orders under section 127, and there has been a high level of compliance with these orders (without the need for applications to the court for injunctions to enforce the commission's orders).

Against that background, the government does not consider that any amendments to section 127 of the Workplace Relations Act are necessary. It is therefore unnecessary to answer Senator Collins' second question about whether such amendments could be inconsistent with Australia's international obligations.

Australia: International Standing

Senator ALSTON—Yesterday, I undertook to provide further information to Senator Cook regarding a question without notice, and I seek leave to incorporate the additional information in *Hansard*.

Leave granted.

The answer read as follows—

Response of Minister for Foreign Affairs to request for information by Senator Alston

Overseas posts routinely monitor and report all public references to Australia. That information is taken into account in formulating government policy and response. The Foreign Minister has publicly said that the Member for Oxley's views are not helpful and would be destructive if they ever became official policy, which they will not, but at this stage there is no evidence that her views are directly impacting on our business and broad interests in the region.

The Australian Government's repudiation of the Member for Oxley' s views is well understood by regional governments and, for example, on 22 June Malaysian Trade Minister, Rafidah Aziz stated quite unequivocally that Ms Hanson' s views are

not shared by the majority of Australians and that they would not affect Australia-Malaysia trade ties.

Native Title

Senator ALSTON—Yesterday, I undertook to provide further information to Senator Bolkus regarding a question without notice, and I seek leave to incorporate the additional information in *Hansard*.

Leave granted.

The answer read as follows—

The following additional information is provided in answer to the question without notice asked by Senator Bolkus on 24 June 1997 in relation to the Government's Wik 10-point plan.

The Wik decision held that native title is extinguished by the grant of a pastoral lease to the extent of the inconsistency between the lease and native title. As set out in Point 4 of the 10-point plan, the Government intends to confirm this aspect of the High Court's decision.

Some of the judges in Wik left open the question whether this extinguishment was permanent or not, and this is described in the Attorney-General's Department 'Legal Implications' document released earlier this year and more recent 'Legal Practice Briefing' on Wik.

The Government's policy, however, is to answer this question left open by the Court and to specifically provide that extinguishment is permanent. These two separate ideas were condensed into one sentence in Point 4 of the 10-point plan.

It was never intended to assert that the High Court held that extinguishment was permanent. But this is the Government's policy and has been made clear in Government discussions of the plan.

The Government intends to provide certainty where uncertainty currently exists, including in the area of extinguishment. However, the 10-point plan only allows for extinguishment of native title where the common law so provides, or where the Native Title Act currently allows it.

As the Parliament is aware, the Government is currently engaged in preliminary consultations with key interests on draft legislation to implement the 10-point plan.

Legal Aid: Commonwealth-State Agreements

Senator ALSTON—Yesterday, I undertook to provide further information to Senator McKiernan regarding a question without notice, and I seek leave to incorporate the additional information in *Hansard*.

Leave granted.

The answer read as follows—

Senator McKiernan asked the following questions without notice on 23 June 1997:

(1) Is it true that with six days to go that no legal aid agreement has been signed?

(2) Is it true that there is no in-principle agreement with Western Australia?

(3) Can you guarantee that legal aid agreements will be in place by 1 July 1997?

Senator Alston advises that the Attorney-General's Office has provided the following information in response to the question from Senator McKiernan:

The Government has reached in principle agreement with seven states and territories and is confident agreement will be reached with the remaining state—Western Australia. The Government is working to conclude agreements with all states and territories and, while the formalities of signing have not yet occurred, believes that arrangements will be in place so that there will be no disruption to the provision of Commonwealth funding for legal aid services.

PERSONAL EXPLANATIONS

Senator CROWLEY (South Australia)—Madam Deputy President, I seek leave to make a personal explanation.

The DEPUTY PRESIDENT—Do you claim to have been misrepresented?

Senator CROWLEY—Yes.

The DEPUTY PRESIDENT—Please proceed.

Senator CROWLEY—I appreciate the tolerance of my colleagues. I wish to make a personal statement to simply place on the record that an article in today's *Age*, on page 1, referring to the work for the dole flip, cites me as accusing Mr Beazley of ratting on Labor principles. That is absolutely untrue; that is absolutely not what the facts were, and I just make it perfectly clear that I resile from that statement.

Senator Campbell—I wish to take a point of order, Madam Deputy President. The coalition would be pleased to grant leave to Senator Crowley if she wants to make an explanation in relation to the article that appeared in the *Sydney Morning Herald* where she said, 'This is a sell out; what do we stand for?'

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Minister for Small Business

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.05 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Communications and the Arts (Senator Alston), to a question without notice asked by Senator Faulkner today, relating to ministerial responsibility.

Today in question time we had a most extraordinary answer from a minister out of his depth. It has been a difficult week for Senator Alston, and I think we all acknowledge it. Today he has had to table a whole range of answers to questions which he had been unable to answer. He has been very disappointed, apparently, that the chamber has not taken due account of his new puffed-up position. We have seen the self-importance with which he comes into the chamber. It is his big chance, with Senator Hill overseas, to take the leadership of the coalition in the Senate. Sadly, Senator Alston blew it.

I must say, no-one in the opposition thought that he would blow it as badly today as he did in relation to the question asked of him about Mr Prosser when he compared the situation of Mr Prosser with the two senators who were forced to resign from this chamber—that is, Senator Short and Senator Gibson. I would like to remind the Senate of the situation in relation to Senator Short and Senator Gibson, as I mentioned in my question to Senator Alston today. On 15 October, the Prime Minister (Mr Howard) said this on Sydney radio:

Both of them—

that is, Senator Gibson and Senator Short—

have been forced to leave the Ministry—or in the case of Brian Gibson, cease as a Parliamentary Secretary—not because of any misleading of Parliament intentionally, not because of any wrong doing, simply because they were in technical default of the rules because they breached the requirement that there must be no appearance of a conflict of interest.

He went on to explain the situation in relation to Senator Gibson, which I touched on in my question. He went on to say:

In the same way Brian Gibson is a shareholder with his wife—and it's their superannuation from his previous business activities—in the holding company of a company that he granted a futures exemption to. I mean, there's been no personal gain of any description. But they were technically in breach and in those circumstances—there was an apparent conflict of interest—they had to go.

When asked today about this situation, whether it was enough for those two senators to resign their high office because of an appearance of a conflict of interest, do you know what Senator Alston said, Mr Acting Deputy President Watson? I will quote what he said today in question time. Book a time, Senator Alston, to come back in the chamber and explain yourself and dig yourself out of this hole. This is what he said, 'Senator Gibson acknowledged, I think very graciously acknowledged, that there was a conflict.' That is what he said. He went on to say, 'It does him great credit.'

What does that mean in relation to Mr Prosser and comparing his behaviour with that of Senator Gibson and Senator Short? What it means is this: the only implication any reasonable person can draw from that is that Mr Prosser should do the right thing too. Mr Prosser should do the right thing and resign. Oh, Senator Alston, what a job you have done today! Of course, I think that will be the implication that all Australians will draw from this. The difference between Mr Prosser's behaviour and Senator Gibson's and Senator Short's behaviour is apparently that Senator Gibson and Senator Short were willing. They were just more gracious.

Senator Bob Collins—And more creditable.

Senator FAULKNER—And more creditable, as Senator Collins says. They were more gracious and more creditable than Mr Prosser. They did the right thing, and to their great credit they did the right thing. According to Senator Alston, so gracious were these two senators. Of course, the truth of the matter is this—and this is the nub of it: it was not even the fact that there was a conflict of interest; it was an appearance of a conflict of interest. We certainly have that in relation to Mr Prosser: the conflict between his decision

making and his business interests. *(Time expired)*

Senator CRANE (Western Australia) (3.10 p.m.)—One thing that is very obvious is, whenever the other side sees somebody on our side of politics who is successful, they run on 'the politics of envy'. That is how they consistently operate. The situation is very clear when it comes to this lot on the other side. Just have a look at their operation in their time. They could not even have somebody who could run a sandwich shop and get it right. That is what we have over on the other side.

There is a very simple point in terms of the proposition you put. You are assuming—you are the judge; you are the jury—that Mr Prosser is guilty. Mr Prosser is not guilty. That is the simple answer to the particular question before us. He is not guilty. What he has done is shown that people who leave school at 14 and go out in the real world can make some money and can be successful. They can employ people, set up businesses and be successful. You run this line because, if somebody is successful and you cannot deliver anybody yourself, you want to get them thrown out. You want to attack them.

The reality is—and it is confirmed very clearly by the letter from Mr Greiner, which has been tabled in the other place, and therefore I do not have to table it here—that there was no misleading. There was no misuse of his position. He makes one telephone conversation, but that does not make him guilty of anything whatsoever. That has been made absolutely and totally clear by Mr Prosser in the other place.

Let us look at it a little bit more. What did you people do in terms of your principles? Even when Carmen Lawrence, who is in the other place, was found guilty by a royal commission, did she resign? No, she did not resign, did she? She was defended, and she was defended by you very people over there who are now making these claims before us at this point in time. Mr Prosser will live by his decision, and he will continue to be a very successful minister.

On the issue of Senator Faulkner attacking Senator Alston, it is absolutely and totally irrelevant to the question. In fact, Senator Alston has done a very good job, a successful job. He has stood in a very positive, strong way while Senator Hill has been absent from this place. You people should acknowledge that there is plenty of talent on this side of the chamber to handle these particular matters. That is what you have to acknowledge. It is about time you did start acknowledging that. Not only that, it comes up the tree. It is not like your side of politics. You do not even have one person who has made a success of anything over there, and you need to acknowledge that before you start these outrageous attacks on successful people like Mr Prosser.

Senator Sherry—This is about as successful as the Lightfoot defence.

Senator CRANE—That is totally irrelevant and has nothing whatsoever to do with it. I want to deal with a few aspects of the question before us and the matters that you are criticising. The first point that needs to be put down in this place—it has also been put down in the other place—is that, when it comes to matters in which Mr Prosser has an interest, Mr Moore will handle those. That needs to be put on the public record in this place. That is absolutely clear and has been put down. You people need to acknowledge that. You are very good at screaming and yelling and shouting about these particular matters, because you cannot offer anything more constructive or anything more useful to the debate at this time.

Finally, I say in the time that I have left that one of the things Senator Faulkner did acknowledge is that in our particular case, when there was an issue of this nature of substance, both Senator Short and Senator Gibson did do the right thing. This is not the same thing. Everyone on the other side of the chamber needs to understand that we are talking about two different things. Mr Prosser is not guilty of any offence. He has done the right thing in relation to this matter. He will continue to serve small business in this country extremely well. That is acknowledged in a statement that I have before me from none other than the Australian Small Business Association. Mr Siekmann, the director and spokesperson of ASBA, said that Mr Prosser

had shown no bias in his dealings with any matters related to the Reid report. *(Time expired)*

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (3.15 p.m.)—At the outset let me say that the opposition has not even made out a case to answer in relation to Geoff Prosser. What we have is a situation where the corroborating evidence indicates that Mr Prosser made a call to obtain a contact. The evidence from Nick Greiner is that there was no further discussion about any substance and that is borne out by the letter that he wrote to the parliament. That in itself excludes any allegation that Mr Prosser in any way talked about any business dealing. That rules out the first charge the opposition brings—that is, he was continuing to run his business.

What Mr Prosser did was hand over the running of his business to his brother. He also employed a manager. What do you expect someone to do when they come into parliament? Do they have to sell their house? Do they have to sell their business? Do they have to sell their farm?

Senator Murphy interjecting—

Senator ELLISON—Do they have to cut all ties with trade unions, Senator Murphy? Do they have to cut all ties with teaching? Do they have to cut all their ties with their previous life? Of course they do not. They draw upon their previous experiences and bring them to this chamber and the other place and they serve Australia well.

What we have with Mr Prosser is a fair landlord. That has been borne out by his tenants. He is the sort of man you want to be running a small business. He is the sort of man you want in the industrial area. He is the sort of man who could tell you how to reform your tenancy laws because his tenants stand by him and say he is a great man. They say he is fair and he is the sort of man you want as a landlord. What the government has said is that his partner in the portfolio—

Senator Sherry—Mr Acting Deputy President, I raise a point of order. I seem to recall that Senator Short and Senator Gibson were fair share traders.

The ACTING DEPUTY PRESIDENT (Senator Watson)—There is no point of order.

Senator ELLISON—Minister Moore will be looking at the response to the report in question. There is nothing wrong with that. He is in charge of industry—an allied area of the portfolio to small business. Any perception is easily overcome in that way. There is no perception at all in relation to this event which the opposition is trying to hang its hat on.

The opposition is trying to grasp a column of smoke because that is exactly what it is dealing with. There is nothing there. This phone call which they are relying on and which is corroborated by Nick Greiner was nothing more than a phone call for a contact. Mr Prosser stated his business interests very clearly for the record. He has declared them to the Prime Minister (Mr Howard). The process is totally transparent. I can say that the people of Australia have been sadly misled by the opposition when it maintains that this is a minister who is not fit to hold office.

The people of Australia are lucky to have a man like Geoff Prosser, a man who came up as an apprentice and at the age of 14 was running his own shop and at 16 was running a business. That is the sort of the person that Australia should admire. This man came up without formal qualifications. He is a self-made man. He has promoted employment in the area of Bunbury. I have seen it first hand. He employs many people now and has contributed to employment in the past. Are we saying that this person is unfit to hold the office of minister? Of course not because the fact is that there is no perceived conflict. To satisfy any of those on the other side who are crying foul, Minister Moore can quite adequately deal with the matter and refer to the response to this report that is being dealt with. That deals with it fair and square.

So on all three counts the opposition fails to bring a case that needs to be answered. In this case, you have a situation where a minister has acted properly and with transpar-

ency. There has been no question of him continuing to run his own business. He is at arms length from the business and his brother and the manager concerned have been running it.

I can say to the people of Australia that they can rest assured that they have a man in Geoff Prosser who is well capable of handling this portfolio. He understands both sides of the fence. He has been on both sides. He is a self-made man who had to lease premises himself. He then became an owner of premises. Most importantly, he is regarded as a fair landlord by his tenants and they have said so on the record. What more can you get than that.

He is the sort of person we need to be looking at this area of small business. He is the man who brought in the small business deregulation report. He is the man who instigated the most comprehensive review of deregulation in the small business area. That has been responded to by the business community. In my portfolio, I have responsibility for the response to deregulation in the food industry. That is something that was an initiative of Geoff Prosser. He is to be commended for it. History will look back on him and say that he was a great Australian.

Senator COOK (Western Australia) (3.21 p.m.)—I support Senator Faulkner's motion. Mr Prosser is clearly in breach of the guidelines that the Prime Minister (Mr Howard) imposed on all ministers. Prior to the last elections, one of the proudest boosts that the Prime Minister made was that he was going to clean up politics in Australia and he was going to do so by imposing guidelines of ministerial conduct and probity on his own ministers that he would expect them to live up to. Those guidelines set the hurdle.

The issue in this debate is: did Mr Prosser breach them? As soon as Mr Prosser's hand snuck out across his desk to lift the phone from the cradle to ring Nick Greiner to ask for an advantage for his private company in Bunbury he breached those guidelines. The defence that the government has put up is that he only asked Mr Greiner who his brother should speak to. Just take those words. He asked Mr Greiner, a director of Coles Myer, who his brother should speak to in order to get a Target store in Mr Prosser's Eaton property development. That was directly in the interests of advancing his company.

You do not need to go any further than that and you cannot have a defence that Mr Prosser does not daily oversee the affairs of his company. Various citizens of Bunbury are pleased to say on television that they see Mr Prosser around his shopping centre acting as a cleaner on weekends in his spare time. You do not have to go to that detail. The fact that he was asking a director of Coles Myer who his brother should, in the interests of the advancement of his company, speak to in that organisation was an act to advantage his organisation that he privately owned.

The issue here is a clear and open issue. Should a minister of the crown that has a public responsibility to all citizens of Australia use that office for private gain? Should he use a public office for private gain? Out of Mr Prosser's own mouth we have the words that, yes, he did seek to advantage his own private property holdings. For whose gain? For his brother's gain and for his gain. Let us not have this duplicitous argument that he did not breach the guidelines. He breached those guidelines.

He breached those guidelines in another way as well. Ministers and members of parliament rightly—and this is something for which the Labor Party has always argued—are to declare their pecuniary interests and put them on the public record so all Australians can see what private advantage members of parliament might have when they conduct themselves on public affairs in this nation. If they conduct themselves as to advantage their private interests then they have a conflict of interest and should stand down.

What does Mr Prosser put on the declaration of pecuniary interests? In terms of his own pecuniary interests, he has listed a number of his own companies. That is true. But when it comes to property holdings he has listed on his pecuniary interests: 'Bunbury—various lots.' Does that tell any Australian who comes along to inspect the pecuniary interest register what lots he holds, how many, what value, their strategic location, and

what development he wishes to carry on on those lots? Of course it does not. His entry on the pecuniary interest register is meant to obscure, not to enlighten, his holdings so Australians do not know the extent of his pecuniary interests.

On that ground alone he is in breach of one of Mr Howard's guidelines. But there are two grounds for his dismissal. The fact that he did and has confessed to misusing public office for private gain is a reason why he should be dismissed. The fact that he obscured the details of his pecuniary interests is a reason for him to be dismissed. There is no other argument about it.

The only argument that is left is: why hasn't the Prime Minister acted? Why does he allow one law for Jim Short and one law for the parliamentary secretary, Brian Gibson, who were forced to resign, and another law for Mr Prosser? What is the reason for this weakness or this duplicity? Simply, the Prime Minister is running scared and his government is looking shaky when more and more of his ministers get caught in the trap that Mr Howard set when he set those guidelines of ministerial conduct.

If you do not want your ministers to observe those guidelines, do not proclaim them. When you proclaim them and they break them, sack them. If you do not sack them, you are weak. If you do not sack them, you are not only weak but also complicit in supporting those transgressions. *(Time expired)*

Senator KNOWLES (Western Australia) 3.26 p.m.)—What we have heard today and what we have heard all week in terms of the Labor Party assault on Minister Prosser is the mere fact that there is no-one in the Labor Party who has anything to do with success, not a thing to do with success. There is not one single solitary person in the Labor ranks over here who has ever actually had to run a business. They have never actually had to pay the bills. They have never actually had to pay the on-costs. They are all basically union flunkeys.

Senator Sherry—Mr Acting Deputy President, I rise on a point of order. My point of order relates to repetition.

Senator Carr—Tedious repetition.

Senator Sherry—Tedious repetition. This was the defence offered in respect of Senator Short and Senator Gibson and they had to resign.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! There is no point of order. However, I ask you to withdraw the word 'flunkeys'.

Senator KNOWLES—I certainly withdraw that. I replace the word 'flunkeys'—I have now withdrawn; I should not repeat it—with the word 'hacks'. That is what they are. They are just simple trade union hacks. That is the problem. What this is all about is someone who is successful. What this is all about is a set of guidelines and a set of standards that were necessary to be put in place because the previous government had no standards. They had no standards whatsoever.

For example, let me cite the example of Dr Carmen Lawrence. Dr Carmen Lawrence was found guilty by a royal commission of lying, yet the Labor government did nothing to dismiss her. All they did was keep her on as minister and when they lost the election they not only kept her on but made her a shadow minister. Therefore, the Labor Party, the Labor government, had no standards whatsoever. The only experience that the Labor Party has ever had in business is in formulating policy that would ensure that big businesses become small businesses. That is their coup de grace. That is their big feat, their contribution, that they have given to this country.

Minister Prosser has set about employing people, has set about being successful, has set about making sure that there is success in this nation. He has stated his position clearly and repetitiously but people like Senator Sherry do not want to hear how many times Minister Prosser has explained to the parliament the way in which he has distanced himself from a number of areas that may be in any form of conflict. For example, the area that they are really worried about is retail tenancy. Retail tenancy happens to be a state matter. Why is it that they continue to push a line that they know to be false?

Senator Sherry—Why don't you commission a report into it?

Senator KNOWLES—But this is the way in which they play the game.

Senator Sherry interjecting—

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator Sherry will cease interjecting.

Senator Sherry interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Sherry, do not defy my order.

Senator Sherry—You should listen in.

The ACTING DEPUTY PRESIDENT—Senator Sherry, do not defy my ruling.

Senator KNOWLES—Senator Sherry is quite finished, is he?

Senator Bob Collins—I don't know.

Senator Sherry—We're listening to Mr Prosser's finish.

The ACTING DEPUTY PRESIDENT—Order! Senator Sherry, if you interject again I will name you.

Senator KNOWLES—Thank you, Mr Acting Deputy President. This is the type of reaction that we get from the Labor Party every time they try to get into the gutter where they left their ministers.

Senator Sherry interjecting—

Senator KNOWLES—Mr Acting Deputy President, I thought you were going to name him if he interjected again.

The ACTING DEPUTY PRESIDENT—Come on. Address your comments through the chair, Senator Knowles.

Senator KNOWLES—Senator Sherry just hasn't got the faintest idea about anything to do with this debate. All he can do is yell and scream from the other side of the chamber, yell and scream out of control. Why don't you go and yell and scream in the way in which your colleague did during the lunchtime debate?

Senator Murphy—Mr Acting Deputy President, I raise a point of order, and my point of order is this: Senator Knowles as an Acting Deputy President knows full well the standing orders and how they should be applied. Indeed, Mr Acting Deputy President, she attended a meeting, along with you and me, with regard to conduct and the way senators should address themselves in this chamber. So I would suggest, Mr Acting Deputy President, that you draw to her attention standing order 186(1) and that she should address her remarks through you.

Senator KNOWLES—Mr Acting Deputy President, I have done nothing but address my remarks through you. I have not referred in the first person to Senator Sherry at all.

Senator Sherry—What are you pointing at me for?

Senator KNOWLES—I will point at Senator Sherry for as long as I want to, because I can tell you that he is the guilty one. And we had a grubby, grubby, grubby little contribution from Senator Murphy, who knows so well what we have on him. Let us get down to grubby contributions. Why doesn't Senator Murphy explain why he has misused parliamentary allowances and why he has misused Commonwealth cars for three years? Oh, no, he will not explain that, but he is prepared to get into the gutter to try to persecute a minister who happens to be successful in his own right. That is totally and utterly unacceptable.

Senator MURPHY (Tasmania) (3.32 p.m.)—Firstly, I refer to the ministerial code of conduct that the Prime Minister (Mr Howard) introduced—

Senator Knowles interjecting—

Senator Bob Collins—Sit down, you thug!

Senator MURPHY—when the coalition won government. I want to refer to section 5 on page 11—

The ACTING DEPUTY PRESIDENT—Order! Senator Collins, will you withdraw the comment 'thug', please.

Senator Bob Collins—Certainly. Of course I will, Mr Acting Deputy President. Could I draw to your attention that Senator Knowles has been persisting with the most, I might say, grossly unparliamentary language now for several minutes. It was over the top, in fact.

Senator Knowles—Like what? Mr Acting Deputy President, I raise a point of order. Now that that is on the record and on air—

The ACTING DEPUTY PRESIDENT—It has been withdrawn.

Senator Knowles—No, just hold on for half a second. Senator Collins has actually said that I was interjecting with the most foul and unparliamentary language.

Senator Bob Collins—I didn't say 'foul' at all.

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator Knowles—Therefore, I would like this buffoon over here—I will withdraw that before you even ask. I would like Senator Bob Collins over there—

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator Knowles—I would like him to explain exactly where my language has been foul and unparliamentary.

The ACTING DEPUTY PRESIDENT—There is no point of order.

Senator Bob Collins—Mr Acting Deputy President, I rest my case.

Senator MURPHY—I will just go back to the ministerial code of conduct that was introduced by the Prime Minister in April of 1996. In particular, I refer to page 11 of that document where the first dot point says:

. Ministers are required to divest themselves of all shares and similar interests in any company or business involved in the area of their portfolio responsibilities. The transfer of interests to a family member or to a nominee or trust is not an acceptable form of divestment.

I now want to go to a speech that the Prime Minister made to the Business Council of Australia in March of 1996. It really relates to why the Prime Minister made such ado about the introduction of the ministerial code of conduct. He said:

One of the reasons why the respect for our institutions has declined is the way in which promises are too freely made and even more freely repudiated after governments are elected to power. I think part of the process of restoring trust and confidence in the process, the political process, is for governments to try to the best of their ability, and even beyond that if that's possible, to meet the commitments that they have made. And I have indicated to my colleagues and I have indicated publicly and I will go on indicating it publicly that nobody should imagine that I will lightly accept any repudiation of the commitments that we made to the people.

They did make a commitment with regard to parliamentary standards. They said that they were too low, and they claim, and the Prime Minister has gone on publicly claiming, that that was the very reason for the introduction of this ministerial code of conduct.

Let me come to the very point of what the Minister for Small Business and Consumer Affairs (Mr Prosser) has done. He has acted in his own self-interest in respect of his own company. He made a phone call to the former Premier of New South Wales, Mr Greiner, to ask him, as a director of Coles-Myer, whom he should contact—whom his brother should contact—to act in the interests of a company he owns.

Let us see what the Prime Minister said in respect of former Senator Short when he had to resign from his office. The Prime Minister said on 10 October 1996:

Let me make a couple of very direct points about Senator Short. Let me say at the outset of making those observations that at no stage has Senator Short sought to hide from the Australian public, or hide from anybody, the ownership of those ANZ Bank shares. At no stage, in my view, has Senator Short behaved dishonestly. At no stage, in my view, has Senator Short taken a decision which has been influenced or conditioned by his ownership of those shares.

He went on further to say:

Was he in breach of the guidelines? The answer is clearly that he was.

What is the difference between the action of Senator Short and that of Minister Prosser? None whatsoever. The ministerial code of conduct clearly says, and I repeat:

Ministers are required to divest themselves of all shares and similar interests in any company or business involved in the area of their portfolio responsibilities.

What is the case for Minister Prosser? Exactly that. That is why we have raised the questions. He has no right to use his position of high office to influence outcomes within his business, to provide a benefit to his business.

He has no right to do that and there are very legitimate reasons why we should raise those claims. I can go further with what the Prime Minister said about Senator Short. This is really where the Prime Minister has hung himself and nailed his intentions to the mast. He says very clearly:

> . . . Senator Short had at no stage made a decision that was influenced by the ownership of those shares—and that is the critical test of morality in this, that is the hard core test of morality here; you may not like it but you have to face that fact—to have asked for his resignation? If Senator Short had taken such a decision, I believe Senator Short's resignation would have automatically followed. But the fact is that he had not done so. Having been satisfied that his personal honesty in the matter was not in question, I took the decision, given the fact that it was in his early months as a member of the ministry . . .

That clearly indicates that Geoff Prosser—*(Time expired)*

Question resolved in the affirmative.

PERSONAL EXPLANATIONS

Senator KNOWLES (Western Australia) (3.39 p.m.)—Mr Acting Deputy President, I seek leave to make a personal explanation as I claim to have been misrepresented.

Leave granted.

Senator KNOWLES—Mr Acting Deputy President, I sought your guidance on a comment Senator Collins had made about my foul and unparliamentary interjections. I wish to put on the record that what I was interjecting at the time was simply asking what Senator Murphy was doing to redress the situation about his illegal use of Comcar for three years.

Senator Bob Collins—Point of order, Mr Acting Deputy President.

Senator KNOWLES—That was what I—

Senator Bob Collins—Point of order.

Senator KNOWLES—I am on a personal explanation.

Senator Bob Collins—Point of order. Mr Acting Deputy President, even the newest and the most tyro of senators knows that it is one of the grossest breaches of the standing orders of this Senate to cast any imputations or aspersions on a senator unless by way of a substantive motion. I ask you to call Senator Knowles to order immediately for doing so and demand that she withdraw it.

The ACTING DEPUTY PRESIDENT (Senator Watson)—If there was any imputation of illegal conduct on the part of a senator, Senator Knowles, you are obliged to withdraw.

Senator KNOWLES—Mr Acting Deputy President, what I will do then, is I will say to you—

Senator Bob Collins—Oh, no, you won't. Withdraw.

Senator KNOWLES—Just a minute.

The ACTING DEPUTY PRESIDENT—Senator, address the chair.

Senator KNOWLES—Thank you very much, Mr Acting Deputy President. I would appreciate some silence instead of the intimidation from these bullies over there. What I would like to say is that I will withdraw any illegal inference but I do wish to make a personal explanation—

Opposition senators interjecting—

Senator KNOWLES—Can I go on with my personal explanation, Mr Acting Deputy President?

The ACTING DEPUTY PRESIDENT—So you have withdrawn the imputation?

Senator KNOWLES—I have. But let me go on with my personal explanation, please.

The ACTING DEPUTY PRESIDENT—Thank you. Continue.

Senator KNOWLES—Thank you. The fact of the matter is that that is what I was saying. I was asking Senator Murphy about the use of that Comcar for three years. That is what Senator Collins claimed was unparliamentary. That is not unparliamentary.

The ACTING DEPUTY PRESIDENT—Thank you.

Senator MURPHY (Tasmania) (3.42 p.m.)—I seek leave to make a personal explanation.

Leave granted.

Senator MURPHY—Mr Acting Deputy President, I feel very sorry that Senator Knowles had to come in here and cast asper-

sions on me without any evidence whatsoever, and do so in response to a point of order I raised with her about her conduct in this chamber, and the fact that she had participated in a meeting of the deputy chairs with the President and the Deputy President which we discussed. As I now understand it, a letter has been circulated to all senators with regard to how senators should conduct themselves in this chamber. I raised what I think was a correct point of order about Senator Knowles's conduct in respect of your chairing of this particular debate. For Senator Knowles then to stand up and make totally unsubstantiated allegations is a very sorry situation. And that is exactly the case. It is rather appalling that a senator would use this chamber in the way in which Senator Knowles has done for what was a rather childish response—

Senator Faulkner—Gratuitous.

Senator MURPHY—Gratuitous, childish, stupid, dumb—

Senator Faulkner—Deceitful.

Senator MURPHY—Deceitful, yes, and probably anything else that you would like to hang on it—

The ACTING DEPUTY PRESIDENT—Order! Senator, you are starting to go beyond the personal explanation.

Senator Crane—Withdraw that last one.

Senator MURPHY—Deceitful? I withdraw deceitful. But by the same token it is a very unfortunate set of circumstances because it is very easy for all of us to come into this chamber from time to time and cast aspersions on other senators or members. We can do it easily. In fact, I could probably give any number about Senator Knowles, but I would not do that. Of course, Senator, one of your former Western Australian colleagues has got plenty to say about that.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator, you are going beyond a personal explanation now.

Senator MURPHY—Just to come back to the personal explanation—

Senator Knowles—Mr Acting Deputy President, I raise a point of order. I ask for that imputation against me to be withdrawn forthwith.

The ACTING DEPUTY PRESIDENT—Senator Murphy, I think it might be better if you were to conclude your personal explanation.

Senator Knowles—I want the imputation withdrawn, Mr Acting Deputy President.

Senator MURPHY—Just in conclusion, as I have said—

Senator Knowles—Mr Acting Deputy President, I am going to push it; I want the imputation withdrawn.

The ACTING DEPUTY PRESIDENT—On advice, there is no particular imputation. But, Senator Murphy, we suggest that you should wrap up your personal explanation.

Senator MURPHY—I thank you, Mr Acting Deputy President. As I have said, it is very easy for people to come in here and use the protection of parliament to cast aspersions upon others. I just have to repeat: it was an unsubstantiated stupid remark that Senator Knowles made.

PETITIONS

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

Gender Identity

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

The petition of the undersigned shows: That Australian citizens oppose social, legal and economic discrimination against people on the basis of their sexuality or transgender identity and that such discrimination is unacceptable in a democratic society.

Your petitioners request that the Senate should: pass the Australian Democrats Bill to make it unlawful to discriminate or vilify on the basis of sexuality or transgender identify so that such discrimination or vilification be open to redress at a national level.

by **Senator Allison** (from 39 citizens).

Superannuation

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

The petition of the undersigned recognises the importance to Australia's retirement income policy of a stable and secure superannuation system in

which people are encouraged, not penalised, for taking steps to provide for their retirement and asks that:

1. Coalition Senators honour their 1996 election promise, namely that 'The Coalition is fully committed to engendering stability, security, simplicity and flexibility into the superannuation system'.

2. The Liberal/National Government acknowledge that the inclusion of superannuation assets and roll-over funds in the social security means test is inequitable, erodes public confidence in the superannuation system and penalises those who have attempted to provide for their own retirement.

3. The Government repeal legislation including superannuation assets and roll-over funds in the social security means test.

by **Senator Woodley** (from 920 citizens).

Native Title

To the Honourable President and Members of the Senate of Australia:

The petition of certain citizens of Australia draws to the attention of the House our concerns about proposals to introduce legislation to extinguish native title. We feel such legislation would breach Australia's international obligations to uphold the principles of the Racial Discrimination Act. Such legislation would also severely impede the reconciliation process, and would rob Aboriginal people of their dignity and right to self-determination.

Your petitioners therefore request the House to:

reject proposed legislation to extinguish Aboriginal rights to native title under Common Law;

ensure any legislation passed maintains the integrity of the Racial Discrimination Act and respects the High Court's native title decisions; and

encourage negotiated agreements.

by **Senator Allison** (from 52 citizens).

Mobile Phone Base

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

The petition of the undersigned shows that certain citizens of Australia draws to the attention of the Senate their extreme concern at the proposal for a mobile phone base station to be erected on top of the Ettalong Beach War Memorial Club building. Furthermore, the Petitioners are concerned that with the proposed installation of 12 antennae and 4 microwave dishes within the Ettalong Beach commercial, retail, residential, school, recreational and leisure district, the health and welfare of countless people within the 300 metre danger zone will be adversely affected.

Your petitioners therefore request that the Senate act to ensure the installation of a mobile phone base does not proceed within 300 metres of any residential, school, commercial, retail, recreational or leisure area in Ettalong Beach.

by **Senator Neal** (from 731 citizens).

Mobile Phone Base

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

The petition of the undersigned shows that certain citizens of the Central Coast of New South Wales draw to the attention of the Senate their objection to the proposal to erect a mobile phone base station on top of the Ettalong Beach War Memorial Club building. Your petitioners are particularly concerned that position of the base station is within 300 metres of the Ettalong Public School and could potentially constitute a health risk.

Your petitioners therefore request that the Senate act to ensure that a carrier must not construct a mobile phone base station within 300 metres of a child care centre, kindergarten, school or hospital.

by **Senator Neal** (from 596 citizens).

Petitions received.

NOTICES OF MOTION

Introduction of Legislation

Senator BOLKUS (South Australia)—On my own behalf and that of Senator Kernot, I give notice that, on the next day of sitting, we shall move:

That the following bill be introduced: A Bill for an Act to require a plebiscite on whether Australia should become a republic. **Plebiscite for an Australian Republic Bill 1997**.

Foreign Affairs, Defence and Trade References Committee

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

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 1 July 1998:

Australia in relation to Asia Pacific Economic Cooperation (APEC), with particular reference to:

(a) APEC's progress towards Australia's economic, trade and regional objectives and the domestic implications;

(b) the benefits of 'open regionalisation' versus a free trade bloc;

(c) the importance to APEC of subregional groupings including the Association of South East Asian Nations, North American Free Trade Area, Asia-Europe Meeting, East Asia Economic Caucus and Australia-New Zealand Closer Economic Relations Agreement; and

(d) future directions of APEC.

Community Standards Committee

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

That the resolution of 20 May 1996, as amended on 21 November 1996, appointing the Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies be further amended to provide that:

(a) the name of the committee be changed to Senate Select Committee on Information Technologies; and

(b) the term of appointment of the Select Committee on Information Technologies be extended till the end of the 38th Parliament to enable the committee:

(i) to receive and consider the outstanding government responses to its earlier reports,

(ii) to evaluate the development of self-regulatory codes in the information industries, and

(iii) to monitor the personal, social and economic impact of continuing technological change created by industries and services utilising information technologies.

Gifts to the Senate

Senator WEST (New South Wales)—As indicated by the President in the Senate on 16 June, I give notice, on the President's behalf, that, on the next day of sitting, I shall move:

That the Senate resolves that the following procedures apply for the declaration by senators of their receipt of any gift intended by the donor to be a gift to the Senate or the Parliament:

(1) (a) Any senator, including any Senate officer-holder and any senator who is a leader or a member of a parliamentary delegation, who in any capacity receives any gift which is intended by the donor to be a gift to the Senate or the Parliament must, as soon as practical, place the gift in the custody of the Registrar of Senators' Interests and declare receipt of the gift to the Registrar.

(b) A gift is to be taken as intended to be a gift to the Senate or the Parliament where:

(i) the donor expressly states that the gift is to the Senate or to the Parliament; or

(ii) the identity of the donor, the nature of the occasion, or the intrinsic significance or value of the gift is such that it is reasonable to assume that the gift was intended for the Senate or the Parliament; or

(iii) the gift has a value in excess of:

(A) $500 when given by an official government source, or

(B) $200 when given by a private person or non-government body on any occasion when the senator is present in his or her capacity as a senator, Senate office-holder or delegation leader or member.

(c) The Registrar of Senators' Interests is to maintain a public Register of Gifts to the Senate and the Parliament.

(d) The Committee of Senators' Interests is to recommend to the President whether, and how, the gift is to be used or displayed in Parliament House, including in the office of any senator, or used or displayed on loan elsewhere, including in a museum, library, gallery, court building, government building, government office or other place.

(e) Where a gift given to a senator is intended to be for the Parliament, the President is to consult with the Speaker prior to agreeing to a recommendation of the committee as to its use, display or loan.

(f) Where the President disagrees with a recommendation of the committee, the President is to report the disagreement to the Senate, which may determine the use, display or loan of the gift in question.

(g) In making recommendations the committee is to take into account the intention of the Senate that gifts are to be used, displayed or loaned in a way which:

(i) reflects proper respect for the intentions of the donor and the dignity of the Senate or the Parliament;

(ii) recognises the interest of the public in gifts to the Senate or the Parliament; and

(iii) takes account of practical issues including space, custody, preservation and

propriety in the use, display or loan of such gifts.

(h) Where a senator is uncertain of the nature of a gift the senator may request advice from the committee.

(i) Where a senator disagrees with the advice of the committee the senator is to report the disagreement to the Senate, which may determine the nature of the gift and its use, display or loan, if any.

(j) In paragraph (1) a reference to a gift to the Parliament includes a gift given to a senator for the House of Representatives.

(2) This resolution applies to a gift received by the spouse, family member or staff member of a senator on any occasion when the senator is present in his or her capacity as a senator, Senate office-holder or delegation leader or member, as if the gift had been received by the senator.

(3) The committee:

(a) is empowered to consider any matter placed before it pursuant to this resolution, and for the purposes of this resolution the committee has the powers provided in the resolution of 17 March 1994 establishing the committee; and

(b) may make, and must as soon as practicable thereafter table, procedural rules to facilitate the operation of this resolution.

(4) Any senator who:

(a) knowingly fails to tender and declare a gift that is taken to be a gift to the Senate or the Parliament as required by this resolution; or

(b) knowingly fails to return to the Registrar a gift which it was agreed or determined the senator might use or display; or

(c) knowingly provides false or misleading information to the Registrar or the committee,

is guilty of a serious contempt of the Senate and is to be dealt with by the Senate accordingly, but the question whether any senator has committed such a contempt is to be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.

Consideration of Legislation

Senator CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)—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:

Income Tax Rates Amendment Bill (No. 1) 1997

Taxation Laws Amendment Bill (No. 3) 1997.

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

Leave granted.

The statements read as follows—

TAXATION LAWS AMENDMENT BILL (No 3) 1997

INCOME TAX RATES AMENDMENT BILL (No 1) 1997

Purpose of the proposed Bills:

The Bill implements five election commitments—capital gains tax exemption on retirement, rebate for spousal superannuation, superannuation contributions above age 65, an exemption from FBT for remote area housing in the primary production sector and extension of the CGT principal residence exemption for beneficiaries of inherited homes. One commenced on 20 August 1996, another on 1 April 1997 and the remaining three will commence on 1 July 1997.

The Bill also implements several 1996 budget measures (additional changes to the CGT principal residence exemption, CGT: subsidiary company liquidations, CGT: gains and losses) and a number of announcements made by the Treasurer during 1996 and 1997.

A number of technical amendments to the family tax initiative legislation and research and development provisions are also in the Bill.

Reasons for urgency:

The election commitments relating to the CGT exemption on retirement, rebate for superannuation contributions made on behalf of a low-income or non-income earning spouse and superannuation contributions above age 65 commence on l July 1997. The exemption for remote area housing in the primary production sector commences on 1 April 1997 and the measure relating to the CGT principal residence exemption applies to disposals after 7.30pm on 20 August 1996. The beneficiaries of these measures include small business and primary producers. In addition the superannuation measures form part of the Government's package to enhance self-provision for retirement.

Taxpayers seeking to take advantage of the election commitments need certainty concerning the content

of the legislation before they take action in order to benefit from the concessions.

In relation to the increase in the age limit for superannuation contributions from 65 to 70, regulations under the Superannuation Industry (Supervision) Act 1993 to increase the general age limit to 70 from 1 July have already been made. In the absence of the passage of the legislation there will be no parallel requirement for employers to provide superannuation support for employees between 65 and 70 from 1 July 1997.

The other measures generally commence application during the 1996-97 year (if not earlier) and include:

tax deductible status for gifts to certain organisations;

tax treatment of depreciation of lessor's fixtures;

tax treatment of compensation payments under the firearms surrender arrangements;

removal of the sales tax exemption for telecommunications and audio visual equipment

Passage of the legislation on these measures is necessary to provide certainty for taxpayers in completing their 1996-97 income tax returns where they are affected by these measures. It will be difficult for taxpayers to accurately complete their returns without the law on these issues being settled.

In relation to the tax deductible status for gifts to certain organisations potential donors may not be willing to make donations until they the legislation is passed to ensure that the donations will be tax deductible.

The technical amendments to the family tax initiative legislation will ensure that certain categories of taxpayers receive their correct entitlement to family tax assistance, which commenced on 1 January 1997 and which will form part of their 1996-97 tax return.

Result if Bills not dealt with in these sittings:

Some taxpayers will be uncertain of their obligations and there will be difficulties for taxpayers completing their 1996-97 returns and for the Commissioner of Taxation in processing. Taxpayers who may qualify for tax benefits under the election commitments who take action based on the proposed legislation cannot be certain that they will qualify until the legislation has passed.

CIRCULATED BY THE AUTHORITY OF THE ASSISTANT TREASURER

Greenhouse Gas

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

That the Senate—

(a) notes that:

(i) there is growing speculation about the imposition of sanctions against industrialised nations which do not sign on to binding greenhouse gas emission reduction targets, and

(ii) such sanctions would result in job losses to Australia, would be devastating for industries such as the wine and dairy industries and would be to our economic disadvantage; and

(b) calls on the Australian Government to:

(i) abandon its ill-conceived and ill-fated push for differentiated targets,

(ii) cooperate with the rest of the world in developing binding targets and timetables for greenhouse gas emissions, and

(iii) pursue the new job opportunities available if Australia puts in place energy conservation measurers and embraces new technologies.

Great Barrier Reef Marine Park Regulations

Senator O'CHEE (Queensland)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, I shall move:

That the Great Barrier Reef Marine Park Regulations (Amendment), as contained in Statutory Rules 1997 No. 96 and made under the Great Barrier Reef Marine Park Act 1975, be disallowed.

Mr Acting Deputy President, I seek leave to make a short statement about the committee's concerns with this legislation.

Leave granted.

Senator O'CHEE—The regulations provide enforcement provisions in relation to the Shoalwater Bay (Dugong) Plan of Management. Penalties are provided for the breach of specific provisions of the plan, but the burden of proof is placed on the defendant. The explanatory statement does not explain why it is necessary to reverse the usual onus of proof, and the committee has written to the minister for advice.

Unemployment

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

That the Senate—

(a) notes:

(i) with concern, that in the State of Tasmania the current unemployment level of 10.4 per cent is the highest in the country and 1.6 per cent higher than the national average,

(ii) that Australian Bureau of Statistics Building Activity report figures show that, while there has been a national increase in new dwelling commencements, there has been an 18.3 per cent decrease in Tasmania, and

(iii) the commitment contained in the Tasmanian package policy statement issued by the Prime Minister (Mr Howard) on 7 February 1996 which stated that, '…Tasmania has a unique place in the Commonwealth. The Federal Government has a special responsibility to achieve equality for Tasmanians in developing opportunities for their State…'; and

(b) calls on the Government to stand by that commitment and consult with the Tasmanian State Government to immediately initiate real solutions to address Tasmania's depressed economy and increasing unemployment problem.

Conference for Older Australians

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

That the Senate—

(a) notes that:

(i) the Conference for Older Australians held its inaugural meeting on 20 June 1997,

(ii) this is the body which will forge Australia's approach to ageing, focusing on the International Year of Older Persons in 1999,

(iii) the 10-member conference includes Australians from diverse backgrounds with a wide spectrum of expertise and interest in ageing, and

(iv) with one in every four Australians to be aged over 65 by the year 2020, addressing issues relevant to ageing and challenging the negative stereotypes that exist in relation to ageing are vital to all Australians; and

(b) supports the conference in its role in promoting a positive image of older people through raising awareness, changing attitudes, celebrating diversity, fostering intergenerational interaction and understanding, and promoting a whole-of-government and community approach to ageing.

Greenhouse Gas

Senator LEES (South Australia—Deputy Leader of the Australian Democrats)—I give notice that, on the next day of sitting, I shall move:

That there be laid on the table, no later than 12 midday on 27 June 1997, all Australian Bureau of Agricultural and Resource Economics documents which support the claims made by the Prime Minister (Mr Howard) that binding greenhouse gas emission reduction targets would 'cut wages by 20 per cent by 2020' and mentioned by the Acting Minister for the Environment (Senator Parer) in his answer to Senator Lees' question in question time on 25 June 1997 relating to this matter.

Introduction of Legislation

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

That the following bill be introduced: A Bill for an Act to amend the Telecommunications Act 1997 to prohibit B-party charging of Internet service providers, and for related purposes. **Telecommunications Amendment (Prohibition of B-Party Charging of Internet Service Providers) Bill 1997**.

Treatment Works Week

Senator LEES (South Australia—Deputy Leader of the Australian Democrats)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that 20 to 27 June 1997 is Treatment Works Week, a week which aims to promote the value of treatment, early intervention, prevention and education in solving Australia's drug problems;

(b) congratulates the Alcohol and Other Drugs Council of Australia for its initiative in launching Treatment Works Week;

(c) commends the Prime Minister (Mr Howard) for seeking an active involvement in Treatment Works Week; and

(d) calls on the Prime Minister to back his involvement with an increase in the Commonwealth's funding commitment to alcohol and drug treatment and rehabilitation programs.

Greenhouse Gas

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

That the Senate—

(a) notes that:

(i) between 1970 and 1992, energy-related carbon dioxide emissions, per unit of output, in Australia declined by 13 per cent, while they declined by 36 per cent in the Organisation for Economic Cooperation and Development, and

(ii) over the past 10 years, energy consumption in Australia has increased at the rate of 2.1 per cent per annum, compared with the International Energy Agency average of 1.1 per cent; and

(b) calls on the Australian Government to:

(i) cooperate with the rest of the world in developing common binding targets and timetables for greenhouse gas emissions, and

(ii) pursue the new job opportunities available if Australia puts in place energy conservation measures and embraces new technologies.

Greenhouse Gas

Senator LEES (South Australia—Deputy Leader of the Australian Democrats)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes:

(i) electrical efficiency alone is a US $5 billion (Aus $6.7 billion) a year business in the United States of America, and

(ii) 131 Australian economists have released a statement saying that policies are available to reduce greenhouse gas emissions without harming the Australian economy; and

(b) calls on the Australian Government to:

(i) abandon its ill-conceived and ill-fated push for differentiated targets,

(ii) cooperate with the rest of the world in developing binding targets and timetables for greenhouse gas emissions, and

(iii) pursue the new job opportunities available if Australia puts in place energy conservation measures and embraces new technologies.

Greenhouse Gas

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

That the Senate—

(a) notes that:

(i) the Australian Government's proposal for differentiated targets for greenhouse gas emissions is contrary to the 'polluter pays' principle, which has been an accepted cornerstone of environmental policy both in Australia and internationally for many years,

(ii) other countries' proposals for differentiation would require countries like Australia, which emit more than their fair share, to reduce their emissions by more, and

(iii) such proposals would be worse for Australia than uniform targets; and

(b) calls on the Australian Government to:

(i) abandon its ill-conceived and ill-fated push for differentiated targets,

(ii) cooperate with the rest of the world in developing binding targets and timetables for greenhouse gas emission reductions, and

(iii) pursue the new job opportunities available if Australia puts in place energy conservation measures and embraces new technologies.

Endangered Species

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

That the Senate—

(a) notes, with concern, the decision made at the recent conference in Harare on the Convention on International Trade in Endangered Species to recommence an ivory trade between a number of African nations and Japan;

(b) commends the position the Australian Government took at the conference in opposing the move and the Government's recognition that the previous ban on trading ivory had contributed significantly to the recovery of elephant populations in Africa;

(c) recognises the need to protect Australia's native wildlife and preserve Australian and global ecosystems; and

(d) expresses its support for the long-standing Australian Government policy preventing the live exportation of native wildlife.

ORDER OF BUSINESS

Superannuation Committee

Motion (by **Senator Chris Evans**, at the request of **Senator Sherry**) agreed to:

That general business notice of motion No. 657 standing in the name of Senator Sherry for today, relating to the reference of matters to the Select Committee on Superannuation, be postponed till the next day of sitting.

Tobacco Advertising

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

That general business notice of motion No. 671 standing in the name of Senator Lees for today, proposing an order for the production of a document by the Minister representing the Minister for Health and Family Services (Senator Newman), be postponed till the next day of sitting.

Migration Regulations

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

That business of the Senate notices of motion Nos 1 and 4 standing in the name of Senator Margetts for today, relating to the disallowance of regulations of the Migration Legislation (Amendment), be postponed till 25 August 1997.

Human Biological Products Committee

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

That general business notice of motion No. 663 standing in the name of Senator Lees for today, relating to the appointment of a select committee on human biological products, be postponed till the next day of sitting.

Community Affairs References Committee

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

That business of the Senate notice of motion No. 3 standing in the name of Senator Bishop for today, relating to the reference of matters to the committee, be postponed till the next day of sitting.

Greenhouse Gas

Motion (by **Senator Lees**, also at the request of **Senator Murray**) agreed to:

That general business notice of motion No. 669 standing in the name of Senator Lees for today, and general business notice of motion No. 670 standing in the name of Senator Murray for today, relating to greenhouse gas emissions, be postponed till the next day of sitting.

Human Pituitary Hormones

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

That general business notice of motion No. 659 standing in the name of Senator Bishop for today, relating to human pituitary hormone recipients, be postponed till the next day of sitting.

Orca Whales

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

That general business notice of motion No. 656 standing in the name of Senator Allison for today, relating to the capture of orca whales, be postponed till the next day of sitting.

Work for the Dole Program

Motion (by **Senator Woodley**, at the request of **Senator Kernot**) agreed to:

That general business notice of motion No. 666 standing in the name of Senator Kernot for today, proposing an order for the production of documents by the Minister for Employment, Education, Training and Youth Affairs (Senator Vanstone), be postponed till the next day of sitting.

NOTICES OF MOTION

Status of Women

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

That there be laid on the table by the Minister assisting the Prime Minister for the Status of Women (Senator Newman), by 27 June 1997, the amended detail of Australia's implementation report for the Platform of Action from the Fourth United Nations World Conference on Women, to be presented in New York in July 1997 to the United Nations Commission on the Status of Women.

COMMITTEES

Economics References Committee

Extension of Time

Motion (by **Senator Chris Evans**, at the request of **Senator Jacinta Collins**) agreed to:

That the time for the presentation of the report of the Economics References Committee on paragraphs (a)(i) and (a)(ii) of the committee's reference, Promoting Australian Industry: elements of industry policies in Australia, be extended to 25 November 1997.

SOCIAL SECURITY AMENDMENT (ENTRY PAYMENTS) BILL 1997

Introduction

Senator CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)—I ask that government business notice of motion No. 1, standing in my name and relating to the introduction of the Social Security Amendment (Entry Payments) Bill 1997, be taken as formal.

Leave not granted.

COMMITTEES

Finance and Public Administration References Committee

Extension of Time

Motion (by **Senator Chris Evans**, at the request of **Senator Murphy**) agreed to:

That the time for the presentation of the report of the Finance and Public Administration References Committee on the necessity for public accountability of all government services provided by government contractors be extended to 22 September 1997.

SUN FUND BILL 1997

First Reading

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

That the following bill be introduced: a Bill for an Act to amend legislation relating to Customs and Excise to provide for the establishment of the Sun Fund, and for related purposes.

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

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

Bill read a first time.

Second Reading

Senator BROWN (Tasmania) (4.04 p.m.)—I move:

That this bill be now read a second time.

I seek leave to table the explanatory memorandum and have the second reading speech incorporated in *Hansard.*

Leave granted.

The speech read as follows—

The Sun Fund is an $85 million per annum plan that would enable farmers and others who receive the diesel fuel rebate for electricity generation to opt instead for an upfront grant towards the cost of installing renewable energy systems.

This positive, creative and practical scheme has benefits all round—for farmers, miners and others who can get a grant towards the cost of installing renewable energy systems, for jobs and investment in the renewable energy industry which would get a massive boost, and for the environment with a direct reduction in greenhouse gas emissions. Furthermore, the Sun Fund is revenue neutral for the government since it uses money that would otherwise be paid as diesel fuel rebate and, over time, positive because diesel generation will be permanently replaced by renewable sources.

People who are eligible for the diesel fuel rebate can opt to apply instead for a grant from the Sun Fund to install photovoltaic, wind or solar thermal systems. The grant is up to ten times the amount they would otherwise receive in a year as diesel fuel rebate for electricity generation—about $7 500 for a farmer running a system to supply a moderate-sized home and machinery. Over a ten year period, a farmer converting to photovoltaics would be $5 000 better off than staying with diesel and, in a site that is economic for wind power, the farmer would be $18 000 better off.

The potential market from replacement of diesel electricity generation by renewables is 600 MW. This is no small potential—600 MW is half the output supplied by Tasmania's 39 hydro-electric dams. And compared with the current installed capacity of photovoltaics and wind in Australia, 600 MW represents a massive 40-fold expansion.

These industries are already export-oriented, and poised to benefit from the stimulus that the Sun Fund would provide. They export about half their product at present. A recent study by the Department of Primary Industries and Energy shows that the global market for solar cells is growing, with the largest demand from Asia, and that Australia has about 9 per cent of world production (*Renewable Energy Industry, Survey on Present and Future Contribution to the Australian Economy,* DPIE, May 1997).

As the Climate Change Convention Conference of Parties in Kyoto in December draws near, there will be immense pressure on Australia to show that it is genuinely tackling greenhouse gas emissions, especially if the government persists in its irresponsible special pleading for exemption from mandatory targets. Having abolished funding for renewable energy research and development, halved the energy efficiency program, taken no action to bring new vehicle fuel efficiency into line with US and European standards, or to implement other 'no regrets' measures, Australia's stance is cynical and hypocritical.

The Sun Fund is one easy measure to help redress the balance.

In the Senate, when the Sun Fund was originally debated it received general, in-principle support:

. . . this rather nicely phrased 'sun fund' is not only a very attractive idea emotionally and conceptually but also a practical idea. . .

Senator Murray (Australian Democrats)

In principle I can understand and support the idea. . . In some respects I find it imaginative. . .

Senator Cook (ALP)

We are always open to any new and imaginative ideas that might promote this industry because it does have a market. . .

Senator Parer (Coalition)

The concept [of the Sun Fund]. . . is certainly worthy of support from BP Solar's point of view. Not only will the funds assist in reducing carbon dioxide emissions, but they will also provide an excellent base business for Australian companies working in the renewable energy sectors with obvious benefits in employment throughout Australia.

Richard Collins, Manager, Renewable Power Systems, BP Solar

The Sun Fund is a great opportunity for the government in particular to show a positive response to a great idea that is a winner, not only for the environment but for farmers, miners and business, particularly small business, in this country.

This bill is the opportunity to move from in-principle support to adoption and implementation. I commend the bill to the Senate.

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

KALPANA CHAKMA

Senator WOODLEY (Queensland)—At the request of Senator Bourne, I ask that government business notice of motion No. 650, standing in the name of Senator Bourne and relating to the abduction of Kalpana Chakma, an activist from the Jumma peoples of Bangladesh, be taken as formal.

Leave not granted.

LOGGING AND WOODCHIPPING

Motion (by **Senator Brown**) proposed:

That the Senate—

(a) notes that the Minister for Primary Industries and Energy (Mr Anderson) granted a degraded forest licence to North Forest Products in February 1997 which permits the clearing and woodchipping of over 3 000 hectares of pure rainforest, as well as other old-growth forest, on the Surrey Hills estate, Tasmania;

(b) considers that the Minister for the Environment (Senator Hill) misled the Senate on 6 May 1997, both in his answer to a question without notice from Senator Brown, and in additional information he provided later in the day, in that:

(i) the Minister claimed that 'very little rainforest was involved at all' and later that 'pristine rainforest was actually excluded on my advice, beyond that it had already been voluntarily excluded by North. . . So all care was taken in relation to rainforest', whereas in fact at least 3 000 hectares of pure callidendrous (cathedral-like) rainforest were licensed for woodchipping,

(ii) the Minister stated that 'the assessment of the Forest Practices Board was to find that the Surrey Hills block was degraded', but in fact:

(A) the Tasmanian Forest Practices Board did not conclude that the Surrey Hills forests were 'degraded' and found that 'very little floristic change could be detected in disturbed rainforests',

(B) a CSIRO evaluation of the report by the Forest Practices Board found that there was insufficient data to determine whether the forests were degraded, and

(C) the Minister had been advised by his department on 24 February 1997 that 'it is not possible to give an informed opinion as to whether the remaining native forest (which includes the rainforest) on the estate is degraded, to what extent it might be degraded or over what area it might be degraded';

(c) considers that the Minister for Primary Industries and Energy acted improperly in engaging the Tasmanian Forest Practices Board to assess whether the forests were degraded, in that:

(i) despite being required under sections 14(3)(b) and 14(4) of the Export Control (Hardwood Wood Chips) (1996) Regulations to engage a forest assessor who was independent of the applicant, the Minister selected the Forest Practices Board, which had received $60 000 from North Forest Products in the 1994-1995 financial year, and

(ii) the Minister stated in a letter to Senator Hill on 4 October 1996 'that there is a

view in the community the board may be too closely associated with industry'; and

(d) calls on the Government to:

(i) immediately suspend the degraded forest licence issued to North Forest Products and place a moratorium on the export of woodchips from the Surrey Hills estate, and

(ii) conduct an independent inquiry into the circumstances surrounding the issuing of the licence, including an independent assessment of the values and condition of the forests of the Surrey Hills estate.

Question put:

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

The Senate divided. [4.11 p.m.]

(The Deputy President—Senator S. M. West)

Ayes	9
Noes	41
Majority	32

AYES

Allison, L.	Bourne, V.*
Brown, B.	Kernot, C.
Lees, M. H.	Margetts, D.
Murray, A.	Stott Despoja, N.
Woodley, J.	

NOES

Bishop, M.	Boswell, R. L. D.
Calvert, P. H.*	Campbell, I. G.
Carr, K.	Collins, J. M. A.
Collins, R. L.	Colston, M. A.
Cook, P. F. S.	Coonan, H.
Cooney, B.	Crane, W.
Crowley, R. A.	Eggleston, A.
Ellison, C.	Evans, C. V.
Ferguson, A. B.	Foreman, D. J.
Forshaw, M. G.	Gibbs, B.
Harradine, B.	Heffernan, W.
Hogg, J.	Knowles, S. C.
Lightfoot, P. R.	Lundy, K.
MacGibbon, D. J.	McGauran, J. J. J.
McKiernan, J. P.	Minchin, N. H.
Murphy, S. M.	Neal, B. J.
O'Brien, K. W. K.	O'Chee, W. G.
Patterson, K. C. L.	Reynolds, M.
Schacht, C. C.	Tierney, J.
Vanstone, A. E.	Watson, J. O. W.
West, S. M.	

*** denotes teller**

Question so resolved in the negative.

COMMITTEES

Superannuation Committee

Extension of Time

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

That the time for the presentation of the report of the Select Committee on Superannuation on the appropriateness of current unfunded defined benefit superannuation schemes' application to judges and parliamentarians be extended to 1 September 1997.

COMMUNITY SECTOR SUPPORT SCHEME

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

That there be laid on the table, by the Minister representing the Minister for Health and Family Services (Senator Newman), no later than 3 pm on 26 June 1997, the full final report of the review of the Community Sector Support Scheme undertaken by Coopers and Lybrand for the Department of Health and Family Services.

MATTERS OF URGENCY

Australian Sugar Industry

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 25 June, from Senator Cook:

Dear Madam President

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

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

The need to secure the future of the Australian sugar industry and to create an environment which supports our sugar exports, noting in particular;

(a) the Government's election commitment not to reduce the sugar tariff below the present level of $55 per tonne, as Australia had already met its current obligations under the World Trade Organisation agreement;

(b) the fact that Australia's Uruguay Round obligation for sugar is a tariff of $70 per tonne by the year 2000, and Australia's current tariff, at $55 per tonne, sits comfortably within that obligation;

(c) the fact that many of our export destinations have sugar tariffs massively higher than Australia, which suggests that there is no reason for Australia to go it alone on the sugar tariff for example the USA with a 100% tariff level, Thailand with a 104% tariff and the European Union with a 170% tariff level;

(d) the fact that, despite the above, the Government has decided to abolish the sugar tariff effective from 1 July 1997;

(e) the fact the abolition of the tariff will mean job losses and a loss of $27 million for Australian sugar growers; and

(f) the fact that the Government has no plans to bring this measure before the Parliament for debate before it comes into effect on 1 July this year."

Yours sincerely

PETER COOK

Is the proposal supported?

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

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times for each of the speakers in today's debate. With the concurrence of the Senate, I will ask the clerks to set the clock accordingly.

Senator COOK (Western Australia) (4.17 p.m.)—I move:

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

The need to secure the future of the Australian sugar industry and to create an environment which supports our sugar exports, noting in particular;

(a) the Government's election commitment not to reduce the sugar tariff below the present level of $55 per tonne, as Australia had already met its current obligations under the World Trade Organisation agreement;

(b) the fact that Australia's Uruguay Round obligation for sugar is a tariff of $70 per tonne by the year 2000, and Australia's current tariff, at $55 per tonne, sits comfortably within that obligation;

(c) the fact that many of our export destinations have sugar tariffs massively higher than Australia, which suggests that there is no reason for Australia to go it alone on the sugar tariff for example the USA with a 100% tariff level, Thailand with a 104 % tariff and the European Union with a 170% tariff level;

(d) the fact that, despite the above, the Government has decided to abolish the sugar tariff effective from 1 July 1997;

(e) the fact the abolition of the tariff will mean job losses and a loss of $27 million for Australian sugar growers; and

(f) the fact that the Government has no plans to bring this measure before the Parliament for debate before it comes into effect on 1 July this year.

I note the change in the chair. Senator Reynolds from Queensland, who has a particular interest in the sugar industry, is now presiding in this chamber.

The last three points of this motion are immediately important to the Senate. Let me go directly to them. The fourth point is the fact that, despite all the things that we said above in this amendment, the government has decided to abolish the sugar tariff effective from 1 July. In some six days time, the tariff in the sugar industry will be abolished. The fifth point is the fact that the abolition of the tariff will mean job losses and a loss of $27 million for Australian sugar growers, a significant blow against the industry.

Importantly and lastly, the sixth point is the fact that the government has no plans, does not intend and is not going to bring this measure before the parliament for debate before it comes into effect on 1 July this year. It is therefore for the opposition to bring the future of the sugar industry in Queensland before the parliament. The government, in taking this action to unilaterally remove tariff protection for the industry, will not. On that ground, and on that ground alone, this government should be condemned.

In this debate that has now been raging around Australia for some time, the shadow minister for industry and regional development, Mr Crean, has been the leading figure. I now want to go to what Mr Crean said in summarising the position for the opposition. In a feature article in the *Australian Financial Review* in April this year, under the heading 'Australia's future is in industry', Mr Crean said:

In 1993 Labor froze the sugar tariff and kept the single desk for exporting. This newspaper—

He is referring to the *Australian Financial Review*—

condemned the move at the time, as did the Industry Commission, predicting that it would impose significant cost and restrict the industry's growth. Yet this month it applauded the growth of the sector over the past decade, pointing to the fall in protection, and concluding that this made the

Howard Government's decision to scrap sugar tariffs "the correct call".

This is the significant part:

It failed to recognise that more than half the industry's growth took place in the last three years, the period in which the tariff rates were frozen. In the case of exports, almost two-thirds of the increase took place in this period.

In 1993, reducing tariffs was not the central issue. Opening up production was. Labor used the tariff as a bargaining chip with producers and the Queensland Government to free up land use and ensure expansion of the industry. Not only is Labor's present policy on the sugar industry consistent with our past approach, it is a policy that worked.

In terms of our international obligations, Labor remains committed to the APEC timetable for free trade. Having invested so heavily in achieving the agreement, it would be lunacy to scrap it.

But this is not just a timetable for us. We are already well ahead of the pack in meeting our obligations. We're simply saying that the others have to do some catching up. We want them to be with us at the finishing line in 2010 and 2020.

In the sugar industry, for example, our Uruguay Round obligation is for a 5% tariff by 2000, not a zero tariff by 1997. The US maintains a 100 per cent tariff. Thailand 104 per cent and the EU 170 per cent.

That summarises the case that I and other opposition speakers will put in this debate today. This matter is urgent, as I have said, because in six days time the government will remove existing levels of protection after holding a gun at the head of the industry, forcing them into a situation where some in the industry have announced their support and many in the industry have announced their opposition.

There are six grounds upon which I propose this motion. Ground 1 is that it breaks a solemn election promise made by the government to this industry in the 1996 election. Ground 2 is that the industry was forced, by the government holding a gun at their heads, into a position where some agree. Ground 3 is that it is a sell-out by various of the politicians in the sugar seats in Queensland and New South Wales who, rather than represent the interests of their constituencies, are in fact supporting the government against the interests of their own voters.

Ground 4 is that there is considerable financial loss to the industry by the measure that the government proposes to peremptorily enact. Ground 5 is that it represents an inconsistency in treatment between various industry sectors. Witness the government's position on the car industry, the announced position by the Minister for Industry, Science and Tourism (Mr Moore) on the textiles, clothing and footwear industry and the reverse approach being taken in this industry.

Ground 6 is that we give up, by going down this route, a major bargaining chip which would enable Australia to negotiate a reduction in tariff levels in countries to which we target our exports. By unilaterally disarming ourselves, by dropping our own levels of tariff protection, in international trade negotiation we are unable to trade our levels for reduction in levels in the international market, which would enable our efficiently produced sugar to win a greater world market share and thus more jobs for Australians and more growth for this industry sector.

They are the six reasons that I put forward in support of this motion. On ground 1, the election promise, what did the government say in the 1996 election? Those words are best traced to the National Party's deputy leader and now Minister for Primary Industries and Energy, John Anderson. He said:

The Liberal and National parties recognise the industry's tariff protection has been significantly reduced over the years to its current level of $55 a tonne as Australia has set the trend by moving protection downwards in advance of international competition. A Liberal and National Party government will not reduce the sugar tariff beyond the present level of $55 a tonne, as we have already met our obligations under the World Trade Organisation's GATT '94 agreement.

Senator Bob Collins—Which we have.

Senator COOK—Which we have, as Senator Collins says, and which the government intends to dishonour next Tuesday as an election undertaking. That is the position. Not all members of the governing parties have stood behind the government. The member for Kennedy, Bob Katter, has crossed the floor in the House of Representatives in support of the opposition's position.

I might also say on ground 2 that the industry has had a gun held at its head. This is clear, because what the industry has said, and I quote again from the *Courier-Mail*:

> Canegrowers chairman, Mr Henry Bonanno said, 'Cane growers have reluctantly accepted the tariffs' demise as part of a compromise—

this was a compromise arising from a threat by government ministers—

> to retain the industry's single desk selling arrangement.

Mr Ballantyne of the Canegrowers Association said on the *PM* program:

> If either side of government could have guaranteed our industry that the retention of the tariff would have also guaranteed retention of our other marketing and structural arrangements, then we would have probably had a different approach.

They were blackmailed into this course of action and are complaining about it. A gun was held at their heads. There was an outcome that the government seems to think is a fair deal. It is not.

There are many federal politicians who have deserted their electorates in this case. These are sugar seats located in Cairns, Lucinda, Townsville, Ayr and Mackay. Warren Entsch, Peter Lindsay, Paul Marek, Paul Neville, Warren Truss, Ian Causley and Larry Anthony have continued to vote in the House to export jobs from this industry, desert the people in their electorates and promote their own political interests.

The financial loss for this industry is $27 million. That is not just jobs that will be lost eventually; that is also a loss of investment and development in this industry. It is damaging to families, it is damaging to the rural communities that support this industry, it is gratuitous damage being inflicted by the government on this industry. It is, as I have said, inconsistent with the treatment in the motor vehicle sector.

I cannot go to the detail of my six points that I would like to, but I conclude by saying this. Around the world there are various levels of protection. The United States has a 100 per cent tariff on sugar. In Thailand it is 104 per cent. In Europe you have to cross a barrier of 170 per cent to 193 per cent for tariffs. In Australia we have 13 per cent. We are going to unilaterally give away that 13 per cent. We are not going to say to the Europeans or the Americans, 'You drop your levels and we'll drop ours.' We are not going to enter into negotiations; we are just going to give up our bargaining coin and let their barriers stand. For that reason and that reason alone, this motion should be supported. *(Time expired)*

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate) (4.27 p.m.)—It might seem strange that I am taking an opposing position after three years of fighting for this industry tooth and nail. But let me just correct Senator Cook's one assumption. He said it was a government decision. I can tell you, Madam Acting Deputy President, and you would know, and so would Senator Cook and Senator Woodley: if the government held a gun at the sugar industry's head, I would be the first one screaming loudest and longest.

This is a sugar main report, which comes up with 74 recommendations. In the report there were people who represented the industry: Harry Bonanno, whom I continually talk to on a weekly basis, representing the canegrowers body; a gentleman called Ron Verri, of the Australian Canefarmers Association; Graham Davies, Chairman of the Australian Sugar Milling Council, representing sugar mills in New South Wales and Queensland; Mr Gentile, of the Sugar Users Group, and state and federal government representatives.

This was a unanimous report that was brought down. I am arguing about the tariffs and the levels of protection around the world, because I believe Senator Cook has probably got it out of my speeches. I have fought for that for a number of years. But the argument we are going to at the moment is not a tariff argument; it is an argument about whether an industry has the right to be in charge of its own destiny. If an industry says it has signed off and shaken hands on a report, then has that industry got the right to maintain its own interest? I say that it has. I may disagree with what the industry says, but I will support the industry's right to have a say in its own future. What this industry has done is produce a report with all the sugar users, and they have come down and said, 'Well, there are 74

recommendations; we want a unanimous decision' and therefore they support the recommendation.

Senator Cook made the point that there was a gun held at the industry's head. I have continually asked the industry: were you in any way forced to come down with this recommendation? And I have been told, 'No'.

This argument falls to the ground because an industry must have the right to elect its own leaders. Ninety-five per cent of the sugar grown in Australia is grown in Queensland. It has one of the best leaderships of any rural industry that I know. That industry elected its leaders and the leaders considered the *Sugar winning globally* report. That report was not set up by the National Party or the Liberal Party; it was set up by your government. When you were in government—

Senator Bob Collins—I set it up.

Senator BOSWELL—You set it up, yes. There is an admission. You were the ones who brought in the Hilmer reforms—those whacko Hilmer reforms. You were the ones who brought those in. You were the ones who put up the report and the industry responded to your report.

Let's just put a few things on record. In May 1988, the Labor government abolished the embargo and tried to replace it with a tariff of 35 per cent. That was completely rejected by the industry. Who moved for the Senate inquiry that came up with a tariff that was accepted by the industry? None other than yours truly. I was the one who moved for the Senate inquiry which came up with an acceptable form of tariff.

Further down the track, that tariff was $115 a tonne. Who wanted to remove the $115 a tonne? The Labor Party did, although it had said that it would last for a number of years. Who crossed the floor to support the industry? Ron Boswell and the National Party, Senator Harradine and the Democrats. So no-one can say that I have never supported this industry. This industry has always had my support.

It is not a tariff argument. If an industry signs a document and says that the tariff should go, and that is part of an overall 74-point plan that we want, then I am in no position to argue with that industry.

The report that came down was not the result of a small inquiry. It was the most comprehensive review that has ever been made in the sugar industry and it involved all sectors of the industry. It took in submissions from all sugar growing areas in Queensland and New South Wales and it covered all the encompassing areas of tariffs, marketing arrangements, cane supply, processing, ownership and management of bulk sugar terminals, Queensland sugar industry production and marketing arrangements, research and development, and the extension of arrangements. All these things were part of the report. And only one part of that report was the removal of the tariffs.

The industry recommendation was that with the introduction of export parity pricing—this was one of the 74 recommendations—the tariff becomes irrelevant anyway. The working party's first recommendation was that the Queensland sugar industry be provided with a degree of planning certainty and that there be no further reviews for a period of 10 years.

This review cost the sugar industry—that you set up, Senator Collins, and you admitted it—about $3 million, not including the cost of the labour involved. All they want is to get away from being reviewed and continually reviewed.

Senator Bob Collins—We were congratulated by that industry, Senator Boswell, for the support we gave them and the restructuring package we put together for them.

Senator BOSWELL—Yes, and who fought for that restructuring package? I had this side of the parliament try to outbid that side of the parliament—you got into a bidding war because I put my position down here—and we got a $100 million-plus package for the sugar industry.

This industry is a great industry. It has grown by about 60 per cent in the last five years. Export sales are $1.6 billion a year. The industry in Queensland will export 90 per cent of its crop in another year's time. So the tariff would apply only to 10 per cent of the crop because 90 per cent would be exported.

The New South Wales growers, which represent about five to six per cent of the industry, have never put a tariff on their sugar. They have traded away the tariff arrangements to get into what they thought was the more lucrative domestic market, which became not so lucrative.

The other part of this report—which will be a great benefit to the industry—is that the quid pro quo on this is an amalgamation between CSR and Mackay Sugar, which the refining industry is bleeding to death.

In the bush, when you sign something, that is a handshake; that is an agreement. The bush people put a lot of pride in saying, 'That's my word. I will honour my word, I will honour my commitment.' I must say, Senator Collins, this is the most astounding position of absolute populist politics I have seen. *(Time expired)*

Senator WOODLEY (Queensland) (4.36 p.m.)—As many senators in this place would know, for many years I have been in the conversion business. And if ever I can recognise a real conversion, then I can certainly recognise one today. I welcome Labor's conversion regarding the sugar tariff, which the ALP was on track to cut when it was in government. However, I want to ask the question: what is a conversion when you are not having a conversion—when that conversion means you go back on an election promise, as the National and Liberal party's have done?

I hope the National Party will support this motion today and prove that they still keep the faith on behalf of the sugar industry, but I do not think I will hold my breath. It was the Democrats, in fact, that took the lead on this issue, because I was approached months ago by Bob Katter and De-Anne Kelly—two faithful National Party people from Queensland. I immediately began to take action to restore the sugar tariff. Labor finally noticed that the tariff had been cut, so they have come on board, and I am happy about that. But, if Labor were in government, I wonder whether or not they would be moving an urgency motion like this today.

I would like to point out that the government's line that the proposal has industry support is, in fact, a transparent fib, because everyone knows that the industry was mugged. It was threatened with the loss of the single desk selling, and they let the tariff go with a gun to their heads. Let me tell you how I know that. I heard Bob Katter make that statement on a number of platforms. I know that my friend Bob Katter, whom I do not always agree with, does not tell fibs.

So let me say that this can be supported by the very Canegrowers association that Senator Boswell was quoting from. This is their press release of 6 June, which is entitled 'Sugarcane growers cry foul over retention of car tariff' The Canegrowers association knew that they had been mugged, but they kept quiet. They kept quiet until they had found that they had not only been mugged but also betrayed. Let me read what they say:

> Queensland sugarcane growers are outraged by the Federal Government's decision to retain the car tariff, a move that flies in the face of the Government's drive for competitiveness and efficiency.
>
> . . . . . .
>
> "Primary producers are wearing the costs of protecting the Government's sacred cows," said Mr Ballantyne. "The sugar industry was subjected to 14 months of intense scrutiny and has knuckled down to business under a system that was changed and will significantly impact on cane growers.

That sounds like somebody describing having a gun held at their head to me. I do not know what the Senate thinks about that. He goes on to say:

> In 1996 the sugar industry undertook a rigorous review at the direction of the State and Federal Governments under a strict set of guidelines which required the examination of the industry to comply with National Competition Policy and was to include a thorough analysis of the sugar tariff.
>
> "At the time of the Sugar Industry Review, it was clearly understood that the Government would apply the same rules to all industries, including the car industry," said Mr Ballantyne.

It sounds to me as though he might have had a conversion as well. Mr Ballantyne said—

Senator Ian Macdonald—So you want to remove the tariffs from cars, do you?

Senator WOODLEY—No. I want to retain the tariff on both. You know the Democrats'

position very well, Senator Macdonald, because you quote it regularly.

Mr Ballantyne said that Queensland's 6500 sugarcane growers will suffer serious financial implications as a result of reduced income from loss of the sugar tariff and little respite from increasing costs.

However, let me not just use the head office of the Canegrowers but the Canegrowers branch in Babinda, which is in your area, Senator Macdonald. They were spitting chips—

Senator Ian Macdonald—It's a long way from where I live.

Senator WOODLEY—Whenever I am in North Queensland, I travel regularly between Townsville and Cairns and the rest of North Queensland.

Senator Ian Macdonald—Babinda is about 500 kilometres from where I live.

Senator WOODLEY—Let us not talk about geography; let us talk about the sugar industry. Canegrowers in the Babinda district said:

Furthermore, it is our opinion that the necessary steps should be taken to ensure that the tariff on Australian Sugar remains at its present level and only be removed or phased out when our trading partners/competitors are prepared to do likewise in accordance with the Uruguay Trade Agreement.

The loss of tariff and change to the pooling system equates to an industry loss of $1.4m annually in Babinda which is one of the smallest sugar producing areas in the industry.

Senator BOB COLLINS (Northern Territory) (4.42 p.m.)—I strongly believe in disarmament, but not in unilateral disarmament. I strongly believe in a freer world trade and reducing tariff barriers, but not unilaterally reducing tariff barriers. I never did believe that.

During the election campaign I, of course, was the person in the Labor government who went head to head with John Anderson on a number of occasions. So I am personally very familiar with the commitment the now minister gave on behalf of this government during the campaign in respect of sugar tariffs. He said categorically that he would not do what the government is about to do. Presumably it was a non-core promise—like all of the other non-core promises we have heard about. It is no wonder people get cynical about politics and politicians.

Senator Ian Macdonald—Yes, they listen to you.

Senator BOB COLLINS—I was there on a number of occasions, Senator Macdonald, and I personally heard Mr Anderson deliver this commitment to an audience to whom he knew it was a core promise. The trick with core and non-core promises is that you do not find out until after the election, of course, which was the core promise and which was the non-core promise.

Senator Ian Macdonald—Identify the meeting.

Senator BOB COLLINS—You will get your chance to speak next instead of continually interrupting. The cold hard facts in the context of this debate are that the United States of America has a sugar tariff of 100 per cent; Thailand, 104 per cent; the European Union, almost 200 per cent. Australia's current tariff on sugar is 13 per cent. That is what we are reducing. The current level of the tariff is $55 a tonne. Do you know what our Uruguay Round commitment is, Madam Acting Deputy President? Our commitment to comply fully with the requirements of GATT is $70 a tonne.

From 1 July we would have been taking this down to $55 a tonne and $37 a tonne for sugar from developing countries. Our commitment under GATT was $70. To totally comply with all of our GATT obligations we only need to keep the commitment made during the election campaign. In terms of the misrepresentations about the industry that have been made in here today we just have to look at the correspondence that has come from the industry itself and from their peak bodies.

Senator Ian Macdonald—Why don't you read it.

Senator BOB COLLINS—Mr Bonanno, who I know and respect, Senator Macdonald—which is not a word I would use in connection with your good self—has been quoted in the Queensland press more than once as saying that the industry had a gun put to its head.

Senator Ian Macdonald—Read his letter. Be honest; read his letter. I'll read it.

Senator BOB COLLINS—Would you stop interrupting, Senator Macdonald. Mr Bonanno was quoted many times in the *Courier-Mail* as saying—

Senator Ian Macdonald—Read his letter.

The ACTING DEPUTY PRESIDENT (Senator Reynolds)—Order! Senator Macdonald, you will get your opportunity.

Senator BOB COLLINS—Mr Bonanno was quoted as saying that it was made very clear to the industry that they would keep the single desk and do away with tariffs. They were not going to get both. The General Manager of Canegrowers, the bloke who actually runs it, said on the ABC *PM* program:

> If either side of government could have guaranteed our industry that the retention of the tariff would also have guaranteed retention of our other marketing and structural arrangements—

In other words, the single desk—

> we would have had a completely different approach.

So do not misrepresent the industry on this. The cold hard facts are—and I was well aware of them as the then minister for primary industries; I established this review—that on our current proposals for tariff reductions we were comfortably well inside our complete commitments to the GATT round. The cold hard facts are that John Anderson, the honourable member in the House of Representatives who is now the minister, put his hand over his heart and said to the industry prior to the election campaign that a Liberal and National government:

> . . . would not reduce the sugar tariff beyond the present level of $55 a tonne as we have already met our obligations under the World Trade Organisation GATT agreements, which we comprehensively have.

It was made clear to the industry by this government that they could not have both tariffs and single desk.

Senator Ian Macdonald—Prove it. Prove it.

Senator BOB COLLINS—Mr Bonanno, noisy senator from Queensland, is on the public record as saying it. He is the Chairman of Canegrowers.

Senator Ian Macdonald—Where? Show us!

Senator BOB COLLINS—It is the *Courier-Mail*. Read it yourself.

Senator Ian Macdonald—You are all bluff and bluster.

Senator BOB COLLINS—I am happy to table the letter from Canegrowers, which is signed by the General Manager, if this disruptive senator from Queensland wishes me to.

Senator Ian Macdonald—We agree to that.

Leave granted.

Senator BOB COLLINS—I table the letter from Canegrowers signed by Ian Ballantyne which actually lays out the financial penalty that this tariff—

Senator Ian Macdonald—Good. Good.

Senator BOB COLLINS—Give it a rest just for a minute. I understand your discomfort, Senator. As a Queensland senator who represents the sugar industry no wonder you are very defensive about the fact that you promised the industry prior to the election campaign that you would not do this. You told them a great big porky. You fibbed, Senator. You dudded this industry. Your now minister for primary industries gave a solemn commitment to the industry—and to the rest of Australia—that a coalition government would not do this and you are now doing it.

To see the way this is contrary to the national interest of this country you only have to look at the existing level of tariffs. It is a miserable level of 13 per cent compared with the tariffs currently imposed by some of our major trading partners. As I said before, the United States of America has a 100 per cent tariff. Without any attempt whatever to negotiate or trade any return for this giveaway, the government is attempting to remove the tariff totally, contrary to the solemn commitment it gave to this industry prior to the election campaign that it would not do so.

As I have said on a number of occasions before, and I hope I am right, despite the short memory that the electorate is always

assumed to have, and despite the fact that politicians trade on that often and say, 'The electorate has a short memory. They will not remember this next time round,' I am certainly hopeful that this brand new concept that I have heard for the first time in my public life of core and non-core promises is never able to be used a second time, as I do not think it will. I think there will be at the next election an absolute demand from the electorate that there is only one set of promises and that is the ones they are going to deliver after the election. It will then not be left until after the election to find out what were the core and non-core promises. The cold hard facts are the commitment from the now primary industry minister that the government would not do this was indeed a core promise and this government has flagrantly and shamefully breached it.

Senator CRANE (Western Australia) (4.50 p.m.)—In dealing with this particular issue it is unfortunate that the contributions from Senator Collins and Senator Cook do not represent the position we would have today if they had remained in government. There are a number of reasons for saying that. One needs to look at the letter that Senator Collins just tabled in its totality. I will quote a couple of paragraphs because obviously Senator Collins did not read it very carefully. It states:

> Unfortunately, following unanimous recommendations to government by the Sugar Industry Review Working Party (SIRWP), the removal of the tariff from 1 July 1997 became the headline issue, swamping the vastly more importantly issues raised in the report.

Senator Bob Collins—There's a reason for that—you guys promised you wouldn't do it.

Senator CRANE—I know there is a reason for that. When looking at this issue one has to consider a number of points. The report entitled *Sugar Winning Globally* is about the direction and future of the sugar industry, particularly in Queensland but also in Australia. Combined with that is another report on the sugar industry prepared by the Boston Consulting Group. We need to note that both these documents are a result of the actions of the previous federal government and the Labor Goss government.

Those two documents have adopted a total approach for the future of the sugar industry. Mr Ballantyne—he has been quoted regularly here—has made it quite clear to me and others that they want this report, and its 70-odd recommendations, adopted in totality. They do not want anything changed, interfered with or altered. They have made that very, very clear.

There is another important issue in the recommendations—that is, the recommended switch from import parity pricing to export parity pricing. Senator Collins knows, as everyone else here should know, that switching from import parity pricing to export parity pricing, by definition, means that you cannot apply a tariff to it.

I was in Queensland last week and I spoke to representatives from the Australian Sugar Milling Council and others, including Mr Ballantyne. They made it clear that the cost of the decision to develop the industry, which has been implemented by the current government in Queensland—who to their credit have adopted all the recommendations as they apply to them; only two or three apply to the federal government—is $US26 a tonne. We were given that figure in Queensland. Once again, that was a decision of the working party review.

It is very, very important to acknowledge the people involved in this review: Harry Bonanno, the Chairman of Canegrowers, has already been mentioned; Mr Ron Verri, the then President of the Australian Cane Farmers Association; Mr Graham Davies from the Australian Sugar Milling Council; Mr Tony Gentile from the Australasian Softdrink Association, whom, incidentally, I am seeing tomorrow; and Mr Alan Newton from DPIE. Are you telling us that Senator Collins would not have accepted the advice from Mr Newton? If you are, you are misleading this house. He was the resident expert in DPIE working through these issues. There was also Mr Robert Reilly from the Queensland DPI.

We must touch on some of these things. As I have already mentioned, it was the Labor Party who set up this review. To the credit of these people on this review, they went out and told the industry, 'Let's deal with this in

the context of national competition policy. Let's do it now because if we don't, we'll be back here in 18 months doing this report all over again.' That was the position they adopted. They went out and explained that to the canegrowers. I have been up there and talked to them as an independent person. They made it quite clear that they wanted these things put in place because they believed that it would put them in the best possible position for the future.

It was their decision to keep the single desk, not anybody else's. All this nonsense about guns being held at their heads! Some of the people who are saying this ought to talk to the people up there. I asked them to give me evidence, letters, anything at all, to show that a gun had been pointed at anybody's head. They could not produce one concrete word. The populist mob over on that side invent these things because it makes it seem as though they have a good story. In fact, the people who were involved in it made it absolutely clear that there was no pressure put on them at all.

They made the decision to deal with this report in the context of national competition policy. That is why they moved from import parity pricing to export parity pricing. You can argue whether that was necessary or not, but that is not the point. The point is that it was the decision of the working party to do that, and they came up with that conclusion. That is worth noting.

There was a fundamental weakness in the terms of reference that were put together for this review. That is why we now have the ministerial task force initiated by the coalition government. The Democrats and the Labor Party need to acknowledge they admitted that there were two things that needed to be looked at. One was the allocation of the US quota, which is a national quota, as Senator Collins would know. The other thing they omitted to look at was the operation of the bulk terminals as the industry continues to grow and, within that process, they fundamentally omitted to look at the export potential and growth in New South Wales. Incidentally, New South Wales last year exported some 30,000 tonnes of sugar and the Ord production from W.A. was, in addition, all exported, and the Queensland Sugar Corporation handled it for them.

It is important that this issue is dealt with on the facts, not on emotions. As Senator Boswell said, $3 million went into that review out of their pockets, not including their own time. If we were to come into this place and say, 'We are going to ignore the recommendations that were put forward,' you would attack us for not listening to the industry. You cannot have it both ways. It is as simple as that.

After looking at this report and the advice that I have received on it, it is my view that this will take the sugar industry into the 20th century. It will allow them to continue as a major exporter in this country. I believe currently—Senator O'Chee would know—that sugar is the fourth or fifth largest rural export from this country in dollar terms. They are significant. They are important.

In addition to that, the Ord River is going to grow. We were given information that in the future—I am talking about 10 or 15 years—we could expect 500,000 or more tonnes to come out of the Ord River. In addition, the Fitzroy could yield another 500,000 to one million when developed. We were given information that the New South Wales industry is going to grow significantly. That all has to go on to the export market.

The last point I deal with has to do with the refining sugar industry and the joint venture that was stopped from going ahead because it was anti-competitive. The result is that now we have a serious mess in the refining industry in this country. Once again, we are left to clean up the mess. On the final analysis, we have before us what is a very thorough, very well-thought-out and very well-presented report. We have been given a very succinct message that they do not want us to fiddle with it. People have to listen to that message because it is important. *(Time expired)*

Senator MARGETTS (Western Australia) (4.59 p.m.)—This motion highlights what can only be described as an incredibly foolish and economically destructive trade policy. Unilateral and unprovoked tariff reduction can only be described as leading with our chin. A fat lot of good it will do the sugar industry or

any other industry that must compete on unfair terms!

Senator Bob Collins said that he never did believe in unilateral tariff removal. That is interesting, but honourable senators may remember the many questions I asked around 1993 and 1994. They included issues about the footwear, clothing and textile industries and about the impact and the level of destruction that it was having on those industries. The previous government's response at the time was, 'We didn't have to do this. We were doing it voluntarily.' If there were people in the Labor Party at that time who did not believe in unilateral tariff removal, I was not hearing from them. They were not there during the debate on the World Trade Organisation in 1994.

Deregulation of investment will further damage and degrade the industry, allowing overseas investors connected to food interests to gain dominance in the wholesale and distribution sectors to which the Australian sugar industry sells. There is more than one way to gain market dominance, and transnational corporations know it. There is also more than one way to gain market dominance. For instance, in the pastoral industry, affecting the actual incomes of pastoralists, many people were used as the front people in relation to why we should go down the free trade ideological road. Those people—primary producers—were used. They were pushed to the front in order to argue that, and they are often the ones who are suffering. Also our value added industry is suffering, but it was the primary industries who were used as the excuse for everybody else having difficulties forced upon them.

The government wants to reassert their profile as tough deregulators. After deciding, very sensibly, not to gut our automotive industry by cutting tariffs, we saw a hue and cry from many commentators in the media, collective in the sense that, for all the vast numbers of magazines, radio stations and newspapers, there are not necessarily a lot of opinions. But they generally agree with the agenda of deregulation, an absolute freedom for transnationals to do what they like, when and how they like.

Many economic commentators who have embraced the economic rationalist agenda have slammed the Prime Minister (Mr Howard) in saying that the reform process has stalled. I do not use the word 'reform' generally, because it means change for the better, and that does not necessarily coincide with what I see happening. Here we have a chance to recoup the praise of the media. The National Party, particularly the Queensland branch of that party, is sewn up—silenced—and will probably vote in favour of tariff reduction if told to do so. The only time the Nationals get to make a sound here is when they are attacking land rights or migration or frothing at the mouth over the Sydney mardi gras. When the rural community needs defending, the Nationals often hope the Greens will put something up.

The fact that the motion is put by the ALP is of note. Senator Evans indicated that, through the Labor Party, I did get a couple more minutes on this, and I do not intend to use all of them to criticise the Labor Party. There will be some bouquets as well as brickbats here. The policy of unilateral forward tariff reduction is one they followed consistently while in government. I am glad to see that they seem to have had a miraculous conversion on trade, and I hope the government will have one. I do welcome Labor's re-invention on the issue of trade policy. Let us take it further and discuss the whole issue like I have been asking for for a long time.

The failure to even consider the damage unilateral tariff reductions would do is appalling. It goes well beyond the failure to have a trade policy, an industry policy and an investment policy that would actually advance Australian interests. This is an urgent issue and one that warrants attention.

It will not surprise honourable senators that I will continue to say that it is time—well overdue—for us to look at the impacts of our trade and investment policy. Let us look at textiles, clothing and footwear. Let us look at cars. Let us look at the sugar industry. Let us look at impacts on the environment, impacts of investment monopolies and consumer outcomes. Let us have a look in full at what

is happening in relation to our trade policy. If we are going in the wrong direction, let us find out how to go in the direction that will actually be of benefit to the people of Australia.

Senator HOGG (Queensland) (5.04 p.m.)—I rise today in this debate because I, like a number of my colleagues in Queensland, have had circulated to me a letter by Mr Ian Ballantyne from Canegrowers. Whilst his name has been bandied around freely here this afternoon, I am going to put on the record some of the things in the letter he sent not only to me but to Queensland federal parliamentarians in general.

Senator Ian Macdonald—Dated?

Senator HOGG—It is dated 19 June. There are a number of issues and I think it will reasonably canvass the totality of the issues. Whilst I will quote selectively, undoubtedly, if others have other views, they will express those. Under the heading 'Tariff' in the letter, Mr Ballantyne says:

CANEGROWERS—

being the organisation—

and cane growers have been long time advocates for a tariff on both imported raw and refined sugar. In written submissions to the Review Working Party, all CANEGROWERS areas and districts, along with Brisbane office, strongly supported the retention of the tariff along with other significant industry structures, processes and institutions.

Then further over on the next page the letter goes on:

. . . CANEGROWERS firmly believed that retention of the single desk seller for export marketing but loss of single desk on the domestic market would be totally unacceptable. Domestic deregulation would disenfranchise growers immediately and very quickly lead to the demise of the export single desk arrangements.

Further on in the letter he goes on to say:

Our concern is that if unilateral changes are made to the package of Review recommendations, including that relating to the tariff, we will see a collapse of the entire review process, or at very least, be subject to a further review within a year or two.

Senator Ian Macdonald—Exactly, and that's what it is all about.

Senator HOGG—Let me state, quite correctly, as Senator Macdonald acknowledges, that this is about fears that the government is going to renege on the package. If we move on, under the heading 'Parliamentary sugar industry task force', it says:

This Task force has been charged largely with considering compensatory measures for the NSW Sugar Milling Cooperative because of the impact of the Review.

The letter goes on a few paragraphs later:

The Task Force is considering NSW access to a percentage of Australia's US sugar quota—a market that has been fostered and totally serviced by the Queensland industry for the past nine years. You would be aware that if the current NSW proposals are agreed to, the result will effectively mean that . . .

The first dot point says:

The average Queensland cane grower will give up $300 of income per year, effectively transferring $3 500 per year to each NSW grower.

And the second dot point says:

The average Queensland sugar mill will give up $25 000 income per year, effectively transferring $330 000 per year to each NSW mill.

He then states:

There is a clear view in Queensland that this arrangement has already been agreed on. I can assure you of a strong and genuine outcry if this proves to be true, with many cane growers looking to you, their Queensland based Federal representatives, for support.

There is a fear in the industry that they will be disadvantaged by this decision not to proceed with the tariffs because of the—

Senator Ian Macdonald—You don't understand it, obviously.

Senator HOGG—I will read it to you in a few moments. Also, they have seen what has happened in the car industry. I have a letter signed by L.J. Fabrellas—this will be a person known to you, Senator—and addressed to the Prime Minister and obviously containing a number of signatories to it. He says:

We, the undersigned, being sugar cane growers in Queensland call upon your Government to maintain the tariff of $55.00 a tonne of sugar in view of your Government's decision to retain a tariff for the automotive industry.

That is dated 13 June. This clearly supports the contention that the government have removed the tariff too soon, and quite unnecessarily. The tariff should have remained

in place and should have, at the appropriate time, been traded away if need be. But we have given away a card in our hand without having received anything back in return for it. *(Time expired)*

Senator IAN MACDONALD (Queensland—Parliamentary Secretary to the Minister for the Environment) (5.09 p.m.)—First of all, I have to declare that I have a financial interest in the outcome of this because my house is in a sugar area. The way the sugar industry goes affects the value of my house and the value of investments I have in a sugar growing area in the Burdekin where I live. I also have an interest because my friends and family rely on the sugar industry for their existence. I have spent all of my life in the town of Ayr, which is dependent upon sugar.

Sugar is the fourth largest export earner. The average export earings for the last three years were in the range of $1.5 billion; 85 per cent and soon to be 90 per cent of our sugar production is exported. That is why all sensible thinking farmers say, 'If we have to rely on a tariff of 10 per cent then we will give the industry away completely.' They understand what this is all about, unfortunately, unlike Senator Cook from Western Australia, Senator Collins—old Bluff and Bluster Bob—from the Northern Territory and Senator Hogg, who just demonstrated, with respect, in his speech that he has no understanding of the complexities of the sugar industry.

The review was set up, as has been mentioned by my colleagues, by a federal Labor government and a Labor government in Queensland in September 1995. The objective was:

> To facilitate the sustainable development of an internationally competitive export oriented industry which benefits both the industry's participants and the wider community.

Time is short and I have agreed to curtail my speech to allow Senator Harradine to have a say in this, but I want to briefly refer to some of the aspects of the urgency motion put down by Senator Cook.

He says that the coalition has reneged on a promise. I want to tell you, Madam Acting Deputy President, and Senator Collins, who was big about promises, that the promise we gave to the sugar industry before the last election, which was exactly the same as the promise the then Labor government gave, was that we would not interfere with the outcome, results and recommendations of this sugar industry review.

Harry Bonnano and Ian Ballantyne came to us before the last election. They spoke to John Howard and got a commitment from him as leader of the Liberal Party and opposition leader. They got a commitment from Tim Fischer, the National Party leader, and deputy opposition leader. They got a commitment from John Anderson, the Deputy Leader of the National Party and the shadow primary industries minister. That commitment was that we would comply with their request, which was that we would not alter the review recommendations.

I know, because they came to Canberra specifically to get that, that they got the same commitment from the Labor Party. That is the promise we gave and that is what we have delivered. There are 74 recommendations. The Queensland government, a Liberal-National Party government, adopted those 74 recommendations in December 1996. They have asked us to do that and we will be doing it as well.

Senator Cook obviously does not know what our commitment was. He should; it was in all the papers. But he should at least know the commitment that the Labor Party gave to the sugar industry, which was exactly the same—and contrary to what they are trying to do now—and that is that all 74 recommendations would be accepted without variation.

Senator Cook blames us for implementing this tariff reduction from 1 July. We are doing that because that is what the sugar industry review working party recommended and we said we would accept those recommendations. That is what the canegrowers have asked for, that is what the sugar industry has asked for and that is what we are doing. Senator Cook's motion also goes on to talk about loss of jobs and loss of money for the Australian industry.

I know what the sugar industry is like. I have worked with it all my life. I understand the difficulties they have but I also understand that it is a very successful industry. It is an

industry that has expanded enormously, particularly in the Burdekin area where I live. If it is going downwards as the Labor Party are trying to suggest then why are people, as recently as a month ago, paying almost double the reserve price for Queensland government land being auctioned in the Burdekin River irrigation area? They are paying double the upset price—over $1 million for a block of land—because they want to get into the industry because it is so well done. They know that the tariffs are going and they are still falling over each other to get into it.

The sugar industry produces jobs and wealth for Australia. It is a tremendous industry, and it will continue to be so under a Liberal and National party government. All of the sugar seats are held by Liberal Party members or National Party members. Those people obviously know that it is this government which will deliver to them the sorts of reforms, the sorts of good things that will enable that industry to continue and get better and better.

I am very proud to be part of a government that is so supportive of the industry—a government that is doing exactly what the industry has asked it to do. Senator Collins read from a particular letter, and Senator Hogg mentioned it. I might just finish, to allow Senator Harradine to speak, by just repeating one paragraph from Mr Ballantyne's recent letter. Unfortunately, I cannot do it. Very briefly, it is the third paragraph on page 2 of his letter of 19 June which I will table.

Senator HARRADINE (Tasmania) (5.16 p.m.)—In the minute that is available to me—and I thank Senator Ian Macdonald—I wish to indicate to the chamber, as it already knows, that whether or not this measure is adopted will not make any difference at all to the legality of what the government intends to do in implementing its decision to scrap the tariffs. This particular decision was made after a review had been undertaken by the sugar industry review working party. It was a unanimous decision of that party.

I know that there have been allegations that a gun had been put to the head of the industry. That is a question that probably needs to be teased out. But to ask me at this stage to vote for a proposition such as this, bearing in mind that it will not have any effect on the legality of this—*(Extension of time granted)* That is a bit difficult to ask of me, coming from Tasmania as I do. I understand, for example, that the tariff means about $1.5 million in costs to Cadbury's—$750,000 in the state of Tasmania. But I remind honourable senators that there will be an opportunity for the parliament to have a look at this at a later stage. *(Time expired)*

The ACTING DEPUTY PRESIDENT (Senator Patterson)—Order! The time for the debate has expired. The question is that the motion moved by Senator Cook be agreed to.

A division having been called and the bells having been rung—

Senator Ian Macdonald—In so far as it is appropriate, I indicate that I have an interest in this matter, as I mentioned in my speech.

The DEPUTY PRESIDENT—Thank you, Senator Macdonald.

Senator Vanstone—To the extent one would consider joint ownership of some CSR shares, I suppose I have a very, very indirect interest, but it is not a conflict of interest.

The DEPUTY PRESIDENT—Thank you, Minister.

Senator Gibson—I also declare an interest in CSR shares.

The DEPUTY PRESIDENT—Thank you, Senator Gibson.

Senator Watson—As do I, Madam Deputy President.

The DEPUTY PRESIDENT—Senator Watson. Does anybody else want to declare anything?

Senator Crowley—I do, Madam Deputy President.

The DEPUTY PRESIDENT—Yes, Senator Crowley, you are declaring too, thank you.

Question put:

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

The Senate divided. [5.22 p.m.]

(The Deputy President—Senator S. M. West)

Ayes	32
Noes	32
Majority	0

AYES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Carr, K.
Childs, B. K.	Collins, J. M. A.
Collins, R. L.	Colston, M. A.
Conroy, S. *	Cook, P. F. S.
Cooney, B.	Crowley, R. A.
Evans, C. V.	Foreman, D. J.
Forshaw, M. G.	Gibbs, B.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murray, A.
Neal, B. J.	Reynolds, M.
Schacht, C. C.	Stott Despoja, N.
West, S. M.	Woodley, J.

NOES

Alston, R. K. R.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H. *
Campbell, I. G.	Chapman, H. G. P.
Coonan, H.	Crane, W.
Eggleston, A.	Ellison, C.
Ferguson, A. B.	Ferris, J
Gibson, B. F.	Harradine, B.
Heffernan, W.	Herron, J.
Kemp, R.	Knowles, S. C.
Lightfoot, P. R.	Macdonald, I.
MacGibbon, D. J.	McGauran, J. J. J.
Minchin, N. H.	Newman, J. M.
O'Chee, W. G.	Parer, W. R.
Patterson, K. C. L.	Synon, K. M.
Tambling, G. E. J.	Tierney, J.
Vanstone, A. E.	Watson, J. O. W.

PAIRS

Denman, K. J.	Hill, R. M.
Faulkner, J. P.	Reid, M. E.
Murphy, S. M.	Troeth, J.
O'Brien, K. W. K.	Macdonald, S.
Ray, R. F.	Abetz, E.
Sherry, N.	Payne, M. A.

*** denotes teller**

Question so resolved in the negative.

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Report

Senator CALVERT (Tasmania)—On behalf of Senator Troeth, I present the report of the Foreign Affairs, Defence and Trade Legislation Committee on the review of annual reports.

Ordered that the report be printed.

BUDGET 1996-97

Consideration of Appropriation Bills by Legislation Committees

Additional Information

Senator CALVERT—On behalf of Senator Troeth, I present additional information received by the Foreign Affairs, Defence and Trade Legislation Committee in response to the 1996-97 budget estimates hearings.

COMMITTEES

Legal and Constitutional Legislation Committee

Report

Senator CALVERT (Tasmania)—On behalf of Senator Abetz, I present the report of the Legal and Constitutional Legislation Committee on the examination of annual reports.

Ordered that the report be printed.

TELSTRA

Senator CALVERT (Tasmania) I seek leave to incorporate a document relating to Telstra and make a brief statement in relation to the document.

Leave granted.

The document read as follows—

1 Duhig Place
Macgregor ACT 2615
Tel: 06.2547354
25 June 1997
Senator Calvert
Parliament House
Canberra ACT 2600

Dear Senator Calvert

Telstra Travel Allowances

Please find enclosed a document dated 24 June 1997 addressing the above issue.

As you know, Mr Saul has had considerable correspondence with various members of Parliament on the subject of travel allowances. You may also know that Mr Saul sent to my employer, the Auditor-General's Office, a large number of documents in 1993 and 1994.

Mr Saul was not satisfied that the Auditor-General investigated the matters that were the subject of his allegations adequately, and faxed to me in November 1996 a substantial number of documents. I referred a brief analysis of the contents of the documents to the Auditor-General on 25 November 1996 and stated in writing that I would appreciate the opportunity to discuss the minute and related issues with him, in private, as soon as possible after he had had the opportunity to consider my minute and enclosures.

The Auditor-General replied that "the long established and well accepted practice throughout the Office" was that the Auditor-General did not "discuss particular audits with anyone who has no responsibility for those audits." I understand the Auditor-General was referring to a brief review of travel allowance and overtime irregularities carried out by Price Waterhouse in February 1994 and followed up by the ANAO in September 1994.

Since that time, Mr Saul has faxed to me additional documents which have only strengthened my conclusion that there is substance in his allegations. Having given long and careful consideration to my duty and responsibility as a public sector auditor, I am of the view that it would be in the public interest if the document attached was tabled in the Parliament.

If you agree with my conclusion, it would be appreciated if you would seek leave to table this letter and enclosure in the Senate at the first opportunity. The Senate may then decide what action, if any should be taken with respect to the matters contained therein.

Yours sincerely

David Berthelsen

The great Telstra travel fraud

(and Cover-up)

24 June 1997

Summary

1. In early 1992, the Federal Government appointed a former AT&T employee, Mr Frank Blount, CEO of Telecom with a brief to clean-up the company and make it more efficient in the lead-up to increased competition. Almost immediately Mr Blount faced his first challenge—to change Telecom's decades old policy on travel allowances and eliminate major corporate fraud that had cost users of Telecom services billions of dollars over the years.

2. Under the policy, employees away from home for weeks at a time claimed and were paid 14 days travel allowance while retaining accommodation for only 7 of those days. While only part of this payment was an allowable deduction, none of it was shown on Group Certificates, with the result that take home wages were boosted by amounts that often exceeded the wage. The very substantial increase in disposable income encouraged rorts on a major scale and an increase in travel that was avoidable. The policy outcome was a massive increase in the cost of labour.

3. In early 1992, hard evidence of the rorts was brought to the attention of the CEO. Operation Echo was established to investigate evidence of travel allowance rorts, and the NSW Police were involved. Almost immediately investigations were narrowed to one State; one category of staff within that State; and for the most part, the period of time prior to 1992.

4. In mid-1993 Telstra's CEO acknowledged that Telstra had a major problem. The NSW police sought the establishment of a joint AFP/NSW Police Task Force, but when the AFP refused to become involved, the investigations collapsed. The final outcome of Operation Echo was a single conviction, with a gaol sentence reduced on appeal to a good behaviour bond.

5. Notwithstanding the failure of Operation Echo, one of the original informants persisted with his allegations and maintained a constant stream of correspondence with Federal politicians, Telstra, the ATO, the Australian National Audit Office and other relevant government agencies. Eventually, forced by the weight of overwhelming evidence that it had been, and was in breach of the law, Telstra issued on 30 September 1996, "Guidelines to managers and employees on the tax implications of travel allowance" and introduced a Tax Certification form to accompany each TA claim.

6. Deduction of tax instalments with respect to part of each TA claim commenced on 18 November 1996, where applicable, ie where an employee stated he had returned home from his temporary station during the relevant period, otherwise than as prescribed in Telstra's Human Resource Guidelines.

7. In early February 1997 Telstra proposed changes to its travel policy that should have been regarded as fair, but which staffing associations labelled outrageous and unacceptable. At a hearing before the Australian Industrial Relations Commission, Telstra's representative conceded that Telstra's proposed new policy was "a major variation from what is the current practice," and the representative of the Unions declared twice that "the option of status

quo is one that we would certainly like to exercise." He indicated it was "a potentially explosive issue" and it would be unwise in the extreme to give any commitments on whether the matter would lead to industrial action. Discussions with the ATO and with Telstra would continue, he said.

8. In the absence of industrial action, it appears that an accommodation was reached between Telstra and the Unions, but at what price? The Union position was that "any taxation on TA should be paid by the management." Telstra did not state its position, but soon after the AIRC hearing announced a $3 billion return of capital to the govemment. It continues to meet claims for 14 days TA per fortnight and treats the payment as wholly deductible provided an employee declares he did not return home during the relevant period.

9. As no receipts, or details of accommodation at the temporary station are required for audit purposes by Telstra, the company has in effect made it easy for employees unwilling to relinquish the benefits of the custom and practice of the past 30 years, to maintain the status quo. The only significant difference between current and past practice is that employees alone are now responsible for false declarations, and the ATO alone is responsible for detection of such declarations.

10. Telstra's CEO and Board have known about this scam since 1992. They have had the time and the opportunity to change the policy and reduce the cost of labour so that cable roll-out commitments could be met and Telstra would be in good shape for the imminent share issue. Instead, they have done nothing but deceive their Minister, their appointed auditors and the owners of their stock—the Australian taxpayers. The result of their refusal to address the TA issue is that high labour costs were maintained and Telstra failed to meet its cable roll-out commitment to Foxtel. This will cost Telstra directly at least $400 million in compensation to News Corp and/or Foxtel and further major losses will be incurred when Telstra's stock is issued at a significantly lower price than would have been the case if Telstra had acted responsibly.

11. Telstra not only failed to act responsibly, it failed in its duty of care to its shareholders. So the real losers are the taxpayers and to an extent, the thousands of employees who will be sacked when Telstra reaches its roll-out target—cable past 4 million households, or 2.5 million households if it is assumed that Telstra's CEO accepts directives from the Minister.

12. The winners will be the purchasers of Telstra shares who can almost certainly expect to see a hefty increase in the price of their stock when Telstra finally delivers on its promise of reducing excessive labour costs. It remains to be seen whether executives responsible for the mess Telstra is in are accountable for their performance and whether our elected representatives, who are supposed to be in control, are willing to act to prevent further loss to the present owners of Telstra.

List of Annexures

Annexure 1 Extracts from Commonwealth Deputy Ombudsman's report on "Investigation of certain actions of Telstra Corporation Ltd.—Alleged victimisation as a result of overtime abuse" dated 14 November 1996

Annexure 2 A Guide for Managers and Employees to Answer Questions on the Implications of Tax on Travelling Allowance, issued by Telstra's Employee Communications, Corporate Affairs 30 September 1996

Annexure 3 Transcript of AIRC hearing before Commissioner Blair on 5 February 1997.

Annexure 4 Joint Media Release by the Minister for Communications and the Arts, Senator Richard Alston and the Minister for Finance, Mr John Fahey on Telstra Re-capitalisation.

Telstra's former travel policy—in brief

1. Until recently, Telstra employees were entitled to TA on the daily rate during the first 21 days of a temporary transfer to a particular location, if they would be away from home for 12 hours or more, and the travel time between the temporary location and the home base equalled or exceeded one and a half hours (8 hours of work + a lunch break of 1 hour + a total of 3 hours of travel daily = 12 hours) and expense was incurred in retaining temporary accommodation.

2. The entitlement to travel allowance started from the time employees left their nominated home address (in or out of the State) to the time they arrived back at the same nominated address.

3. The daily rate travelling allowance in the following locations was: Sydney—$168.10; Brisbane—$165.10; Darwin—$159.10; Perth—$156.10; Melbourne—$155.10; Canberra—$137.10; Adelaide—$133.10 and country centres—$ 104.00 inclusive of meals and incidentals.

4. After 21 days, Telstra employees were supposedly on review, ie they were required to provide receipts for accommodation retained during their time away from their nominated home address (in practice, 7 days in each fortnight) and get paid according to the amount claimed for accommodation (in some cases limited to the daily rate allowance), plus meals and incidentals (up to $50.30

daily in capital cities and $47.25 daily in the country). According to Telstra's Human Resource Administrative Guidelines:

(a) each employee was entitled to return home ovemight, once in any week and at his own expense, provided he was back at work the next morning, and to claim and be paid TA for accommodation retained during the period of absence from the temporary station;

(b) employees on long term temporary transfers were entitled to travel home at Telstra's expense every 13 weeks;

(c) managers were required to bring employees home (i.e. accommodation was not to be retained) where the period of absence from the temporary station would be four days or more (e.g. weekend plus rostered day off plus a public holiday);

(d) an employee away from home base for more than three months was required to obtain Temporary Rental Accommodation; and

(e) managers could be disciplined for failure to comply with the Guidelines.

Telstra seeks assistance from Mr Saul

5. On 1 February 1992, Mr Frank Blount became Chief Executive Officer of Telecom. Later that month, Mr Ed Saul, a Telecom Communications Officer, received a telephone call while on long service leave, from Mr John Beston, a Telecom Protective Services (TPS) officer. Apparently a witness who had given evidence during Operation Saddler (a 1990 investigation of travel allowance rorts that resulted in 50 prosecutions) had mentioned Mr Saul's name and Mr Beston wanted to know what Mr Saul knew of travel allowance abuses, or any other irregularity.

6. The call was followed by a letter dated 26 February 1992 from Mr Tom Robinson, "to request your involvement in a matter of mutual concern." The letter stated:

> "Since taking on the job of General Manager, NSW North, I have been made aware of serious allegations concerning Travel Allowance abuse within NC(N) [Network Construction (North)]. I regard such abuse as fraud and have taken steps to eliminate potential corruption through introduction of changed approval and allocation arrangements. As you are aware, however, allegations continue both inside the organisation and through the media I am determined to stamp out this fraud. To assist me in this task I invite you to meet with myself, my Regional Operations Manager and the Regional Human Resources Manager to discuss your knowledge of such matters within NC(N). You have my assurance of complete confidentiality. . . . If you are willing please discuss details with my Human Resources Manager, George Williams, who I have asked to personally deliver this letter."

7. According to Mr Saul, Mr Williams delivered the letter to his home in Crescent Head, NSW with the advice, "if you wish to keep on living, keep the zip on the lip."

8. After the letter was delivered, Mr Arthur Wilson, a Telstra Protective Services investigator and former NSW police sergeant telephoned Mr Saul and subsequently visited him at his home, initially by himself and later in the company of Mr Robinson. Following this visit, Mr Blount's Executive Assistant, Mr Peter Grigg, telephoned Mr Saul, on Mr Blount's instructions, to obtain his agreement to a conference call. Mr Saul agreed, and outlined what he knew of travel allowance abuses and other matters in a conference call hook-up between himself, Mr Grigg, Mr Wilson, Mr Robinson, Mr Errol White (then head of Protective Services) and Mr Gary Lane, the Telstra officer who became Regional General Manager, Network Design and Construction, later that year.

9. On 25 June 1992, Mr Robertson wrote in a"Private & Confidential" memo to Mr Stuart Hillier, a Human Resources officer: "Mr Saul has recommenced work helping Protective Services with investigations into allegations of TA fraud," and instructed the addressee to commence payment to Mr Saul from 22 June 1992. Formal interviews were conducted from 23 June 1992 to 3 July 1992 by Mr Wilson, the former Senior Sergeant of the NSW Police Force. Mr Saul supported his statement with numerous documents—a fact formally acknowledged by Telstra in January 1997. The month after Mr Saul was interviewed (August 1992), Operation Saddler was reborn as Operation Echo. The earlier Operation had resulted in a number of prosecutions, but had not addressed travel allowance fraud as a systemic problem within Telecom.

10. According to Mr Saul, Telecom Protective Services was provided with detailed information concerning the following TA related problems:

(a) "contrived" movements—a Construction Manager may hear that work is coming up at a certain location and inform members of his team. If the new temporary station will require travel of less than 1.5 hours from the home base, a team member may contrive to establish an address in another location 1.5 hours or more from the new temporary station in order to be paid TA for living away from home. This is especially easy for employees living permanently in rental accommodation;

(b) arrangements with "friendly moteliers"—two or more employees share a room at an agreed rate for the room. Each is issued with a receipt for a separate room, sometimes at a rate higher than the rate actually paid for the room; or, a motelier issues a receipt indicating that accommodation has been retained 14 days in a given fortnight, when in fact it may only have been retained for 7 days in the fortnight and no expense was incurred during the period of absence from the temporary station;

(c) fraudulent claims for 14 days travel allowance per fortnight—employees retain accommodation at the temporary location for 7 nights per fortnight and submit claims for 14 days TA per fortnight inclusive of mid-week return home visits, weekends, public holidays, rostered days off (RDO's) and flex days. Claims are paid without question provided they are accompanied by a signed Tax Certification form. Prior to November 1996, Telstra did not require a Tax Certification.

(d) the "paper shift"—Human Resource Administrative Guidelines require receipts after 21 days. To keep his team on the daily rate, a Construction Manager may call back to base before 21 days have elapsed and state that the crew is at another location where work has been completed or is planned to start. The crew is then moved on paper to the "new" temporary station and the count down to 21 days starts again on the full day rate. After a period exceeding seven days, the Construction Manager may call again, and say that the crew is back at the original location. The crew is then moved on paper back to the original location and the 21 days count-down is restarted;

(e) contracting out of area—teams are assigned to work in areas 1.5 hours or more from the home base, sometimes with the result that two teams will be working in the home base of the other (a common practice);

(f) failure to enforce Human Resource Guidelines with respect to TA—e.g. employees managing several teams in the same district for months, sometimes a year, invariably stay on the full day rate for TA, instead of being required to move into temporary rental accommodation;

(g) other irregular claims—employees about 1.5 hours from their home base travel home each night in some cases (especially if a company vehicle is available) and claim TA without retaining accommodation at the temporary station. This practice can reap the employee an additional $1456 on top of wages in country areas, up to $2,353.40 per fortnight tax free in addition to wages in the Sydney region.

Telstra's response to allegations of Mr Saul and others re travel allowance claims

11. Soon after Mr Saul commenced his period of secondment to Telecom's TPS, he concluded that Operation Echo would achieve little or nothing. Operation Echo was supposedly a covert, national operation, investigating alleged Federal offences, yet information given in confidence to Telstra Protective Service investigators was reported immediately to Mr Gary Lane, the newly appointed NSW Regional Manager, Network Design and Construction. Soon Mr Saul was receiving death threats.

12. With his personal safety at risk, Mr Saul did not return to his previous position, but accepted a temporary transfer to Urunga where he assisted Telstra's Occupational Health & Safety consultant and wrote a brief report detailing the implications for health and safety of Telstra's travel policy. He concluded in his report that if Telstra reorganised its employees and its plant, the amount of travel could be dramatically reduced. The benefits would be significant savings in the cost of labour, and greatly improved job safety. The report was ignored.

13. On 1 September 1992, less than two months after Mr Saul had given Telstra Protective Services a large volume of evidence implying systemic fraud related to travel allowances, the then Minister for Communications, Senator Bob Collins, wrote to the Member for Cowper, Mr Garry Nehl:

> "Thank you for your representations of 24 April 1992 to the former Minister for Transport and Communications, Senator the Hon Graham Richardson, on behalf of Mr Saul . . . concerning redundancy arrangements and alleged rorts in Telecom.
>
> ". . . any decision to rationalise staff numbers and locations is a matter for the Board of AOTC, as is its investigations of allegations against its employees. However, in this case, I did request a report from AOTC regarding the matters you raised, and I am satisfied that the management has acted in accordance with accepted commercial and management practices.
>
> "I have already written to Mr Saul on these matters, suggesting that he contacts AOTC directly if he requires further clarification, or if he has any further evidence to substantiate his claims."

14. On 4 September 1992 just three days after the Minister stated that he had received a report from Telstra on the matters raised by Mr Saul, and was "satisfied that the management has acted in accordance with accepted commercial and management

practices," Mr Lane wrote to "All Personnel, External Construction Branch, Country Construction Branch" (ie, lines staff—a small proportion of the staff under Mr Lane's management control) under the heading "Travelling Allowance Investigation":

> "Telecom Protective Services is examining the travelling allowance records of all External Plant and Country Construction personnel. This action is being taken as part of an extensive investigation into travelling allowance fraud. The investigation arose out of disturbing allegations from inside and outside the organisation concerning the degree of TA abuse in Telecom.
>
> "The principal and over-riding aim of the investigation is to uncover serious misappropriations and systematic fraud. Of the many thousands of movements being examined, only a small percentage is predicted to fall into these more serious categories. . . .
>
> "Protective Services will be referring all cases to me in the first instance. I will be taking a close interest in ensuring Telecom's best interests are served and the relative priorities of the exercise remain in focus.
>
> "I recognise that the investigation is not helpful to morale in the field. However continuing allegations of widespread TA abuse are damaging to both the reputations of all our 1300 country employees and the overall good standing of our organisation. Our line of duty is therefore clear: find out the facts and act on them in an appropriate manner.
>
> "Updates will be issued as the investigation develops. . . ."

15. The decision of the NSW Regional Manager (the officer managing the employees being investigated), to vet alleged fraud cases identified by TPS in order to "ensure Telecom's best interests are served and the relative priorities of the exercise remain in focus"; and his prediction that only a small percentage of the cases would fall into the "more serious categories", raises serious questions. Why was Telstra's Protective Services not permitted to conduct an independent investigation and refer alleged fraud cases to the appropriate authority—in this case the AFP? Why were thousands of employees under Mr Lane's management control excluded from the TPS investigation? What was the basis for Mr Lane's prediction? Was there an intention on the part of any person to pervert the course of justice?

16. Irrespective of the answers to such questions, the circular letter from the NSW Regional Manager would certainly have given fair warning to any employee in the category under investigation and who had been making fraudulent claims, and to any motelier who had been issuing false receipts, to take steps they considered appropriate to protect their interests—for example, the falsification of records. At best, the letter may well have made investigation of Mr Saul's allegations considerably more difficult.

Senator Collins unaware of investigations into travel allowance rorts

17. Following distribution of the letter of 4 September 1992, Mr Saul furnished Senator Paul Calvert, in his capacity as Chairman of the Government Waste Watch Committee, with evidence concerning his allegations. On 12 May 1993, Senator Calvert asked the Minister for Communications, Senator Collins:

> Is the Minister aware of internal investigations by Telecom's Protective Services Unit into alleged travel allowance rorts by Telecom employees involving millions of dollars of taxpayers' money?
>
> Is the Minister further aware of allegations that such investigations have been thwarted by high level Telecom officers who themselves are involved in the rorts?
>
> Does the Minister consider it justice that the only individual who appears to have been charged by Telecom to date regarding travelling allowance rorts is an individual who, in fact, had turned whistleblower on the basis that he would receive reasonable protection?

18. Senator Collins replied: "No, I have no advice on that specific issue which, I must say, I am not surprised about. I will follow up the matter and provide Senator Calvert with an answer as soon as possible." Senator Collins tabled the answers on 20 May 1993. The answers to Senator Calvert's questions informed Parliament:

> 1. I am advised that Telecom Protective Services staff in NSW have been conducting an investigation into travel allowance fraud since May 1992. They have been working very closely with Major Crimes Squad of NSW Police in this investigation known as "Operation Echo"
>
> This follows a previous investigation in 1990, "Operation Saddler" which led to 50 prosecutions.
>
> With "Operation Echo", briefs of evidence are being prepared by Telecom Protective Services. More serious offences are taken over by police and handled through NSW courts. Less serious offences handled by internal discipline with six internal inquiries, to date, being undertaken by senior Telecom managers.
>
> I am advised that NSW police have laid charges against three employees and more cases are expected. Priority has been put on the more serious alleged offenders in terms of the level of responsibility and trust in the

corporation or the level of fraud in money terms.

2. Telecom has advised that investigations have not been thwarted by high level officers..

In fact, the investigation has been instigated by "high level officers".

Some of the alleged offenders have supervisory responsibilities. However, the level involved is below senior or middle management in Telecom.

3. I understand that the individual who allegedly turned "whistleblower" has, in fact been charged with a very serious, separate offence by the NSW police and the matter is therefore, outside Telecom's jurisdiction.

Telecom is not in a position to grant immunity or protection to "whistleblowers".

This can only be done under section 21E of the Crimes Act 1914 where there is an undertaking by an offender that they will give evidence, which may then lead to a reduction in sentence only by the magistrate or judge.

19. It would be well over three years from the time this information was provided to Parliament before Telstra acknowledged current practice: for 30 years it had been making large tax free payments to thousands of its employees, not just in NSW, but right across Australia, on the basis, it would claim, that expenditure was actually incurred in retaining accommodation at the temporary station for the whole of the period for which a claim was made; and that it knew that thousands of its employees were not in fact retaining accommodation at the temporary station for the whole of the period (in the majority of cases for not more than 7 days in 14). For this reason, the answer given to Parliament was misleading.

20. Following the tabling, Senator Calvert stated, "I would like to point out that twice now he has said that he had no advice on the matter." Senator Calvert then read an extract from the letter of 1 September 1992 from Senator Collins to the Member for Cowper, Mr Garry Nehl (see above), in which Senator Collins stated he had requested a report from AOTC regarding "redundancy arrangements and alleged rorts in Telecom". Senator Calvert informed the Senate: "I think it is another example of the department running the Minister."

Advice to the Commissioner of Taxation

21. On 10 June 1993, Mr Saul wrote to the Commissioner of Taxation, forwarding a newspaper editorial that related to information on travel allowance rorts previously given to the ATO's Fraud Unit in Canberra. Mr Saul received a reply dated 12 July 1993 from the Commissioner's Personal Assistant, Ms Rhona Mellor: the Commissioner had seen the fax and had asked Ms Mellor to thank Mr Saul for drawing to his attention the matters addressed in the fax.

Police investigations

22. The success of an investigation into travel allowance fraud depended on access to motel records in order to establish the authenticity of receipts and in particular the date of issue. But TPS investigators did not have the power to seize records or the power of arrest. Consequently police involvement in the investigation was essential.

23. The evidence given by informants was eventually referred to police for investigation, but not to the Australian Federal Police, who might have been expected to investigate alleged offences under the Commonwealth Crimes Act given that prior to 1 February 1992, Telecom was not subject to the corresponding State legislation. Information was referred to the NSW Police Force which, according to media reports, planned a full and proper inquiry into the detailed information provided by Operation Echo witnesses. Reporters Gavin Cantlon and Bruce Jones wrote (Herald Sun, 11 July 1993, p.1 "Phone fraud shock—Police probe rocks Telecom"):

> "Telecom had been rocked by the news that NSW police are planning to set up a special task force to investigate allegations of widespread fraud by employees. What began as an internal inquiry under the code name Operation Echo has now blossomed into a full-scale investigation which could spread Australia wide. The fraud probe comes at the same time that up to 10,000 Telecom jobs could disappear during the next 12 months as the national carrier loses market share to rival Optus, following a series of planned national telephone ballots . . .
>
> "The alleged fraud, involving the payment of travel allowances, is understood to date back many years. While the amounts involved so far are small, less than $1,000 for each individual, the extent of the inquiries could mean many in Telecom's 69,000 workforce could be investigated, with a final total stretching into millions of dollars. The small individual amounts also meant that State police and not the Federal Police Fraud Squad are involved in the investigations. Four employees of the external network construction branch of Telecom, the men who string the lines in country areas, have already been charged and appeared in local court on counts of imposition. They were arrested after police from the North Region Major Crime Squad led by Detective Sergeant Glen Kendall together with Telecom investigators from the protective services section under the command of Mr Bob Simpson made early morning visits to their homes in country centres" (Mr Simpson was in fact a TPS investi-

gator reporting to Ms Hilary Ogden who reported to the Director of TPS, Mr Peter Lester).

24. The same newspaper reported on 8 August 1993:

> "Chief Executive Frank Blount has admitted the inquiries were of 'enormous proportions' with up to 400 people to be interviewed and records subpoenaed from more than 100 motels."

25. On 12 September 1993, under the headline "Telecom probe stalls", the *Herald Sun* reported:

> "Crime commanders from NSW learnt last week that Federal Police were less than enthusiastic to their request to join the investigation. And they do not want to commit NSW police resources without assistance from the Commonwealth . . . Now without a joint Federal-State police operation, those probes are unlikely to proceed."

26. A possible reason for the AFP's lack of enthusiasm emerged the following year. In 1993 and 1994, the Federal Member for Wannon, Mr David Hawker asked a series of questions about public sector fraud relating to the years 1991-1993. On 28 August 1994, the *Sunday Telegraph* reported under the headline, "$6.5 million missing in PS fraud," "Workers in sensitive areas including ASIO, the National Crime Authority, Customs, the Family Court, and the Australian Federal Police were convicted of fraud according to information given to Parliament."

27. Apparently the NSW police had a similar problem. According to Mr Saul, he was never interviewed by police, and only token efforts were made to access and seize motel records as evidence. Invariably it was found that moteliers (often former police officers) had been warned to expect a visit. Mr Saul states that a senior police officer within the Professional Responsibility Group of the NSW Police Force (then under the command of former NSW Assistant Commissioner Geoff Schuberg), told him there had been no serious investigation of travel allowance irregularities in NSW—information consistent with a report in the *Telegraph Mirror* on 19 April 1995, under the headline "Police criminals 'staying on duty'."

28. In the course of evidence given to the Royal Commission into the NSW Police Force, Assistant Commissioner Schuberg admitted that three detectives from Tamworth who admitted to rorting their travel expenses were dealt with internally and fined rather than charged with fraud. Commissioner Wood asked: "This is a fraud, is it not, of the kind we have seen politicians and others go to jail for? You have people who are proven liars with criminal records who are still carrying out policing and giving evidence?" Assistant Commissioner Schuberg replied: "Yes, I do think it raises a problem."

Legal professional privilege

29. Whether Telstra was active behind-the-scenes in preventing a proper investigation by the police is not known. What is known is that, at the time, Telstra had representatives of two law firms on its Board—Mr Peter Redlich, a Senior Partner in Holding Redlich, who had been appointed for 5 years from 2 December 1991 and Ms Elizabeth Nosworthy, a partner in Freehill Hollingdale & Page who had also been appointed for 5 years from 2 December 1991. One of the notes to and forming part of Telstra's financial statements for the 1993-94 financial year, indicates that during the year the two law firms supplied legal advice to Telstra totalling $2.7 million, an increase of almost 100 per cent over the previous year. Part of the advice from Freehill Hollingdale & Page was a strategy for "managing" the "Casualties of Telecom" (COT) cases.

30. The Freehill Hollingdale & Page strategy was set out in an issues paper of 11 pages, under cover of a letter dated 10 September 1993 to a Telstra Corporate Solicitor, Mr Ian Row from FH&P lawyer, Ms Denise McBurnie. The letter, headed "COT case strategy" and marked "Confidential," stated: "As requested I now attach the issues paper which we have prepared in relation to Telecom's management of 'COT' cases and customer complaints of that kind. The paper has been prepared by us together with input from Duesburys, drawing on our experience with a number of 'COT' cases. . . ."

31. The lawyer's strategy was set out under four heads: "Profile of a 'COT' case" (based on the particulars of four businesses and their principals, named in the paper); "Problems and difficulties with 'COT' cases"; "Recommendations for the management of 'COT' cases; and "Referral of 'COT' cases to independent advisors and experts". The strategy was in essence that no-one should make any admissions and, lawyers should be involved in any dispute that may arise, from beginning to end. "There are numerous advantages to involving independent legal advisers and other experts at an early stage of a claim," wrote Ms McBride. Eleven purported advantages were listed.

32. In particular, Ms McBride argued that the initial point of referral should always be the Corporate Solicitors Office, "in order to bring into operation the potential protection of legal professional privilege for documentation and other reporting procedures;" and the Corporate Solicitors Office should continue as "the point of referral and control in order to maintain legal professional privilege (where possible) over information and documentation created during the handling of the 'COT' case." If technical, fault reports were needed, these should be commissioned by the Corporate Solicitors Office and provided only to

the Corporate Solicitors Office in "an attempt to create the initial protection of legal professional privilege for such reports."

The Freehill Hollingdale & Page strategy was accepted.

33. Given information from businesses named in the strategy paper on what happened before and after the strategy was implemented, it appears that since 1992, Telstra has adopted a much more adversarial approach in dealing with complaints concerning service or any other form of criticism. This shift in corporate culture makes it more likely than not that in 1993, advice was also sought and received by the Telstra Board on the "management" of travel allowance fraud allegations.

34. [In a Media Release dated 16 April 1997, the Minister for Finance, the Hon John Fahey, MP, announced the appointment of Freehill Hollingdale & Page as Australian legal adviser for the sale of one-third of the Commonwealth's equity in Telstra. The appointment was made following "a very competitive selection process from a wide field of domestic and international law firms", the Ministers said.]

The ANAO's response to allegations re travel allowance

35. In late 1993, after witnessing the evident failure of police investigations, Mr Saul informed the Australian National Audit Office (ANAO) of irregularities in Telstra travel allowance claims. He was not contacted by the ANAO, although the transcript of the Senate Estimates Committee hearing on 25 May 1994 suggests that the ANAO acted on Mr Saul's information, and furnished Telstra with a copy of its report:

> **Senator Calvert**—Would you still have the same concern with the IRC direction that employees have to substantiate receipts for only seven days in a fortnight to receive that 14 days TA? That was one of the concerns you raised before.
>
> **Mr Holmes**—Yes.
>
> **Senator Calvert**—That seems to be the basis for a lot of these travel allowance rorts.
>
> **Mr Holmes**—The Australian National Audit Office report actually picks up three basic issues. I think it does it very well. The first issue is the problem of the removal of a person's temporary station, and that is the basis on which calculations are done. That is really a recurring problem in a very mobile work force; this is a construction work force we are talking about.
>
> The second problem is that, from the work force's point of view, there are friendly moteliers who might give receipts when they are not due. It is not necessarily a problem in terms of the numbers of days but a problem because receipts are required. If a receipt is required it is not too hard for some people under some circumstances to come up with a receipt.
>
> The third problem is the one that you mentioned of just how many days away would count. But that is more of a problem in industrial relations terms because the number of days a person can be out in a fortnight can be quite legitimate in terms of the rules. But to people who are not part of that industrial relations scene it looks like a rort. So it is really not fraud; it is pursuing rules to their fullest within an industrial set of conditions that we would like to change".

36. The issues that Telstra's Secretary believed the ANAO picked up very well are the first three referred to above under the heading "Telestra seeks assistance from Mr Saul".

Estimates Committee seeks a copy of ANAO report on travel allowance allegations

37. On 16 November 1994, Communications Minister, Mr Michael Lee wrote to Mr Saul:

> "My letter to you dated 30 June 1994, indicated that I had written to the Chairman of Telecom advising him of my concerns and requesting that he report to me on the matter. In addition to this, there is a report being prepared for the Auditor-General on Telecom's travel allowance approval systems and processes and examination of the adequacy of management action in response to abuse allegations. I have been informed that both the Telecom and the Auditor-General's report are in the process of being finalised. I will write to you again when those reports are received."

38. On 29 November 1994, Senator Faulkner on behalf of the Minister for Communications, Mr Lee and the Head of Telstra's Corporate Legal Services, Mr Krasnostein, were fielding questions from the Senate Estimates Committee on Telstra related matters, when the following exchange took place:

> **Senator Calvert**—Last estimates I asked whether the Auditor-General had conducted a report into Telecom's travel allowance approval systems. If I remember correctly, I was told that a report had been done. In fact, initially I was told I could have a copy of it but later I was told that I could not have one because it was still awaiting the Auditor-General's signature. I would like to know how long does it take the Auditor-General to sign a document . . .
>
> **Mr Krasnostein**—I do not believe there is any cover-up involved. The most recent information I have—and we can check for you; the final report has been issued—was findings in the Auditor's draft of 17 February, in which the Australian National Audit office stated:
>
> 'Telstra's response to the TA frauds that have been occurring in NSW is satisfactory. Events beyond Telstra's control have conspired to draw

out the process. Management response is at an appropriate level and is being monitored by the Board Audit Committee.'

39. The following exchange suggests that Sen. Calvert was not the only one concerned at the Auditor-General's apparent unwillingness to make his report on TA related allegations available to the Parliament:

Mr Hutchinson—Advice to the department from the Auditor-General's Office in the last few days is that the report has still not been signed by the Auditor-General.

Senator Calvert—Still has not been signed.

Mr Hutchinson—That is correct.

Senator Ferguson—We should give him some ink. . . .

Senator Calvert—Minister Lee advised a constituent on 16 November that these matters were close to being finalised. Obviously someone has advised him that they were close to being finalised. When do you expect finalisation? . . .

Senator Calvert—I find it curious that back in February the Auditor-General's report was issued in draft form. It still has not been signed. The Minister obviously believes that the matter is close to finalisation. Yet no-one can tell me here tonight when it is likely to be finalised and when the Auditor-General's report is going to be made available. . . .

Senator Calvert—Can I perhaps ask Mr Hutchinson? Has anybody in your department written to the Auditor-General asking him why the delay in signing the particular report or making it available?

Mr Hutchinson—Let me say two things. The first is that I am very much aware that the Minister is keen for these matters to be finalised as soon as possible. . . .Telstra is aware of the Minister's wish and shares it. It is, however, improper for anyone to seek to intervene in the Auditor-General's independent exercise of the statutory functions. It is a strong culture that the Auditor-General sets his own agenda, sets his own timetable. It would be improper for us to expedite or interfere with the Auditor-General's judgement of how he conducts his business. For that reason we have not written to the Auditor-General demanding that he finalise this matter. It is quite simply a matter of waiting for the Auditor-General to complete his work, as he sees fit, given his independence and accountability to the Parliament."

40. In fact the report had been signed. The draft version given to Telstra was dated 17 February 1994 (evidence of Telstra's former Head of Corporate Legal Services, Mr Krasnostein before the Estimates Committee on 29 November 1994). The final version is referred to in the bibliography of a report by the Commonwealth Deputy Ombudsman dated 14 November 1996 on allegations made by Mr Geoff Marr re overtime rorts in Telstra. The bibliography refers to an "ANAO report (May 1994), Travel Allowance and Overtime Frauds."

Minister Lee waits for ANAO report on allegations of travel allowance rorts

41. On 18 May 1995, the former Minister for Communications, Mr Michael Lee wrote to Mr Saul, acknowledging his pivotal role in Operation Echo. His letter states:

"Further to my letter of 16 November 1994, about the allegations of travel allowance abuse in Telecom. I wrote to the Auditor-General on 9 December 1994 [10 days after the Estimates Committee hearing], inquiring when the ANAO report into Telstra's Travel Allowance approval system would be finalised. In response, the Auditor-General has informed me that the investigation conducted by the Australian National Audit office (ANAO) early in 1994 was a preliminary review and that a follow-up review was planned for early 1995.

"Subsequently, the Acting Auditor-General advised that the follow-up review would be conducted as part of the ANAO's audit of the accounts and records of Telstra for the year ending 30 June 1995. In addition the Acting Auditor-General advised the preliminary review essentially found that:

- Telstra's response to overcome the problem of travel allowance appears to be satisfactory, in that the management response is at an appropriate level and is being monitored by the Board Audit Committee. . . .
- There was no evidence to suggest that serious frauds or rorts of overtime was occurring. The allegations of overtime fraud had also been investigated by the AFP and assisted by Telstra internal audit group, finding no evidence of fraud or any other offence.

"The ANAO's follow-up review will complete its examination of these matters."

42. According to Mr Lee, Mr Saul made 120 allegations to Telstra's Protective Services, 46 of which involved travel allowance and subsequently [August 1992] formed part of a much larger investigation known as "Operation Echo." Another 8 of Mr Saul's allegations, the Minister noted, concerned alleged theft and another 4 concerned drug offences.

43. The Commonwealth DPP agreed to review all disciplinary cases for consideration of prosecution in the public interest. There were currently 48 cases that had or were to be reviewed for prosecution/disciplinary action; there were 176 disciplinary

charges being laid against 27 staff and a total of 158 criminal charges being laid against 6 staff; and the amount of restitution or repayment being sought was approximately $156,500 (subject to the finalisation of all disciplinary matters) from 46 staff. It was intended that "all outstanding cases and matters will be concluded before the end of June 1995."

44. Some Operation Echo informants question what Telstra regards as disciplinary action. One refers to an employee who allegedly made fraudulent claims resulting in over-payments totalling $140,000. The employee was not charged. He was suspended on full pay. Two others allegedly made false claims with overpayments totalling $70,000 and $90,000 respectively. To the informant's knowledge, neither was charged.

Advice to Minister Lee false and misleading

45. The Acting Auditor-General's advice to the Minister was, prima facie, false and misleading in the following respects:

(a) the Australian National Audit office did not itself review Telstra's travel allowance approval system in early 1994—the review was undertaken by a contractor, Price Waterhouse on behalf of the ANAO;

(b) the ANAO report that the former Auditor-General gave to Telstra and initially agreed to give to Senator Calvert but afterwards withheld from Senator Calvert and the Estimates Committee, was not a preliminary report. As noted above, there was a draft report dated 17 February 1994 and there was a final report dated May 1994. The former is referred to in Estimates Hansard. The latter is referred to as "ANAO report (May 1994), Travel Allowance and Overtime Frauds." in the bibliography of a report by the Commonwealth Deputy Ombudsman dated 14 November 1996 on allegations made by Mr Geoff Marr re overtime rorts in Telstra.

(c) there was not a follow-up review in the sense that the ANAO or a contractor engaged by the ANAO investigated and independently verified information it was given by Telstra (the ANAO officer in charge of the ANAO's Victorian Branch office subsequently confirmed this when he informed Mr Saul "we don't investigate. We only go on what is put in front of us"); and

(d) the Commonwealth Deputy Ombudsman, Mr John Wood, informed Mr Geoff Marr in a report dated 14 November 1996 (see Annexure 1), that the ANAO conducted a brief review of the specific Marr outcomes, in the context of its review of travel allowance fraud issues, "broadly restating the AFP's findings (but without reviewing the analysis: ch 4)"; that there were "irregularities in the claiming and authorisation of overtime in the Development Forecasting Section in 1989-90 which amounted to a 'rort' or system of minor fraud"; and the findings of a major national review conducted in November 1995 substantially superseded the ANAO's assurances.

Auditor-General's 1994-95 Report

46. On 28 November 1995, almost two years from the date (17 February 1994) a report on travel allowances was completed and delivered to Telstra, the Auditor-General who was appointed on 2 May 1995, signed Audit Report No 13 on the "Results of the 1994-95 Financial Statements Audits of Commonwealth Entities." The report includes the following brief reference to Telstra:

> "During the year the ANAO undertook a review of travel allowances to determine whether the Board and management had taken appropriate action in respect of travel irregularities.
>
> "The review found that Telstra management had acted responsibly in addressing the risks associated with travel allowances. Telstra had conducted comprehensive inquiries into travel allowance activities and was putting into place measures designed to ensure irregular claims, contrived movements to stay on the daily rate and falsifying of receipts were minimised."

47. As will be shown below, Telstra did not conduct comprehensive inquiries into travel allowance activities; did not put into place measures designed to ensure irregular claims, contrived movements to stay on the daily rate and falsifying of receipts were minimised; and did not act responsibly in addressing the risks associated with travel allowances. In short, the ANAO misled Parliament, because it failed to verify information it was given by Telstra

Police "investigations"

48. On 5 March 1996, the AFP wrote to Mr Saul:

> "In accordance with longstanding Government policy, re-stated in the 1994 Fraud Control Policy of the Commonwealth and the supporting Interim Ministerial Direction on Fraud Control, the AFP is required to focus on serious fraud. . . . An assessment of the relative priority of a matter takes into account a number of factors, including the gravity/sensitivity of the matter, the current investigational workload, and the availability of resources. The matter you have referred has been examined in this context and has been assessed as not having sufficient priority relative to other demands on the AFP's investigational resources."

49. The statements that the AFP "is required to focus on serious fraud," and "the matter you have

referred has been examined in this context and has been assessed as not having sufficient priority relative to other demands on the AFP's investigational resources," seems to imply that claims by literally thousands of Telstra employees for 14 days travel allowance per fortnight, when accommodation was retained for only seven of those days, and Telstra's failure to show any part of the corresponding payments against claims on Group Certificates for some 30 years, did not amount to "serious fraud" in the opinion of the AFP.

50. The consequence of the AFP's perception of what constitutes serious fraud, and its interpretation of its responsibility is set out clearly in a report dated 18 March 1996, by the NSW police officer given the task of investigating travel allowance fraud, and referred to by name in the *Herald Sun* story of 11 July 1993 referred to above ("Phone fraud shock—Police probe rocks Telecom"). In the report, Detective Sergeant Glen Kendall of the Major Crime Squad North informs Detective Inspector/Coordinator, Major Crime Squad North (Chatswood) that in 1992, as a result of a complaint made by Telecom Protective Services, "an investigation was launched relative to alleged large scale fraud by Telecom employees concerning the excessive claiming of travelling allowance." The letter provides the following information:

- The number of Telstra (Telecom) employees suspected of such illegal activity at one point was estimated as high as 900;
- To fully investigate alleged offences would necessitate a massive allocation of police resources;
- Analysis of briefs indicated that the majority of matters involved "Commonwealth" offences, ie, offences committed prior to the privatisation of Telstra (pre 1/2/92);
- The Australian Federal Police did not wish to become involved in the investigation;
- The Deputy Commissioner decided that the NSW Police Service should only investigate "substantial individual fraud offences committed prior to the privatisation of Telecom . . . "
- Discussions were held with Telecom officials and it was agreed that the majority of matters would be dealt with on a disciplinary basis by Telstra.

51. According to Sgt. Kendall, the results of the investigations by the NSW Police were as follows:

(i) Maxwell Schouten—charged with 11 counts of imposition. All charges were discharged at the local court;

(ii) Paul Kelly—charged with 30 counts of imposition and 19 counts of deception and committed for trial. Charges subsequently withdrawn by the Commonwealth DPP;

(iii) Francis Knight—charged with 38 counts of imposition and 3 counts of deception. All charges discharged at the local court;

(iv) Geoffrey Norris—charged with 30 counts of imposition. Convicted at the local court of all charges and sentenced to 6 months imprisonment. Appealed against sentence and got a 2 year good behaviour bond in lieu of imprisonment;

(v) John King—charged with 11 counts of deception. All charges discharged at the local court;

(vi) Mark Schneider—charged with 16 counts of deception. All charges withdrawn by Prosecutor;

(vii) John Maher and another person named Watkins—investigation abandoned.

52. Detective Sergeant Kendall stated that the factual circumstances of the Norris matter were different from those of the other employees who were arrested or charged. He stated that the alleged offences involving the five employees other than Norris related to travel allowances claimed for expenses incurred staying at the Strathfield Towers Motel. According to Detective Sergeant Kendall, in each of the court hearings, the records of the Strathfield Towers Motel "were put into evidence and had their credibility attacked."

53. In support of this conclusion, Sergeant Kendall attached to his report a copy of a report submitted by the police prosecutor, Acting Sergeant Green, who handled the prosecution of Mr King. Acting Sergeant Green indicated inherent flaws in the prosecution case:

> "mainly that the records of the Strathfield Towers Motel lacked credibility, and therefore the cogency of the evidence was lessened. This fact was fatal to the prosecutions of Schouten, Knight and King and led to the withdrawal of charges against Kelly and Schneider.
>
> "The two remaining enquiries, ie, Watkins and Maher, were also based on the records of the Strathfield Towers Motel. As the same inherent flaw existed in those inquiries (prosecution's lack of credible documentary evidence to support witness' assertions) the investigations of those matters was abandoned. It should be noted that in all of these instances the defendants were represented at interview by lawyers who recommended that their clients enforce their privilege of silence. No admissions were forthcoming. . . ."

54. Mr Saul states that Mr Kelly was a so called "depot pen-man" with the major fibre optic team at Concord West and later at Taree. He was ideally placed to know about the frauds involving false

receipts, and "paper shifts" because his job was to check and process time sheets, TA claims, man hours, and work authority numbers. He knew who was rorting travel allowances and by how much. After it was discovered that Mr Kelly had been an Operation Echo informant, charges were brought against him alleging fraudulent claims amounting to $38,000.

55. Some time later it was discovered that Mr Kelly had overwhelming evidence implicating many others. The CEPU, the Union to which Mr Kelly belonged, imposed a levy (said to be $500 on each of three separate occasions) on its NSW members to hire legal representation for Mr Kelly and other members who had been charged with offences relating to travel allowances. Mr Kelly's legal representatives included Solicitor Chris Murphy and barrister Winston Terracini.

56. At Mr Kelly's hearing in the Nowra Court, it was alleged that Mr Kelly's supervisory officer, Mr John Maher, who had been certifying that the claims submitted to Mr Kelly were correct, had himself made numerous false claims. A police officer testified that police had not investigated the charges against Mr Kelly. They had relied on information provided by Telstra, ie by Telstra Protective Services staff, Ms Hilary Ogden and her subordinate, TPS investigator, Mr Bob Simpson.

57. The Strathfield Towers Motel, whose records according to a police prosecutor, "lacked credibility" was subsequently bull-dozed to the ground. After the DPP withdrew the charges against Mr Kelly, he was re-instated by Telstra at level, performing essentially the same duties he performed prior to being charged.

Mr Saul's response to inaction by authorities

58. On 3 July 1996, Mr Saul wrote to Senator Calvert, who wrote to the ANAO seeking a copy of the report referred to in the Senate Estimates hearing on 24 May 1994. Senator Calvert evidently got no reply because on 1 August 1996 he wrote to the Hon Chris Miles, the Parliamentary Secretary (Cabinet) to the Prime Minister, enclosing a copy of his letter of 3 July. His letter dated 1 August 1996 states:

> "As you can see, I am attempting to obtain a copy of a report which was compiled some time ago. I should mention that I was precluded from obtaining a copy of the report whilst Labor was in power.
>
> "To date I have not even received a response from the ANAO a situation which I am sure you would agree, is most unsatisfactory.
>
> "I have been advised that the ANAO is part of the portfolio responsibility of the Prime Minister and therefore, it would be appreciated if you could pursue this matter with the ANAO on my behalf
>
> "I believe that there may in fact, be some attempt being made to hide some of the failings of the previous Federal government in relation to the handling of this issue".

The response of the ANAO's National Director (Financial Audit) to request for report

59. Some time after writing to Mr Miles, Senator Calvert received a letter, evidently back-dated to 25 July 1996, from the ANAO's National Business Director, Financial Audit, thanking him for his letter of 3 July. The letter (apparently based on advice given in a letter to former Minister Michael Lee and referred to in Mr Lee's letter of 18 May 1995 to Mr Saul), informed Senator Calvert:

> "In respect to travel allowances, our review focussed on whether the Board and management had taken appropriate action in respect of the allegations. Our review found that Telstra management had acted responsibly in addressing the risk associated with travel allowances. . . .The company had conducted comprehensive enquiries into travel allowance activities and was implementing measures designed to ensure irregularities were minimised. The results of this aspect of the review were reported to the then Minister, the Honourable Michael Lee MP, on 19 September 1995 and were included in the ANAO's Report No 13 1995-96 on the results of the 1994-95 Financial Statement Audits of Commonwealth Entities.
>
> "In respect to overtime, certain allegations were investigated jointly by the Telecom Audit Service and the Australian Federal Police. Whilst the amount of overtime expenditure is considerably immaterial as compared with total Telstra expenditure, the results of the investigation found there was no substance to the allegations. In addition no other evidence was found to suggest that serious frauds or rorts of overtime were occurring. As a consequence of these findings, formal reporting was not considered necessary.
>
> "I also note from your letter ongoing concerns regarding overtime at Telstra. You may wish to discuss these with Mr Brett Kaufmann, the Executive Director of our Melbourne office who is responsible for our audit of Telstra . . . "

60. Senator Calvert faxed Mr Nelson's letter to Mr Saul on 7 August 1996, the day after a Telstra representative stated on Channel 9's program, "A Current Affair," in the context of criticisms of Telstra's billing systems: "each year the Australian National Audit office does an audit of our systems and there is no systemic problem."

61. Two days later, Senator Calvert faxed a copy of the cover of Report 13 and the relevant paragraphs of that report to Mr Saul. Mr Saul wrote on his copy of Mr Nelson's minute, "This is not the report you want. This is a cover-up for Telstra" He

wrote on his copy of the Report 13 extract, under the heading "Travel Allowance", "What about w/end TA!—no mention—or ATO or reply re TR 96/21".

ANAO advice to Mr Saul

62. For 30 years Telstra has been paying claims for 14 days TA per fortnight in the knowledge that employees were retaining accommodation for only 7 of those 14 days, and has not been showing any part of the payment on Group Certificates. Understandably the Unions were worried that this was about to change, and concern was expressed publicly by at least one Union. In the August 1996 edition of "On the Line", a periodical published by the Communication, Electrical Plumbing Union (CEPU), Mr Guy Robins, Assistant Secretary of the CEPU stated:

> "The Union continues to be extremely concerned at Telstra's involvement with the Taxation office and proposed changes to tax some parts of Travelling Allowance. . . .
>
> "The Union's position is that any taxation on TA should be paid by the Management. The TA component under threat of taxation is the TA received when not in accommodation away from base. . . .
>
> "The Union has indicated that a tax on TA would most certainly cause industrial action that would seriously disrupt the ongoing capital works programme and the FMO programme."

63. Mr Robins was implying that Telstra had condoned and accepted the practice for many years which enabled Telstra employees to claim and be paid 14 days TA per fortnight notwithstanding that employees retained accommodation for only 7 of the 14 days. Mr Saul considered that this issue was as much a matter for Telstra's appointed auditor, as it was for the ATO. Consequently on 16 August 1996 Mr Saul called Mr Brett Kaufmann, the ANAO Executive Director responsible for Telstra audits to discuss the implications of the facts that Telstra had not previously showed any part of TA on Group Certificates and for some time had been meeting with the ATO.

64. Mr Saul states that he asked Mr Kaufmann about his investigation of the Telstra travel allowance allegations, and the view that "any taxation on TA should be paid by the Management", given that Telstra management had condoned and abetted existing practices for many years. Mr Saul was informed that he [Mr Kaufmann] was only recently appointed to his position and had inherited the matter. To his knowledge there had been no contact with the Australian Taxation Office on the matter. Mr Kaufmann stated, "we don't investigate. We only go on what is put in front of us."

65. The consequence of this willingness on the part of the ANAO, or its agent Price Waterhouse, to accept assurances from Telstra, without verifying or otherwise checking the information provided, is that the ANAO provided false or misleading information to Minister Lee (in the advice from the ANAO referred to in the Minister's letter dated 18 May 1995 to Mr Saul), the Parliament (in the paragraph relating to Telstra in the ANAO's Report No 13 on the "Results of the 1994-95 Financial Statement Audits of Commonwealth Entities"), and Senator Calvert (in the letter of 25 July 1996 from the ANAO's Mr Nelson).

Ministers informed of TA related allegations

66. Following his telephone conversation with Mr Kaufmann, Mr Saul faxed to him a number of documents and then commenced an intensive letter writing campaign. Letters alleging travel allowance rorting were sent to the Minister for Communications and the Arts, the Minister for Industrial Relations, the Australian Taxation office, the Minister for Finance, the Treasurer, the Parliamentary Secretaries to the Prime Minister, the Minister for Administrative Services, the Commonwealth Ombudsman, and the Attorney-General.

67. Most recipients of Mr Saul's letters responded that his letter had been passed to the Minister for Communications and the Arts, Senator Richard Alston. Senator Alston himself, who had asked many questions on travel allowance rorting in the Senate and pursued the issue with considerable vigour when in opposition, ignored Mr Saul's letters.

A meeting in Port Macquarie

68. On 12 September 1996, Telstra's Executive General Manager, Network Design and Construction, Mr Bob Pentecost, and General Manager, Corporate Security, Mr David Harris, met with Mr Saul at Telstra's request. At the meeting in Mr Saul's home in Port Macquarie, the discussion centred initially on the legality of paying TA for 14 days including weekends, public holidays, rostered days off and other off-duty periods, rather than the entitlement of 7 days allowed under Telstra's Human Resource Guidelines.

69. According to Mr Saul, the justification for this policy offered by the two Telecom executives was that it suited Telstra to pay TA for 14 days rather than ETT (extra travelling time) and car allowance. Mr Pentecost asked Mr Saul what he could do for him. Mr Saul responded that he wanted a fair resolution of his claim for compensation which, he said, was directly attributable to his role in assisting Protective Services expose the TA related rorts.

Tax Implications

70. Less than three weeks after the meeting between the two senior Telstra executives and Mr Saul, Telstra's Employee Communications, Corporate Affairs issued "A guide for managers and employees to answer questions on the implications

of tax on travelling allowance", issue 98, dated 30 September 1996. The Guide, marked "URGENT" in large letters (Annexure 2) provided the following information:

(a) Telstra provides employees with travelling allowance for absences from a temporary station during mid-week return home visits, weekends, public holidays, rostered days off (RDO's) and flex days, "on the basis that temporary accommodation is retained and the employee travels home at his/her own expense. Unfortunately, over time, this point has been lost and now there is a mistaken belief amongst our employees that payments for weekends etc is a form of 'disability' allowance for being away for prolonged periods from home."

(b) the Australian Taxation Office ruled that where an employee returns home or travels to another location from a temporary station and costs are not incurred in retaining accommodation at the temporary station, any travel allowance paid during the corresponding period is taxable income to the employee.

(c) where an employee returns home or travels to another location from a temporary station and incurs expenses in retaining accommodation that is not occupied, the Australian Taxation office may allow a tax deduction for the expenses incurred in retaining the accommodation. "Whether or not the deduction is allowed is an ATO decision."

(d) ER Service Operations has been instructed to impose tax, at the appropriate marginal rate for the entire claim period, for those travel allowance claims submitted after 30 September 1996, that are not accompanied by a completed and signed "Travelling Allowance Claim Taxation Certification" form.

(e) "The certification form has been developed to ensure both Telstra and our employees taxation obligations are met. If Telstra were not to introduce these forms they may be considered by the ATO as aiding and abetting employees in the avoidance of income tax. This could leave both Telstra and our employees exposed to taxation penalties."

(f) "Any travelling allowance payments assessable as income will be taxed and appear on employees group certificates. These amounts will need to be taken into account when employees are considering eligibility for government benefits such as Family Allowance, Parenting Allowance, Austudy, etc. This additional income will effect Medicare levies and may effect tax margins. Those employees providing maintenance payments should also be made aware of this new source of income."

(g) "Telstra has given a commitment to Staff Associations [CEPU, CWU, etc] to continue with what has become custom and practice in the payment of travelling allowance on the proviso that discussions will continue on the introduction of a revised travel policy for all employees by 1 March 1997."

71. The Taxation Certification form referred to above, requires each employee to certify whether he did or did not return home "at any time during the period to which the attached claim relates," and it warns:

"Before completing a form, employees should be aware that if they are in receipt of or intend to claim for periods of travelling allowance:

1. the travelling allowance received for a period which did not involve an overnight stay away from home, is assessable as income and will be disclosed on their Group Certificate with PAYE tax instalments deducted;

2. they are not entitled to income tax deductions with respect to nights which do not involve an absence from home; and

3. they will be required to substantiate their travelling expenses in order to claim tax deductions on lodgement of their tax return."

72. It would seem that in its efforts to avoid industrial action and to meet its cable roll-out commitments to Foxtel, Telstra agreed "to continue with what has become custom and practice in the payment of travelling allowance", ie it would continue to pay claims for 14 days TA per fortnight, no questions asked, provided employees completed and signed the Tax Certification—a Certification not made on the Travel Allowance Claim Form, as might have been expected, but on a separate form.

73. An employee wishing to maintain the "status quo", only had to tick the "yes" box under the declaration "I certify that I did not return home at any time during the period to which the attached claim relates." Telstra did not require the employee to retain a receipt, or even provide the name, address and telephone number of the establishment providing accommodation at the temporary station, even though the ATO required that receipts be retained.

74. Evidently Telstra did not consider that Executive endorsement of "current practice" until 1 March 1997, and the omission of key management controls for the detection and prosecution of

fraudulent claims would have a material effect on the level of fraudulent claims.

CEPU considers tax on TA a minefield

75. Following the release of Telstra's Guide for managers and employees, the Assistant Secretary of the CEPU, Mr Guy Robins wrote in the October 1996 edition of "On the Line" (pl7):

> "Your Union continues to examine every avenue that may give us relief in any way from this tax on Travelling Allowance. Members do not need to be reminded of the difficulty this issue presents for the Union. This issue is an absolute 'minefield' that the Union is attempting to examine every angle. There is a 'miriad' [sic] of legal and industrial avenues that have to be explored by the Union in the attempt to seek relief from this tax".

Senator Calvert seeks advice on meeting outcome

76. Four weeks after his meeting with the two Telstra executives, Mr Saul had not heard from Telstra Consequently he contacted Senator Calvert who wrote to the CEO of Telstra, Mr Blount. Senator Calvert's letter dated 17 October 1996 states:

> ". . . Mr Saul has expressed some concern that having spoken to the Telstra employees at length regarding Travelling Allowance misuse, he has received no further contact; nor has he been advised of any follow-up measures which have been implemented by Telstra
>
> "Given that Mr Saul was prepared to make himself available to Telstra to assist in their enquiries, it would be appreciated if you could advise the outcome of the meeting with Mr Saul and the steps which will be taken by Telstra to alleviate his concerns."

Telstra "explains" tax on component of "travel allowance"

77. At 8.30 am on 19 October 1996, the NSW Regional Manager Network Design and Construction, Mr Gary Lane presented a "Core Brief." The written record of the brief states, "As a result of a Taxation Office ruling, Telstra employees who receive TA and who are absent overnight from their temporary station, are now liable to pay tax on this component. As of Monday 18 November 1996, all travelling allowance claims received in Employee Relations Service Operations (ERSO) will be processed through the Corporate payroll system (RAPS), and where applicable, income tax instalments will be deducted."

78. Contrary to what Mr Lane stated in his brief, Telstra employees who receive TA and are absent overnight from their temporary station, are and always have been liable to pay tax on this component of the payment, particularly when no expense has been incurred in retaining accommodation at the temporary station during the period of absence.

Special Tax Adviser inquires on "own motion" basis

79. On 18 November 1996, Mr Peter Haggstrom, Special Tax Adviser to the Commonwealth Ombudsman, wrote to Mr Saul:

> ". . . As Ms Pidgeon has pointed out in her letter of 13 November 1996 to you (copy attached) the way Telstra pays its staff is out of jurisdiction pursuant to paragraph 5(2)(d) of the Ombudsman Act 1976. I agree with that view. The focus of my interest is not Telstra, but the Australian Taxation Office [ATO] since it has responsibility for ensuring that all employers comply with the relevant legislation.
>
> "The question of whether a public employer is complying with the tax instalment provisions of the Income Tax Assessment Act is a matter of broad public interest and I believe that it is something that warrants inquiry on an 'own motion' basis pursuant to s.5(1)(b) of the Ombudsman Act 1976. Accordingly, I have informed the Commissioner of Taxation that I am investigating the issues you have raised on an own motion basis. I have done this because I do not believe that it is appropriate for this office to pursue such matters and report directly to you since you have no greater interest in the matter than any other citizen . . . "

80. Nevertheless, Mr Haggstrom informed Mr Saul that he had issued a notice giving the ATO 28 days to state why travel allowances should not be shown on Group Certificates.

Approved corporate policy

81. On 20 November 1996, Telstra's CEO, Mr Blount, wrote to Senator Calvert:

> "Thank you for your letter to me of 17 October 1996 concerning a meeting which transpired between two senior Telstra employees (Mr Bob Pentecost, Executive General Manager Network Design & Construction, and Mr David Harris, General Manager Corporate Security) and Mr Edward Saul in September. In your letter you expressed interest in the outcome of that meeting.
>
> ". . . Mr Saul expressed his opinion about more appropriate conditions for determining entitlement to travelling allowances. Mr Saul's thoughts and interpretations were noted, but cannot be substituted for approved Corporate Policy derived from Award conditions."

82. Mr Blount was correct when he stated that Mr Saul's thoughts and interpretations cannot be substituted for approved Corporate Policy—only he

neglected to mention that Telstra's approved Corporate Policy did not derive from Award conditions.

83. The letter from Mr Frank Blount further advised Senator Calvert:

> "The investigations known as 'Operation Echo' regarding travel allowance abuse in Northern NSW are now complete. A significant number of the individual cases have been the subject of internal disciplinary action by Telstra, although numerous appeals to an independent Appeals Board have overturned Telstra's disciplinary action in a large number of these disciplinary cases. Telstra believes that it has exhausted any practical avenues for further enquiries for these events".

84. Mr Blount's letter confirms, if nothing else, that Operation Echo was a charade. All prosecutions by the police were based on the records of just one motel—the Strathfield Towers Motel, in Sydney, whose records according to Sergeant Kendall, "lacked credibility." If there was any investigation of travel allowance rorting in northern NSW, it resulted only in what Telstra refers to as "disciplinary action." As indicated earlier in this brief, "disciplinary action" may mean time off on full pay, if information provided by a former Operation Echo informant is correct. Why Mr Blount would claim that Telstra had "exhausted any practical avenues for further enquiries for these events" is a matter he has yet to explain.

ANAO informs Parliament of follow-up on TA

85. On 25 November 1996, a written brief on Telstra travel allowance rorts was presented to the Auditor-General. The brief was based on published Telstra documents, Estimates Committee Hansard, correspondence provided by Mr Saul and other documents. The covering minute sought a meeting to discuss the written brief and its implications. The Auditor-General did not agree to a meeting and stated in a minute dated 27 November 1996:

> "It is not my policy to discuss particular audits with anyone who has no responsibility for those audits. This is the long established and well accepted practice throughout the Office, as you are aware."

86. Enquiries among colleagues failed to find an Audit Manager or Executive Director who had heard of this unwritten policy.

87. On 9 December 1996, the Auditor-General tabled Audit Report No 19 on the "Results of the 1995-96 Financial Statements Audits of Commonwealth Entities," in the Parliament. The report states:

> "The 1994-95 Auditor-General's Report indicated that the ANAO had undertaken a review of travel allowances to determine whether Telstra had taken appropriate action in respect of travel irregularities. Telstra had conducted comprehensive enquiries and was putting into place measures designed to ensure irregular claims were minimised. Follow-up enquiries have been, and are being made, with Telstra in relation to the appropriateness of measures put in place to control better the payment of travel allowances and related tax issues. A decision on any further review will be taken in the light of Telstra's responses."

Telstra, ATO and Unions negotiate new policy on travel allowance

88. According to the CEPU, the Australian Taxation Office and representatives of the CEPU, including its legal counsel, met on Wednesday 18 December 1996 "to expand and clarify the Union's submission that travel expenses met by employees should be tax deductible. . . . It is expected that the CEPU will have an indication of the ATO's attitude to the deduction of fares and other expenses associated with travel home while on TA by the end of January 1997".

FOI access to evidence given to Operation Echo investigators denied

89. On or soon after 10 January 1997, Mr Saul received a letter mistakenly dated 10 January 1996, from a Telstra FOI Coordinator, Mr George Sutton. The letter refers to Mr Saul's FOI request of 2 September 1996 and to Mr Sutton's interim reply of 19 December 1996, which Mr Saul was asked to disregard. The letter states that Telstra has 8 tapes that include the record of interview with Mr Saul in 1992 (the interviews that precipitated Operation Echo); the corresponding transcripts of the tapes; the documents provided by Mr Saul supporting his oral evidence; and telephone conversations with Mr Saul during the period 3-29 July 1996 (Mr Saul alleges that from February 1992 all of his telephone conversations were taped illegally by Telstra, or by private investigators engaged by Telstra).

90. Mr Sutton, a Telstra FOI Coordinator, decided that all of this material is exempt under section 37(1)(a) of the Freedom of Information Act 1982. The section states:

> "a document is an exempt document if its disclosure under this Act would, or could reasonably be expected to: (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or failure, or possible failure, to comply with a law relating to taxation or prejudice or prejudice the enforcement of proper administration of the law in a particular instance."

91. In his letter dated 20 November 1996, Telstra's CEO Mr Blount had advised Senator Calvert (see above) "The investigations known as 'Operation

Echo' regarding travel allowance abuse in Northern NSW are now complete. . . . Telstra believes that it has exhausted any practical avenues for further enquiries for these events." Mr Saul believed that section 37(1)(a) of the Act may only be applied where there was an ongoing investigation and that as there was no longer any investigation that could be prejudiced by giving him the tapes and transcripts of his own evidence to Telstra and supporting documentation, Telstra's decision was wrong in law. Consequently Mr Saul appealed the decision.

92. Telstra's Manager, Freedom of Information, Mr Rod Kearney rejected Mr Saul's appeal on the following ground:

> "Section 37(1)(a) applies in circumstances where a FOI request relates to matters which are the subject of existing proceedings before a court or administrative body which has its own document discovery procedures. Parts 1 & 2 of your request sought documents relating to your compensation claim which is presently before the Administrative Appeals Tribunal . . . I consider that the documents that you are seeking in parts 1 & 2 of your request are relevant to your present application to the Administrative Appeals Tribunal. I consider it to be contrary to the public interest for documents relating to matters that are subject of your AAT application to be released outside of the prescribed methods of document disclosure used by the AAT. To release the document to you via the Freedom of Information Act and outside the prescribed methods of document disclosure used by the AAT could pre-empt or prejudice that process."

93. Mr Saul believes that the reason given by Telstra for refusing his FOI application demonstrates a contemptuous disregard for legislative provisions that protect a citizen's right to know information that directly concerns himself. It is also a further example of the extraordinary lengths to which Telstra goes to crush its critics under the sheer weight and burden of never ending legal costs, on the premise that the funds available to an ordinary citizen are no match for the virtually unlimited funds available to Telstra's corporate lawyers, and army of so-called "independent" legal advisors.

Telstra's travelling allowance policy options

94. On 3 February 1997, Telstra's Employee Communications, Corporate Affairs issued an advice marked "URGENT" and headed "Future Travelling Expenses Policy Update." The author of the document, Telstra's Director of Personnel, Gary Cassidy, advised all staff:

> "The purpose of this advice is to bring employees up to date with developments relating to Telstra's revised domestic travelling expenses policy.
>
> "A range of future travel policy options were presented to Telstra senior management on Monday 20 January 1997. Two of these options (known as options B & C) were selected to undergo further analysis from an audit, control and cost effectiveness viewpoint. This analysis was completed early last week.
>
> "In general, Option B provides for a cost reimbursement based system for accommodation only, together with a flat rate cash allowance for meals and incidentals, whereas Option C provides for a daily flat rate cash allowance to cover the cost of accommodation, meals and incidentals. Both options are based on the principle that travel expenses will only be paid where an employee is absent overnight from their home and head-station, and costs are actually incurred.
>
> "Telstra is mindful of the social impact of employees being absent from family and friends for extended periods and therefore significant improvements on current policy arrangements have been built into the return home provisions of both of the above options. These include:
>
> - Mandatory weekly return to headstation at Telstra expense for all employees where it is considered cost effective and safe to do so; and
> - Mandatory return to headstation at Telstra expense for all employees every fourth weekend regardless of cost.
>
> "To meet Telstra's commitment to the Australian Industrial Relations Commission, on Wednesday, 29 January 1997 both Option B & C were presented to the CEPU for discussion. At that meeting the CEPU indicated that they did not accept either option. These options will, however, form the basis of a report back to the AIRC scheduled for Wednesday 5 February 1997.
>
> "Telstra's position now is that formal discussions with Staff Associations on the introduction of a revised domestic travel expenses policy should proceed, with Option C being the preferred Corporate option. However this does not rule out the consideration of Option B either now or in the future, dependent on any changes brought about by the cost effective administration of either option.
>
> "Issues relating to the appropriateness of the current 21 day review period and travelling allowance payments to employees unable to secure suitable overnight hotel/motel accommodation (ie campers) are still under consideration.
>
> "Employees should note that payment of travelling allowance under existing arrangements will continue until the revised policy is finalised and communicated.

"Employees will be updated progressively on all developments relating to this issue "

Travel policy options "unacceptable" to CEPU

95. CEPU Circular 97/17 issued to members on the same date as Telstra's advice to employees (3 February 1997), is headed "Telstra Prepares To Make Unacceptable Submission To Arbitration Commission on 5 February 1997". It states in part:

"Neither of the options are acceptable to the CEPU and it is estimated that CEPU members who are now receiving Travelling Allowance will be outraged by the Telstra proposals.

"Both the options [B and C] proposed by Telstra undermine the current T.A. conditions and are in line with many initiatives currently being undertaken by Telstra Corporate Management to attack the rights and employment conditions of Telstra workers.

"The alternatives to be put to the AIRC by Telstra will not permit the payment of TA for the purpose of covering fares and time to travel home at weekends, etc. It is understood that Telstra will inform members of their position by a circular to be distributed to work centres this week

"The CEPU is currently seeking legal advice regarding Telstra's ability to change an established term of employment without agreement with the CEPU. A suggested CEPU membership response will be considered by the Divisional Executive once the full extent of Telstra's presentation to the AIRC is analysed.

"The CEPU believes that the current payment of TA to include cost of travel home at weekends is a legitimate payment and has been part of the employment conditions of staff over thirty years.

"The CEPU is still in discussions with the Australian Taxation Office (ATO) regarding the rights of members to claim their travel home expenses at weekends, etc as a tax deduction.

"A meeting was held with the Taxation Office representatives on 22 January 1997 and the matter is still being progressed as the Union considers current examples of where this deduction has not been allowed (e.g. NSW Road Transport Authority) are not relevant to the circumstances of Telstra's construction staff. The Union has undertaken to continue discussions with the ATO who are still examining our submissions and have not rejected our claims."

Telstra concedes policy "a major variation" from "current practice"

96. At the AIRC on Wednesday, 5 February 1997, Ms K Halfpenny, appeared for Telstra; Mr Bretag, with Mr Cooper, appeared for the Unions. Ms Halfpenny informed Commissioner Blair that since the previous appearance before the AIRC on 20 December 1996, she had met with Telstra senior management on 20 January 1997. The meeting included the Chief Executive Officer of Telstra and group Managing Directors, a fact, she said, that "highlights the importance with which Telstra considers this matter." The outcome of the meeting was that two options were placed before the Unions at a meeting on 29 January 1997, and the Unions were subsequently informed in writing on 31 January 1997 that Option C was the preferred corporate option.

97. Ms Halfpenny then handed up to the Commissioner the relevant documents and the proceedings continued. The following extracts from the official transcript of the hearing (see Annexure 3) indicate the essence of what was said:

Ms Halfpenny—As you can see Sir, . . . the letter is addressed to Colin Cooper . . . indicating to Mr Cooper that Option C is based on the principle that Telstra should only be paying travelling allowance where travel costs are actually incurred, thus avoiding any tax impost, which as you would be aware is a major variation from what is the current practice".

Mr Bretag—Whether or not those options meet the Commissioner's requirements outlined in your recommendation arising from the last hearing . . . is open to debate. . . . we would point to the lack of a proposal concerning the status quo as being quite obviously a deficit as far as the Union is concerned. . . .

However, the Union does not believe that any positive outcome would result from having that particular debate in this Commission today, and accordingly will not pursue this line of debate at this time. . . .

In addition to those options, Ms Halfpenny also referred to a document which referred—sorry, compared the Telstra arrangements with arrangements occurring in other industries, and also referred to a study that had been perfommed by a company, . . . Price Waterhouse, I am advised. Now, the CEPU did ask at that meeting about certain information regarding the, for want of a better term the terms of reference of that study be provided to the union, and at this stage that has not been done, and we would certainly like Telstra to provide us with information at some early time.

However, the CEPU believes that given the complexity of the issue, . . . this matter would best be progressed through discussions between the parties and that is what we propose to do, Commissioner. If the Commission pleases.

Commissioner Blair—So, do I take from that that understanding what has been put out in the documents and what has been presented to the CEPU, I think the documents from Telstra do

acknowledge that their preferred option is C, but that does not exclude any discussions around option B. I also read into that that there should not be any exclusion of any other option that may be identified for instance, by the CEPU, or in fact as the discussions occur there may be some other option that might be identified by Telstra, but whilst those discussions are taking place, there will be no industrial action?"

Mr Bretag—Commissioner, we would not exclude any options in the discussions between the parties. Certainly I have indicated the option of status quo is one that we would certainly like to exercise.

In regard to your question regarding industrial action, Commissioner, I am not able at this stage to give any commitments to this Commission regarding whether or not industrial action may take place on this issue. As I have indicated in my submissions these are early days. This is an industrially explosive issue, and it would be unwise in the extreme for me at this early juncture to give you any commitments in that regard.

98. While it might appear that the AIRC hearing accomplished nothing, in fact it put the issues into perspective. Telstra's representative, Ms Halfpenny made the revealing remark that "Option C is based on the principle that Telstra should only be paying travelling allowance where travel costs are actually incurred, thus avoiding any tax impost . . . " This, she said, would be "a major variation from what is the current practice." Current practice for Telstra employees for the past 30 years had been to retain accommodation at the temporary station for 7 days per fortnight, return home each weekend and claim TA for 14 days per fortnight. Telstra knew about it but chose to do nothing.

99. Telstra's Human Resource Guidelines provided for a return home at Telstra's expense, once each 13 weeks and, as Telstra noted in its "Guide for managers and employees to answer questions on the implications of tax on travelling allowance", issued on 30 September 1996 (Annexure 2), Telstra provides employees with travelling allowance for absences from a temporary station during mid-week return home visits, weekends, public holidays, rostered days off (RDO's) and flex days, "on the basis that temporary accommodation is retained and the employee travels home at his/her own expense."

100. In its Circular 97/17 dated 3 February 1997 and headed "Telstra prepares to make unacceptable submission to Arbitration Commission on 5 February 1997," the CEPU stated: "The CEPU believes that the current payment of TA to include cost of travel home at weekends is a legitimate payment and has been part of the employment conditions of staff over thirty years."

101. The Union's position, stated twice during the hearing, was that it wanted to retain the "status quo" meaning that it wanted to continue with current practice. It threatened major industrial action if current practice, or the equivalent of current practice in financial terms, was not retained.

Telstra's $3 billion payout

102. In the event there has been no industrial action, presumably because the "status quo" has for all practical purposes been retained. The CEPU continued its discussions with the ATO (the discussions referred to in its Circular of 3 February 1997); Telstra continued to pay 14 days TA per fortnight; and employees who took the pragmatic view that false Tax Certifications would never be checked were free to declare that they had retained accommodation for 14 days and had not returned home during the period to which each claim related.

103. Less than 5 weeks after the AIRC hearing, the *Australian Financial Review* reported in its 10 March 1997 edition, that "senior Telstra figures" had stated the previous day that the company Board was "comfortable" with a special payment of between $2 billion and $3 billion to the Federal government, and that "the exact size and timing of the payment are yet to be determined." What it was for exactly was never stated, though Telstra's CEO, Mr Frank Blount seemed to foreshadow the payment when he suggested in 1996 that Telstra had a "lazy" balance sheet, and that Telstra could return money to the Govemment.

104. The AFR report was followed on 18 April 1994 by a joint Media Release by the Minister for Finance, Mr Fahey and the Minister for Communications and the Arts, Senator Richard Alston (Annexure 4). The Ministers advised that "after consultation with the Board of Telstra and following the advice of the Government's sale advisers, it has been agreed that Telstra will make a payment from retained earnings to the Commonwealth of $3 billion by the end of this financial year. Telstra will raise new debt in association with this initiative." The aim of the return of capital was "to put in place the optimal capital structure for Telstra prior to the sale of one third of its equity" and, to "ensure Telstra's capital structure is more in line with other international telecommunications companies."

105. The following day (Saturday, 19 April) the *Age* newspaper reported that Telstra's board had approved the previous day, a payment of $3 billion to the Federal Government. The *Age* reported that Standard and Poor had, as a result of the Board's decision, reduced Telstra's credit rating from AAA to AA+. They predicted slower revenue growth and diminishing margins, and market share would cut from 7 to 5 the company's interest coverage ratio—the ratio by which profits exceed interest payments.

They considered that Telstra's financial ratios could worsen if the company did not reach its targeted cost reduction over the next two years. Moody's said they would be making a decision in the near term to further reduce Telstra's credit rating.

106. Ken Davidson asked, in the same edition of the *Age*:

> "Why force Telstra to borrow $3 billion from the public? Why doesn't the Government borrow $3 billion direct from the public itself? Do financial markets trust Frank Blount more than John Howard? . . . The bottom line is that the government is imposing a burden on Telstra that will add the equivalent of two-three cents to each local call based on extra Telstra borrowing costs of $240 million to $270 million a year. How come? Telstra has already more than fully committed its cash flows to developing the network in the year ahead based on the fact that it has already negotiated extra lines of credit with the banks to meet an anticipated cash flow shortfall next year. . . .
>
> "As a result of the $3 billion commitment to the Government, and the additional borrowings that will be required to fund the accelerated roll-out of the fibre-optic cable for Foxtel, Telstra's debt-equity ratio will rise from about 25% to 50%. . . . In 1991 the then Labour government, as a result of pressure from the Democrats in the Senate, converted $4 billion of Telstra debt to the Government to Telstra equity on the grounds that the Telstra needed a stronger equity base to meet the anticipated competition. Since then, Telstra has become a milk cow for vested interests under the cover of introducing competition to Telstra."

The issue price of Telstra shares

107. In the 27 January 1996 edition of the *Age* newspaper, Ken Davidson wrote:

> "Telstra is already being privatised—by stealth, without reference to the public interest and without compensation to taxpayers.
>
> "Bluntly, Telstra has been used as a milch cow to transfer some $2 billion in value to Optus and some $4 billion to $6 billion in value to Rupert Murdoch's News Limited pay TV operations in the sacred name of competition.
>
> "The irony is that nearly everybody in Australia loses, compared with the potential gains if Telecom had retained its monopoly over the provision of the basic infrastructure as a common carrier for telephones, pay TV and interactive services. This would have allowed maximum scope for competitive service providers on the infrastructure.
>
> "I am sure the Australian shareholders in Optus wished they had invested elsewhere. The only Optus partner to really benefit from the second telecommunications licence has been Cable and Wireless through its international calls hub in Hong Kong.
>
> "The only beneficiaries from pay TV are the Hollywood program producers (including Mr Murdoch) who will profit from the increase in the number of channels, leading to a bidding war for program material between free-to-air and pay licensees to fill up the additional channels.
>
> "Australians lose in every capacity: as telephone users (higher telephone charges), as taxpayers (lower dividends), as householders concerned with urban amenity (those ugly overhead cables and unnecessary mobile phone towers), as television viewers (funds diverted from making local programs to financing unnecessary infrastructure), as sporting participants and fans (privatisation of major sports), and as citizens (the promise of open access inherent in the new technology subverted by the creation of a vertically integrated duopoly that gives effective content control to Murdoch—and possibly Packer).
>
> "This is a truly terrifying list of the damage done to the public interest. . . .
>
> "Two years ago Telstra was generating a positive cash flow of between $4 billion to $5 billion a year. Leaked documents show it is now facing cash flow problems thanks to bad government policy. The solution to the problem seems to be privatisation of Telstra with compensation as proposed by the Leader of the Opposition, Mr Howard in the hope that the managers of the superannuation funds may be better able to manage the asset than the politicians. The hope that privatisation is the right policy rests on Mr Howard's inclination to maximise the sale price of the investment. . . "

108. That was 18 months ago, when Mr Howard was Leader of the Opposition. Now, with the imminent release of the Telstra Prospectus, the community is beginning to judge the Howard Government's inclination to maximise the sale price of the one third interest in Telstra on 14 March 1997, "Chanticleer" wrote in the *Australian Financial Review*:

> "If handled properly, the Telstra float is a house-making deal. If stuffed up, it could become a house-breaking deal. Its a high stakes game that could make or break the careers of those who put their signature on the prospectus.
>
> "Getting the price right will be the challenge. If the share price zooms upwards immediately after listing the global coordinators accused of selling Telstra on the cheap will bear the government's wrath. If the share price falls after listing the coordinators will be blamed for hyping the stock.

They will bear the wrath of investors and the scorn of brokers who missed out.

"The challenge is to strike a balance—to have the shares priced so that they list at a modest premium after listing (saving embarrassment for the Government) but rise steadily over the next 2-3 years, earning the praise of investors. Privatising Telstra is not a doddle. The company is ill prepared to be sold to the public for anything near its proper value. Competition is increasing, staff costs are too high, many strategic issues are unresolved. All manner of issues will have to be thrashed out in a politically heated environment with a looming sale deadline set by the Government.

109. Just last Friday, the *Sydney Morning Herald* reported (20 June 1997) that Telstra is far behind schedule with its cable roll-out—just 1.8 to 2 million homes passed, and the cost to complete the roll-out will be about $1.5 billion. According to the SMH, Telstra is under pressure from the Government to cut the roll-out from 4 million homes passed to 2.5 million. But News Ltd Chairman, Mr Ken Cowley has made it clear to Telstra that it will have to pay between $300 million and $400 million compensation to News Corporation and/or Foxtel if it does not, as contracted, complete the roll-out past 4 million homes.

110. Many would agree with Chanticleer that Telstra is "ill prepared to be sold to the public for anything near its proper value." So whose fault is that? If Telstra's CEO and Board knew about the TA scam way back in 1992, why did they do nothing to stop it? The current owners of Telstra—the taxpayers of this country are fully entitled to an explanation. If those who are paid massive salaries to get things right are accountable to anybody, it should be to the Minister for Communications and the Arts. Unfortunately for the current owners of Telstra, a Minister who can issue a directive to the company's CEO and remain passive when that directive is ignored, could be perceived to have lost his grip.

**

Annexure 1

Investigation of certain actions of Telstra Corporation Ltd

- Alleged victimisation as a result of overtime abuse

Summary

1. In his report the Commonwealth Deputy Ombudsman informed Mr Marr:

"It is common ground that you first placed your allegations of overtime fraud in writing on 3 October 1991, in a letter to Telecom management. Telecom management promptly passed this letter to the Australian Federal Police, which commenced an investigation. This did not formally conclude until August 1993, but relied heavily on a Telecom audit carried out at the request of the AFP, the results of which were known in October 1992.

"As a result of this audit and the AFP report, Telstra accepted that there were extensive irregularities in the system of claiming and authorising overtime and meal allowance payments in the Development Forecasting Section in the relevant period."

2. The Telecom Audit Services report on which the AFP relied, contained a concluding paragraph:

"The sample testing identified 268 instances [from 893 claims] where controls were considered inadequate. If the investigation is to be taken further it may be advisable to discuss the findings with the management of Development Forecasting Section Metro North as they may have additional information."

3. The AFP, in its letter of 11 August 1993 to Telstra, concluded:

"Enquiries to date have revealed only minor indications of possibly fraudulent activity within the Development Forecasting Section—. . . on the basis of this evidence it would appear that four Telecom employees claimed approximately five and a half hours to which they may not have been entitled . . . In the opinion of the investigating officers there is insufficient evidence to warrant criminal proceedings against any employee of the DFS on fraud related charges";

4. The Deputy Ombudsman states, citing the AFP's letter of 11 August 1993 to Telstra:

The "minor indications of possibly fraudulent activity" were provided by positive evidence in the form of MIL key records indicating "at least 6 separate occasions over a period of approximately *one month* where Telecom employees left work prior to the times officially claimed for the purposes of overtime (par 15, my emphasis); and

The investigation was hampered by the lack of such records for the rest of the "period in question"—i.e. there was no such evidence one way or another for over 90% of the 18 month period—when "these particular records . . . could have gone some way to confirming Mr Marr's allegations" (pars 19 and 9).

5. The few MIL key records that were available, were originally obtained by Telstra from Commercial and Business Security Pty Ltd to check whether Mr Marr, the Telstra officer who originally made the allegations of overtime abuses, had obeyed a direction from another officer "not to be on the premises after hours". The Deputy Ombuds-

man noted that the remainder of the MIL key records for the relevant 18 month period were not available for analysis by the AFP, or Telecom Audit Services.

6. Notwithstanding Telstra's acceptance that "there were extensive irregularities in the system of claiming and authorising overtime and meal allowance payments in the Development Forecasting Section in the relevant period", the findings were not discussed with the management of the Development Forecasting Section Metro North, and there was no further investigation. Instead Telstra faxed the following statement dated 20 August 1993 to the News Editor of the Sun-Herald:

"Allegations of fraud have been dismissed by the Australian Federal Police prior to August 11, 1993. . . "

7. The Deputy Ombudsman stated in his report to Mr Marr, "I agree that this statement was not strictly conect," and informed him:

"I am aware of two events, also somewhat after the fact, which may have reassured Telstra that no specific action was necessary:

In May 1994, the Australian National Audit Office conducted a brief review of the specific Marr outcomes, in the context of its review of travel allowance fraud issues, broadly restating the AFP's findings (but without reviewing the analysis: ch 4);

In March 1995, Telstra received the management review it commissioned from Holding Redlich, which provided general suggestions for minimising the risk of overtime abuse (but similarly not reviewing any analysis nor indicating whether any specific internal response had ever been necessary: section 4.7).

"Since that time, however, the more general internal audits to which Telstra refers have suggested that the scenario you describe could have been taken as a snapshot of some systemic difficulties. In April 1994, Telstra's audit of its Remuneration and Accounting Processing System raised the issue of 'lack of policy and procedures and standardisation of documentation' in relation to overtime control. A major national review in November 1995, has since found:

a lack of standard overtime procedures at the corporate level;

"virtually nonexistent" communication of procedures from the corporate level to sub-Business Units;

that a majority of line managers were 'left to their own devices' to implement whatever procedures they deemed appropriate, and were 'frequently failing to meet the minimum control requirements'; and that

Telstra had fallen behind in Australian best practice in regard to overtime control especially in relation to requirements for reasons to be documented for why overtime was necessary.

"These findings substantially superseded the ANAO's assurances; although that review does appear to document how this situation developed unnoticed, indicating that at May 1994, Telstra had conducted 'no compliance audits on overtime for several years'.

"Telstra's general actions since August 1993, therefore, would appear to confirm the context which enabled the specific DFS overtime abuse to occur. The question remains whether, at August 1993, Telstra management had specific reason to consider whether any internal action was warranted".

8. Mr Marr believed there was and lodged a complaint against the investigating members. His complaint resulted in an AFP Internal Investigations review of the inquiry conducted by the original investigating officers. The AFP officer who conducted that review stated:

". . . some staff at the DFS were effectively imposing on the Commonwealth by ceasing duty prior to the completion of paid overtime. In formulating that opinion I have had the benefit of interviewing those witnesses nominated by Mr Marr in greater detail than the initial investigating member.

However, I concur with the initial investigating members that criminal action would have been unlikely to succeed as adequate specific proof against the individuals was not obtainable."

9. The Deputy Ombudsman stated: "I have found no reason to doubt the accuracy of that view," and informed Mr Marr in his report:

"In my view, notwithstanding that the Australian Federal Police made a reasonable decision there was insufficient evidence to warrant prosecution, there were irregularities in the claiming and authorisation of overtime in the Development Forecasting Section in 1989-90 which amounted to a 'rort' or system of minor fraud. . . .

"In my view the evidence suggests that at the relevant time, when presented with salient information concerning not only overtime control in general, but the background to your dispute, Telstra management failed to meet these responsibilities. In my view, this was in itself an unreasonable failure to act, and further, one by which Telstra left itself unnecessarily open to the allegation that some officers had been protected, and you had been victimised.

"These are issues which I have now brought to Telstra's attention, and which, in so far as they relate to more general questions of how Telstra handles major disputes and accounts for itself publicly, I may pursue with Telstra management in due course."

10. A further issue that the Deputy Ombudsman may wish to pursue with the Ombudsman, Ms Phillipa Smith, is her response to a story by Mr Peter Rees, published by the Sunday Telegraph on 8 December 1996.

The story refers to "a damning confidential report obtained by the Sunday Telegraph"; notes that Mr John Wood is its author; and states that it was completed on 14 November 1996 following "an investigation by the Ombudsman into a long running case involving a Telstra employee in Sydney." The story appears accurate in all material respects.

11. Mr Saul faxed a copy of the story to the Ombudsman who replied on 12 December 1996:

"I acknowledge receipt of faxes dated 27/11/96 and 8/12/96 and subsequent messages for Mr Wood.

"As detailed by Mr Haggstrom this office is examining the question of whether a public employer is complying with the tax instalment provisions of the Income Tax Assessment Act. This raises policy and administrative matters that do not rely on the specifics of your complaint.

"For these reasons we are undertaking the investigation on an 'own motion' basis (under section 5(1)(b) of the Ombudsman Act)." . . .

"The issues raised in the other matter you referred to (Mr Marrs case) were investigated by this office only to the extent that they were connected with other administrative practices and procedures that were within the jurisdiction of this office. . . .

Finally, might I note that there has been no report by this office on the Marr case to which you refer. The recent article in the media concerning this case was incorrect in most aspects".

12. The relevance of the Deputy Ombudsman's report to Mr Saul's allegations relating to travel allowance is that it reveals how Telstra responds to allegations, and how the ANAO can mislead Parliament when it fails, in circumstances where there is evidence of systemic problems, to carry out its own careful analysis of evidence.

Annexure 2

URGENT Please ensure that ALL PEOPLE IN YOUR AREA receive a copy of this message AS SOON AS POSSIBLE. To reach all staff, this message is being sent to all DISTRIBUTION REPRESENTATIVES in the organisation as listed in the distribution database. There is no need for you to send this message to your people in other locations unless they do not have a distribution representative.

30 September 1996 Issue 98

A GUIDE FOR MANAGERS AND EMPLOYEES TO ANSWER QUESTIONS ON THE IMPLICATIONS OF TAX ON TRAVELLING ALLOWANCE

"In Faxstream No 95, Telstra Employee Relations announced several changes to the taxation treatment [by Telstra] of certain travelling allowance payment situations following the release of a number of rulings by the Australian Taxation Office.

The following document has been prepared to assist Line Managers in understanding the background to these new arrangements.

1. What are the basic principles of travelling allowance?

Employees are eligible for travelling allowance when they are expected to be absent from headstation and home, for more than 12 hours and are absent overnight and costs are actually incurred.

2. What is travelling allowance paid for?

Travelling allowance is paid to cover the costs of accommodation, meals and incidentals where an employee is absent overnight at a temporary station. The pre-determined flat rates available to employees during the first 21 days of their temporary transfer are set annually (around May) following agreement between members of the ACTU, Telstra, Australia Post and the Australian Public Service. Rates are based on a series of price surveys conducted by government agencies

An example is the "country" travelling allowance rate of $104 per day.

3. Why is it that our employees can travel home at their own expense and keep the travelling allowance payment for the weekend?

As mentioned in point 1 Telstra provides employees with travelling allowance for weekends etc on the basis that temporary accommodation is retained and the employee travels home at their own expense. Unfortunately, over time, this point has been lost and now there is a mistaken belief amongst our employees that payments for weekends etc is a form of "disability" allowance for being away for prolonged periods from home.

4. What effect will the Australian Taxation Office Rulings have on our employee's travelling allowance payments?

At present the Australian Taxation Office (ATO) regard the flat rate travelling allowance rate paid to our employees as being "reasonable" (given they are also part of the public service and would therefore be aware of the basis which these rates are set) therefore, the payment is not required to be revealed on group certificates or income tax to be deducted provided the employee is absent overnight and costs are actually incurred.

Accordingly there is no change to the application of Telstra's existing travelling allowance policy.

However, the Australian Taxation office has now ruled that travelling allowance payments made for periods when an employee is expected to be travelling away from home, but the employee in fact returns home or is absent overnight from their temporary station without incurring the expected expense, is taxable income to the employee.

5. What if one of our employees does come home or leaves their temporary station on weekends and continues to claim travelling allowance?

(a) where accommodation is not retained at the temporary location the amounts of travelling allowance received between the time arriving at home or at another location until the time departing for the temporary station over the weekend would be regarded as income and would therefore be taxable. The same principles will apply to absences from a temporary station during mid-week return home visits, public holidays and RDO's/flex days.

As an example, if an employee arrived home from their temporary country location on Friday night at 6 pm and departed after an RDO for their temporary location at 6 am the following Tuesday, the taxable component of their travelling allowance claim would be $104 x 3.5 days = $364.

This amount would then be added to the employees income for the fortnight and taxed at the marginal rate applicable to that fortnight's income.

(b) Where accommodation is retained at the temporary location the taxation treatment by Telstra of this type of claim would be identical to (a) above. However, where the employee incurs expenses in retaining accommodation, even though they may have returned home (or to another location), the Australian Taxation Office may allow a tax deduction for the expenses incurred in retaining the accommodation, even though the employee was not away from home on the weekend. Whether or not the deduction is allowed is an ATO decision. No deduction would be allowable for meals expenditure incurred while at home.

6. What are the tax implications if one of our employees decides to stay at their temporary location in their temporary accommodation over a weekend and claims travelling allowance?

The travelling allowance payment will not attract income taxes the employee has stayed away from their headstation and home overnight and would therefore have been expected to incur reasonable expenses.

7. Does the new "Travelling Allowance Claim Taxation Certification" form need to be completed for every claim?

No, however, ER Service Operations have been instructed to impose tax on the allowance payable, at the appropriate marginal rate for the entire claim period, for those claims that are not accompanied by a completed and signed form.

The certification form has been developed to ensure both Telstra and our employees taxation obligations are met. If Telstra were not to introduce these forms they may be considered by the ATO as aiding and abetting employees in the avoidance of income tax. This could leave both Telstra and our employees exposed to taxation penalties.

A copy of the certification form will be available from ER Service Operations Regional Managers from 30 September 1996

8. Should our employees keep receipts for any period they are in receipt of travelling allowance?

Having regard to the principles outlined in point 1 above, Telstra does not require employees to submit receipts for travelling allowance for the first 21 days they are located at a temporary station. However this does not (and has not) at any stage prevent(ed) the ATO requiring employees to present evidence to substantiate expense of the travelling allowance paid to them.

9. Will the taxable component of our employees travelling allowance payment affect any other entitlements?

Any travelling allowance payments assessable as income will be taxed and appear on employees group certificates..

These amounts will need to be taken into account when employees are considering eligibility for government benefits such as Family Allowance, Parenting Allowance, Austudy, etc. This additional income will effect Medicare levies and may effect tax margins. Those employees providing maintenance payments should also be made aware of this new source of income.

Effected employees should be encouraged to contact the Depaltment of Social Security to ascertain what effect any extra income will have on the various allowances available.

10. Some of our employees have mentioned that they intend to claim the cost of their return home visits as a tax deduction. Is this allowable?

Telstra is not in the business of giving tax advice. What is and is not allowable as a tax deduction is a matter between the employee and the Australian Taxation Office. However, the cost of travel between an employees home and place of work is generally not considered to be tax deductible.

Employees should be encouraged to contact the Australian Taxation Office or their advisers with any queries they may have on any income tax deduction matters.

11. What is Telstra going to do in the future with it's travel policy?

Telstra has given a commitment to Staff Associations to continue with what has become custom and practice in the payment of travelling allowance on the proviso that discussions will continue on the introduction of a revised travel policy for all employees by 1 March 1997.

12. Are improved return home provisions being considered in the revised policy?

The current travelling allowance policy allows for employees on long term temporary transfers to travel home at Telstra's expense every 13 weeks.

This period of time is now considered by Telstra to be excessive and therefore more appropriate return home provisions are being considered for inclusion in the revised policy.

Employee Communications, Corporate Affairs 1800 033 578

Annexure 3

Victoria

Level 7

451 Little Bourke St

Melbourne VIC 3000

TRANSCRIPT OF PROCEEDINGS

GPO Box 1114J

Melbourne VIC 3001

AUSCRIPT

Phone (03) 9672 5608

Fax (03) 9670 8883

O/N 7047

AUSTRALIAN INDUSTRIAL

RELATIONS COMMISSION

COMMISSIONER BLAIR

C No 37264 of 1996

TELSTRA CORPORATION LIMITED

and

COMMUNICATIONS, ELECTRICAL, ELECTRONIC, ENERGY, INFORMATION, POSTAL,

PLUMBING AND ALLIED SERVICES UNION OF AUSTRALIA

Notification pursuant to section 99 of the Act of a dispute re travelling allowance

MELBOURNE

1.14 PM, WEDNESDAY, 5 FEBRUARY 1997

Continued from 20.12.96

Cetel 5.2.97

THE COMMISSIONER---Is there any Change in appearances?

MS K. HALFPENNY---Yes, sir. I appear for Telstra, with Ms L. DRAPER, MR C. DOHERTY and MR R DEANE-BUTCHER.

MR N. BRETAG---I appear once again, with MR C. COOPER

THE COMMISSIONER---Right, who would like to lead off? The applicant in this matter was Telstra.

MS HALFPENNY---Thank you, sir. Since our last appearance before you on 20 December, I would like to now update you on events since that date. Discussions with Telstra senior management took place on 20 January, and unfortunately due to the holiday period we were unable to get all the relevant people together until that date. That meeting included the chief executive officer of Telstra and group managing directors, which highlights the importance with which Telstra considers this matter. The outcome of that meeting was that two options were placed before the unions on the meeting scheduled with them on Wednesday 29 January.

These options are known as options B and C, and at that meeting unfortunately there was not much discussion, but the CEPU did ask us whether this was our formal position, ie whether the two—these two options were the ones that we want to discuss with them as a review of the travel policy. I informed the CEPU that the next day, on Thursday 30 January, I was meeting the senior line management within Telstra, and also the group managing director of employee relations, to discuss the two options with them, and decide whether a) this was our formal position without variation, and b) whether there was a preferred option.

I said that I would get back to the union by Friday 31 January with the outcome of that meeting. As it transpired, one option is preferred by Telstra senior management, option C, notwithstanding this does not negate option B being considered either now or in the future. I would like to hand up the correspondence that we sent to the union, both the CEPU and copied in the CPSU, on Friday 31 January in relation to that matter.

EXHIBIT TELSTRA 1- CORRESPONDENCE FROM CEPU to CPSU, DATED 31.1.97

MS HALFPENNY---As you can see there, sir, getting past the two pages which are the record of the faxes when it was sent, the letter is addressed to Colin Cooper, and it does refer to the meeting that took place on Wednesday 29 January, and also the meeting on 30 January, indicating to Mr Cooper that option C is based on the principle that Telstra should only be paying travelling allowance where travel costs are actually incurred, thus avoiding any tax impost, which as you would be aware is a major variation from what is the current practice.

It also explained to the union that we would be sending out a communication to our employees, updating them on this preferred option, and this was consequently sent out on Monday 3 February. If I could perhaps hand that up as an exhibit also. In Telstra sir, we have two major ways of communication. One is what we call a fax stream, which goes to thousands of fax outposts within the company, and the other is what we call e-coms, which goes to the top 3000 employees in the company.

EXHIBIT TELSTRA 2—DOCUMENT MARKED URGENT

EXHIBIT 3—DOCUMENT

MS HALFPENNY---Both the CEPU and the CPSU were sent a copy of this communication on Tuesday 4 February—yesterday. That sir, is the sequence of events up until this morning.

THE COMMISSIONER---Okay, thank you, Ms Halfpenny. Yes, Mr Bretag

MR BRETAG—Commissioner, as Ms Halfpenny has indicated, Telstra has now provided the union with an options paper. Whether or not those options meet the Commissioner's requirements outlined in your recommendation arising from the last hearing—whether or not those options meet those requirements is open to debate. Certainly we would say that your recommendation concerning those options being not limited has not been met, and we would point to the lack of a proposal concerning the status quo as being quite obviously a deficit as far as the union is concerned.

However, the union does not believe that any positive outcome would result from having that particular debate in this Commission today, and accordingly will not pursue this line of debate at this time. However, the CEPU does reserve its rights in respect of submissions that may be made by CEPU in this Commission, and potentially other forums, in the event that the parties are unable to resolve this matter through discussion. Commissioner, Ms Halfpenny referred to a meeting between the parties in which three options, which are options A, B and C, as they have become known, were discussed with the union.

In addition to those options, Ms Halfpenny also referred to a document which referred—sorry, compared the Telstra arrangements with arrangements in other industries, and also referred to a study that had been performed by a company, I think it was Ernst and Young, or was it Price Waterhouse, I cannot—Price Waterhouse, I am advised. Now, the CEPU did ask at that meeting about certain information regarding the, for want of a better term, the terms of reference of that study be provided to the union, and at this stage that has not been done and we would certainly like Telstra to provide us with information at some early time. However, the CEPU believes that given the complexity of the issue, the need to determine an outcome based on the real work force requirements, and given the short time that has elapsed since the document was provided to CEPU, and the significant industrial relations history both within and without this Commission regarding this matter, that this matter would best be progressed through discussions between the parties, and that is what we intend to do, Commissioner. If the Commission pleases.

THE COMMISSIONER---So, do I take from that that understanding what has been put out in the documents and what has been presented to the CEPU, I think the documents from Telstra do acknowledge that their preferred option is C, but that does not exclude any discussions around option B. I also read into that that there should not be any exclusion of any other option that may be identified, for instance, by the CEPU, or in fact as the discussions occur there maybe some other option that might be identified by Telstra, but whilst those discussions are taking place, there will be no industrial action?

MR BRETAG---Commissioner, we would not exclude any options in the discussions between the parties. Certainly I have indicated the option of status quo is one that we would certainly like to exercise.

THE COMMISSIONER---Sure.

MR BRETAG---In regard to your question regarding industrial action, Commissioner, I am not able at this stage to give any commitments to this Commission regarding whether or not industrial action may take place on this issue. As I have indicated in my submissions these are very early days. This is an industrially explosive issue, and it would be unwise in the extreme for me at this early juncture to give you any commitments in that regard. Certainly I can take your comments and what I read to be the intent behind your comments back to my organisation, but I certainly can give no commitments in that regard to this Commission today

THE COMMISSIONER---All right, well then you would understand Mr Bretag, that understanding the position you are in, that if the Commission is made aware that there is likely to be, or there is in place industrial action, it would convene a hearing as a matter of some urgency?

MR BRETAG---I would expect that that would occur, Commissioner, yes.

THE COMMISSIONER---Yes, okay. I just do not want you to get a fax and wonder why you got it.

MR BRETAG---No, I do not think that will happen, thank you.

THE COMMISSIONER---Yes. Ms Halfpenny, is there any more that that you wish to add?

MS HALFPENNY---No, sir, thank you.

THE COMMISSIONER---All right. You understand, of course, that what I have said to Mr Bretag would be dependent on Telstra to advise the Commission if there was any impending or likely industrial action?

MS HALFPENNY---Yes, Sir.

THE COMMISSIONER---Thank you. Well, good luck in your discussions. The Commission will stand adjourned and will reconvene at a date convenient.

AT 1.24 PM THE MATTER WAS ADJOURNED INDEFINITELY

Annexure 4

Telstra—Recapitalisation

Minister for Communications

and the Arts

SENATOR THE HON RICHARD ALSTON

Minister for Finance

THE HON JOHN FAHEY MP

JOINT * MEDIA * RELEASE

15/97

The Minister for Communications and the Arts, Senator Richard Alston, and the Minister for Finance, John Fahey announced today that-after consultation with the Board of Telstra and following the advice of the Government's sale advisers-it has been agreed that Telstra will make a payment from retained earnings to the Commonwealth of $3 billion by the end of this financial year. Telstra will raise new debt in association with this initiative.

This payment will ensure Telstra's capital structure is more in line with other international telecommunications companies. Telstra's current debt to equity ratio is widely recognised by market analysts, and by Telstra itself, to be low by international standards.

The aim of the return of capital is to put in place the optimal capital structure for Telstra prior to the sale of one third of its equity. Other initiatives are also being considered to optimally position Telstra ahead of the public share offer.

The payment to the Commonwealth will not be included in the underlying budget deficit expect to the extent it leads to savings in public debt interest.

The payment means Government's borrowings will not increase to the extent that they might otherwise have.

The Government's view is that this payment from retained earnings will:

. place Telstra's capital structure on a more comparable basis relative to its peers and market expectations;

. send a positive signal to the equity markets about the company;

. leave Telstra in a strong financial position going forward relative to both its Australian and telecommunications peers and deliver greater aggregate proceeds to the Commonwealth.

It is planned that the payment will be made by 30 June 1997. This will allow Telstra to reflect its new capital structure in its balance sheet as at 30 June, which at this stage is expected to be the balance date for financial statements included in the privatisation offer document.

Telstra will continue to have a strong balance sheet and will be well positioned to meet the challenges and opportunities facing it as new pro-competitive telecommunications industry regulations come into effect on 1 July this year.

Canberra 18 April 1997

Contact:

Ashley Manicaros (Senator Alston's office) 06 277 7480

David McLachlan, (John Fahey's office) 06 277 7400

Senator CALVERT—I table the document. This document inadvertently was not tabled at the public meeting of the Environment, Recreation, Communications and the Arts Legislation Committee which occurred last night. It is a summation of matters which I first raised in the parliament as long ago as 1992. It relates to allegations of massive travel allowance abuse and fraud in Telstra which, it alleges, has been going on under the nose of Telstra management. It is my understanding that this document was prepared by Mr David Bertleson at the request of Mr Edward Saul from Port Macquarie, New South Wales, and it incorporates much of the evidence which has been amassed by Mr Saul over a number of years. Mr Saul, in fact, speaks with some knowledge of these matters, having at one time been employed by Telstra's protective services unit to assist in investigating overtime abuse. This is a sorry tale of mismanagement by Telstra and, I believe, victimisation of some of those who have sought to bring these matters to some sort of an end. I am sure that many honourable senators on both sides of the house who

have had some involvement in this matter will read this document with interest.

Finally, I would like to thank the minister, Senator Alston, for his ongoing assistance in this matter. I also congratulate you, Senator Patterson, as committee chair, for ensuring that Telstra at long last be brought to task.

The ACTING DEPUTY PRESIDENT (Senator Patterson)—Thank you very much.

COMMITTEES

Regulations and Ordinances Committee

Report

Senator CALVERT (Tasmania) On behalf of Senator O'Chee, I present the annual report of the Regulations and Ordinances Committee for 1995-96.

Ordered that the report be printed.

Senator CALVERT—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 continue my remarks later.

Leave granted; debate adjourned.

Regulations and Ordinances Committee

Federal Executive Council Handbook

Senator CALVERT (Tasmania)—On behalf of Senator O'Chee, I seek leave to make a statement on behalf of the Regulations and Ordinances Committee on a revision of the *Federal Executive Council Handbook* in respect of explanatory statements for delegated legislation, and to incorporate the statement in *Hansard*.

Leave granted.

The statement read as follows—

The Standing Committee on Regulations and Ordinances has initiated or expanded many personal and parliamentary safeguards in respect of delegated legislation. Not least of these is the acceptance that every disallowable legislative instrument must be accompanied by an Explanatory Statement to assist Senators and Members and those whose rights are affected. The Federal Executive Council Handbook recognises the interests of the committee in this regard, advising that explanatory statements are mandatory for regulations and are prepared for circulation to Senators and Members and to the committee. This is not to say that all explanatory statements are of acceptable quality. In fact every year the committee writes to ministers about defects in explanatory statements. In such cases, however, the minister has always provided the committee with additional information which has enabled the committee to complete its scrutiny of the instrument. Recently, however, the committee has had a difference of view with the responsible minister about two aspects of what matters should properly be included in explanatory statements.

On behalf of the committee I am pleased to report that these differences have now been resolved to the committee's satisfaction, with the Secretary of the Federal Executive Council advising that a circular, which will serve as a revision of the Handbook, will be sent to all departments and agencies, advising of the committee's requirements.

I have already reported in detail to the Senate, on 12 November 1996, on action by the committee in respect of the first of these differences with the minister, but I was not able at that time to report a satisfactory outcome. I will now briefly outline the concerns and the earlier activities of the committee before reporting on our finalisation of this matter.

The Crimes Regulations (Amendment), Statutory Rules 1996 No 7, exempted the Australian Securities Commission from some of the privacy safeguards of the spent convictions scheme. The committee ascertained that the relevant provisions of the enabling Act provided for the involvement of the Privacy Commissioner in such exemptions. The Explanatory Statement, however, did not advise whether the Privacy Commissioner was consulted before the Regulations were made or, if so, of the result of any such consultations. The committee wrote to the minister about these matters. The minister replied three and a half months later, advising that the Privacy Commissioner was consulted and had recommended that the ASC not be granted an exemption, but that the Privacy Commissioner's recommendation was rejected.

The committee wrote again to the minister advising that it was concerned that the Explanatory Statement for the Regulations did not advise that their provisions were contrary to an express recommendation of the Privacy Commissioner in respect of an application which was referred to him under a statutory duty. The committee advised that, in the circumstances, it would be appropriate to repeal and remake the Regulations, with a proper Explanatory Statement. This would preserve the options of the Senate in respect of disallowance but would not disrupt the existing arrangements pending informed parliamentary scrutiny. The committee also advised the minister that it would obtain the views of the Privacy Commissioner on the Regulations and

would then decide whether it would be helpful for officers of the department to meet with the committee.

The Privacy Commissioner subsequently advised the committee that he was not aware that the Explanatory Statement omitted to refer to his views and that he appreciated the continued support of the committee in seeking to promote a more open approach by agencies in relation to differences of view with his office, especially where legislation is concerned. The committee therefore asked the minister if officers of the department could attend its next meeting. The minister wrote back to the committee, advising that officers would attend, but also advising that, while the committee correctly required departments to provide explanatory statements, the present Explanatory Statement was adequate. The minister advised that it was not appropriate to include matters relating to the internal working of government in a document having such a wide circulation as the Explanatory Statement. The minister was prepared to adopt a future practice under which the views of the Privacy Commissioner were communicated to the committee at the same time as Regulations were tabled, but he could not agree that the failure to included those views in the Explanatory Statement was a procedural defect. A member of the minister's staff also wrote to the committee advising that the minister was aware of, and regretted, the delay in replying to the committee's original letter.

The committee subsequently met with officers of the department. At the meeting the five Members present expressed emphatically their view that explanatory statements should include advice of any mandatory consultation before the instrument was made and of the result of that consultation. The committee then wrote to the minister suggesting that in the present case the failure to do so was a breach of parliamentary propriety. The committee noted that present Commonwealth drafting practice appeared to be to include sometimes lengthy recitals in the making words for instruments that statutory consultation requirements have been met. The committee gave 11 instances in one year where this had occurred, including one instrument which referred to consultation with the Privacy Commissioner. The committee advised that it supported this practice and assumed that if the relevant consultations or advice led to results which were unusual or unexpected, such as a decision to reject a recommendation of the Privacy Commissioner, that this would be explained in the Explanatory Statement. Finally, the committee advised that it would write to the minister responsible for the Federal Executive Council Handbook, asking for the Handbook to be amended to require explanatory material to advise of any mandatory consultation. The committee did this.

Three months later the minister advised the committee that, in light of the committee's views on the matter, he now agreed that the information about any mandatory consultation should be included in the Explanatory Statement and that he would instruct officers of his Department to adopt that practice in future. The committee is grateful for this helpful cooperation from the Attorney-General, the Hon Daryl Williams AM QC MP.

The second area of concern by the committee about the contents of explanatory statements related to acknowledgment of the role of the committee in the making of particular instruments. Many legislative instruments are made, either wholly or in part, to implement undertakings given by ministers to the committee to amend principal instruments to meet its concerns. In such cases the committee considers that the Explanatory Statement should mention this fact, so that the Senate is kept informed of the types of matters raised by the committee. From time to time explanatory statements fail to do this and the committee writes to the minister who then replies that he or she has asked the department to comply with the committee's request.

The committee was, therefore, surprised by its scrutiny of the Family Law (Child Abduction Conventions) Regulations (Amendment), Statutory Rules 1996 No 74, which corrected a significant breach of personal rights detected earlier by the committee. The Explanatory Statement, however, did not refer to the committee. The committee then wrote what it thought was a fairly routine letter to the minister asking if he could advise the committee that he had asked the department to ensure that explanatory statements include this information. The minister unexpectedly replied to the effect that on one view there might be some advantage in limiting an Explanatory Statement to the purpose and effects of amendments without reference to their policy or other background. This would ensure that explanatory statements are not complicated. The minister further advised that the committee should seek the advice of all ministers who issue explanatory statements if it wished to pursue its views.

The committee was, as I say, surprised by this advice. In reply the committee advised the minister that inclusion of the role of the committee in explanatory statements was a long standing and universally accepted convention which had been established for some 15 years. The committee gave instances where the convention had been implemented by successive Attorneys-General, Ministers for Justice and by the Attorney-General's Department. One of these explanatory statements mentioned the role of the committee in the first sentence. Another was an Explanatory Statement for earlier amendments of the same principal regulations in respect of which the minister now had

reservations. The committee advised that it was grateful for this previous cooperation, which was in accordance with the general acceptance of the convention by all portfolios. The committee advised the minister, however, that there may be merit in amending the Federal Executive Council Handbook to recognise the convention and that the committee would ask that this be done. The committee then did this. Subsequently the minister advised the committee that if its proposal was to be adopted by all ministers then an amendment to the Handbook would be appropriate to ensure that explanatory statements include the relevant material. The committee is grateful for this helpful cooperation from the Attorney-General, the Hon Daryl Williams MP.

The committee wrote separate letters to the Parliamentary Secretary (Cabinet) to the Prime Minister, the Hon Chris Miles MP, about each of the two matters of concern in respect of explanatory statements. The letter about notification of mandatory statutory consultation attached a copy of the statement which I made to the Senate on behalf of the committee on 12 November 1996, advising that in the light of the conclusions in that statement that the Federal Executive Council Handbook should be revised as soon as possible to include a requirement that the Explanatory Statement should refer to the provisions of the enabling act under which an instrument is made and of any mandatory statutory procedures before making. The letter about acknowledging the role of the committee attached a copy of its most recent letter to the Attorney-General, which set out its views in detail.

The committee is now pleased to report that both its proposals have been accepted. The Secretary of the Federal Executive Council has advised the committee that a circular will be sent to all departments and agencies advising of the committee's requirements. The circular will have the effect of a revision of the Federal Executive Council Handbook. This is a most satisfactory outcome, which will assist the committee and individual Senators to scrutinise legislative instruments. The committee is grateful for the cooperation of the Parliamentary Secretary, the Hon Chris Miles MP, which demonstrates a commitment to parliamentary propriety. The committee also thanks the Secretary of the Federal Executive Council.

Regulations and Ordinances Committee

End of Sittings Statement

Senator CALVERT (Tasmania)—On behalf of Senator O'Chee, I seek leave to make the regular end of sittings statement on behalf of the Regulations and Ordinances Committee on the work of the committee and to incorporate the statement in *Hansard*.

Leave granted.

The statement read as follows—

Overview

During the sittings the Committee continued its non-partisan scrutiny of the usual large number of disallowable legislative instruments tabled in the Senate, made under scores of parent Acts administered through virtually every Department of State. Legislative instruments implement administrative details of almost every program established by Act.

The Committee acts on behalf of the Senate to scrutinise each of these instruments to ensure that they comply with the same high standards of parliamentary propriety and personal rights which the Senate applies to Acts. If the Committee detects any breach of these standards it writes to the Minister or other law-maker about the apparent defect, asking that the instrument be amended or an explanation provided. If the breach appears serious, or if the Committee has not received a satisfactory reply from the Minister, the Chairman of the Committee gives notice of a motion of disallowance of the offending instrument. This allows the Senate, if it wishes, to disallow the instrument. This ultimate step is rarely necessary, however, because Ministers almost invariably take action which satisfies the Committee.

As usual, during the sittings Ministers gave the Committee undertakings to amend many provisions in different instruments or parent Acts to meet its concerns. The Committee is grateful for this high level of cooperation from Ministers.

During the present sittings the Committee scrutinised 902 instruments, compared to 1021 for the sittings in the first half of 1996. Of these, 203 were from the statutory rules series, which are generally better drafted and presented that other series of legislative instruments. The other 699 instruments were the usual heterogeneous collection of different series.

Each of the 902 instruments was scrutinised by the Committee under its four principles, or terms of reference, which are included in the Standing Orders. There were 100 apparent defects or matters worthy of comment in those 902 instruments. The defects are described below under each of the four principles.

Principle (a)

Is delegated legislation in accordance with the statute?

This principle is interpreted broadly by the Committee to include not only technical validity but also every other aspect of parliamentary propriety.

Technical validity is, however, an important aspect of the work of the Committee. For instance, under s.49A of the *Acts Interpretation Act 1901* delegated legislation may generally incorporate material apart

from the provisions of Acts or other delegated legislation only as it existed at a particular time and not as amended from time to time. Several instruments purported to incorporate variable material, including in one case material from a foreign organisation. Another included some provisions which expressly limited some incorporated material to a particular date, but which did not do so for other incorporated material. Numbers of enabling Acts provide for mandatory procedures to be followed by the Minister or others before delegated legislation is made. In the case of several instruments, however, there was no indication either on the face of the instrument or in the Explanatory Statement that this had been done. Instruments cease to have effect if not tabled in both Houses within a specified period, generally 15 days. In several cases it was possible that powers had been exercised under provisions which had ceased to have effect for this reason. As usual, several instruments appeared to be void for prejudicial retrospectivity. One instrument was tabled without schedules which included the substantive provisions of the instrument.

The Committee considers that the drafting of delegated legislation should be of a quality not less than that of Acts. In this context some instruments were made with no making words at all. Others included inaccurate statutory references in the making words. Some provisions, including making words, were incomplete. Numbers of instruments were made under the wrong provision of the 1,000 page long enabling Act under which they were made. The date of making of one instrument was indicated only by the year. Many instruments included cross-reference errors. Several instruments did not provide for numbering or citation. Two instruments had the same citation.

Other drafting deficiencies included unclear drafting, drafting errors, vague and subjective expressions and gender specific expressions. Numbers of redundant instruments were not revoked. Several instruments provided for the permissive "may" although it appeared that the mandatory "must" was intended. This was the case even though other similar provisions used "must" and, in one case, the provision related to an entitlement to the payment of money. Several instruments did not appear to effect the legislative intent expressed in the Explanatory Statement. In one case this related to the power of the Minister to vary rates of mining royalty. One instrument purported to include substantive provision in Notes, which are intended only to be illustrative or informative. Information in Notes to another instrument was wrong. One instrument did not include the usual pink slip erratum attachment when this should have been done.

The Committee ensures that legislative instruments do not breach parliamentary propriety. Several instruments purported to be made by departmental memoranda to the Minister with the making action by the Minister consisting of ringing the word "agreed" in the memorandum. In one of these cases the putative instrument included cryptic handwritten anonymous and undated annotations by persons apparently not the Minister. In one case there was considerable delay in making legislative guidelines but the Explanatory Statement advised, in effect, that there was nothing to worry about because the administrators had acted as if they had been made. The making of several regulations which were financially beneficial to individuals was delayed for up to two years. Several instruments missed the opportunity to implement undertakings given to the Committee. Some instruments provided for levels of delegation of powers which may not have been appropriate. Others may not have limited sufficiently the appointment of authorised officers who could exercise powers under legislative instruments. Several sets of regulations amending the same principal instrument were made on the same day, with no apparent reason for the duplication.

The Committee ensures that all legislative instruments are accompanied by proper Explanatory Statements. Numbers of Explanatory Statements were inadequate or misleading. The Explanatory Statements for four sets of regulations remaking regulations disallowed earlier by the Senate did not refer to this. On behalf of the Committee the Chairman made a statement to the Senate on 25 June 1997 on recent action in respect of Explanatory Statements, reporting that the Federal Executive Council Handbook would be effectively revised to meet the concerns of the Committee.

Principle (b)

Does delegated legislation trespass unduly on personal rights and liberties?

The Committee interprets this principle broadly, to include every aspect of personal rights. During the present sittings the Committee detected the following possible defects in delegated legislation.

The Committee writes to the Minister about any instrument which might affect the rights of individuals. One instrument provided for members to be removed summarily from statutory committees. Another did not provide a right for people to respond to adverse material before a decision was made. Another did not require consultation with the affected person before an exemption was cancelled. One provision for a search warrant did not include the usual reasonable force safeguard. One instrument provided for non-prescribed search warrants in electronic form with no indication of the usual safeguards. Another provided for powers of entry by private firms, broader than those which police have in the absence of a warrant, which did not

appear to include appropriate safeguards. Other provisions for powers of entry did not require those entering to produce photographic identification. As usual, instruments also provided for strict liability and for reversal of the usual onus of proof.

One instrument provided inadequate safeguards for people required personally to produce documents in court. Another instrument did not include the usual safeguard that substantial rather than strict compliance with forms is sufficient. In one case a roll of voters was not available for public inspection. The Explanatory Statement for another instrument did not indicate that the Privacy Commissioner had been consulted about the release of personal information. The Committee scrutinised numbers of instruments providing for penalties imposed by infringement notices, not all of which provided for adequate safeguards. Several did not provide for notice to those affected of the beneficial consequences of paying an administrative penalty rather than going to court. The Committee noted apparent deficiencies in some infringement notices which could be issued by private firms and in penalties which could be paid on the spot. Several of these instruments provided for more than one infringement notice for the same act or omission. Another provided for minor offences to be subject to infringement notices but did not appear to define minor.

The Committee questions any provisions which may be harsh or unfair. One instrument provided for time limits within which public officials must make a decision in respect of some decisions but not for other similar decisions. Another imposed reasonability requirements on some actions by public officials but not others. One instrument provided for costs for court witnesses with professional qualifications to be ten times higher than costs for ordinary witnesses. Another instrument provided that government bodies could give notice to members of the public by prepaid post but did not provide this privilege for those responding to the notices. One instrument which provided for the Commonwealth to take over leases at airports appeared to breach the rights of creditors of the former lessees. One instrument removed the right of a miner to renew a mining lease for a further 21 years and replaced it with a determination by the Minister. Another instrument required people to use a particular computer system without explaining how that system was selected.

The Committee ensures that determinations affecting Commonwealth employees are fair. One instrument appeared to leave a time during which allowances would not be paid to members of the Australian Defence force. Another may not have provided for full reimbursement of the costs of selling a house. Another may not have included adequate safeguards in respect of payment by the Commonwealth of part of medical insurance premiums for certain staff.

Principle (c)

Does delegated legislation make rights unduly dependent on administrative decisions which are not subject to independent review of their merits?

Many legislative instruments provide for Ministers or other public officials to exercise discretions. The Committee considers that such discretions should be as narrow as possible, include objective criteria to limit and guide their exercise, and include review of the merits of decisions by an external, independent tribunal, which would usually be the Administrative Appeals Tribunal.

Numbers of instruments provided discretions which affect business or which have a commercial effect. One instrument provided for parentage testing for family law purposes by accredited laboratories. Such accreditation was not only commercially significant but also affected personal rights because the results of such testing were admissible in proceedings. In this case, however, there was no review of the accreditation process. Another instrument provided for an accreditation process the procedures for which were quite vague but which had significant commercial consequences, again with no review. The package of instruments which provided for the leasing of Commonwealth airports included numbers of decisions which could have an adverse commercial effect. Some of these decisions were subject to AAT review, some to internal review and some to no review at all. Decisions made by the internal review did not appear to be subject to AAT review. Some decisions could be made by State or local government agencies and by non-government companies.

One instrument provided for important commercial discretions in relation to whether motor vehicles complied with the required engineering standards. Another instrument provided for review of a decision to refuse or to cancel a commercially significant exemption, but not for review of a decision to impose conditions on the exemption. The Explanatory Statement for another instrument expressly advised that it included a discretion which was aimed at commercial importation but which did not appear to be subject to review. Another apparently unreviewable commercial discretion affected the balance date of companies.

The Committee carefully scrutinises instruments which affect personal rights. One instrument provided only subjective criteria for a discretion to exempt a person from payment of a fee. Other instruments provided inadequate criteria. Another instrument appeared to provide for discretions but did not indicate who was to make the decisions or what would happen if there was a dispute about the relevant facts. There were other instances of

discretions which were not clearly drafted. One instrument provided a discretion to permit individuals to inspect and take copies of a roll of voters. Another instrument did not provide for review of discretions relating to penalty provisions.

Principle (d)

Does delegated legislation contain matter more appropriate for parliamentary enactment

The Committee does not raise this principle as often as its other three principles. Nevertheless, it is a principle which goes to the heart of parliamentary propriety and complements the first principle, that an instrument should be in accordance with the statute.

Other developments

In addition to its main task of scrutinising legislative instruments, the Committee was active in other ways during the sittings.

The Committee tabled its *One Hundred and Fourth Report*, the Annual Report for 1995-96, on 25 June 1997.

During the sittings the Chairman made the following statements to the Senate on behalf of the Committee:

Legislative instruments made in preparation for the Sydney 2000 Olympic Games; 6 March 1997

Paper given to the Fourth Commonwealth Conference on Delegated Legislation on the Legislative Instruments Bill 1996; 6 March 1997

Scrutiny by the Committee of High Court Rules; 23 June 1997

Government amendments of the Legislative Instruments Bill 1996; 23 June 1997

Revision of the Executive Council Handbook to reflect the requirements of the Committee in relation to Explanatory Statements; 25 June 1997

The Committee agreed that it would present a paper to the Sixth Australasian and Pacific Conference on Delegated Legislation on its scrutiny of the package of instruments providing for the leasing of Commonwealth airports.

The Committee would like to record its appreciation of the work of its independent Legal Adviser, Emeritus Professor Douglas Whalan AM and also the staff of the Committee Secretariat. Without the tireless work of these people, the Committee would be unable to discharge the duties entrusted to it by the Chamber.

The Committee is also grateful for the support which it has received from the Senate during the present sittings.

Scrutiny of Bills Committee

Report

Senator COONEY (Victoria)—I present the 10th report of 1997 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table *Scrutiny of Bills Alert Digest No. 9 1997*, dated 25 June 1997.

Ordered that the report be printed.

Scrutiny of Bills Committee

Report

Senator COONEY (Victoria) (5.32 p.m.)—I present the report of the Senate Standing Committee for the Scrutiny of Bills entitled *The work of the committee during the 37th Parliament, May 1993—March 1996*.

Ordered that the report be printed.

Senator COONEY—I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

This report deals with the operations of the Standing Committee for the Scrutiny of Bills during the 37th parliament from May 1993 to March 1996. It contains statistical data and analytical discussion of the scrutiny that has been carried out during that period.

The report should prove particularly useful to senators, ministers and their advisers as it contains an analysis of how the committee has applied the criteria of scrutiny set out in its terms of reference. These are reproduced towards the beginning of the report. The report welcomes an increase in the level of ministerial response to committee comments that has taken place during the 37th parliament.

The committee appreciates the setting out in the explanatory memorandum of reasons for a bill containing provisions that may be considered to infringe the terms of reference. This practice greatly assists the committee and the Senate. Of equal assistance have been the ministerial responses which treat the comments of the committee as constructive, positive efforts to improve the quality of information available to the Senate.

The committee has paid close attention to proposed legislation which results in diminishing human rights or results in a dissonant giving over of the legislative power of parliament and of on-going parliamentary scrutiny of the delegated exercise of that power.

I place on record acknowledgment of the high level of service that the members of the committee have given to the work of scrutiny over the life of the 37th parliament.

Senator the Honourable M Tate (Chairman), Senator M Colston (Chairman), Senator J Troeth (Chairman), Senator the Honourable A Vanstone (Deputy Chairman), Senator M Forshaw (Deputy Chairman), Senator R Bell, Senator K Carr, Senator B. Cooney, Senator C Ellison and Senator J Tierney.

A legislative scrutiny committee depends to a large extent on the input of its legal adviser and its secretariat. The committee has been fortunate to have the services of Professor J L R Davis of the Law Faculty of the Australian National University as its legal adviser, and of Peter Crawford as secretary, Sue Blunden as part-time research officer and as administrative officer Margaret Lindeman, and before her, Claire Dace and before Claire, Jacquie Hawkins. On behalf of the committee, I wish to record our thanks to them.

The Scrutiny of Bills Committee is effective only when it receives support from both ministers and senators. It is when the reports and alert digests issued by the committee are acted upon by senators and ministers that it has the maximum impact in improving both the legislation itself and the quality of debate in respect of that legislation.

Madam President, I commend the report to the Senate.

Senator COONEY—This Scrutiny of Bills Committee report is a very good report. It talks about the way the Scrutiny of Bills Committee works. I notice in the chamber now some people who have served nobly on that committee over the years—Senator Crowley; Senator Campbell, who was quite outstanding; Senator Brownhill—

Senator Colston—Look to your left.

Senator COONEY—I am going to come to you especially. I wish to talk about this particular report into the work of the 37th parliament. Madam Acting Deputy President Patterson, I should include you in a very big way in all of this. I notice you were not a member of the committee during the 37th parliament, but you have been a considerable member in the years before that.

I will mention the chairmen of this committee over this last period of the 37th parliament. The chairmen were: Senator the Hon. Michael Tate, who has gone on to greater things; Senator Colston, who I think was chairman not only of this committee but also of the Regulations and Ordinances Committee, and served well on both; and Senator Troeth, who was the first chairperson under the new way of doing things where a non-government member chaired the committee.

I have to pay a lot of respect and give high praise to Senator Troeth because she set up in the committee in its present form very well, having taken over from Senator Colston, who was the last of the chairmen under the old system. I also mention Senator Vanstone, who was deputy chairperson for many years. Senator Michael Forshaw was deputy chairperson too at one stage. Then there was Senator Bell; Senator Carr, who is also a member; me; Senator Ellison, who on anything to do with legal matters and proper process is outstanding; and Senator Tierney, who was a member of that committee, as he may well remember.

Can I also just take a few more moments to talk about the staff. Without the staff, this committee, like any committee, is absolutely doomed to disaster. The committee secretariat has kept this committee going. We are fortunate to have the services of Professor Davis of the Law Faculty of the Australian National University. He has been the committee's legal adviser for many years. Peter Crawford, who is the secretary, took over from Stephen Argument. That was a very big task, but Peter has been quite outstanding as secretary.

Sue Blunden, a research officer, does lots of other things as well. The administrative officer is Margaret Lindeman, who is patient, and quite brilliant and intelligent in this area to the extent that, rather than being an administrative officer, she is really an adviser. We have Claire Dace, who has left; and Jacquie Hawkins, who has gone from this committee to the Legal and Constitutional Committee.

I thank all those people. I have not been able in the time available to acknowledge them to the extent I should. But, in so far as I am able, I do acknowledge them.

Question resolved in the affirmative.

Corporations and Securities Committee

Report

Senator CHAPMAN (South Australia)—I present the report of the Joint Statutory Committee on Corporations and Securities entitled *Report on the annual reports of the Australian Securities Commission and other bodies: 1995-96* together with the transcript of evidence received by the committee.

Ordered that the report be printed.

Employment, Education and Training References Committee

Report

Senator CROWLEY (South Australia) (5.37 p.m.)—I present the report of the Employment, Education and Training References Committee on the committee's inquiry into the implications of private and commercial funding in government schools, together with the submissions received by the committee and the transcript of evidence.

Ordered that the report be printed.

Senator CROWLEY—I move:

That the Senate take note of the report.

This is a very useful and very timely report. What the report is called—*Not a level playground*—describes what the committee found in its investigation. The report highlights the growing inequity between schools, which is particularly exacerbated by private and commercial funding. The evidence also shows conclusively that government funding is insufficient for core funding of schools for our children.

These findings of our committee of inquiry are very much to the fore at a time when we have this government's decision to take over $1,700 from public schools per child for every child who enrols in a private school as part of the new education benchmark adjustment program. At the same time it is further confirmed by the statement put out by the state ministers for education after a Commonwealth-state ministers meeting in Darwin not too long ago. This report, which I will briefly quote from, was referred to in the *Canberra Times* on Friday, 13 June:

At yesterday's Ministerial Council on Education, Employment, Training and Youth Affairs meeting in Darwin, all seven Coalition education ministers signed a document accusing the federal Coalition of "trying to minimise its contribution to government schools by cost-shifting between state and non-state school systems".

Our report was not designed, and did not set out initially, to look at the adequacy or not of government funding, but its inadequacy became very clear, and just about 100 per cent of the people making submissions and then attending the hearings confirmed that very important point. As we have had over the last 20 years or so devolution of responsibility to schools and with that a growing requirement for schools to raise some of their funds privately, particularly through voluntary contributions, we have seen highlighted not only the inadequacy of school funding but also the obvious and exacerbated inequity of school funding by the private contribution.

We have also had very bizarre arrangements from state to state where voluntary contributions have been considered when they are not paid as justification for state governments to be able to send in the debt collectors to collect voluntary contributions. This situation has been proposed in my state of South Australia, with in very recent days the education minister, Mr Lucas, admitting that it is not a possibility.

A voluntary contribution, as this report highlights, is just what it says: a voluntary contribution. But in fact the committee also heard lots of evidence that suggests that, when people cannot pay their voluntary contribution, children are actually very much punished and penalised. Some of the examples listed in this report on page 55 refer to evidence that, for example, in some schools there is the withholding of academic reports; there is the barring of students from graduation ceremonies and other school functions; and there is a link between student enrolment or re-enrolment on the payment of levies. As well, student school diaries have been provided to students only if they pay their levies. We have seen students being required to be seated in the front of classrooms and acknowledged as being there—sitting in those places—because they have not paid their contribution. There are many more examples, and they are listed in this report.

What has also emerged is that the private funding of schools has led to an enormous stress on parents, and the humiliation and public vilification of students. This is no way in which to ask parents and students to participate in the community of education that our schools are. The cutback of government funding—the insufficiency of the funding to keep pace with the requirements of our schools—and now the clear statement by all the state ministers that the funding is insufficient for the task makes this report very timely and very pertinent.

We were asked to look at not only voluntary contributions but also other levies, charges, excursion fees, subject levies and so on. All of those again highlight exactly the same difficulties. For some schools in the so-called 'eastern suburbs', there is not nearly the same problem as there is in the lower socioeconomic areas. We heard from the state departments and the state governments that most of them have some formula or other by which they allocate education dollars to try to deal with inequities. When you talk about the different schools from lower socioeconomic areas to the eastern suburbs, or the higher socioeconomic areas, the government departments have a funding formula to try to minimise or do away with that kind of inequity, yet the private funding of schools is actually exacerbating the inequity. It is running exactly counter to the intention of state departments in their funding for state schools.

We are very strong in our recommendation that sufficient government funding be provided for free public education, meaning, as we describe it, for the core eight learning areas, and I do not believe there is any way we can move away from that. I have no doubt that other people would want to say, 'But you know governments can't find that funding. You know government schools are an increasing demand on the public purse.' We say, 'If you have governments acting on their education acts that refer to free public education, that is what it should mean for those core learning areas.' We also appreciate that the parental contribution over the years has been something that assists with schools, but it has in the past been for moderate sums of money for moderate projects extra to the demands of core education. We believe that contribution should continue. We acknowledge the importance of it, but we make it clear that it should not be used to fund core funding for education.

We also looked at sponsorship. Public records and lots of press reports will have already highlighted for people the problem of sponsorship. We have seen the difficulties that come with something like the McDonald's proposal or schools' proposals that McDonald's assist with, for example, reading. Indeed, most state governments are now aware that there need to be some kinds of guidelines regarding sponsorship. We have also highlighted that inequity is further exacerbated by sponsorship, with some schools much more readily able to get sponsorship and others unable to raise up to $1,000 over a whole year. It depends on the socioeconomic background of the schools, and we make very strong recommendations that sponsorships, particularly of any significant amount, should be provided to support schools at the state level so that the state governments can disburse the sponsorship benefits in a manner that is equitable and additional to the requirements of core funding.

We also highlight the fact that one of the reasons the state governments and the Commonwealth itself are having difficult in keeping up with the funding is the significant changes in our schools over recent years. In particular, when the Labor government came into office, something like 37 per cent of children finished year 12. It rose to over 80 per cent; it is a little further back from that now. But, even so, that is a massive increase in the number of children attending our schools. Funding has not been sufficient to keep up with those increased demands. When you add the demands of technology, the inequity is highlighted, as is the insufficiency of funding.

We have drawn attention to the fact that some schools have very easily been able to acquire the funds to introduce computers—including access to the Internet—and other things that go with the capital cost, the recurrent cost, of maintaining high technology in

schools. Other schools, of course, are still struggling to get their first computer. We have made recommendations regarding the need for governments at both Commonwealth and state level to have a policy about the introduction of technology, its place in education, the need for teachers to be trained and the need for more work to be done on how the new technology is incorporated in teaching methodology.

This is a very useful report. It picks up on and is in response not to recent changes, but some 20 or more years of information that we have regarding parental contribution. There is an absolutely vital need for governments to more closely monitor what those funding amounts are and the equity considerations and consequences of private funding supplementing the public funding of schools.

The report concludes that, without any doubt, public funding of our schools is not sufficient to the task. It strongly recommends that we make sure the commitment to free public education and the ongoing contribution of core funding is maintained. We certainly appreciate parental and community contribution—we welcome that—but in no way should that money be used to supplant or remove the government's responsibility for their commitment to public education.

Senator CARR (Victoria) (5.48 p.m.)—As Senator Crowley has pointed out, the substantive question that arises from the report of the Employment, Education and Training References Committee is the extent to which parents and families, in the language of this government, are now increasingly required to make up the shortfall in expenditure for the day-to-day costs of running the education system in this country.

There was once a time in this country when governments were proud to spend money on education. There was once a time when governments were able to boast that they spent more money on education per capita—

The ACTING DEPUTY PRESIDENT (Senator Patterson)—Senator Carr, could you go back to your place and address your comments through the chair?

Senator CARR—I think I was in my place, Madam Acting Deputy President. But I will seek to address the report, if I might—if that is all right with you?

The ACTING DEPUTY PRESIDENT—That is fine.

Senator Conroy—Madam Acting Deputy President, I seek clarification: I am confused as to how you could suggest Senator Carr was out of his seat.

The ACTING DEPUTY PRESIDENT—Senator Carr understood what I meant. He resumed his place and will proceed.

Senator CARR—Madam Acting Deputy President, I thank you for your persistence in this matter. I was saying that there was once a time when governments were proud to spend money on education. For them, it was a boast to say that they were spending more than other states and other governments on education, and that they were doing so as an investment in the future—an investment in the welfare and prosperity of future generations of Australians.

An unfortunate fact of life is that governments now boast about how little they spend on education. My own state in particular, Madam Acting Deputy President, as you would be only too well aware, has an appalling record that has replaced that once proud boast. The appalling record now is that governments are able to claim that they spend less than other governments on education. In the case of Victoria, only 10 years ago Victoria spent more per capita on education than any other state. Victoria probably now spends the lowest amount per capita, if I recall the recent Grants Commission reports of the impact that that has on families—to use the lexicon this government so proudly uses. Of course, that means that the level of disadvantage is growing.

This report highlights the fact that not all Australians are able to privately contribute on an equal basis with one another. It is the role of the government and of the states to meet certain national responsibilities. Of course, that is consistent with our international obligations, as well as with our domestic obligations to the Australian people.

It is a sorry state of affairs that, because this Commonwealth government has continued its appalling record of insisting that we spend less on education, employment and training, total government outlays have been reduced from some 11 per cent of whole of government expenditure to nine per cent within a four-year period. As a consequence, the real danger is this trend towards the privatisation of what was once regarded as a proud boast of national and state governments—privatisation of the commitment to individuals. Increasingly, schools are required to rely upon private and commercial funding of public education to the extent that there are now schools in this country that require parents to provide students with their own toilet paper. It is a ridiculous state of affairs that basic amenities, basic facilities, are no longer being provided by the state. For instance, the Brotherhood of St Laurence has highlighted in one of their studies that it has reached the stage that the average cost to parents per primary school child for schooling requirements is some $460. The average cost for a secondary child is now some $866. I regard that as a fairly conservative estimate.

If you look at the way that is broken down into uniforms, books, fees, levies and various excursions, if you consider that many families would have more than one child at school at any particular time, it is not unreasonable in terms of the evidence received by this committee that the requirement for the average family is to find some $40 a week to keep children at school. For those who are on high incomes that might not matter, but for those on lower incomes $40 a week becomes quite an enormous burden to bear.

Of course, it means that some families are not able to meet the requirements and the demands being placed upon them by school authorities. As a former teacher myself I understand the pressures sometimes placed on families by school administrations to find the additional money to meet the requirements that are no longer being met by state government and by this government nationally.

Pressures are applied to parents to meet the requirements of these so-called voluntary levies, and it is increasingly the case that they are no longer voluntary. What it means is that large numbers of people cannot actually pay the demands that are being made. As Senator Crowley has pointed out, we have heard in evidence that debt collectors have actually been sent in to enforce the payment of what are supposed to be voluntary levies.

The Brotherhood of St Laurence pointed out that that means that a lot of people who are not able to meet these requirements are forced to be stigmatised and pressured in a number of ways—to the extent that it affects the relationship between children at school and their teachers. The report highlights, for instance, various surveys undertaken by the Brotherhood of St Laurence of those who are having difficulties meeting the requirements and the demands being placed upon them by schools. Forty-five per cent of those surveyed reported that they spoke less often to the teacher as a consequence of not being able to meet these demands. Fifty-four per cent said that they had chosen not to attend school meetings. For parents, that means that they are less likely to participate in parent-teacher interviews. Fifty-one per cent said that they had not volunteered to help out at the school.

This government claims vigorously that it is in fact spending more on education. The truth of the matter could not be clearer. The department's own submission to this Senate committee—not to this inquiry but to another inquiry—has highlighted that this government is in fact cutting back moneys to public education. As a result of the introduction of the enrolment benchmark adjustment, there will be, according to the department, some $26 million cut from public education in this financial year and $270 million over the forward estimates to the year 1999-2000.

As Senator Crowley has indicated, every state and territory in the country is screaming about the introduction of the enrolment benchmark adjustment, which is a vehicle for the direct transfer of funds from public to private education in this state. It is a pattern similar to that which is emerging in so many areas of education today.

What that really means is that those with the resources and the means will do well and those without will fall behind. It strikes me

that that is quite contrary to a fundamental commitment we ought to have to the provision of education for all. It is a real loss of opportunity for all in this country as a result of some Australians being left behind.

The key to economic growth and prosperity is a vibrant, effective education system that does allow all to participate in it. What we are seeing increasingly—as this report highlights—is the growing disparity between those who can afford to participate and those who cannot. Equity provisions are now being fundamentally challenged by the actions that are being taken by this government in ensuring that those who have the resources will do well and that that those who have not will do poorly.

It strikes me that it is an unfortunate fact of life that in terms of the education debate in this country the press has not paid great attention in recent times to these matters. They seem quite prepared to accept the nonsense that is coming out of ministers' offices about the level of expenditure on education. It is apparent that, despite what the minister has been claiming, the real resources going to education are declining and that the real resources to higher education, to schooling, and to the vocational education and training sector are declining.

Where there is an increase in expenditure, it is no more than expenditure for inflation and expenditure for increased enrolment as the population itself grows. There are no new budgetary allocations coming on stream to support the increasing demands that are being placed on the education system—and being placed in such a way that the level of inequality is inevitably going to grow as a result of the policies being pursued by this government.

Question resolved in the affirmative.

Finance and Public Administration References Committee

Report: Government Response

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (5.57 p.m.)—I present the government's response to the following committee report: Finance and Public Administration References Committee report on the review of the operation of the order for the production of indexed lists of departmental files. In accordance with the usual practice, I seek leave to incorporate the response in *Hansard*.

Leave granted.

The document read as follows—

Senator Shayne Murphy

Chair

Senate Finance and Public Administration References Committee

PARLIAMENT HOUSE ACT 2600

Government response to SFPARC Review of the Operation of the Order for the Production of Indexed Lists of Departmental Files

I refer to the report of the Senate Finance and Public Administration References Committee's (SFPARC's) Review of the Operation of the Order for the Production of Indexed Lists of Departmental Files, tabled in the Senate on 5 February 1997. The Government's response to the Committee's recommendations are as follows:

First reference

The most efficient and effective way of ensuring that the information required to be tabled is available on the public record.

Recommendation:

"As an interim measure and subject to the availability of resources, it is recommended that file lists from a small number of departments which historically have received a large number of FOI requests be put on the Senate home page on the internet on a trial basis. Links to the home pages of the departments involved be established. The trial should run for six months. At the end of the trial period this committee would assess the usage of the file lists and report to the Senate on:

whether the practice should be extended to all file lists; and

the most appropriate location(s) on the Internet for the lists."

Government response:

This is a matter for decision by the relevant parliamentary authorities, having regard to all the costs involved.

Fourth reference

Any legal or practical difficulties encountered by agencies in complying with the order.

Recommendation:

"It is recommended that the order be amended to exclude the titles of files whose national security classification is Confidential, Secret or Top Secret or their equivalent."

Government response:

The Government agrees.

Yours sincerely

Nick Minchin

Economics References Committee

Report: Government Response

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (5.58 p.m.)—I present the government's response to the following report: Economics References Committee report entitled *Connecting you now . . . telecommunications towards the year 2000*. In accordance with usual practice, I seek leave to incorporate the response in *Hansard*.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE REPORT OF THE SENATE ECONOMICS REFERENCES COMMITTEE:

"CONNECTING YOU NOW . . . Telecommunications Towards the Year 2000"

Background

The Government recognises that telecommunications services are an essential component of everyday life, at home, work and school. The role they play is becoming increasingly important as technological developments not only provide innovations in traditional telephony services, but allow us to reach out to the world via services such as the Internet and to access financial, education, health and other services.

The Government believes that to enable this country to take full advantage of the social and economic opportunities presented by these developments, the Australian telecommunications industry must be constantly challenged to innovate in order to develop new services, increase quality and reduce prices. Promoting competition is central to achieving the Government's post 1997 telecommunications goals and to completing the telecommunications industry's transition from one dominated by a Government monopoly to one driven by vigorously competitive markets.

The Government is also committed to ensuring that the online industry is exposed to maximum competition. The twin developments of technology convergence and the rapidly growing globalisation of information and communications markets, will require the Australian online industry to adapt to world's best practice if it is to seize expanding market opportunities.

The main actions that the Government is undertaking to achieve its objectives in the telecommunications and online sectors are as follows:

New telecommunications regulatory framework

The *Telecommunications Act 1997*, which received Royal Assent on 26 April 1997, establishes the core elements of a new telecommunications regulatory framework for the era beginning 1 July 1997. The legislation will introduce full and open competition, reinforce and reinvigorate consumer protection arrangements and bring about significant reforms to technical regulation.

The Government's objective is to provide an environment in which Australian businesses and telecommunications users will get maximum value from a dynamic telecommunications industry. The regime will provide a framework within which the Australian telecommunications sector can develop into an industry based on:

a world-class infrastructure using the latest market driven technology mix;

large numbers of service providers offering diverse and innovative carriage and content services; and

contestable market strategies which drive prices down and quality of service up.

The Government is committed to maintaining the Universal Service Obligation, which will ensure that all people in Australia have reasonable access to the standard telephone service, payphones, and other prescribed carriage services on an equitable basis, wherever they reside or carry on business.

The new telecommunications legislation will continue to protect the privacy of information held by the telecommunications industry and content of communications.

Partial privatisation of Telstra

Introduction of one-third private equity into Telstra is an important part of the Government's telecommunications policy and will complement the new telecommunications legislation.

Introduction of private equity into Telstra will make Telstra more efficient, leading to an improvement in the quality and a reduction in the cost of telecommunications services. It will also boost economic activity and employment levels in rural and regional Australia by reducing the cost of non-metropolitan communications.

Regional Telecommunications Infrastructure Fund (RTIF)

The RTIF (Networking the Nation) is part of the Government's broader policy strategy to ensure that all Australians can enjoy the benefits offered by new and existing telecommunications services. The Government has committed $250 million to Networking the Nation over five years commencing 1997-98, with $50 million appropriated to the Fund in each financial year. Networking the Nation will support projects designed to meet a range of telecommunications needs in regional, rural and remote Australia.

The program will respond to the difficulties that rural and regional users face in accessing advanced communications services. These services include high speed data communications, the Internet and mobile communications. The Fund will focus on providing regional, rural and remote communities with additional opportunities through:

enhancing communications infrastructure and services;

increasing access to, and promoting the use of, services available through telecommunications networks; and

reducing the disparities in access to such services and facilities between Australians in regional, rural or remote areas and those in urban areas.

Access to telecommunications and online services

The Government considers that widespread availability of ISDN services will be an important component of the developing online environment. Telstra has agreed to bring forward its planned Future Mode of Operation completion date to 1998. This initiative is aimed at improving the availability of a range of advanced services to rural areas. Rural subscribers will have access to enhanced services such as call waiting, call diversion and email, as well as high speed access to the Internet and other high speed data services via ISDN technology. By December 1997, 85 per cent of exchanges in rural areas will be converted to digital, with effective completion of the digitisation program by December 1998.

In response to the report of the Standard Telephone Service Review, which was released in February 1997, the new telecommunications legislation requires the Minister to impose a licence condition on Telstra requiring Telstra to be in a position to make available ISDN-comparable digital data capability to at least 93.4 per cent of the Australian population by 1 July 1997, and to at least 96 per cent of the population by 31 December 1998. A review will be held prior to 2000 to determine whether ISDN-comparable digital data capability should be made available to all Australians from 1 January 2000.

Government service delivery

The Government will continue to pursue measures to improve the efficiency and effectiveness of its own business through the innovative use of online services, believing that online services can offer considerable benefits in the delivery of information and services to all Australians. Moreover, as a large user of information technology and communications, the Government is in strong position to provide leadership in areas such as standards setting and connectivity of networks.

Recognising the need to coordinate government efforts and avoid costly duplication in the delivery of online services, the Government has established an Online Government Council (OGC), a high-level Ministerial council comprising representatives from all levels of government, including local government. The OGC will explore the potential of electronic service delivery (ESD) to improve the way government interacts with citizens and business, especially in rural and remote areas.

The Government notes that action in relation to policy issues highlighted by the Senate Economics References Committee is constantly progressing, due to the rapidly evolving nature of the telecommunications and online sectors.

The information contained in the Government response to the Committee's report is current as of 1 May 1997. The response does not take into account Government decisions made in the context of the 1997-98 Budget.

The Government provides the following responses to the Committee's specific recommendations:

Recommendation 1

The Committee recommends that the Office of Government Information Technology undertake a large scale feasibility study to facilitate the outsourcing of government data requirements, using the South Australian Government's outsourcing project as a model for inquiry.

The Office of Government Information Technology (OGIT) has undertaken a scoping study into the feasibility and potential benefits that could arise from the Commonwealth consolidating and outsourcing its IBM and compatible data centres. The outcomes from this study have been accepted by the Government.

Recommendation 2

The Committee recommends that the Department of Employment, Education and Training (now the Department of Employment, Education, Training and Youth Affairs), in its role as job finder and skills developer, trial a jobs brokerage scheme for teleworking which coordinates the demands of potential work sources and the needs of potential teleworkers.

From 1 December 1997, the Department of Employment, Education, Training and Youth Affairs (DEETYA) will no longer provide job finding and skills development directly to jobseekers. DEETYA will purchase these services from contracted service providers and the responsibility for job placement and enabling jobseekers to become job ready will lie with the service providers. DEETYA will closely monitor and evaluate the results achieved by the service providers.

The Government recognises the potential inherent in new technologies, particularly the Internet, in providing services to employers and jobseekers. To this end, as part of the Government's Employment Assistance Reforms, DEETYA is finalising the development of an Integrated Employment System (IES) which will draw extensively on those new technologies to support the flow of information to employers, jobseekers and service providers within the labour market.

IES includes the following elements:

national job, jobseeker, employer and service provider databases and support for jobseeker assessment and referral, job matching and links to income support systems;

a national network of over 2200 Automated Job Selection (AJS) touch screen units providing real time access to the national jobs database and related information services;

Australian Employment Services on the Internet providing ready access to DEETYA and other sites containing information (including jobsearch, vacancy lodgement by employers, occupations, careers, income support) to support more efficient labour market information flows; and

an Employment Intranet service enabling contracted service providers low cost access to national job and jobseeker databases and related facilities such as job matching.

These technological enhancements will provide the capacity for job brokerage functions to be undertaken by teleworkers remote from traditional office setting and enable vacancy databases to be accessed by home based workers. The Government notes that the Department of Primary Industries and Energy is monitoring teleworking developments in rural areas of Europe, Canada and the United States, and is maintaining a watching brief in this area. In addition, under the new traineeship system, the Communications and Information Technology Training Company has developed the Certificate 2 in Communications—Customer Support. This traineeship, based on competency standards and learning outcomes, has both a Telemarketing and Customer Operations stream and can be completed in 12 months, 390 hours of which is spent in off-the-job training. Flexible delivery options are being canvassed under the Government's New Apprenticeship System.

Recommendation 3

The Committee recommends that telecentres be allocated sufficient funding over the long term to ensure the ongoing success of the telecentre program nationwide. The Telecentre Program was part of the broader Rural Communities Access Program (RCAP) which was administered by the Department of Primary Industries and Energy (DPIE). In future, telecentre initiatives will be considered under the new Rural Communities Program, to be launched by the end of 1997.

The Government notes that the Regional Telecommunications Infrastructure Fund (RTIF) may play a role in this area, and there is potential for coordination and partnership arrangements between the Rural Communities Program and the RTIF.

Recommendation 4

The Committee recommends that government be open to the possibilities of teleworking and telecommuting and lead the way in establishing programs which significantly improve the delivery of government services, whilst at the same time, assisting an emerging industry by developing outsourcing strategies which decentralise work opportunities for all Australians.

Governments can facilitate the development of telework by encouraging agencies and Departments to place suitable work with teleworkers. Teleworkers offer a useful resource for both routine and overload work, with the added advantage of improving the availability of work in rural and remote areas.

For example, the Telecentre Program has created sufficient work in a number of rural communities to make a significant difference to the earnings of people in those communities. Experience from the Telecentre Program has shown the need for brokering services to facilitate the development of teleworking in regional areas.

The Government's industrial relations reforms have provided greater flexibility in modes of employment, including telework. Teleworking and telecommuting is available in some areas of Commonwealth public sector employment. For example, clerical employees in the Australian Public Service (APS) are covered by the *APS Home Based Work Interim Award 1994* (the award), the first of its kind in Australia.

A joint management/union review of the award, finalised in mid-1996, recommended that the award continue with no change at this stage. The findings of the review are outlined in the *APS Home Based Work Interim Award: A Resource Document* prepared by the Commonwealth Department of Industrial Relations. As noted in the report, agency

and employee surveys indicated enthusiasm across the APS for the continuation of home based work (HBW) arrangements. HBW is seen as having advantages for both management and employees, including improved productivity, higher employee morale, enhanced job satisfaction, retention of skilled employees and higher quality of work, consistent with a number of overseas studies.

The new *Workplace Relations Act 1996* supports a more direct relationship between employers and employees and provides for the simplification of the award system, with the Australian Industrial Relations Commission's award-making role focused on setting a safety net of fair and enforceable minimum wages and conditions. In accordance with the award simplification process, it is expected that most of the matters currently provided for in the award covering HBW in the APS will generally be determined at the enterprise or workplace level, either in formal agreements or informally.

Recommendation 5

The Committee recommends that:

> ***The Community Information Network project be allocated sufficient ongoing funding to establish baseline data for all the needs of the Department of Social Security. This base may reflect more general needs across the community.***
>
> *There be sufficient funding available to ensure that adequate and appropriate hardware is made available. This technology must meet the needs of the project in terms of education and training and, in the long term, meet the needs of real work opportunities for individuals.*

The Department of Social Security's Community Information Network (CIN) was established in early 1995 as a pilot research project in Nundah, Chermside and Gympie in Queensland; Modbury, Salisbury and Elizabeth in South Australia; Queanbeyan in NSW and sites throughout the ACT and Tasmania. The CIN pilot access network closed on 4 October 1996, and no further funding is available. The CIN was subject to extensive evaluation and analysis. The report on this process will be completed by July 1997.

Recommendation 6

The Committee recommends that the Community Information Network project and the DPIE Telecentre project be integrated to achieve mutual benefits for both parties in terms of work development and skills acquisition. The Telecentres and Community Information Network (CIN) programs differed in nature: Telecentres are a community access point; the CIN was a networked information resource. However, community Telecentres and similar access points can readily gain easy access to the CIN or to similar networked information resources through the use of common standards and open systems in the choice of their information technologies. In the early trials of the CIN, some community access points were provided by CIN in rural libraries and community centres. Such access points potentially duplicated the limited public access services which telecentres provide.

As noted in the Government's response to Recommendation 5, the CIN pilot access network closed on 4 October 1996, and no further funding is available for that program.

Recommendation 7

The Committee recommends that the Bureau of Transport and Communications Economics be allocated sufficient funding to undertake a major study of the Australian community to better understand the social implications of telecommunications technology developments. This study should be used to inform long term policy developments.

The BTCE is currently conducting research relevant to this recommendation.

Recent BTCE studies of the likely evolution of telecommunications markets, such as that undertaken as part of the Communications Futures Project (CFP), have yielded useful insights into, for example, likely future regional distribution of cable infrastructure and the scope for households of different types to re-allocate their disposable income to pay for networked services. The foundation-level research in the CFP positions the BTCE well for the task of developing and applying an economic framework for understanding the social implications of telecommunications technologies.

In the CFP context, the BTCE viewed as a particular priority investigation of the basis for community concern about development of an Australian 'information underclass'—a sector of society made up of those who face persistent barriers to accessing online services (such as rural and remote location, low income, lack of skills, age, disabilities which make mass market equipment difficult to use).

Therefore, following completion of the CFP, the BTCE initiated a new project called 'Access to Information and Communications Services'. This research seeks to develop an analytical framework for examining the rationale for and costs of public policies to minimise barriers to accessing online services from home. Preliminary results from this project were presented at the BTCE's 1996 Communications Research Forum and featured estimates of the size and characteristics of groups of households least and most likely to acquire digital technologies in the short term. The project is scheduled for completion in the second half of 1997.

As part of the 'Access' project, the BTCE is liaising with the Australian Bureau of Statistics (ABS) on development of the ABS household

information technology survey program. Such a program would provide key inputs to a study of the kind recommended by the Committee.

In particular, means of collecting data which would allow close analysis of regional and intra-household effects (eg. age and sex) are being examined, as are ways of making better links between ABS data household technology ownership and other data sets on labour force participation and educational attainment. Such links would assist in specifying and gathering the base line data mentioned in paragraph 4.10 of the Senate Committee's report.

Recommendation 8

The Committee recommends that a legislative safety net be established involving expansion of the Information Privacy Principles contained in the* Privacy Act 1988*. A two-stage process is required in expanding the Information Privacy Principles firstly involving the inclusion of additional principles addressing new telecommunications privacy risks and secondly, broadening application of the principles to both the public and private sectors.

Telecommunications privacy is currently being addressed in a number of different ways. Under section 88 of the *Telecommunications Act 1991*, disclosure of confidential information by carrier employees and service providers and their employees about the content of communications, customers' personal affairs and services supplied to customers, is prohibited except under circumstances specified in that provision. A contravention of this provision is a criminal offence, punishable by two years imprisonment. In addition, voluntary codes of practice dealing with disclosure of personal information and caller identification services have been or are being developed under the auspices of AUSTEL's Privacy Advisory Committee.

AUSTEL and the Telecommunications Industry Ombudsman (TIO) both have responsibilities in regard to telecommunications privacy. The TIO currently has jurisdiction under paragraph 4. 1 of its Constitution to investigate complaints about any interference by a telecommunications carrier with the privacy of an individual in terms of non-compliance with the Information Privacy Principles contained in the Privacy Act or any industry specific standards which may apply from time to time. The TIO advises that privacy issues remain a significant matter in telecommunications.

Part 13 of the *Telecommunications Act 1997* re-enacts the substance of section 88 of the 1991 Act, and strengthens privacy protections. It creates an offence for secondary use or disclosure of information disclosed under exceptions to primary offences. It also creates record-keeping requirements in relation to certain disclosures and gives the Privacy Commissioner the function of monitoring compliance with those requirements.

The Government also proposes that industry-developed codes be able to deal with additional telecommunications and online privacy issues after 1 July 1997. The proposed arrangements are based on industry sections developing codes and registering them with the proposed new Australian Communications Authority (ACA). The ACA may request a code to be developed on a matter and failure to develop a code provides a ground for the ACA to develop an industry standard. Privacy matters are specified in clause 112 as an example of matters that may be dealt with by industry codes or industry standards.

Recommendation 9

The Committee considers it unsatisfactory that the Privacy Commissioner should not have the power to oversee profiling activities undertaken by the private sector and therefore recommends extension of the Privacy Act to address this, and other emerging privacy issues. In making this recommendation the Committee supports the Privacy Commissioner's interpretation of the telecommunications power vested in section 51(v) of the Constitution.

Under the Privacy Act, the Privacy Commissioner has power to encourage corporations to develop programs that are consistent with the Guidelines on the Protection of Privacy and Transborder Flows of Personal Data issued by the OECD (section 27(1)(n)).

Profiling activities are not regulated under telecommunications legislation, however a code of "customer personal information principles" currently under development by AUSTEL's Privacy Advisory Committee, which will apply to carriers and service providers on a voluntary basis, will help to address privacy concerns associated with profiling.

Recommendation 10

In order to address telecommunications security risks, the Committee recommends that there be a single, autonomous national system which has credibility with the legal system and which, through a series of international agreements, offers international recognition. Consultation with peak industry groups, relevant government departments and Public Key Authentication Framework should take place to ensure ongoing coordination within the system. In addition, the Committee recommends establishment of a third party body for the management of public key authentication.

The Commonwealth Government is involved in several activities relevant to this recommendation:

Authentication

In April 1995, the Public Key Authentication Framework (PKAF) Task Group, consisting of

representatives from the public and private sectors, issued a discussion paper for public comment. Those comments have now been considered and the final report was released in November 1996. This report recommends a single purpose national framework for a national infrastructure that will enable strong authentication of users involved in electronic transactions.

The specific recommendations of the report are:

1. That a single national root authority be established in Australia, empowered to establish the framework for interoperation and cross-certification with other recognised national root authorities;

2. That the root authority accredit certification authorities which comply with the established framework of common policies, procedures and technologies;

3. That the PKAF requirements be incorporated in the establishment brief of the root authority; and

4. That the necessary technical standards to support the PKAF structure be identified or developed and adopted, using internationally agreed standards where available.

The Government is presently considering the establishment of a national user authentication framework as outlined in the report, and will be consulting extensively with industry and governments. An inter-departmental committee has been established to assess the legislative and other implications of establishing such a framework.

Officials have held discussions with several overseas governments and multinational corporations on their proposals for public key infrastructures in an endeavour to ensure international interoperability of such schemes.

The Office of Government Information Technology (OGIT) has recently co-ordinated the production of a report, *User Authentication Issues in Electronic Services Delivery*, which addresses a significant aspect of telecommunications security. The report was commissioned by a Commonwealth-State reference group on Electronic Service Delivery (ESD), established by the Government Telecommunications and Technology Committee (GTTC). The report examines the authentication both of users to service providers and of service providers to users. It recommends that Certified Public Key Cryptography be endorsed as the appropriate approach to this issue. The report was accepted by the GTTC in October 1996 and the issues raised in it are being considered by the Online Government Council, a Ministerial Council including representatives from all levels of government.

Both Telstra and Australia Post have been involved in the development of public key authentication and related technologies.

Cryptography

Cryptography will provide the basis for both public key infrastructures and telecommunications security. The Government has established an Interdepartmental Consultative Group on Cryptography to formulate Australia's contribution to the development of cryptography policy guidelines being undertaken by the OECD Ad Hoc Group of Experts on Cryptography Policy Guidelines, a subcommittee of the Committee of Experts on Security, Privacy and Intellectual Property Protection in the Global Information Infrastructure (GII). Australia chairs and is represented on the Ad Hoc Group of Experts by the Attorney-General's Department. The objective of the Ad Hoc Group of Experts is to develop a set of guidelines to enable member countries to develop interoperable cryptography policies and practices to facilitate the development of a seamless global information infrastructure. The OECD Guidelines for Cryptography Policy were released on 27 March 1997.

Recommendation 11

The Committee recommends that the definition of "standard telecommunications service" allow for the provision of radiocommunications services, and consequently be renamed the "standard communications service".

Under the *Telecommunications Act 1991* the "standard telephone service" is one of the telecommunications services which must be supplied under the Universal Service Obligation (USO) arrangements. Under the Telecommunications Act, a "telecommunications service" is defined as "a service for carrying communications by means of guided or unguided electric energy or both". The term "standard telephone service" is therefore technology neutral and does not exclude the provision of radiocommunications services. As the declared universal service carrier, Telstra currently uses radiocommunications technology in fulfilling its USO, particularly in rural and remote areas.

The *Telecommunications Act 1997* continues the use of the term "standard telephone service". In the new telecommunications legislation, the definition focuses on the functionality required of the "standard telephone service" and, as a starting point, the service is defined as a carriage service for the purpose of voice telephony or its equivalent for persons with a disability. The definition can be amended by regulations in two ways: to prescribe purposes for the service additional to those specified in the legislation, and to prescribe performance characteristics for the service. As the focus is on service functionality, the "standard telephone service" concept is technologically neutral and does

not preclude the use of radiocommunications or any other technology.

Using the term "standard communications service" under the new legislation is therefore unnecessary to capture the provision of services by radiocommunications. Such a broad term would be potentially misleading as it could imply that the USO includes forms of communications such as broadcasting. As the Senate Economics References Committee notes in paragraph 6.19 of its Report, broadcasting should not become part of the USO and universal availability of broadcast services is a matter which is properly addressed under a broadcast policy.

Recommendation 12

The Committee recommends that:

The Bureau of Transport and Communications Economics review the possible applications of, and investigate demand for, modern radiocommunications technologies in rural and remote areas, with a view to determining their possible use in enabling the Universal Service Obligation to these areas to be met; and

The Spectrum Management Agency, in consultation with the Bureau of Transport and Communications Economics and possibly the Australian Bureau of Agricultural and Resource Economics, review the restrictions which inhibit the long range uses of radiocommunications technologies in rural and remote areas and formulate a strategy which will allow their use as an important medium for communications. This strategy should be put to the National Information Services Council and the Committee of Officials on Information Services for consideration and implementation.

Response to Point 1

Under the telecommunications legislation, a universal service carrier must meet the Universal Service Obligation (USO) as efficiently and economically as practicable. As noted above, radiocommunications technology is currently used by Telstra, as universal service carrier, to meet the USO in rural and remote areas.

The outcomes from earlier BTCE work in the Communications Futures Project suggest that research into demand for services in rural and remote areas will most usefully be carried out in the context of a cost-based market framework, as is now underway in the second phase of the BTCE's 'Access to Information and Communications Services' project. This research involves collaboration with agencies such as the Department of Communications and the Arts, the Spectrum Management Agency and the National Farmers' Federation via the Farmwide trial of demand for online services (partially funded by the Department of Transport and Regional Development and the Department of Primary Industry and Energy). The project is scheduled for completion in the second half of 1997.

The BTCE's project also includes examination of the economics of emerging delivery technologies with the most potential to service people in rural and remote parts of Australia.

Response to Point 2

Demand for modern radiocommunications technologies in rural and remote areas is a derived demand, based on demand for communications services in such areas. Market research is important both to commercial decision making and to inform policy development. However, the Government believes that the technologies used to deliver services should be a matter for commercial decision by carriers and service providers, based on assessment of the relative costs.

Restrictions on long range use of radiocommunications technologies in rural and remote areas are related to the physics of radiofrequency propagation, the availability of suitable equipment and the economics of service delivery to lowly populated areas. Frequencies in what is referred to as the High Frequency bands (3-30MHz) have been used for decades to provide long range fixed and mobile communications. Australia has traditionally been a heavy user of these bands for this purpose. Because of their long distance propagation, the use of these bands must be co-ordinated internationally so as to manage interference between countries.

The distance radio waves travel decreases as the frequency increases. Above the High Frequency band, radio tends to travel in a "line of sight" manner so that to provide area coverage in these higher bands requires many more transmission sites. The need for additional infrastructure adds to the costs of service delivery. Nevertheless, Telstra has very substantial networks called Digital Radio Concentrator Services (DRCS), operating in both the 500 MHz and 1500 MHz bands and providing telephony as part of its Universal Service Obligation. Telstra is planning to upgrade the capacity of these networks. The technologies used by carriers to provide rural communications are not imposed by regulation. As a general rule, there is relatively light use of the radio spectrum above 30 MHz in rural areas and there is little difficulty in satisfying demand for access. Satellites have also been used to provide very wide area coverage for fixed, mobile and broadcasting services. These have traditionally been expensive and reliant on distant satellites in the Geostationary Orbit. In the last few years, there has been intense international interest in "Low Earth Orbit" satellite systems that are hoped to be able to provide satellite services more cheaply than previously. Australian delegations at international regulatory conferences have fought

very hard to get international agreement on the accommodation of these new services.

The Government is aware that technologies such as Low Earth Orbit satellite systems and spread spectrum local area networks (LANs) are currently being applied in rural and remote areas of the USA. The use of many such technologies in the USA is being facilitated by the existence of class licence arrangements under the US Federal Communications Commission (FCC) spectrum management arrangements.

The Spectrum Management Agency has had a number of discussions with prospective mobile satellite services for the provision of voice and data services in Australia and there is a high expectation that at least two consortia will be operating services by 1999. However, the Government believes that any determination about what technology to use to deliver services is a matter for service providers. In an environment of rapidly changing technology, a policy of technology neutrality has been adopted. Choosing technology is, quite properly, a commercial matter.

The National Information Services Council and the Committee of Officials on Information Services are no longer operational, however their roles have to some extent been continued under the auspices of the Information Policy Advisory Council (IPAC) and the Coordination Committee on Information Services (CCIS). IPAC's report on online infrastructure and services in rural and regional Australia, *rural&regional. au/for all*, was released on 28 May 1997. IPAC's advice in this area will be an important contribution to the Government's policy considerations and in particular will provide a key input into the development of the $250 million Regional Telecommunications Infrastructure Fund (RTIF).

Recommendation 13

The Committee recommends that any service which through normal commercial activity has reached 80 per cent take up nationally should be added to the standard communications service. To ensure informed decision making about the services to be included in the standard communications service, the Committee refers to its recommendation 19 that a national survey of communications uses and needs be undertaken. The Government agrees that take-up of services on a commercial basis is an important consideration when determining whether to mandate universal access to such services. Views differ on an appropriate threshold level of take-up beyond which a potentially useful network product becomes a social necessity and therefore justifies incorporation within the universal service arrangements. It is therefore difficult to set an arbitrary threshold. In its Communications Futures report, the BTCE suggested 50 per cent take-up as reasonable on the basis of intuition. The Government notes that the Senate Committee's suggested figure of 80 per cent is based approximately on the proportion of Australians living in coastal cities. The BTCE identified at least five criteria that could form a test of essentiality for any potential "universal service": widespread application; simple interface; familiarity; network externalities; and absence of alternatives.

The Standard Telephone Service Review examined whether the definition of the standard telephone service mandated under the USO arrangements should be upgraded to accommodate new technologies and minimum service levels. The objective of the review was to determine whether recent and emerging developments in telecommunications technology or increased demand for more advanced telecommunications services in the Australian community warrant a change in the level of service mandated under the USO.

The majority report of the Review recommended that a digital data capability at the ETSI ISDN standard should be reasonably accessible to all Australians on an equitable basis by 1 January 2000, and be specified as a prescribed carriage service from 1 July 1998 subject to an assessment at that time of costs and benefits and whether intervention is needed in view of market developments. Professor Henry Ergas in his minority report recommended against any new prima facie standard until the analysis of costs and benefits had actually been done.

Recommendation 14

The Committee recommends that the Government undertake a review of the communications requirements of the elderly, to ascertain the most comprehensive and appropriate communications, including the telephone, that should be readily available. Older people are a diverse group and some have special needs, such as those who live alone, who are isolated from family and friends, who cannot easily access transport, and those who live in nursing homes and hostels. The Government recognises that telephone services are particularly important to older people as they provide a vital link to the community and a means of maintaining social contact, as well as assisting in their security. The Government notes that telecommunications is just one means of addressing the communications requirements of the elderly. For example, personal security devices is another important means of communications for emergency purposes.

The Department of Social Security (DSS) and the Department of Veterans Affairs (DVA) currently administer a Telephone Allowance to pensioner card holders. The Allowance is a quarterly payment that represents approximately one third of the line rental costs of a domestic telephone service. The current rate of Telephone Allowance is $15.40 per

quarter, and it is indexed annually according to changes in the CPI. Telephone affordability for pensioner card holders is assisted by concessions offered by Telstra, including a discount of $25 off connection fees to an existing line and $50 for a new connection. The first 10 local calls per month are charged at a discounted rate of 15 cents per call.

In 1993, DSS, in association with Telstra, undertook some preliminary research on the telecommunications needs of people on a low income, including elderly people. As a result of that research, Telstra released the InContact service in 1995, a service which has been specifically targeted at people on a low income, including DSS age pension customers. Telstra also offers other services designed to assist customers on a low income, and other options are available on the standard telephone service (eg. barring international calls).

The universal service provisions in the *Telecommunications Act 1997* will promote access to telecommunications services by aged persons with disabilities. There is specific reference in the definition of the standard telephone service (STS) to compliance with the *Disability Discrimination Act 1992* to make clear that the STS is to be supplied to people with a disability. The STS is based on the concept of voice telephony or its equivalent for people with a disability. The *Telecommunications Act 1997* provides for the incorporation of the National Relay Service in the Universal Service Obligation after 30 June 1998 (ie. at the conclusion of existing Commonwealth funding). Under the new Act, customer equipment supplied with the STS must also comply with the Disability Discrimination Act.

A Healthy Ageing Task Force was established by Health and Community Services Ministers in October 1996. The Task Force comprises members from the Commonwealth and each State and Territory and its main activities are to:

develop a national healthy ageing strategy;

develop an Australian vision on future ageing for announcement in 1999; and

develop a nationally coordinated approach to the celebration of the International Year of Older Persons in 1999.

The telecommunications needs of older people could be considered in the context of the work of the Healthy Ageing Task Force.

Recommendation 15

The Committee recommends that any warning notices posted to telephone users concerning impending disconnection should include information about the InContact service.

While the Government is sympathetic to the intent of the recommendation, the Government considers that this is appropriately a matter for commercial decision by Telstra. At present, the InContact service is not available to approximately 35% of households currently connected to older exchanges. Services similar to InContact may in future be provided by carriers or service providers other than Telstra. For these reasons, it would not be appropriate for the Government to require that Telstra implement the proposal.

Part 6 of the *Telecommunications Act 1997* establishes comprehensive arrangements for industry self-regulation by means of codes backed up by mandatory standards developed by the proposed Australian Communications Authority (ACA). Industry is expected to be responsive to community concerns in developing codes. The arrangements envisage that disconnection is a matter about which a code might be developed, and the legislation makes specific reference to it in clause 112(k). In developing codes, industry must consult with the public. Before a code can be registered, the ACA must be satisfied that it will effectively deal with the matter to which it relates. Where industry does not develop a code of its own volition, the ACA may request it to do so. If a code is not developed, or fails, the ACA may make a mandatory standard with which all relevant industry participants must comply. Such a standard could deal with disconnection.

Recommendation 16

The Committee recommends that:

The Department of Employment, Education and Training further assist Adult and Community Education by reviewing its information technology and telecommunications needs in delivering its services; and

The Government facilitate and, where necessary, subsidise Adult and Community Education access to information technology and telecommunications.

The Government is aware that developments in information technology will have a major impact on education. For example, it is clear that the Internet will play an increasingly important role in the delivery of education in Australia.

The Education Network Australia (EdNA) initiative is providing a focal point on how to make the best use of emerging opportunities. EdNA involves coordination of the development and use of information technology for educational purposes by State Governments, non-Government schools, the vocational education and training sector, the higher education sector and the Adult and Community Education (ACE) sector. EdNA represents a commitment to collective action on the part of the education sector to maximise the benefits of information technology within the education community and to avoid duplication and overlaps.

It is likely that the new technologies will mean increasing reliance on learner centred approaches to the delivery of education. Such developments are of particular relevance to the ACE sector where the needs of the ACE community are being addressed largely through the vocational education and training (VET) element of EdNA.

Recommendation 17

The Committee recommends that the Government, in partnership with the States, review the cost of providing SBS television to those areas of the Australian community such as Western Australia and King Island, which are currently lacking that service, and commit to a timetable for its introduction at the earliest possible opportunity.

The Government is giving effect to its election commitments by spending $9.9 million to bring SBS television to 700,000 Australians in five regional areas (Upper Murray, NSW mid north coast, Upper Namoi, NSW Central Tablelands, and Rockhampton) over the next three years.

Expansion of SBS television to achieve the same reach as ABC terrestrial television (about 98 per cent of the population) has been roughly estimated by the National Transmission Agency (NTA) to cost between $90 million and $100 million in one-off capital costs, and would require years of capital works.

The SBS television signal cannot be accessed in rural Western Australia. Metropolitan Perth is serviced by a "sidelobe" or "beamlet" sourced from the South East beam which is received in Perth, time shifted to correct WA time, and retransmitted. The "beamlet" is centred on Perth and drops away rapidly in power, making it unavailable to most of Western Australia. Those who can receive it direct from the satellite view SBS in east coast time.

To service Western Australia as a whole would require a dedicated satellite beam and time delay facilities. Following the introduction of such a beam, communities and individuals would need to install their own satellite reception equipment if they wished to receive SBS television in advance of provision of Government funded retransmission facilities. At present, using a B-MAC analogue signal, the annual lease cost of a WA beam to SBS would be about $2.6 million per year. This is expected to fall to between $1.5 million and $1 million per year when Optus moves to the compressed digital video (CDV) transmissions in the second half of 1997. While the introduction of CDV will reduce broadcasters' satellite costs, direct-to-home viewers will need to replace their current reception equipment with a CDV receiver/decoder, estimated to cost between $1000 and $1200.

Communities in areas where the SBS television signal is available from the satellite may wish to consider installing a self-help retransmission facility, if they wish to access SBS television before the Government installs an NTA retransmission facility. This involves a satellite reception dish and other reception equipment, a suitable receiver/decoder and a low power television transmitter. This option has been adopted by a number of communities, for example Bathurst, Broken Hill, Orange, Wagga, Charleville, Longreach, Mt Isa, Mildura and Swan Hill.

State and territory governments can assist with retransmission arrangements. For example, SBS television is transmitted to Alice Springs, Katherine, Tennant Creek and Nhulunbuy via self-help facilities provided and maintained by the Northern Territory Government.

Recommendation 18

The Committee recommends that AUSTEL, in consultation with the Telecommunications Industry Ombudsman, conduct a thorough review of call zones and their continuing relevance in the face of substantial price reductions resulting from the introduction of new technology and the effective "death of distance" to ensure that measurable benefits of competition are reflected in reduced consumer charges, especially over long distances.

There are currently no legislative prohibitions on Telstra or the other two carriers reviewing or introducing alternative charging (including zone) arrangements. However, both Optus and Telstra are required to offer to residential, charity and welfare customers an option of untimed local calls on the same basis as they were made available in 1991. The new legislation extends this provision to business customers for voice calls.

To the extent that technology has caused the "death of distance", competition whether direct or through innovative service alternatives, is likely to translate into pricing benefits for customers. As the recommendation itself suggests, price reductions have already lessened the importance of distance as a pricing consideration. Charging distance bands have been increasingly simplified and off peak periods extended. Optus and Telstra have in some instances employed flat rate charging for national long distance calls (eg. Optus introduced a flat rate in January 1996 for such calls made during off peak and weekend periods.)

Price caps on Telstra promote reductions in all tariffs, including for long distance calls, and prevent price reductions in areas of high competition from being funded through unjustified increases in other areas. Attempts by Government to unduly manipulate pricing can distort the operation and efficiency of the industry and should generally

be avoided, especially in competitive market sectors.

However, the Universal Service Obligation (USO) is intended to encourage the universal service carrier to provide standard telephone and payphone services at minimum cost. While Telstra is currently designated the universal service carrier for the whole of Australia, other carriers could seek to be designated the universal service carrier for a particular area if they considered they could provide the service more efficiently (and hence at lower net cost). The net costs of providing the service in that area would continue to be borne by the carriers in proportion to their market share.

Apart from constraints on anti-competitive tariffs, untimed local call requirements, price controls imposed on Telstra, universal service providers' charges and general prices surveillance, the new legislation envisages telecommunications pricing being a commercial matter for telecommunications carriers in response to increasing competition.

The Telecommunications Industry Ombudsman (TIO) plays no role in the setting of prices or call charging zones and its charter excludes the consideration of complaints about prices. It is therefore unlikely that the TIO would have the relevant expertise to conduct the proposed review. In addition, consideration of changing the TIO's jurisdiction would be a matter for its Council and Board.

Recommendation 19

The Committee recommends that the Australian Bureau of Statistics conduct a full scale nationwide household and business survey to ascertain:

Current use of information and communications technology in households and business; and

Community responses to the possible uses of all current and proposed telecommunications, radiocommunications, broadcast and satellite services.

The Government agrees that there is a need for more information on the current use of information and communications services by households and business. A key factor being addressed by the Review of the Standard Telephone Service was the particular needs and expectations of people living in non-metropolitan areas, including Aboriginal and Torres Strait Islander communities, and people with disabilities, in relation to basic telecommunications services, including voice, data and facsimile services.

The Australian Bureau of Statistics (ABS) currently has a statistical program in place to measure the use of information and telecommunications technologies (ITT) in the home. During 1996, four surveys of this type were conducted. The first, in respect of February 1996, was released in August 1996 entitled "Household Use of Information Technology". This was expected to meet most of the user requirements for data on the current use of ITT, with the exception of data in respect of remote areas (which was not covered in the survey) and some small interest groups (for which the sample was too small to be able to identify adequately those groups).

The 1996 surveys also collected information on household attitudes to home banking, shopping and gambling. This will in part provide data about community attitudes to new telecommunications services, although there is no information collected in respect of attitudes to broadcast services.

The 1996 survey is the second of its type conducted by the ABS. The first, conducted in respect of February 1994, was released in February 1995. The ABS has also conducted a survey measuring the expenditure on information technology and telecommunications goods and services by business enterprise. The results of this survey, conducted in respect of 1993-94, were released in May 1997. The ABS is considering proposals to repeat both surveys.

The BTCE is also conducting work in this area. Its Occasional Paper 111, entitled "Residential Demand for Access to Broadband Networks: An Empirical Investigation", was published in March 1996.

The BTCE is currently undertaking further research into access to information and communications services. The project seeks to develop an analytical framework for examining the rationale and costs of public policies to minimise barriers to accessing online services from home. The BTCE released the first published output from this project in October 1996, consisting of an analysis of an Australian Bureau of Statistics survey on "Household Use of Information Technology". The paper examined developments over the period 1994-96 and assessed the size and composition of groups most and least likely to acquire computers and modems at home in the period 1996-98.

Recommendation 20

The Committee recommends that:

The Office of Government Information Technology be allocated the resources to integrate the databases of all Commonwealth libraries;

Commonwealth public network programs, such as the Telecentre Program, the Community Information Network, and Education Network of Australia, continue to be administered by their parent portfolios, but be coordinated by the Government Information Services Policy Board or the Committee of Officials on Information Services to avoid waste, confusion and unnecessary duplication of resources and infrastructure;

The Council of Australian Governments facilitate negotiations between Commonwealth, State, Territory and local governments with a view to integrating all public sector network activities into a coherent national public and community sector network program; and

A timetable for the above three recommendations be determined to facilitate the implementation of the Broadband Services Expert Group's recommendation that broadband links be provided to all schools, libraries, medical and community centres by the target date of 2001.

Response to Point 1

Integration of databases for Commonwealth libraries is more the responsibility of the National Library of Australia (NLA) than the Office of Government Information Technology (OGIT). The NLA has chaired a working party set up to develop an overall framework for the cost effective management of Commonwealth information as a national strategic resource with particular reference to information dissemination by electronic means. A report titled *Management of Government Information as a National Strategic Resource* has been issued in draft form for comment. The report makes a series of recommendations on improving access to information by the Australian public and Commonwealth employees. OGIT will work with the NLA in completing this report and addressing a number of its key recommendations.

Response to Point 2

The Committee's recommendation relates to the coordination of Commonwealth electronic service delivery (ESD) programs. The intent of the recommendation is consistent with OGIT's strategic objective to create an environment enabling seamless electronic service delivery from different agencies and levels of government to the citizen and business, known as the "single window to government".

The Government recognises the benefits and synergies of cooperation amongst Commonwealth public network programs and supports the coordination of services and activities amongst them.

Coordination of Commonwealth policies and programs relating to information services and their use to deliver Government information and programs is primarily undertaken by three bodies:

The Department of Communications and the Arts has established the **Coordination Committee on Information Services (CCIS)** (replaces the Committee of Officials on Information Services), an executive-level interdepartmental committee to facilitate information sharing, coordination and cooperation on broad policy issues relating to information services;

The Government Information Services Policy Board has been abolished and its place taken by the Minister for Finance's **Information Technology and Telecommunications Policy Advisory Committee (ITTPAC)**; and

The Government has established the **Online Government Council (OGC)** to coordinate online programs between Commonwealth, State and Territory and local government, encourage collaboration where appropriate, and avoid costly duplication in the development and delivery of online services. Electronic service delivery projects are proceeding under the aegis of the Council and a proposal to establish a secretariat in OGIT to support Commonwealth/State cooperation is being implemented.

Response to Point 3

As noted above, the Online Government Council (OGC) includes the Ministers responsible for information services policy in all jurisdictions and the President of the Australian Local Government Association, and is chaired by the Minister for Communications and the Arts. Issues discussed by the OGC will be drawn to the attention of the Council of Australian Governments as appropriate.

At the officials level, the coordination of electronic service delivery (ESD) activities between the Commonwealth and the States is undertaken by a State/Commonwealth ESD reference group, established under the auspices of the Government Technology and Telecommunications Committee.

Response to Point 4

As noted above, the Commonwealth Government has already established a number of policy mechanisms to ensure the coordination and integration of federal, state and local online services. While the specific issue of providing broadband links to all schools, libraries, medical and community centres by the year 2001 (as recommended by the Broadband Services Expert Group) is primarily a matter for consideration by State governments, through these policy mechanisms the Commonwealth is well placed to intervene on national issues as appropriate, in cooperation with the States and Territories.

Recommendation 21

The Committee recommends that:

The Commonwealth and the States initiate a National Community Collaboration Project to encourage community initiatives to develop and implement communications networking requirements which are appropriate to the needs and requirements of those communities;

The role of the Commonwealth and States in this Project be essentially as facilitators along the lines already used by the Telecentre Program to encourage community initiatives and

collaboration, and to provide seed money for pilot community projects either directly or indirectly through a Community Applications Fund;

A Community Applications Fund, as recommended by the Broadband Services Expert Group, be established with allocation to be assessed and distributed by a broadly representative Accreditation Committee as recommended by the Access Working Group to the National Information Services Council; and

Allocations to a Community Applications Fund be regularly reviewed to ensure sufficient funding for accredited community initiatives.

The Government has undertaken substantial initiatives relevant to this recommendation. The Government agrees that community initiatives should be encouraged, so that networks are truly reflective of, and responsive to, community needs. Any further initiatives are matters for consideration in the Budget context.

In order to enhance community access to online services, funding of $2 million was provided by the Government in the 1996-97 Commonwealth Budget for the Online Public Access Initiative. The program will support a diverse range of best practice, innovative projects to enhance community access to online services in public libraries and similar institutions. While many projects will provide online access to regional and rural communities, others focus on providing public access to special groups, such as people with disabilities, including the blind; indigenous people; people from non-English speaking backgrounds; the aged; women; the unemployed; and parents supervising children's Internet access. The program is being administered by the Department of Communications and the Arts.

The Government's policy approach in encouraging community initiatives is also reflected in the Telecentre Program, administered by the DPIE, which supports the concept of community based, collaborative initiatives in communities which demonstrate the ability to provide such services to an agreed standard.

The Government is currently working with State, regional and local government organisations to explore policy options to encourage rural and regional communities to boost their access to information services through proactive community strategies. For example, regional communities may achieve considerable benefits from aggregating their demand for services in order to attract commercial providers into their region, or by pooling community resources in order to provide community access facilities and training and support services.

On 5 December 1996 the Government announced the establishment of a $250 million Regional Telecommunications Infrastructure Fund (RTIF) to improve the quality of telecommunications services in regional areas. This amount includes a component to cover the administrative costs of the program. The funds have been allocated so that the share each State receives is in direct relationship to the share of that State's population which is found outside that State's capital city. A separate $20 million component of the fund has been reserved for the two Territories. The allocations by State and Territory available for projects over the life of the RTIF are: New South Wales $35.963m; Victoria $27.405m; Queensland $51.060m; Western Australia $25.482m; South Australia $25.482m; Tasmania $55.771m; Northern Territory $15.385m; Australian Capital Territory $3.846m. The objective of the Fund is outlined in the introduction to this Government response. The Government believes that there is real potential for the RTIF to work in partnership with a wide range of community, State and Commonwealth stakeholders and existing programs to deliver improved access to high quality telecommunications services.

Reports: Government Responses

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (5.58 p.m.)—I table the government's response to the President's report to 12 December 1996 on the outstanding government responses to parliamentary committee reports and seek leave to incorporate the document in *Hansard*.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS

RESPONSE TO THE SCHEDULE TABLED BY THE DEPUTY PRESIDENT OF THE SENATE ON 12 DECEMBER 1996

Circulated by the Acting Leader of the Government in the Senate Senator the Hon Richard Alston 25 June 1997

AIRCRAFT NOISE IN SYDNEY (Senate Select)

Falling on Deaf Ears

The government response was presented out of session to the President of the Senate on 14 December 1996.

CERTAIN FAMILY LAW ISSUES (Joint Select)

Child support scheme—An examination of the operation and effectiveness of the scheme

It is anticipated that a final response to all outstanding recommendations will be tabled in 1997.

Funding and administration of the Family Court of Australia

The Joint Select Committee on Certain Family Law Issues recommended that the Auditor-General conduct an efficiency audit of the Family Court of Australia. The Auditor-General's report was tabled on 15 May 1997. The government will finalise its response to the Joint Select Committee's report when it has given consideration to the Auditor-General's report.

CERTAIN LAND FUND MATTERS (Senate Select)

Report

A response to this report was tabled on 17 June 1997.

COMMUNITY AFFAIRS LEGISLATION

Review of the *Health Legislation (Private Health Insurance Reform) Amendment Act 1995*

The government is in the process of preparing a response which should be tabled shortly taking into account the recent report of the Productivity Commission on a similar reference.

Social Security Legislation Amendment (Budget and Other Measures) Bill 1996

Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996—Schedule 2

The Committee reports were addressed during the debate on the legislation in the Senate. The Bills were passed in the Senate on 13 December 1996. The government does not intend to respond further to these reports.

National Health (Budget Measures) Amendment Bill 1996

Health Insurance Amendment Bill (No. 2) 1996

The Committee reports were addressed during the debate on the legislation in the Senate. These Bills where passed in the Senate on 13 December 1996. The government does not intend to respond further to these reports.

COMMUNITY AFFAIRS REFERENCES

The tobacco industry and the costs of tobacco related illness

The government response to the Senate Community Affairs References Committee Report on the Tobacco Industry and the Costs of Tobacco Related Illness is expected to be tabled shortly taking into account the fact that since the tabling of the report the state of relevant law in several State and Territory jurisdictions has either changed or has been under close review. The government has preferred to make a comprehensive response taking into full account these developments.

COMMUNITY STANDARDS RELEVANT TO THE SUPPLY OF SERVICES UTILISING ELECTRONIC TECHNOLOGIES (Senate Select)

Report on the Portrayal of Violence in the Electronic Media

The government response is being finalised. However, under the co-operative Federal-State censorship arrangements, there is a requirement to consult with State and Territory Censorship Ministers. The response will be tabled at the earliest possible date.

Overseas sourced audiotex services, video and computer games, R-rated material on pay TV

A response has been drafted and will be tabled as soon as the relevant consultations are completed.

Status report on R-rated material on pay TV, regulation of bulletin board systems, codes of practice in the television industry

A response will be subsumed in the government response to the report on Regulation of Computer On-line Services (Parts 1 and 2).

Operations of codes of practice in the television industry—part 1

A response is expected to be tabled during the 1997 Spring sittings.

Regulation of computer on-line services—part 2

A response has been held over pending government consideration of a national regulatory framework for on-line services. This consideration is expected shortly and will take into account the Select Committee's recommendations. As an interim measure pending implementation of the regulatory framework for on-line services, an amendment to section 171 of the *Broadcasting Services Act 1992* passed the Senate on 29 May 1997 and introduced into the House of Representatives on 2 June 1997 and debate is expected in the current sittings.

Report on the Classification (Publications, Films and Computer Games) Regulations as contained in Statutory Rules 1995 No. 401

The government response was presented out of session to the President of the Senate on 14 December 1996.

R-Rated material on Pay TV—part 1

R-Rated material on Pay TV—part 2 and Review of the guidelines for the classification of film and videotapes

The government response to these reports will be tabled early in the 1997 Spring sittings.

CORPORATIONS AND SECURITIES (Joint, Statutory)

Section 1316 of the Corporations Law

The government response was tabled on 17 June 1997.

Draft Second Corporate Law Simplification Bill 1996

The Committee's report recommended that the government give consideration to a range of technical issues. A response is under consideration and is expected to be tabled shortly.

ECONOMICS LEGISLATION

Industry, Research and Development Amendment Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 13 December 1996. The government does not intend to respond further to this report.

Bounty Legislation Amendment Bill 1996

The Committee's report was addressed during debate on the Bounty Legislation Amendment Bill 1997 in the Senate. A number of issues raised by the Committee will also be addressed as part of the government's response to Industry Commission reports on the Book Bounty and the Machine Tools and Robots Bounty.

Taxation Laws Amendment Bill (No. 3) 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 13 December 1996. The government does not intend to respond further to this report.

ECONOMICS REFERENCES

A question of balance—The tax treatment of small business

A response is expected to be finalised shortly having regard to the government response to the Small Business Deregulation Task Force.

Connecting you now—Telecommunications towards the year 2000

The government response was tabled on 25 June 1997.

Report on consideration of the Workplace Relations and Other Legislation Amendment Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 19 November 1996. The government does not intend to respond further to this report.

Outworkers in the garment industry

The government response is expected to be tabled shortly.

ELECTORAL MATTERS (Joint Standing)

Electoral Redistribution's—Report on the Effectiveness and appropriateness of the redistribution provisions of parts III and IV of the *Commonwealth Electoral Act 1918*

The government is giving consideration to its response. It is expected to be tabled during the 1997 Spring sittings.

EMPLOYMENT, EDUCATION AND TRAINING LEGISLATION

Employment, Education and Training Amendment Bill 1996

The government response will be provided in the context of future debate on the Bill.

Higher Education Funding Amendment Bill [No. 2] 1996

The government proposes that the response be provided in the context of future debate on the Bill.

States Grants (Primary and Secondary Education Assistance) Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 29 November 1996. The government does not intend to respond further to this report.

EMPLOYMENT, EDUCATION AND TRAINING REFERENCES

Inquiry into Austudy

The government response has been further delayed by consideration of public consultations on the Youth Allowance. The government response will be tabled at the earliest possible date.

Inquiry into long term unemployment

The government response was tabled on 7 May 1997.

Inquiry into the sale of Bond University

The government response was presented out of session to the President of the Senate on 30 April 1997.

Inquiry into the Australian National Training Authority

The government response was tabled in 17 June 1997.

Inquiry into education and training in correctional facilities

The government response was presented out of session to the President of the Senate on 14 December 1996.

Childhood matters:

A government response will be tabled during the Spring sittings.

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS REFERENCES

Soccer—First report

Soccer—Second report

The government response to these reports was presented out of session to the President of the Senate on 14 December 1996.

Arts education

The government response was presented out of session to the President of the Senate on 12 May 1997.

Telstra: To Sell or Not to Sell? Consideration of the Telstra (Dilution of Public Ownership) Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 11 December 1996. The government does not intend to respond further to this report.

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION

Report on annual reports tabled January 1995—June 1995

Work is nearly complete on a response to the Committee's report, and it is expected that a final response will be tabled in the Spring sittings.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES

Property management in the Australian Public Service

The formal government response is expected to be tabled during the Spring sittings.

Service delivery

As a result of the implementation of a number of government public sector reform initiatives, including the Government Service Charters, the implementation of the Commonwealth Services Delivery Agency, aggregation of Australian Public Service Information Technology policy by the Office of Government Information Technology and the implementation of the competitive tendering and contracting policy, many of the recommendations of the report have been overtaken by events. The Department of Finance is undertaking a final consultation with departments to ensure the response reflects recent changes.

Review of the Operation of the Order for the Production of Indexed Lists of Departmental Files

The government response was tabled on 25 June 1997.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint Standing)

Australia's relations with Thailand

The government response was tabled on 13 May 1997.

Bosnia: Australia's response

The government response was tabled on 13 May 1997.

The Australian Aid Program—Report on proceedings of a seminar, 31 July 1996, Canberra

The government response was presented out of session to the President of the Senate on 27 March 1997.

Australia's Relations with Southern Africa

The government is currently finalising its response which will be tabled at the earliest possible date.

The Implications of Australia's Services Exports to Indonesia and Hong Kong

The final government response will be tabled as soon as the relevant consultations are completed.

Papua New Guinea Update—Report on Proceedings of a Seminar—11 and 12 November 1996, Canberra

The final government response will be tabled as soon as the relevant consultations are completed.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

Crash of RAAF Nomad aircraft A18-401 on 12 March 1990

The government is currently considering its response and it will be tabled at the earliest possible date.

Australia China relations

The government is currently considering its response and it will be tabled at the earliest possible date.

The development of Australia's air links with Latin America

The government response was tabled on 24 June 1997.

Abolition of the Development Import Finance Facility

The government response was tabled on 6 February 1997.

LEGAL AND CONSTITUTIONAL AFFAIRS (Senate Standing)

Off the record—shield laws for journalists' confidential sources

The Off the Record report was the first report of the Senate Legal and Constitutional References Committee (then the Senate Standing Committee on Constitutional and Legal Affairs) in its Inquiry into the rights and obligations of the

media. It was tabled in the Senate by the previous government on 10 October 1994.

In considering that report, it became clear that it raised issues concerning other aspects of the Committee's terms of reference apart from journalists' privilege. The previous government agreed that a comprehensive government response should await completion by the Committee of it's inquiry, at least in respect of those other terms of reference. The Committee has not reported.

LEGAL AND CONSTITUTIONAL LEGISLATION

Bankruptcy Legislation Amendment Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 10 October 1996. The government does not intend to respond further to this report.

Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Bill 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was finally agreed to by the Senate on 13 December 1996. The government does not intend to respond further to this report.

Hindmarsh Island Bridge Bill 1996

The Hindmarsh Island Bridge Bill was finally agreed to by the Senate on 12 May 1997 after considerable debate. The government does not intend to respond further to this report.

Migration Legislation Amendment Bill (No. 3) 1996

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 3 March 1997. The government does not intend to respond further to this report.

LEGAL AND CONSTITUTIONAL REFERENCES

Inquiry into the Commonwealth's actions in relation to Ryker (Faulkner) v The Commonwealth and Flint

Further activity regarding recent representations has delayed finalisation of the response. The response will be tabled at the earliest possible date.

MIGRATION (Joint Standing)

Australia's visa system for visitors

The government response will be tabled as soon as the relevant consultations are completed.

NATIONAL CRIME AUTHORITY (Joint, Statutory)

Organised criminal paedophile activity

The government response was presented out of session to the President of the Senate on 14 December 1996.

Law Enforcement in Australia—An International Perspective

The government response was tabled on 17 June 1997.

NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND (Joint, Statutory)

Native Title Tribunal—Annual Report 1994-95

The government response was presented out of session to the President of the Senate on 14 December 1996.

Annual Reports for 1994-95 prepared pursuant to Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989*

A response to this report was tabled on 17 June 1997.

Native Title Amendment Bill 1996

Native Title Amendment Bill 1996 and the Racial Discrimination Act

The two reports will be addressed during the debate on amendments to the *Native Title Act 1993* in the Parliament.

PUBLIC ACCOUNTS (Joint Statutory)

JCPA Reports

As a matter of general practice this explanatory schedule does not include reports from the Joint Committee of Public Accounts unless such reports contain policy recommendations. Reports that address administrative or operational matters are usually responded to in the form of Finance Minutes. These are normally provided to the Committee within six months of the tabling of the report and are then tabled by the Committee.

Accrual Accounting—A cultural change (Report No. 338)

A Finance Minute dated 20 January 1997 was tabled in the Senate on 16 June 1997 for this report.

Financial reporting of the Commonwealth: Towards greater transparency and accountability (Report No. 341)

A Finance Minute dated 20 January 1997 was tabled in the Senate on 16 June 1997 for this report.

The administration of specific purpose payments: A focus on outcomes (Report No. 342)

A Finance Minute dated 8 January 1997 was tabled in the Senate on 16 June 1997 for this report.

A continuing focus on accountability—Review of Auditor-General's report 1993-94 and 1994-95 (Report No. 344)

A Finance Minute dated 8 January 1997 was tabled in the Senate on 16 June 1997 for this report.

Guarding the Independence of the Auditor-General (Report No. 346)

The JCPA has been briefed on these issues. The government's response to these issues is implicit in the legislative package to replace the Audit Act which was passed in the House of Representatives on 3 March 1997 and introduced into the Senate on 5 March 1997.

REGULATIONS AND ORDINANCES (Senate Standing)

Report on the Legislative Instruments Bill 1996

Ongoing consultation took place with the Chairman of the Committee prior to the commencement of debate on the Bill in the Senate.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION

Airports Bill 1996 and Airports (Transitional) Bill 1996

The report was addressed directly by the government in the Senate during debate on the Bill. No further response is required.

Importation of Cooked Chicken Meat into Australia

The government response is expected to be tabled shortly.

SUPERANNUATION (Senate Select)

Super guarantee—its track record

Super and broken work patterns

Draft responses are being updated to take into account changes announced in the 1997-98 Budget. The responses will be tabled at the earliest possible date.

Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996—Schedule 1

The Committee's report was addressed during the debate on the legislation in the Senate. The Bill was passed in the Senate on 13 December 1996. The government does not intend to respond further to this report.

Investment in Australia's superannuation savings

The government is preparing a response to this report. The response will be tabled at the earliest possible date.

TREATIES (Joint)

First report—August 1996

The government response was tabled on 14 May 1997.

Treaties tabled on 10 and 11 September 1996 (Second report)

The government is currently finalising its response and it will be tabled at the earliest possible date.

Two international agreements on tuna (Third report)

The government response is expected to be tabled shortly.

Treaties tabled on 15 and 29 October 1996 (Fourth report)

The government response was tabled on 24 June 1997.

Restrictions on the use of Blinding Laser Weapons and Landmines

The government response is expected to be tabled during the 1997 Spring sittings.

VICTORIAN CASINO INQUIRY (Senate Select)

Compelling evidence

The government response was tabled on 17 June 1997.

Reports: Government Responses

The ACTING DEPUTY PRESIDENT (Senator Patterson)—In accordance with the usual practice, I table a list of parliamentary committee reports to which the government has not responded within the prescribed period. This list has been circulated to honourable senators. With the concurrence of the Senate the list will be incorporated in *Hansard*.

The document read as follows—

PRESIDENT'S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS AS AT 25 JUNE 1997

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of Government

responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate follows the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible Minister would make a statement in the Parliament outlining the action the Government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the former Government advised that responses to committee reports would be made by letter to a committee chairman, with the letter being tabled in the Senate at the earliest opportunity. The current Government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

The list does not usually include reports of the Parliamentary Standing Committee on Public Works or the Senate Standing Committees on Appropriations and Staffing, Selection of Bills, Procedure, Publications, Regulations and Ordinances and Scrutiny of Bills, though such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered. Responses to reports of the Joint Committee of Public Accounts are usually made in the form of Finance Minutes which are tabled by the committee. Where a response has been made by way of Finance Minute, the date of presentation has been appropriately annotated.

Legislation committees report on bills and on the provisions of bills. Only those reports in this category that make recommendations which cannot readily be implemented through the bill, and therefore require a response, are listed. The list also does not include reports by legislation committees on estimates.

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Aircraft Noise in Sydney (Senate Select)			
Falling on deaf ears?	30.11.95	5.2.97 (presented 14.12.96)	No
Appropriations and Staffing			
Inquiry into the proposed amalgamation of the parliamentary departments	19.6.97	Not required	-
Certain Family Law Issues (Joint Select)			
Child support scheme—operation and effectiveness of the scheme	5.12.94	29.3.95 (Interim)#, ##, +, @	No
Funding and administration of the Family Court of Australia	28.11.95	##, +, @	No
Certain Land Fund Matters (Senate Select)			
Report	30.11.95	17.6.97	No
Community Affairs Legislation			
Review of the *Health Legislation (Private Health Insurance Reform) Amendment Act 1995*	19.9.96	@	No
Social Security Legislation Amendment (Budget and Other Measures) Bill 1996	6.11.96	@@	No
Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996—Schedule 2	18.11.96	@@	No
National Health (Budget Measures) Amendment Bill 1996	19.11.96	@@	No
Health Insurance Amendment Bill (No. 2) 1996	26.11.96	@@	No
Scrutiny of Annual Reports: No. 1 of 1997	24.2.97	Not required	-
Australia New Zealand Food Authority Amendment Bill 1996 and Australia New Zealand Food Authority Amendment Bill (No. 2) 1997	23.6.97	Not received	Time not expired
Community Affairs References			
The tobacco industry and the costs of tobacco-related illness	30.4.96 (presented 15.12.95)	##, +, @	No

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Funding of aged care institutions	19.6.97	Not received	Time not expired
Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (Senate Select)			
Overseas sourced audiotex services, video and computer games, r-rated material on pay TV	29.6.94	#, ##, +, @	No
R-rated material on pay TV—part 1	9.2.95	#, ##, +, @	No
Status report on R-rated material on pay TV, regulation of bulletin board systems, codes of practice in the television industry	28.6.95	#, ##, +, @	No
Operations of codes of practice in the television industry—part 1	26.10.95	##, +, @	No
Regulation of computer on-line services—part 2	30.11.95	##, +, @	No
Report on the Classification (Publications, Films and Computer Games) Regulations as contained in Statutory Rules 1995 No. 401	21.8.96	5.2.97 (presented 14.12.96)	No
R-Rated Material on Pay TV—part 2 and Review of the guidelines for the classification of film and videotapes	17.10.96	@	No
Portrayal of violence in the electronic media	13.2.97	@	No
Corporations and Securities (Joint)			
Section 1316 of the Corporations Law	27.11.95	17.6.97	No
Draft Second Corporate Law Simplification Bill 1996	18.11.96	@	No
Annual reports of the Australian Securities Commission and other bodies: 1994-95	25.3.97	Not received	No
Annual reports of the Australian Securities Commission and other bodies: 1995-96	25.6.97	Not received	Time not expired
Economics Legislation			
Industry, Research and Development Amendment Bill 1996	31.10.96	@@	No
Bounty Legislation Amendment Bill 1996	28.11.96	@@	No
Taxation Laws Amendment Bill (No. 3) 1996	10.12.96	@@	No
Report on the examination of annual reports: No. 1 of 1997	25.2.97	Not required	-
Inquiry into public equity in Telstra Corporation Ltd	26.3.97	27.5.97	Yes
Excise Tariff Amendment Bill (No. 1) 1997	18.6.97	Not received	Time not expired
Economics References			
A question of balance—The tax treatment of small business	28.6.95	#, ##, +, @	No
Connecting you now—Telecommunications towards the year 2000	29.11.95	25.6.97	No
Report on consideration of the Workplace Relations and Other Legislation Amendment Bill 1996	22.8.96	@@	No
Outworkers in the garment industry	12.12.96	@	No
Electoral Matters (Joint Standing)			
Effectiveness and appropriateness of the redistribution provisions of Parts III and IV of the Commonwealth Electoral Act 1918	30.4.96 (presented 19.12.95)	##, +, @	No
Inquiry into the conduct of the 1996 Federal election and matters related thereto	16.6.97	Not received	Time not expired
Employment, Education and Training Legislation			
Employment, Education and Training Amendment Bill 1996	19.9.96	@@	No
Higher Education Funding Amendment Bill (No. 2) 1996	10.10.96	@@	No
States Grants (Primary and Secondary Education Assistance) Bill 1996	25.11.96	@@	No
Report on the examination of annual reports: No. 1 of 1997	25.2.97	Not required	-

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Employment, Education and Training References			
Inquiry into Austudy	29.6.95	#, ##, +, @	No
Inquiry into long term unemployment	26.10.95	7.5.97	No
Inquiry into the sale of Bond University	29.11.95	6.5.97 (presented 30.4.97)	No
Inquiry into the Australian National Training Authority	30.11.95	17.6.97	No
Inquiry into education and training in correctional facilities	30.4.96 (presented 26.4.96)	5.2.97 (presented 14.12.96)	No
Childhood matters	21.8.96 (presented 3.7.96)	+, @	No
Beyond Cinderella—Towards a learning society	6.5.97 (presented 28.4.97)	Not received	Time not expired
Inquiry into the implications of private and commercial funding in government schools	25.6.97	Not received	Time not expired
Environment, Recreation, Communications and the Arts Legislation			
Review of annual reports: 1995-96 annual reports tabled in the Senate to 31 October 1996	24.2.97	Not required	—
Telecommunications bills package 1996	5.3.97	Not received	No
Reference of petitions received May 1996 to May 1997	23.6.97	Not required	-
Environment, Recreation, Communications and the Arts References			
Soccer—First report	27.6.95	5.2.97 (presented 14.12.96)	No
Second report	30.4.96 (presented 6.12.95)	5.2.97 (presented 14.12.96)	No
Arts education	19.10.95	13.5.97 (presented 12.5.97)	No
Telstra: To Sell or Not to Sell? Consideration of the Telstra (Dilution of Public Ownership) Bill 1996	9.9.96	@@	No
Finance and Public Administration Legislation			
Report on annual reports tabled: January 1995—June 1995	28.6.95	#, ##, +, @	No
Report on annual reports tabled: July 1996—December 1996	6.3.97	Not required	-
Finance and Public Administration References			
Property management in the Australian Public Service	29.6.95	#, ##, +, @	No
Service delivery	30.4.96 (presented 14.12.95)	##, +, @	No
Review of the operation of the order for the production of indexed lists of departmental files	5.2.97	25.6.97	No
Foreign Affairs, Defence and Trade(Joint)			
Australia's relations with Thailand	20.11.95	13.5.97	No
Bosnia: Australia's response	30.4.96 (presented 25.1.96)	13.5.97	No
The Australian aid program: Report on proceedings of a seminar, 31 July 1996, Canberra	16.9.96	6.5.97 (presented 27.3.97)	No
Australia's relations with southern Africa	2.12.96	@	No
Implications of Australia's services exports to Indonesia and Hong Kong	5.2.97 (presented 14.12.96)	@	No
Papua New Guinea: Report on proceedings of a seminar, 11 and 12 November 1996, Canberra	24.2.97	@	No
Human Rights and Equal Opportunity Commissioner and Commonwealth Ombudsman: Report on public seminars, 20 and 25 September 1996, Canberra	18.3.97	Not received	No

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Hong Kong: The transfer of sovereignty	16.6.97 (presented 3.6.97)	Not received	Time not expired
Defence Sub-committee visit to Exercise Tandem Thrust 97	16.6.97	Not required	-
Foreign Affairs, Defence and Trade Legislation			
Examination of annual reports: No. 1 of 1997	25.6.97	Not required	-
Foreign Affairs, Defence and Trade References			
Crash of RAAF Nomad aircraft A18-401 on 12 March 1990	30.4.96 (presented 29.4.96)	+, @	No
Australia China relations	26.6.96	+, @	No
Development of Australia's air links with Latin America	21.8.96 (presented 2.7.96)	24.6.97	No
Abolition of the Development Import Finance Facility	15.10.96	6.2.97	No
The role and future of Radio Australia and Australia Television	6.5.97 (presented 5.5.97)	Not received	Time not expired
Helping Australians abroad: A review of the Australian Government's consular services	16.6.97 (presented 4.6.97)	Not received	Time not expired
Legal and Constitutional Affairs (Senate Standing)			
Off the record—Shield laws for journalists' confidential sources	10.10.94 (presented 7.10.94)	2.2.95 (Interim) 21.11.95 (Second interim) #, ##, +, @	No
Legal and Constitutional Legislation			
Bankruptcy Legislation Amendment Bill 1996	9.9.96	@@	No
Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Bill 1996	10.9.96	@@	No
Hindmarsh Island Bridge Bill 1996	5.12.96	@@	No
Migration Legislation Amendment Bill (No. 3) 1996	5.12.96	@@	No
Role and function of the Administrative Review Council	19.6.97	Not received	Time not expired
Examination of annual reports: No. 1 of 1997	25.6.97	Not required	-
Legal and Constitutional References			
Inquiry into the Commonwealth's actions in relation to *Ryker (Faulkner)* v *The Commonwealth and Flint*	30.4.96 (presented 29.4.96)	+, @	No
Payment of a minister's legal costs Part 2 - Guidelines - Reporting to Parliament	27.2.97	Not received	No
Inquiry into the Australian legal aid system (1st report)	26.3.97	Not received	Time not expired
Migration (Joint Standing)			
Australia's visa system for visitors	30.4.96 (presented 27.1.96)	##, +, @	No
National Capital and External Territories (Joint)			
A right to protest	19.6.97	Not received	Time not expired
National Crime Authority (Joint)			
Organised criminal paedophile activity	20.11.95	5.2.97 (presented 14.12.96)	No
Law enforcement in Australia—An international perspective	24.2.97	17.6.97	No
Examination of the annual report for 1995-96 of the National Crime Authority	25.3.97	Not required	-
Native Title and the Aboriginal and Torres Strait Islander Land Fund (Joint)			
Native Title Tribunal—Annual Report 1994-95 (4th report)	21.8.96 (presented 8.7.96)	5.2.97 (presented 14.12.96)	No

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Annual reports for 1994-95 prepared pursuant to Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989* (5th report)	21.8.96 (presented 8.7.96)	17.6.97	No
Native Title Amendment Bill 1996 (6th report)	18.11.96	@@	No
Native Title Amendment Bill 1996 and the Racial Discrimination Act (7th report)	12.12.96	@@	No
Annual reports for 1995-96 prepared pursuant to Part 4A of the *Aboriginal and Torres Strait Islander Commission Act 1989* (8th report)	16.6.97	Not required	—
National Native Title Tribunal—Annual Report 1995-96 (9th report)	16.6.97	Not required	—
Privileges (Senate Standing)			
Possible false or misleading evidence before the Environment, Recreation, Communications and the Arts Legislation Committee (64th report)	19.3.97	Not required	-
Person referred to in the Senate—Dr Neil Cherry (65th report)	25.3.97	Not required	-
Person referred to in the Senate—Ms Deborah Keeley (66th report)	29.5.97	Not required	—
Public Accounts (Joint Statutory)			
Accrual accounting—A cultural change (Report No. 338)	31.8.95	**	No
Financial reporting of the Commonwealth: Towards greater transparency and accountability (Report No. 341)	29.11.95	**	No
The administration of specific purpose payments: A focus on outcomes (Report No. 342)	29.11.95	**	No
A continuing focus on accountability—Review of Auditor-General's reports 1993-94 and 1994-95 (Report No. 344)	27.6.96	**	No
Advisory report on the Income Tax Assessment Bill 1996, the Income Tax (Transitional Provisions) Bill 1996 and the Income Tax (Consequential Amendments) Bill 1996 (Report No. 345)	22.8.96	22.8.96, *	Yes
Guarding the independence of the Auditor-General (Report No. 346)	10.10.96	@@	No
Advisory report on the Tax Law Improvement Bill 1996 (Report No. 348)	6.3.97	Not received	No
Review of Auditor-General's reports 1995-96 (Report No. 349)	20.3.97	Not received	No
Review of Auditor-General's reports 1996-97—First quarter (Report No. 350)	20.3.97	Not received	No
Advisory report on the Charter of Budget Honesty Bill 1996 (Report No. 351)	20.3.97	Not required	-
Regulations and Ordinances (Senate Standing)			
Report on the Legislative Instruments Bill 1996	21.11.96	@@	No
Legislative instruments made in preparation for the Sydney 2000 Olympic Games	6.3.97	Not required	—
Rural and Regional Affairs and Transport Legislation			
Airports Bill 1996 and Airports (Transitional) Bill 1996	21.8.96	@@	No
Importation of Cooked Chicken Meat into Australia	31.10.96	@	No
Examination of annual reports: No. 2 of 1996	25.2.97	Not required	-
Rural and Regional Affairs and Transport References			
Purchase of the Precision Aerial Delivery System (PADS) by Airservices Australia	26.3.97	16.6.97 (presented 10.6.97)	No

Title of Report	Date Report Tabled	Date Response Presented/Made to Senate	Response Within Time Specified (3 Months)
Report on the Brew Report and on the continuing role of the Commonwealth in the Australian rail industry	14.5.97	Not received	Time not expired
Value-adding in agricultural production	14.5.97	Not received	Time not expired
Commercial utilisation of Australian native wildlife (Interim Report)	27.5.97	Not required	—
Superannuation (Senate Select)			
Super guarantee—its track record	8.2.95	#, ##, +, @	No
Super and broken work patterns	28.11.95	##, +, @	No
Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996—Schedule 1	26.11.96	@@	No
Investment in Australia's superannuation savings	10.12.96	@	No
Retirement savings account legislation	6.3.97	Not required	-
Superannuation surcharge legislation	20.3.97	Not required	-
Treaties (Joint)			
First report—August 1996	9.9.96	14.5.97	No
Treaties tabled on 10 & 11 September 1996 (2nd report)	14.10.96	@	No
Two international agreements on tuna (3rd report)	18.11.96	@	No
Treaties tabled on 15 & 29 October 1996 (4th report)	2.12.96	24.6.97	No
Restrictions on the use of blinding laser weapons and landmines (5th report)	24.2.97	@	No
The Oakey Agreement: Australia and Singapore (6th report)	24.3.97	24.6.97	Yes
Australia's withdrawal from UNIDO and treaties tabled on 11 February 1997 (7th report)	24.3.97	Not received	No
Treaties tabled on 18 March 1997 and 13 May 1977 (8th report)	23.6.97	Not received	Time not expired
Uranium Mining and Milling (Senate Select)			
Uranium mining and milling in Australia	15.5.97	Not received	Time not expired
Victorian Casino Inquiry (Senate Select)			
Compelling evidence	5.12.96	17.6.97	No

See document tabled in the Senate on 29 November 1995, entitled 'Government Responses to Parliamentary Committee Reports—Response to the list tabled in the Senate by the President on 30 June 1995', for Government interim/further interim response.

See document tabled in the Senate on 27 June 1996, entitled 'Government Responses to Parliamentary Committee Reports—Response to the schedule tabled in the Senate by the President on 30 November 1995', for Government interim/further interim response.

+ See document tabled in the Senate on 12 December 1996, entitled 'Government Responses to Parliamentary Committee Reports—Response to the list tabled in the Senate by the President on 28 June 1996', for Government interim/further interim response.

* Finance minute tabled as further response on 16 June 1997.

** Finance minute tabled as response on 16 June 1997.

@ See document tabled in the Senate on 25 June 1997, entitled 'Government Responses to Parliamentary Committee Reports—Response to the list tabled in the Senate by the Deputy President on 12 December 1996', for Government interim/further interim response.

@@ See document tabled in the Senate on 25 June 1997, entitled 'Government Responses to Parliamentary Committee Reports—Response to the list tabled in the Senate by the Deputy President on 12 December 1996', for Government final response.

DOCUMENTS

Auditor-General's Reports

Report No. 39 of 1996-97

The ACTING DEPUTY PRESIDENT—In accordance with the provisions of the Audit Act 1901, I present the following report of the Auditor-General: *Report No. 39 of 1996-97—Financial control and administration audit: audit committees*

Australia-Chile Parliamentary Groups

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (6.00 p.m.)—I table the joint declaration by the Australia-Chile Parliamentary Group and the Chile-Australia Friendship Parliamentary Group. I seek leave to make a few remarks about the matter.

Leave granted.

Senator BROWNHILL—The joint declaration was signed on 16 June in the presence of the Acting Prime Minister (Mr Tim Fischer), the President of the Senate, the Speaker of the House of Representatives and many ministers and past ministers.

I would like to thank the Chilean delegation: the head of the Chile-Australia Interparliamentary Group who signed with me, Mr Eugenio Munizaga; Mrs Maria Cristi; Mr Francisco Frei and Mr Juan Letelier. I would also like to make a compliment to the Ambassador for Chile here in Australia, Mr Jorge Tarud.

I would just like to mention one part of the joint declaration, which states:

To make every necessary effort to further enhance the political ties between Australia and Chile;

To promote reciprocal alternating biannual visits by their members;

To consider the possibility of interchanging legislative information on issues of common interest; and

To support those activities which benefit the global relationship between both countries.

The visit of the Chilean delegation was a great success and I believe this is one of the first joint declarations of parliamentary friendship groups to be tabled in the Australian parliament.

BUDGET 1997-98

Portfolio Budget Statements

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (6.01 p.m.)—I table corrigenda for the Department of Foreign Affairs and Trade portfolio budget statements 1997-98.

BOUNTY LEGISLATION AMENDMENT BILL 1997

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that it had agreed to Senate amendments Nos 1, 8, 9, 10, 11, 12 and 13, had disagreed to Senate amendments Nos 2, 3, 4, 5, 6 and 7, and requested reconsideration of the bill in respect of the amendments disagreed to.

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

HEALTH INSURANCE AMENDMENT BILL (No. 1) 1997

CARRIAGE OF GOODS BY SEA AMENDMENT BILL 1997

AVIATION LEGISLATION AMENDMENT BILL (No. 2) 1997

First Reading

Bills received from the House of Representatives.

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (6.02 p.m.)—I indicate to the Senate that those bills which have just been announced by the Acting Deputy President 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 BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (6.03 p.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 INSURANCE AMENDMENT BILL (No.1) 1997

This bill amends the provisions of the Health Insurance Act 1973 which relate to the Professional Services Review Scheme to remove difficulties encountered since the scheme commenced in 1995.

The Scheme was introduced by the previous government with bi-partisan support and it is hoped these amendments will receive the same support from the Opposition as did the original bill from the now government.

Inappropriate medical practice is a matter of concern to this Government and these concerns have been highlighted in recent times as the oversupply in medical practitioners places greater pressure on practitioners to increase patient throughput and, in some cases, engaging in significant over servicing. Over servicing is detrimental to the health of patients and comes at a very high financial cost to the health system.

The previous Government recognised that the measures in place prior to the Professional Services Review Scheme were not working and set about introducing a new way of investigating allegations of over servicing and inappropriate practice. The Professional Services Review Scheme is this Government's primary means of investigating allegations of inappropriate practice and taking action when those allegations are proven.

The refining and strengthening of the Professional Services Review Scheme provided by these amendments should not be of concern to the majority of practitioners. However, those practitioners misusing or deliberately abusing their privileged positions of trust under the current benefit arrangements are able to be investigated under this Scheme and will be dealt with severely. The Government will continue to pursue practitioners found abusing the system.

Under the Professional Services Review Scheme sanctions are imposed by the Determining Officer following a peer review and a finding that the person under review has engaged in inappropriate practice. The separation of judicial and executive power is a foundation principle of the constitution and the provisions in existing section 106U have been amended to ensure that there can be no doubt that judicial power is not being exercised by the executive under this Scheme.

In place of the sanctions in paragraph 106U(1)(d) the periods of disqualification from access to Medicare in subsections 106U(3) and 106U(4) have been increased to 3 years and I have made it clear that where the sums involved are in the hundreds of thousands of dollars and a person's peers have found that there has been inappropriate practice the Determining Officer must obtain the proper recovery of taxpayers' money.

The extremely large sums of Medicare benefits involved in cases of inappropriate practice under this Scheme is something about which it is expected Australians will feel justifiable outrage.

Whilst the Determining Officer has a discretion to deal with degrees of culpability, I expect that in cases where the Determining Officer considers that there is a high degree of culpability, the full force of the sanctions in section 106U will be applied and that a substantial proportion of the amount will be required to be repaid and the person be disqualified for Medicare for a long time. No one can condone abuse of Medicare and cases with a proven high degree of culpability involving hundreds of thousands of dollars warrant strong action at the top end of the measures provided in section 106U.

In addition to the amendments that remove any doubt about the separation of judicial and executive powers, the bill makes a number of changes to improve the administration of the process of reviewing a practitioner's conduct. These include:

- bringing the class of practitioners in Parts VAA and VA of the act into line with definitions contained elsewhere in the act;
- clarifying the test under which a Committee reports on the conduct of a practitioner;
- providing a clearer approach to calculating the amounts of Medicare benefits to be repaid; and
- repealing the sampling provisions which have proved to be unworkable in practice.

The Professional Services Review Scheme is the Government's primary means of investigating allegations of inappropriate practice and taking action when those allegations are proven. The proposed changes are essential to ensure that the

Scheme is given every opportunity of achieving the objectives intended when first introduced in 1995.

CARRIAGE OF GOODS BY SEA AMENDMENT BILL 1997

The purpose of this bill is to implement a package of enhancements to Australia's marine cargo liability regime. The Carriage of Goods by Sea Act 1991, which is often referred to as, the COGSA, deals with liability for loss or damage to sea cargoes.

The package is the result of extensive negotiations with, and agreement by, all affected interests—shippers, cargo owners, carriers, shipowners, marine insurers and maritime lawyers.

I seek leave to table the document which records the package of changes which maritime industry interests have agreed should be made to improve our marine cargo liability regime.

The COGSA operates by applying as domestic law in Australia an international convention and several protocols, collectively known as, the amended Hague Rules. However, the COGSA also provides for the possible future implementation of an alternative international convention, commonly known as, the Hamburg Rules.

The bill I have introduced to amend the COGSA deals directly with two of the seven items in the industry package—the Hamburg Rules trigger now contained in the COGSA, and with arbitration in Australia. The other five items in the industry package, dealing with documents, coverage of importers, deck cargo, duration of liability and liability for delays, will be implemented by regulations to be made under the act.

The Hamburg Rules trigger

The Hamburg Rules, although a more recent convention than the amended Hague Rules, have attracted very little support by major trading nations, including Australia's major trading partners.

The Hamburg Rules trigger was first due to operate on 1 November 1994. Prior to that date, there had been vigorous debate between shipper interests proposing the implementation of the Hamburg Rules and carrier interests opposing this. In October 1994, both Houses of parliament passed resolutions to defer consideration of the question of acceptance or repeal of the Hamburg Rules for another three years.

Following this resolution an industry working group developed a compromise solution in which carriers conceded significant extensions in the protection offered to shippers, in return for the removal of the automatic trigger for the Hamburg Rules. I would like to congratulate the industry interests concerned on the spirit in which this process was conducted. This bill implements that compromise solution developed by industry

At present, the automatic trigger provision will operate again on 20 October 1997 to bring the Hamburg Rules into force in the COGSA, and action is therefore needed to prevent this.

This bill will remove that trigger and the requirement for a resolution of both Houses of parliament. In its place, provisions are inserted for the minister to conduct a review from time to time of the desirability of bringing the Hamburg Rules into force in Australia.

Provision for arbitration

Industry has concerns that under the existing legislation, arbitration has not been available as an option for resolving disputes. The act will now make it clear that arbitration in Australia does not offend section 11 of the COGSA .

Regulation making provision

The bill includes a power to make regulations to implement the highly technical elements of the industry-endorsed package dealing with:

. Coverage of a wider range of contracts of carriage, including electronic documents by the COGSA ;

. Providing coverage for importers in some circumstances;

. Coverage of cargo agreed to be carried on deck, in certain circumstances;

. Extending COGSA coverage from the current, hook-to-hook coverage to, terminal-to-terminal coverage; and

. Providing limited recompense for shippers' losses due to delays, except where the delays are excusable delays according to criteria well understood in the maritime industry, and which will be defined in the regulations.

These changes will extend the protection which the COGSA offers to Australian shippers, particularly exporters.

The concepts behind these changes can be simply expressed. However, given the nature of international conventions, the modifications to the amended Hague Rules to make these changes are technically complex and lengthy. Given the need not to overburden parliament's business agenda and recognising that the resources of the Office of Parliamentary Counsel are under pressure, it is quite appropriate that such technical matters be handled by regulation.

Accordingly, the bill includes a very precise regulation making power which will enable the subsequent drafting and making of regulations to implement these changes.

This might be regarded as an, Henry VIII clause, which is a clause that permits the making of regulations which have the effect of amending the operation of an act. However, such clauses are used in Commonwealth laws regularly, and enable the expeditious passage of legislation. The regulations are, of course, subject to disallowance, and will be required by the act to be made only after consultation with relevant industry stakeholders.

Financial impact

Finally, while the amendments will enhance the operation of the Carriage of Goods by Sea Act 1991, they will have no impact on Commonwealth revenues or outgoings, and no direct financial impact on the industry.

AVIATION LEGISLATION AMENDMENT BILL (No. 2) 1997

Introduction

This bill contains several important amendments to five existing acts, the Air Navigation Act 1920, the Airports Act 1996, the Air Services Act 1995, the Civil Aviation (Carriers' Liability) Act 1959 and the International Air Services Commission Act 1992.

Air Navigation Act 1920 Amendments

These amendments concern the security screening of passengers boarding large commercial aircraft within Australia. The amendments represent a minor change to Australia's aviation security regulatory framework based on operational reasons.

Currently, arrangements under the Air Navigation Act 1920 make individual aircraft operators responsible for passenger screening for certain domestic and international aircraft operations. The responsibility for segregating passengers who have been screened, from those who have not, also currently rests with the airlines.

In larger airport terminals around the country the favoured method for segregating screened persons before they board an aircraft is to screen into sterile areas. Sterile areas offer savings in security costs by minimising the required level of screening staff and equipment compared to screening passengers at individual gate lounges.

With the increasingly commercial approach being taken by airport terminal operators to non-aeronautical revenue raising, more and more commercial activities, such as retail outlets, are being located within sterile areas, where the departing passengers tend to congregate. These activities are controlled by the operators of the passenger terminal buildings through the terminal operator leases and not by the airlines. The operation of these commercial activities, particularly the need to restock out of hours and some of the delivery practices for goods and services, do have an impact on the security of the sterile area.

As a result, the government proposes to centralise the responsibility for sterile area access control and passenger screening into the one organisation. This will be achieved by making terminal operators primarily responsible for passenger screening at sterile areas.

In summary, these amendments will:

ensure that airlines remain responsible for what is carried on their aircraft and for passenger screening when a sterile area is not used to segregate passengers;

ensure that airlines remain responsible for the segregation of their passengers between a sterile area approved under the new arrangements and their aircraft;

make operators of terminals, in which sterile areas operate, responsible for access control and passenger screening, with the Department of Transport and Regional Development having the power to designate the sterile area and any conditions of operation; and

ensure that these arrangements are sufficiently flexible to allow the Department to designate an airline or airlines (or other persons, with their consent) to be responsible for passenger screening into a sterile area where local circumstances indicate that this would give better security outcomes.

The Airports Act 1996 Amendment

The bill also makes a minor amendment to the Airports Act 1996, that allows fees to be levied under regulations made for the purposes of environment protection at leased airports. This will allow partial cost recovery of administrative expenses associated with processing administrative and other approvals under the regulations.

Air Services Act 1995 Amendment

Airservices Australia's primary function is to provide for the safe navigation of aircraft. This is essential in a large country with population centres separated by long distances. Australia's aviation industry plays an important role in providing rapid safe and reliable communication links—it is one of Australia's key strategic industries.

Airservices plays a vital role in this industry providing essential air traffic and other services to all participants. Given Airservices' special position, the government believes it has a key role to play in encouraging and promoting the overall benefits of an efficient aviation industry. Airservices will continually review the services it provides to ensure it is meeting industry's genuine needs and is not placing impediments in the way of growth in the industry.

To this end Airservices must continually strive to provide its services by the most cost effective means, at the same time structuring its pricing as

far as practical to ensure industry participants are paying for the services they actually use.

I need to emphasise, however, that the change to legislation will not, in the government's view, require Airservices Australia to ensure the viability of any individual operator; nor will it require that the aspirations of any particular aviation sector be met.

The Airservices Australia Board will be expected to take this objective into account in their strategic planning, principally, and I will be writing to the Chairman to this effect.

Civil Aviation (Carriers' Liability) Act 1959 Amendment

This amendment will ensure that de facto spouses are included among the members of a passenger's family for the purposes of being eligible for the compensation available under the act in the event of the passenger's death or injury as a result of an air accident. De facto spouses are currently excluded from compensation and this is contrary to the Commonwealth's own policy and legislation relating to discrimination on the grounds of marital status.

International Air Services Commission Act 1992 Amendments

Since this government came to office, capacity for international services to and from Australia has increased by 17 per cent over the accumulated capacity increases of the past fifty years. That equates to an additional 135 Boeing 747 scheduled services per week available to fly to and from Australia.

Along with this massive increase in capacity available for Australian and overseas carriers to service the Australian market, there has been a rapid increase in the sophistication with which Australian carriers have approached their operations overseas.

Like many Australian businesses, Australian international airlines' future growth can be enhanced by operating effectively and efficiently in overseas markets. As part of this development, Australian carriers will be seeking to establish networks combining overseas markets into a potentially fully integrated service.

Since 1992, when multiple designation of Australia's carriers on international routes was introduced, the International Air Services Commission has been allocating Australian capacity for services between Australia and other countries in a process that has been widely acknowledged as transparent, independent and equitable.

While not a major aspect of previous Australian carrier operations, the International Air Services Commission Act did however prevent the Commission from allocating capacity between points outside Australia available to Australian carriers under Australia's air services arrangements.

The amendments in this bill will allow the Commission to rightly assume responsibility for this function from the Department of Transport and Regional Development in an orderly manner.

This amendment represents the final step in ensuring the complete independence of capacity allocation from capacity negotiation and will provide certainty to Australian scheduled carriers the by confirming the Commission's role as the single independent authority for allocating all rights available under air services arrangements.

As the structural complexity of international air services increases and Australian carriers become more sophisticated in the way in which they apply allocations of capacity to particular markets, the Commission will increasingly be called upon to consider the nature of any cooperation between Australian carriers, or between Australian carriers and foreign carriers and how that might affect the use of the capacity that the Commission allocates.

The bill therefore provides additional guidance for the International Air Services Commission on what constitutes a "joint international service" for the purpose of allocating capacity, without reducing the Commission's flexibility in their determinations.

This bill also makes some technical amendments including the removal of definitions of new and shelf capacity which are now redundant, the inclusion of a provision to allow the Commission to revoke a determination at the request of an Australian carrier to whom that determination relates and a new provision to ensure that the proposed amendments do not affect current operations between points outside Australia by Australian carriers.

Ordered that further consideration of the second reading of these bills be adjourned until the first day of sitting in the spring sittings 1997, in accordance with standing order 111.

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

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

The following bill was returned from the House of Representatives without amendment:

Aboriginal and Torres Strait Islander Commission Amendment (TSRA) Bill 1997

SOCIAL SECURITY GUIDELINES

Senator BOLKUS (South Australia) (6.04 p.m.)—I move:

That the Social Security (Access to Special Benefits for Newly Arrived Residents) Guidelines 1997, made under subsection 739C(1) of the Social Security Act 1991, be disallowed.

This may be a technical point but it is one that has important ramifications. The background to this is that since 4 March 1997 newly arrived residents have had to serve a two-year waiting period for most social security payments, including special benefit—the payment of last resort.

The Social Security Act, however, by way of subsection 739A(7) provides that the two-year waiting period for special benefit does not apply to a newly arrived resident if that resident has 'suffered a substantial change in circumstances beyond the person's control'. We are talking here of a very limited and rigorous capacity for newly arrived residents to receive the benefit of last resort, that being the special benefit.

It should also be noted that subsection 739B of the Social Security Act provides that the secretary should decide whether or not a person has suffered a substantial change in circumstances beyond that person's control, in accordance with the guidelines from time to time in force under subsection 739C(1).

Today's issue goes to the question of the discretion of the secretary and whether this parliament should allow guidelines that would hamper the exercise of that discretion in accordance with the Social Security Act. It is the guidelines under subsection 739C(1) that we are debating today.

Let me start by saying that there are already arrangements in law to guide the secretary. They are there to guide the secretary or the secretary's delegate in a decision on whether or not to grant a person's claim for special benefit.

Section 729 of the Social Security Act sets out the general eligibility criteria for special benefit. A person may qualify if he or she meets the following prerequisites: no other social security income support payment is payable to them; the secretary is satisfied that the person is unable to earn a sufficient livelihood for the person and the person's dependants, if there are any, because of age, physical and mental disability, domestic circumstances or for any other reason.

That act was read together with the guide to the administration of the Social Security Act for special benefit. That guide is already in place and is well established. It does provide advice on such issues as the need to determine whether a person is likely to be on a special benefit, short term or long term; what level of available funds would be considered insufficient, given the short-term or long-term nature of the person's circumstances; and how to respond in those common circumstances where the special benefit might be claimed—for example, expectant mothers, repatriated distressed Australians, carers otherwise unable to qualify for the carer pension, local disasters and so on.

Ultimately the decision to grant or not grant a special benefit rests on the exercise of discretion by the secretary or his or her delegate, taking into account all the circumstances of a person's particular case. What the guidelines that we are attempting to disallow today do is take away that discretion.

This is a matter that has been previously considered by this parliament and particularly by the Senate. It is an issue which has already arisen in a number of contexts. For instance, when the Senate Community Affairs Legislation Committee considered the newly arrived residents waiting period legislation just a little while ago, it recommended:

. . . that guidelines made pursuant to the proposed section 739C should not be exclusive and should allow the Secretary of the Department of Social Security to exercise a general discretion to grant special benefits if in his or her opinion the person "has suffered a substantial change in circumstances beyond that person's control."

So it has already been the view of the legislation committee of this house that the secretary should be able to have general discretion to grant a benefit in accordance with existing law and guidelines.

It was not just the Senate Community Affairs Legislation Committee that expressed a point of view in respect of the structure of exercising one's discretion here. This issue was also raised and canvassed in the Senate, when it was debated once again just a little

while ago in the context of that newly arrived residents legislation. The opposition parties and Senator Harradine expressed concern at the time, and there was a lengthy exchange. It is worth putting on the record here the comments of Senator Newman as part of that exchange. She said:

> We are talking about draft guidelines . . . I appreciate the efforts which some senators have made to make sure that the guidelines are as good as we can possibly make them so that they accommodate the needs of people who fall into difficulties . . . Some senators have already made proposals to me for some changes to them. So the department is continuing to try to get those guidelines in a form which will be acceptable to make sure that people do not fall between the cracks . . .

That might be what they were trying to do but, by bringing in the guidelines that they brought in, they are actually creating the cracks through which people will fall, can fall and will fall in increasing numbers. That is the concern that we have on this side of the parliament.

I note that there have been discussions between the opposition and the government about the details of the guidelines. I am told that the minister was fortunate not to have attended one particularly long and arduous meeting in March between staff of her department, staff of her office and staff of the opposition. Despite the fact that the draft guidelines had been around for some months, I think it is fair to say that opposition staffers, during that meeting and during this process, have identified a number of actual errors in the drafting instruments, which have subsequently been corrected in the version that we are considering disallowing.

Despite all that, there are still a number of issues left. As I say, what we are concerned about is that the guidelines are too rigid and the rigidity works against discretion in needy circumstances. There were points taken up by the government, but there are a number of other points which were made during those discussions which have not been taken on board. They now leave us in a situation where newly arrived residents who have suffered a change of circumstances which happens not to appear on the guideline list of acceptable changes and circumstances will definitely fall between the cracks and will be left destitute.

If you are wondering what sort of rigidity we are talking about, I will just mention one example now and go to some others later on. Under the government's guidelines, as they are currently worded, a sponsored migrant, for instance, can be granted special benefit if their sponsor leaves Australia permanently. The sponsored migrant cannot be granted special benefit if that sponsor leaves Australia temporarily, albeit for many years.

So we have suggested in this context that the government change the word 'permanently' to a phrase or a form of words which would accommodate a period of at least X months, but that suggestion has not been taken up. I say this because this is evidence of the fact that we have tried consistently to get a constructive outcome to the problem facing us. But, at the end of that process, there were issues left unresolved and there are guidelines that are in place which will, as I say, create cracks for people to fall between.

The guidelines essentially do three things. Firstly, they codify a test for financial hardship, which is the same as the existing short-term available funds test which already exists. The secretary has no room to take into account the fact that a newly arrived resident may be in long-term financial hardship, so the long-term available funds test should apply. Secondly, they codify the circumstances in which a person might not be expected to rely on a sponsor for their support—either, for instance, where the sponsor is in gaol or is dead and so on, and so can be granted special benefit. Thirdly, they codify the circumstances in which an unsponsored person might be considered to have suffered a change in circumstances beyond their control and so can be granted special benefit.

The guidelines do three things but, as I say, they do not provide the flexibility that is needed for a full exercise of discretion in needy circumstances, unforeseen circumstances. They are too prescriptive. In terms of that prescriptiveness, I think the one organisation that has done an extremely impressive job on pointing out where some of the cracks are is the Welfare Rights Centre. They point-

ed out the guidelines prescribing the circumstances in which sponsored migrants, for instance, would not be expected to rely on their sponsor for support. They do not cover circumstances where, for instance, the sponsor simply refuses to support the complainant and evicts them due to a breakdown in the relationship between the sponsor and the claimant.

The sponsor might qualify for social security payment but is not actually being paid that payment because it is subject to a newstart allowance penalty period or a compensation preclusion period. The sponsor may receive a carers pension, a sole parent pension or another social security income support payment not prescribed in clause 5. The sponsor may have filed for bankruptcy but has not been declared bankrupt as yet. The sponsor may not be supporting the claimant due to the effects of mental illness or psychiatric disability, if they are actually a patient in a psychiatric institution.

The list goes on. It includes the sponsor being unable to provide support due to illness or disability but not being entitled to a disability support pension or sickness allowance because of income, for instance, received from their partner. The sponsor may have left Australia for an indeterminate period but not permanently. The claimant may be forced to move from the house of the sponsor because of abuse, violence or another reason.

All of these are genuine circumstances, genuine cases where we think there is a case to argue for exercising discretion. The Welfare Rights Centre says that these cases fall between the cracks. They have also done an assessment of the guidelines prescribing the circumstances in which an unsponsored person might be considered to have 'suffered a change in circumstances beyond their control'. With respect to those, I think Welfare Rights has once again put together an impressive list of circumstances which are not covered.

You could, for instance, have a claimant who is a single mother near term in her pregnancy but not ill who is required to take leave without pay from her employer. The claimant could be a young person who has left home because of an abusive domestic situation and has left without any parental or other support. You could have a claimant who cannot work because of a short but serious rather than a prolonged illness. You could have a claimant who cannot work for a short rather than prolonged time due to the grief of the death of a family member.

There are so many situations like this. You can have an offer of employment which has been withdrawn before the claimant actually arrives in Australia but after all arrangements for emigrating to Australia have been finalised. You can have claimants—and this happens so often—who have been given incorrect advice about their employment potential in Australia. What happens even more often is claimants have problems with the recognition of their qualifications once they get here. That is a state based system which federal governments over the decades have tried to reform, but have not been fully successful in doing.

You can have a claimant whose capital has been depleted for reasons beyond their control or a claimant whose business has failed but has not gone into receivership. You can also have a claimant whose funds have gone because of theft. Child claimants are also a problem. There are all these gaps that the guidelines do not pick up. We believe that the best way to handle this is to go to the pre-existing situation, leave the discretion in the hands of the secretary or his or her delegate and let the guidelines that have applied in the past apply.

We also have another problem which goes very much to issues of the government's lawlessness and the question of the rule of law. There is a real question about whether these guidelines are in serious breach of the provisions of the act—the provisions which grant a general discretion to the secretary to grant special benefit. Welfare Rights have been pursuing these issues. I know it is their view that the guidelines are ultra vires, outside the authority of the law, but what worries me is that these concerns are raised not in isolation but after a number of other concerns have been raised by rights groups as to the

administration of special benefit laws by the department.

At the end of the day, we might find that these guidelines are ultra vires, but it is going to take a lot of the money, time and resources of people who cannot afford to do it. We say that we should get it right now. The best way to get it right now is to knock out these guidelines. We have consistently put the view that the two-year waiting period should not apply to special benefit, that payment of last resort, and that that final safety net should be available at the secretary's discretion to those who find themselves, for reasons beyond their control, without any other means of support.

We have these guidelines before us. We believe they are so prescriptive as to remove real discretion from the secretary in a large variety of unforeseen circumstances. Our concern is paralleled with a concern with the rights to redress mechanisms that this government is currently reviewing, such as the SSAT and review tribunals of a number of different portfolio areas. They are all under review at the moment. They are all under consideration for radical restructuring if not total abolition.

What this government is about is not just taking away discretion but, through the denial of access to legal aid resources which have been cut back, and through a radical restructuring of the citizens administrative review tribunal mechanisms, leaving those with the least capacity to pursue their rights having least access to a much more limited range of mechanisms and legal remedies. We say to the government, 'We have worked on this with you but, at the end of day, we believe your proposition is fundamentally flawed because it does not cater for the needs in so many serious circumstances.'

Senator STOTT DESPOJA (South Australia) (6.20 p.m.)—The Australian Democrats will be supporting the disallowance motion moved by Senator Bolkus in relation to the guidelines for access to special benefits by newly arrived residents. The technical purpose of these guidelines under the Social Security Act is to provide guidance to the Secretary to the Department of Social Security in determining whether the two-year waiting period for new migrants should be waived due to a person having 'suffered a substantial change in circumstances beyond that person's control'.

These guidelines apply only for people applying for special benefit. Many times in this place we have heard that benefit referred to as the payment of last resort for those people in need who do not fit into any other social security pigeonhole. The need for such guidelines came about when the government introduced the two-year waiting period for new migrants and placed that two-year waiting period on the special benefit, along with a raft of other social security payments, earlier this year. The Democrats had a lot to say about those particular changes. We voiced our concern about the impact of those changes on migrants and specifically on people in the community whom we could describe as among the least powerful. Certainly women and people from non-English speaking backgrounds are among the most disadvantaged in our community and were bound to be hardest hit by those changes.

We strongly oppose the introduction of the two-year waiting period. We thought it was an excessively harsh and mean-spirited measure. We did not support it then and we still do not support it. However, it has to be stressed that this disallowance motion today is not a re-run of that debate. It is not an attempt by the Senate to overturn that particular decision. What we are debating today is ensuring that the guidelines are such that they meet the oft repeated pledge of the government, as well as the wording of the legislation, that people whose circumstances change due to unforeseen developments and who have no alternative means of support will not be denied assistance.

Like Senator Bolkus did earlier in this debate, I would like to refer to some of the comments made by members of the government in relation to special benefit and some of the commitments that the government made on the access to the special benefit when we had the two-year waiting period debate. I note that Senator Tambling in his speech on the second reading of the social security legislation on 26 November last year said:

Special benefit—the safety net—will always be available to those new migrants who need assistance because their circumstances have changed since their arrival in Australia.

In fact Senator Newman, in response to a question from Democrat leader, Senator Kernot, said on 2 December last year:

. . . we were absolutely up front. We made it clear that, if circumstances changed, special benefits would still be available.

I note that, when the legislation came back from the House of Representatives to the Senate on 11 February this year, the statement outlining the rationale behind that stated:

The government continues to recognise the importance of ensuring that there is an adequate safety net to take care of those persons who suffer substantial changes in their circumstances beyond their control.

In looking at how these guidelines have operated, evidence is mounting that their effect has been to severely reduce and limit the secretary's discretion, rather than provide guidance to the secretary in exercising discretion.

The Welfare Rights Centre, to which Senator Bolkus also referred, have expressed grave concern about how these guidelines are operating in practice and they have produced a number of case studies which show how people who are in real and severe hardship through no fault of their own are being denied access to income support. They say that there are any number of examples which are now coming to their attention. I know the government has provided some response to some of the Welfare Rights Centre's case studies outlining why each person should not be eligible. The Democrat response to that is that people are still being left in a situation where they are in dire financial stress through no fault of their own.

There are also frequent reports that the department of immigration is not adequately advising migrant applicants about the requirements of the two-year waiting period. I am sure the minister's office is doing everything possible to make sure that complete and accurate advice is given, but reports indicate that that this is still not happening in some cases; that still some people are unsure of their rights. They are still, as Senator Bolkus said, falling through the cracks. I urge the government to redouble its efforts in this regard to ensure that full information is given to everyone who is considering migrating to this country.

There is, as Senator Bolkus outlined, significant evidence from groups, such as the Welfare Rights Centre, who are at the coalface of this issue dealing on a daily basis with people who are being impacted upon by these guidelines. But there is clear evidence that people are falling through the cracks. It is clear that the guidelines are operating in a way which leaves people in desperate circumstances and being denied adequate income support.

I recognise that there were draft guidelines circulated prior to the guidelines being gazetted but, as Senator Bolkus has said so succinctly, let us get it right now. I think he is correct in claiming that we are now actually seeing how the guidelines are operating. Clearly, there are loopholes. Clearly, there are difficulties when people are being denied benefits that we would argue are rightfully theirs.

Let us not forget that underneath all the political smoke about welfare or social security the Social Security Act is intended, at the end of the day, to provide assistance to people who are in need and who cannot obtain it through other means. That is the intent of the Social Security Act. In relation to special benefits, the bottom line is that this payment is there to assist people who are in extreme financial hardship and are incapable of obtaining adequate means of support from any other source.

The fact that new migrants have a two-year waiting period for special benefits is in the act. For this waiting period to be waived, the act requires that these people have had to suffer a substantial change in circumstances beyond the person's control. I repeat what I said in the debate when the House of Representatives sent the original social security legislation back to the Senate earlier in February this year: this benefit can only be accessed in special circumstances. Unfortunately, these guidelines define those circumstances in a restrictive and prescriptive way. It is constrained enough in that it is written in

the act that there is the two-year waiting period for the special benefit, that payment of last resort. We argued that the guidelines, as they are currently operating, are even further prescriptive and restrictive.

I also would like to note something that the Democrats were keen to put on record in earlier debates about the two-year waiting period—that is, to dispel a few myths about migrants who come to this country, including that migrants are dole bludgers. They do contribute tax. They do not take that enormous step—often one of the biggest decisions they will make in their lives—to come to this country with some kind of intention of free-loading on our welfare systems.

It is also worth mentioning again that migrants already have to pass a series of tests concerning matters such as health, character and assurances of support before they are even allowed into this country. I know that this government, by virtue of some of its decisions and some of its comments, has been seen, certainly in the eyes of some welfare groups and the migrant lobby, to be attacking migrants and migration. I think the Prime Minister (Mr Howard) should have been a little more cautious when he entered into the rather complex and controversial debate about immigration and its effects on unemployment and employment.

If the government could make one small gesture in light of the context of changes to migrant laws in this country—whether it is reduced funding or defunding for migrant representative organisations or whether it is the introduction of the two-year waiting period for migrants when it comes to social security—to show that it is willing to consider the circumstances faced by migrants in need, this is it.

The simple fact is that these guidelines are too prescriptive. They are almost totally inflexible. They are not guidelines; they are a straitjacket. It is for this reason the Democrats will be supporting the disallowance motion moved by Senator Bolkus. I acknowledge that the government's intent may have been honourable. But I say to it that the way these guidelines are impacting on people is very harsh. It is too harsh. It is causing real concern, real hardship and it means that people in dire financial and social circumstances are being denied benefits. I ask the government to look at the actual impact on people and to develop a set of guidelines which will enable much more flexibility to be applied.

Senator MARGETTS (Western Australia) (6.30 p.m.)—This is a motion to disallow the Social Security (Access to Special Benefits for Newly Arrived Residents) Guidelines 1997 made under subsection 739C(1) of the Social Security Act 1991. The Greens (WA) will be supporting this motion for disallowance because we agree with those in the welfare sector who argue that the guidelines are too tight and preclude the minister from providing last resort assistance to newly arrived residents who are facing absolutely dire hardship.

There needs to be some flexibility. Unfortunately, the approach reflected in the guidelines which are the subject of the disallowance are far too prescriptive and rigid to allow the flexibility and discretion which is needed in the welfare sector when they are dealing with people's ability to just survive from day to day. It is all very convenient for ministers to stand behind something they have set up for themselves and say, 'Look, I am sorry. I just have no discretion,' no matter what the evidence in front of them may be. It is not good enough. It is time to go back and rethink this issue.

Senator HARRADINE (Tasmania) (6.32 p.m.)—I have been listening to the contributions in this debate. The Senate will be well aware of the points that I made during the debate on 11 February 1997. The Senate is aware of that. In fact, the point I was making to the government was whether there should be a special benefit for those whose circumstances have changed.

For example, if a person in a skilled migrant category comes to Australia on the basis that there is a job for them and then there is a change in circumstances, for example, the place where they were going to be employed goes out of business, there is clearly a requirement in all justice to have a special benefit for that particular individual. I indicated that what I thought the govern-

ment was doing was appropriate. The government recognised that the special benefit should apply, which would give to the government a pretty broad latitude in ensuring that persons were not treated unjustly.

I have had a look at the situation now. As has been said repeatedly in this debate, the guidelines that we are considering are really not guidelines; they are prescriptive. They put the department and the minister into a situation whereby they really have no way other than going down a very rigid path, which could not be described by any reasonable person as being guidelines. Under those circumstances, I will be supporting the disallowance motion moved by Senator Bolkus.

I was very interested to see that Senator Bolkus is taking this view. I had a number of, not brawls, but differences—

Senator Margetts—Discussions.

Senator HARRADINE—Discussions, yes, and vigorous discussions—no doubt Senator Margetts has as well—with Senator Bolkus when he was minister. I do pay tribute to the fact that the opposition has taken this stand. I am very happy to support it.

Senator NEWMAN (Tasmania—Minister for Social Security and Minister Assisting the Prime Minister for the Status of Women) (6.35 p.m.)—The government opposes the opposition's motion for a number of reasons. In the constrained time available, I want to try to canvass some of the issues that I think should be on the record. There may yet be time to convince some people that their support for the opposition's motion is, perhaps, a little misguided.

We have always said that there would be a safety net for newly arrived residents who were serving the two-year waiting period and found themselves in severe financial hardship because of an unforeseen change in their circumstances or the circumstances of their sponsor. We stand by that. This was clearly spelt out in our election document *Meeting our commitments* which said:

> The coalition will provide a safety net in the form of a special allowance for those migrants whose circumstances change significantly after arrival in Australia for reasons beyond their personal control.

That safety net, in the form of limited access to special benefit, was delivered in the legislation passed by parliament in February of this year. Essentially, the speech which Senator Bolkus gave seems to me to be virtually a rerun of the arguments which the opposition were using at that time. That was an argument against the legislation, of itself. My concern is that the opposition's motion is in fact allowing the backdoor route for people who would otherwise not be eligible under the legislation which this very chamber passed in February.

The guidelines which the opposition now seeks to have disallowed were determined under that legislation to provide an administrative basis for the special benefits safety net. Setting down the guidelines for paying special benefit to newly arrived migrants in this way assists in consistency of decision making—and senators would be the first to criticise the government if we had a rash of inconsistent decisions. You do need certainty and consistency both in decision making and in interpretation within the Department of Social Security but also within the tribunals that review the decisions. Having the guidelines available in this form and in this way also gives some certainty to new migrants on what constitutes a change of circumstances for the purpose of payment of special benefit.

There have been a number of recent criticisms of those guidelines, including by the Welfare Rights Centre. These criticisms, I believe, largely ignore the basic purpose of special benefit and they also display some lack of understanding about the provisions of the guidelines. In many ways the Welfare Rights Centre criticisms are more about the legislation imposing the two-year waiting period, which, as I said earlier, has already been resolved by the parliament, than about the special benefit guidelines, which are the subject of this debate here tonight.

My office has been provided with three case studies from welfare rights which purport to show some difficulty with the current special benefit guidelines we are debating tonight. First, we have not been able to substantiate the veracity of these supposed case studies from the information which the

Welfare Rights Centre would disclose to us. Second, on the basis of the information provided in the three case studies that I have seen, workers' compensation should be payable in one case and other social security payments in another.

Special benefit is a discretionary payment available to people who are not eligible for any other form of income support and who, through circumstances beyond their control, cannot earn a sufficient livelihood. It is a payment of last resort. There is a tough dollar for dollar income test and a strict available funds test which ensures that only those in severe financial hardship can access the payment. As it is a payment of last resort it is clearly intended that people seeking special benefit make maximum use of their own resources or other available sources of support before turning to the taxpayer. That is not unique to those applying for special benefit; it is the basis of the social security safety net as a whole.

Therefore, the government considers that the available funds test, under which a person's available funds must be less than the equivalent of two-weeks benefit, currently being applied to new migrants seeking access to special benefit is reasonable. This same test is applied to other people applying for special benefit and has been for a number of years.

Criticisms by the Welfare Rights Centre and opposition senators about the position of sponsored migrants demonstrates, unfortunately, a misunderstanding of the provisions of the determination. This is where I urge honourable senators to listen very carefully. They have concentrated on arguments that subclauses 5(2), 5(3), 5(5) and 5(6) do not cover every possible situation under which a newly arrived migrant might not be able to secure support from their sponsor. However, very importantly, subclause 5(1) provides that:

> A sponsored claimant can be paid special benefit if they have attempted to obtain support from their sponsor and can demonstrate that financial or in kind support cannot be obtained from any other source.

If ever there was a protection to make sure people do not fall between the cracks, as a couple of speakers have mentioned, surely subclause 5(1) provides that protection.

In addition, subclauses 5(2), 5(3), 5(5) and 5(6) set out situations under which the claimant is not even required to attempt to seek support from the sponsor, for example, death, disappearance, change in the financial circumstances of the sponsor, abuse, or violence by the sponsor towards the claimant or a family member of the claimant. If a person in any of the circumstances put forward by the Welfare Rights Centre satisfies the secretary that they have attempted to obtain support from their sponsor, the attempt has genuinely failed and there was no support available from any other source, then that person could be paid special benefit.

There have also been criticisms of the causal link between the depletion of funds by unsponsored migrants and the change in their circumstances that leads them to apply for special benefit. It is true that in some cases this will mean that some new migrants will not be able to receive special benefit even though they meet the available funds test. However, it cannot be said that the two-year waiting period has been kept a secret from migrants. The advice that I have received suggests that immigration officials in overseas posts have been vigilant in this area.

From March 1996 the Department of Immigration and Multicultural Affairs has been informing migrants, intending migrants, sponsors and intending sponsors that only in special circumstances will the Australian taxpayer support the new migrant during the first two years. This information was provided in the form of a comprehensive leaflet on the matter. Since August last year all visa grant letters have included four paragraphs alerting successful visa claimants to the two-year migrant waiting period and providing a phone number where they can get more information from Social Security.

Immigration officials in Australia's overseas posts have been reminded on a number of occasions of the importance of drawing this matter to the notice of all intending migrants and those who have been issued with visas prior to April 1996. After migrants have received this information it is then the intend-

ing migrant's decision whether to migrate to Australia or not. Advice to intending migrants needs ongoing vigilance and I have been consulting with my colleague the Minister for Immigration and Multicultural Affairs (Mr Ruddock) to confirm that all reasonable actions are taken to ensure that intending migrants and their sponsors are fully informed of the two-year waiting period.

In answer to the example that Senator Harradine gave of the skilled worker, I am assured it is covered.

My concerns are that the Welfare Rights Centre may be scare mongering. The statistics from the department show that in the 12 weeks from 4 March this year there were only 110 reviews within the department of decisions to reject payment of special benefit in the waiting period—that is nationally. Thirty decisions were changed in favour of the migrant out of the 110. Of the few that have yet reached the SSAT I understand that most departmental decisions have been confirmed.

I do urge the senators to think very carefully before they support the opposition's proposal that we should use the previously applying guidelines. That simply means that the opposition is undermining the purpose of the two-year waiting period legislation.

The new guidelines, while strict, are fair. They prevent people from accessing income support by the backdoor, when the legislation already passed by the Senate says that they are not eligible for income support. They also prevent people from falling between the cracks.

Senator BOLKUS (South Australia) (6.45 p.m.)—I will be very brief. A couple of points have been made, and I think it is worth putting on record that the opposition does agree that the special benefit is a very strictly available one. There are strict requirements, as the Minister for Social Security (Senator Newman) has said. There is a tough dollar-for-dollar test. It is a discretionary benefit. It is not just a payment of last resort but probably, in the case of so many people, it is a payment of desperation.

We do not think that doing what we are doing today in any way at all undermines the government's two-year waiting period legislation. Basically, it puts some compassion into it—compassion, which will be exercised by the secretary. When the minister expresses concern about a backdoor route to overturn the legislation, let us get it right: we are talking about the secretary of her department exercising his or her discretion. I would have thought to use the expression 'backdoor route' in terms of a proposal which allows a person a compassionate discretion is inappropriate.

The minister says that there needs to be consistency, and then she goes on to say that it is a discretionary benefit. It is a discretionary benefit and, as a consequence, there needs to be a fair degree of flexibility. I say to you, Minister: our concern is that you cannot prescribe an exhaustive list of unforeseen circumstances. We are dealing necessarily with circumstances which are, by definition, unforeseen. As a consequence, we think we can trust the secretary of your department to exercise his or her discretion in a compassionate, though rational, way.

Question put:

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

A division having been called and the bells being rung—

Senator Campbell—I seek leave to stop the division. The government concedes that we will lose it.

Leave granted.

Question resolved in the affirmative.

ORDER OF BUSINESS

Government Business

Motion (by **Senator Carr**) proposed:

That the government businesss order of the day relating to the Aged Care Bill 1997 and 3 related bills take precedence over consideration of government documents today.

Senator MARGETTS (Western Australia) (6.50 p.m.)—I would have liked to have had some notice of this. A document which has been tabled only today is of extreme importance, and government documents will not be called on tomorrow. This is a document which many people in the oil industry have been waiting for for a long time, and now it

has been produced. I had not seen this proposal until this second. It is not right that at 10 minutes to seven, which is when documents are meant to be produced, we get a motion from the floor. I have heard no discussion to say that we are not going to deal with documents.

This is something which ought to be discussed. The minister should have presented this document today, but that did not happen. It was hidden in documents. I, for one, will not agree to suddenly do this, having been given no notice. I would like to know what the reasons are.

Senator CARR (Victoria) (6.51 p.m.)—I would just indicate, Senator Margetts, that the purpose for moving this motion was to allow for the continuation of consideration of the bill in the remaining half hour. The reason you were not consulted was that it was done very quickly in an attempt to have this matter dealt with before 6.50 p.m. It is quite apparent by your comments that it cannot be dealt with in those circumstances. Frankly, we are not seeking to prevent you from discussing other documents, but it will—

Senator Margetts—Go back to legislation after documents are dealt it.

Senator CARR—That can be done, if Senator Margetts wishes. I therefore seek leave to amend the motion.

Leave granted.

Senator CARR—I move:

Omit all words after "That", substitute "after consideration of government documents today, government business may be further considered till 7.20 p.m."

Motion, as amended, agreed to.

DOCUMENTS

Second Review of the Management of Safety of the Offshore Operations of BHP Petroleum

Senator MARGETTS (Western Australia) (6.52 p.m.)—I move:

That the Senate take note of the document.

I thank the Senate. The presentation of this document, the Second Review of the Management of Safety of the Offshore Operations of BHP Petroleum, is important today. I would like to make some comments based on from initial reading of this report today.

Dr Barrell, who conducted this report, concludes that the *Griffin Venture* was not placed in jeopardy only because gas-freeing operations had been halted, due to the actions of one of the vessel's junior officers. Dr Barrell also said that, if the gas-freeing operations had gone ahead as planned, the *Griffin Venture* would have been placed in jeopardy.

The evidence shows that at all material times the intention of the master was to gas-free the tanks on the evening of 29 May 1994. The evidence also shows that the junior officer who stopped this from happening did so as a result of wilfully disobeying the direct order of the master and, as such, this action was not in accordance with his terms of employment. Putting the two together, it was the master's intention to undertake an action which would have placed the *Griffin Venture* in jeopardy. Therefore, by way of intent, the *Griffin Venture* was in jeopardy at that time. The only thing preventing a catastrophe was the extraordinary actions of a single individual.

Dr Barrell states that the BHP Petroleum mark 2 report was the trigger for the government report. This is not true. The fact is that it was the questions raised by me in the Senate on 1 March 1995, and the subsequent actions of Senator Bob Collins, which caused the government report to be written. Dr Barrell said that there was no evidence of cover-up. In fact, Dr Barrell was presented with evidence which proves a cover-up in several different areas—evidence which he has chosen to ignore.

One example of a cover-up is the BHP Petroleum report in its mark 2 investigation. It is clear that at least two high ranking company employees, with the full knowledge and cooperation of the Dampier Manager of BHP Petroleum, gave incorrect evidence to the inquiry. The field superintendent of the *Griffin Venture* said in his evidence on page 1, line 8:

Hewitt remembers Visscher raising a question regarding the lack of a span test gas for testing the tank scope. He responded to the question by saying that they could not proceed beyond the point where the tank scopes became a crucial item until the span gas was on board the *Griffin Venture* . . .

et cetera. Andrew Brooks, the Production and Engineering Superintendent, confirms this statement in his evidence on page 23, line 11. In other words, they are saying that they were never going to gas-free the tanks on the evening of 29 May 1994 because the span gas would not arrive until the following day, 30 May 1994. Yet the evidence shows that at all times the intention was to gas-free the tanks on 29 May 1994. Evidence shows a statement in evidence by the field superintendent was never made, and that it was in fact incorrect. It subsequently formed the foundation of the mark 2 reports finding that the *Griffin Venture* was never in jeopardy because there was no intention to gas-free the tanks.

BHP Petroleum mark 2 report contains information which is knowingly false. As such, by providing such report to a government investigator, it constitutes a breach of the Petroleum (Submerged Lands) Act and is punishable by six months imprisonment. It can be shown that BHP Petroleum have knowingly withheld information. This is clearly indicated by the public comment of the President of BHP Petroleum, Mr Michael Baugh as reported in the *Financial Review* dated 19 June 1996. Mr Baugh acknowledged yesterday that had he always believed Mr Visscher's version of events.

In the interests of long-term safety and accountability in the offshore oil and gas industry, the truth must be made publicly known. The truth will show that the Senate has been misled. The latest inquiry by Dr Barrell highlights many irregularities in company and regulatory operations. It still has holes you could drive a truck through. In my view, the report shows one thing of real importance: the truth could only come out in a forum where people are obliged to attend and provide sworn evidence—evidence subject to scrutiny. This obviously needs a minister's response.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Sector Superannuation Scheme and Commonwealth Superannuation Scheme

Senator O'BRIEN (Tasmania)—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AGED CARE BILL 1997

AGED CARE INCOME TESTING BILL 1997

AGED CARE (CONSEQUENTIAL PROVISIONS) BILL 1997

AGED CARE (COMPENSATION AMENDMENTS) BILL 1997

In Committee

AGED CARE BILL

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Childs)—We are considering government amendments Nos 1, 2 and 3. The question is that the amendments be agreed to.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (6.57 p.m.)—Senator Cooney had raised some issues with me in relation to the complaints mechanisms. I mentioned to Senator Cooney that it was open for a resident to approach firstly an internal complaints mechanism set up by the provider within the facility, but it is also open for the resident to make use of external facilities for complaints. You would not necessarily have to go through the internal one set out by the provider first. You could opt for the outside course if you wished. Also, residents would have available to them various advocacy services which they could make use of within the facility. The provider also has an obligation to advise the resident of these outside reviews. I do not know whether that helps.

Senator COONEY (Victoria) (6.58 p.m.) Thank you, Minister, that does help. But there is another point I would like you to take up.

I will go through it briefly. If you look at section 56-4, you will see that it says:

(1) The approved provider must:

(a) establish a complaints resolution mechanism for the aged care service;

Then it goes over into subsection (2) and says:

If the aged care service is a residential care service, the complaints resolution mechanism must be. . . provided for in the resident agreements. . .

Subsection (3) says:

If the aged care service is a community care service, the complaints resolution mechanism must be. . . provided for in the community care agreements. . .

So the idea is that this complaints mechanism is going to be dealt with pursuant to agreements.

If you look at particular proposed sections of the bill, they say that there must be quality care provided by the provider, which I suppose you would imagine would be correct. For example, in division 2-1(1) on page 4 of the bill, it says that the objects of this bill are:

(b) to promote a high quality of care and accommodation for the recipients of aged care services that meets the needs of individuals;

That would be one of the things that you would be wanting to ensure under this agreement. You would be wanting to ensure that the aged care recipient gets that high quality care.

One of the ways the aged person can go around that is to make a complaint and to make use of this complaints resolution mechanism. The idea of a complaints resolution mechanism is a very good one, but the mechanism by which that is set up has me concerned because it is the provider who must establish the complaints resolution mechanism. Since the provider with whom the aged person is in dispute is the person who is going to set up the mechanism, there is an inbuilt capacity to lead to a perception that this disputes mechanism is going to be biased against the aged person.

That is the first thing. I was wondering whether there could be a better means of getting to a complaints resolution mechanism other than through that way. The next thing I want to say is that all this has been done pursuant to an agreement pursuant to contract law—that is under proposed section 56-4. I put it to you that that is a very clumsy way of going round a mechanism needed to look at disputes which are not likely to be major ones, but which can be very distressing and very troubling for an aged person needing care.

What would seem to have to happen if an aged person wanted to get relief under proposed section 56-4 would be that he or she would have to go off to a court of law and get a ruling as to whether the agreement supports the particular resolution mechanism that is set up. If the court says it does, then he or she would have to take action to enforce the requirements that lay upon that complaints resolution mechanism and to enforce provisions such as one that guarantees quality. How is quality to be judged? That would be for the court to decide.

So in trying to pursue a good idea—that is, trying to pursue what is, no doubt, meant to be an informal complaints resolution mechanism—the means available to get that mechanism operating properly could well be very clumsy. I was wondering why the government has chosen to go the way of contract law to enforce this very good idea.

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (7.05 p.m.)—I will look at the two avenues of complaint that could be pursued. In relation to the internal complaints system, we are looking at something which I think is in place at the moment—that is, a residents' committee working with the provider to sort out complaints by residents dealing with things like the food, the supply of services or something of that sort. The amendments now before the Senate deal with something in a little more formal sense—that is, the complaint to a committee as to the provision of subsidies, the provider cutting off the supply of electricity or something of a more serious nature.

So I would not envisage that the residents would be finding themselves having to go to

the court to work out whether their agreement with the provider gave rise to the ability for the complaints to be resolved in the way that is mentioned. I think that the internal mechanism is meant to be a much more informal process dealing with day-to-day matters.

The external process, if you like, which is dealt with in these amendments, is the more formal one where a resident goes to the committee and says, 'This provider is just not providing me with any gas for my heater,' or, 'I'm not getting the subsidy I want.' That is how the government looked at it. It wanted to provide in the first instance an informal approach for the more minor matters. Perhaps the more major matters would then go to a committee of the sort we are looking at in these amendments.

The Australian Law Reform Commission in reviewing aged care legislation in 1995 found that residents and older people were nervous about legal contracts. It found that very few nursing home residents had elected to sign a standard form of agreement provided for under the National Health Act 1953. I think that is understandable. What the government was trying to steer away from in this instance was having a very formal process within the facility for complaints. That is provided for more in this committee that we are dealing with which is the subject of these amendments.

So those are the two different approaches, if you like, to this. I might add that what you have in proposed section 2-1(1)(b), to ensure a high quality standard of care—and Senator Cooney referred to this—is the question of compliance by the provider. That goes right to accreditation and that is a more formidable remedy than perhaps going off to the court seeking damages. The residents in these facilities do not really want to seek damages; they just want to fix the problem and get on with their lives.

Senator COONEY (Victoria) (7.08 p.m.)—I will not pursue this matter after this intervention. I can follow all that, and it seems to me that the attempt to get an informal way of getting over disputes is an attempt that should be made, but I am just wondering whether it is an attempt that is well carried out here. If you add government amendment 2 to clause 56-4 on page 218, you get subclause (e), which says that the approved provider must:

> . . . comply with any determination made, in respect of the approved provider, by a committee of the kind referred to in subsection 96-3(1A)—

which is the second means that is available to an aged care person to get relief. I am just wondering why, if this is to be an informal mechanism in clause 56-4, the government wants to make that amendment? In all the circumstances, would it not be better to let clause 56-4 stand on its own and make it quite clear that that is the more formal way of going about things, and that this is the more informal way? That is the first issue I want to raise.

The second issue is that I agree that legal contracts are a worrying thing, not only for aged persons but for all sorts of people—people do not want to go and sue on contracts and be sued on contracts. That being so, why in clause 56-4 are proposed subsections 2 and 3 put in which say, 'Yes, the care recipients and the approved provider must enter into contracts'? Would it not be better to leave 2 and 3 aside?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (7.10 p.m.)—I can see Senator Cooney's point. We are looking at the more informal process internally and the more formal process externally, and the parliamentary draftsman has chosen to include this amendment within clause 56-4, which deals with complaints resolution mechanisms. Clause 56-4, subclause (1) would tend to deal with the informal process, and what the draftsman has done is, in (e), to put in the more formal process dealing with the external. So what you have got is a mixing-up of the informal with the more formal process.

I dare say that could have been put elsewhere in the bill but that (e) is not referring to the more informal process, because in (e) it mentions the committee referred to in 96-3. I suppose you could have put (e) really at 96-3. I take Senator Cooney's point that you are looking at a matter that has been inserted in

an area where perhaps it is like a fish out of water, but nonetheless the efficacy of it still remains.

Senator FORSHAW (New South Wales) (7.11 p.m.)—I wish to follow on from that comment by the parliamentary secretary. I was going to ask a question that does relate to amendment 3 as well, but if we consider the issue now it might save a bit of time later. I refer to the provisions that are inserted by amendment 2—that there must be compliance with a determination made by the committee established under proposed subsection 96-3(1A). Why is it that that will operate, but no similar compliance will be required in respect of any other determinations or decisions that may be made by other committees that may be established under 96-3?

That leads to the further issue that, whilst you have talked about formal and informal and so on, the way in which the amendments are structured is that this type of committee is going to be established pursuant to 96-3, which is the power whereby the minister can establish committees for the purpose of the act—so it is somewhat wide-ranging. But it is only in respect of determinations of a committee established under (1A) where the legislation specifically will require compliance. That leaves at least open the issue of why should it not apply to determinations of any other committees that the minister may establish pursuant to proposed section 96-3?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (7.13 p.m.)—In relation to Senator Forshaw's question, there is only one committee at this stage being set up, and that is the complaints resolution committee. We would have to do it on an ad hoc basis, if you like, to see whether the committee that is set up from time to time does need to have this power of having the compliance with its determination being bestowed upon it. This is because some of the committees that might be established might not need that power.

What I would say is: 'Let us deal with each case in turn where a committee is set up.' This is a committee that clearly needs to have that power if it is to benefit the resident, but there may be other committees that are set up that just do not need this power. That is why we only have this one committee, and that is why we refer to it and give it this power. In the future, there may be other committees, granted, but they might not need the power, and we will determine that matter when they arise.

Senator FORSHAW (New South Wales) (7.14 p.m.)—I appreciate that. If the amendment had not been moved, then the issue may not have been raised. What you are proposing is the establishment of this discrete committee, if you like. You are proposing to put that within the general ambit of 96-3 and then specifying that there must be compliance. It does raise concern about decisions or determinations that may be made by other committees that, as you say, may be established by the minister in the future—one would think that the minister will not necessarily establish committees unless there is a very good purpose for doing so—and that people will see that there is a specific requirement for compliance with respect to decisions or determinations of (1A) that is not applied to the rest of them.

I think you yourself, Parliamentary Secretary, said that you would have achieved a different result if that requirement for compliance was in 96-3 rather than only in 56. That was your observation, as I understand it. It certainly is a concern that arises, I think, out of making that distinction between what compliance will be required from this type of committee and what may or may not exist in the future for others.

I also raise another issue. I am conscious of the time. I think this will be my last contribution, so we can dispense with these government amendments this evening; we have indicated that we are not opposing them. We would like from you, Parliamentary Secretary, some information as to what is envisaged in the establishment of these committees. Subclause (2) of 96-3 spells out:

> The Committee Principles may provide for the following matters in relation to a committee:
>
> (a) its functions;
>
> (b) its constitution;

(c) its composition;

(d) the remuneration (if any) of its members;

(e) the disclosure of members' interests;

(f) its procedures;

(g) the fees (if any) that may be charged, on behalf of the Commonwealth, for services provided by it;

(h) any other matter relating to its operation.

Can you give us any more detail—and if not, why not—as to what is envisaged in respect of those areas? Does the government have in mind the types of committees that the minister may establish under this section? If so, who will make them up? What will the position be in regard to each of those items?

I note that in your earlier remarks—and Senator Lees commented as well—you said that, with the committees to be established under the new subsection (1A), it has been identified which states they would apply in, and so on. Can you enlighten us as to what other committees we may be likely to see and how they will be comprised?

Senator ELLISON (Western Australia—Parliamentary Secretary to the Minister for Health and Family Services and Parliamentary Secretary to the Attorney-General) (7.17 p.m.)—Firstly, one sort of committee that springs to mind is the Standards Review Committee. I think that highlights the first question you raised, which was: why not give this power of determination to other committees?

There may be other committees that are required from time to time to make recommendations as to standards or a variety of matters. We still have to see how the legislation progresses, and of course we have these reviews forthcoming. These reviews might say, 'Well, look, you need these other committees to help you in various areas—committees to make recommendations.' Of course, they would not necessarily need the power of determination which demands compliance; they might only be ones to recommend policy. We have got different sorts of creatures in mind but, to give you an idea, one sort of committee that could be envisaged is one like the Standards Review Committee. That is the sort of thing that we would be looking at.

I previously touched on the make-up of the committee—there will be community representatives in the states, as mentioned—and the question of fees. I do not really think I can take it further than that at this stage. It will be a process where, as the government has said, we will review the legislation and see what is needed. This gives the minister a golden opportunity to respond to any concerns that are raised.

Senator WOODLEY (Queensland) (7.19 p.m.)—I seek leave to table a letter. I indicated to the chamber earlier in the debate that I would ask leave to table it.

Leave granted.

Amendments agreed to.

Amendment (by **Senator Ellison**) agreed to:

(3) Clause 96-3, page 358 (after line 3), after subclause (1), insert:

(1A) Without limiting subsection (1), the Minister may establish a committee for the following purposes:

(a) co-ordinating and reviewing:

(i) the resolution of complaints relating to approved providers, *aged care services or the provision of *aged care, being complaints in respect of matters dealt with under this Act or Principles made under section 96-1; or

(ii) the resolution of complaints relating to the administration of this Act or Principles made under section 96-1;

(b) in the circumstances set out in the Committee Principles, making determinations resolving those complaints.

Progress reported.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

Education Funding

Senator TIERNEY (New South Wales) (7.20 p.m.)—I rise tonight in this adjournment debate to speak about the position with private and commercial funding in government schools and, in particular, in relation to the report of the Senate Employment Education and Training References Committee that was brought down in the Senate today.

Senator Forshaw—Which private school did you go to?

Senator TIERNEY—I did not take the opportunity today to speak on the report because of the program, Senator Forshaw, but I will take the opportunity tonight as it is still very much a current matter. Please let me outline why the government members of the committee felt it necessary to dissent from this report.

The whole report on private funding in public schools was largely a political stunt by the ALP. Senator Carr was particularly transparent, as usual, in his misplaced, prejudiced vendetta in relation to the Victorian government on this matter—as he is on many other matters relating to education.

The objective of the opposition members was to make very negative and alarmist recommendations with regard to private funding in public schools. The opposition stacked the witness list with groups that were totally opposed to private and commercial funding in state schools. They were intellectually dishonest in making recommendations which, if you read the report very carefully, are largely based on just hearsay evidence. Once of the things they did with this hearsay evidence was to tend to overstate the case.

Nowhere in the report, because of a lack of real, hard evidence, is there any idea of the scale of the problems they were alluding to or to the extent of it through the system. We had just a whole series of anecdotes from groups in the communities who had an axe to grind about this issue.

One of the first claims made by the opposition members in this report is that across Australia governments are abrogating their responsibility for providing free and public education. This is not supported by the evidence. Quite contrary to this, they have used the evidence in a very misleading way.

One of the few bits of hard evidence that is contained in this report relates to the ABS figures on government funding in public schools. What this reveals is that total outlays in 1988-89 were $6.6 billion and that in 1994-95 the outlays increased to $8.4 billion. Increases were also registered for Commonwealth and state recurrent funding, with the average increase over five years from 1988 to 1994 being eight per cent in total outlay to government students. These are all price deflated figures comparing dollar with dollar.

Labor have misused figures in the report and have tried to back up their claim by using per student figures. These sorts of things are most misleading, because what it does not take account of is the changing nature of what is happening in education over that time. You can have changes in the demographics of education, changes in the composition of schooling, changes in the capital works programs, across schools in different states at different times, depending on the age structure of the population.

So the figure that they quote in support of their changes, which shows only a minuscule decline—less than one per cent—has all these rather interesting assumptions behind it. We believe the figure we have used, which is real increases in spending on public education over time, is a much better way to measure it. The lack of evidence is finally conceded at one point buried in the middle of the report. What it says sums up what I have just been saying:

> It is extremely difficult to ascertain where the truth lies in matters of State and Territory Government expenditure on services, especially when the involvement of the Commonwealth is taken into account.

What the opposition report says here is that basically they do not know. So they rely on a considerable amount of anecdotal evidence.

They rely on this to talk about the way in which governments should be delivering total funding, they claim, to cover what they call the eight key learning areas. Tying it to a specific framework like this at this point in time—next year it might be nine key learning areas; these things change over time—is a bit foolish. But the whole concept of getting taxpayers to fund all of this is seen as being totally unrealistic even by the school principals. I quote the school principals:

> This principals' organisation believes that it is completely unrealistic to expect governments to come up with the level of funding which would be required to provide every item seen as desirable.

We also reject the opposition's majority report alleging problems with the level of private and commercial funding in schools. Labor has tried very hard in this report to create the impression that problems associated with private and commercial funding are recent. They further claim that these trends are linked with recent policies which favour privatisation and commercialisation.

But if you go back not too far in history to the time of the Schools Commission in 1984—so we are going back 13 years—it actually gives the lie to that being an issue. It has not suddenly come up as an issue because we have coalition governments around the country. In 1984, you might recall, we had Labor governments right around the country, when the Schools Commission reported that they saw private and commercial funding in government schools as being a perceived problem. It is certainly not recent.

Subject levies is another thing that the report complains about. Opposition senators are trying to make out that that again is a recent thing and part of this user-pays philosophy. But things such as subject levies, fees and voluntary contributions have always been part of education. There is no evidence—despite Senator Crowley quoting a certain amount of anecdotal evidence—that this has influenced subject choice, that students have been humiliated on a widespread scale or that students have been kept away from excursions and other activities. Obviously, these things may have happened in isolated cases, but again there is no hard evidence that this is extensive.

What the report also leaves out is the considerable amount of assistance that is provided by governments to students in difficulty. There is no mention of Austudy, no mention of Abstudy, no mention of programs in South Australia—Senator Ferris, you will be pleased to know that we were quite impressed with the school card program in South Australia—where public funding is available for parents who have trouble paying fees and levies. That is the sort of approach which has been in place for some time, which does give the lie to this being a particularly new and difficult problem.

We would like also to comment on sponsorships in schools. There was not much attention to this in the report, but I want to finish by briefly commenting on that. We do share some of the concerns that there could be exploitation of students stemming from sponsorship in schools, but we feel that this can be adequately handled by having arrangements and very tight guidelines centrally and also at the school level. Education and ethical matters can therefore be handled in this way.

I would like to point out, as the major opposition report did not point out, that there are enormous benefits to education from proper sponsorship arrangements. Businesses are increasingly becoming involved in not for profit activities. Businesses have a growing sense of social responsibility. We recommend that, as long as schools follow guidelines, limits should not be placed on their entrepreneurial activities by government, and Labor and the minor parties have not made out their case for their majority report.

This is a base political exercise and it has been a waste of time. There is not a major problem in this country with private and commercial funding. It is not the bogey that the opposition points out. I would encourage this government to examine the government senators' report as an appropriate response to the private funding that exists in public schools.

International Garden Festival

Senator NEAL (New South Wales) (7.30 p.m.)—I rise this evening to speak about an issue that is of fairly major importance; in fact, I would say it is presently the most important issue on the Central Coast: the issue of the international garden festival and the failure of the federal government to give it due and proper support.

This project has had an extraordinarily long history and has had its ups and downs but we on the Central Coast were lucky enough for it to start to take shape late last year. But, because of the failure of the federal government to give its commitment, it has not proceeded in the way we would have hoped.

I do not wish to go over every nuance of the project, but I would like to say that it has

been going for a very long time. I would like to give some recognition to Barry Cohen, a former minister for tourism in the previous government, who originally came up with the idea. In saying that, I would point out that he is not the only person who has made a contribution to this project, which has very broad and fundamental community support.

The project had been around in an earlier form. A request had been put to both the state and the federal governments to provide a sum in the range of $180 million towards the project in order to get it off the ground. Due to the financial circumstances and the way projects tend to be undertaken these days, this was not a viable project. So a group of community-based people went back to the drawing board and put together another feasibility study based on a project that was going to be entirely privately funded, except for relatively minor contributions from the state and federal governments. The project was re-launched last year.

As someone who was intimately involved in the whole process and who served on the organising committee—along with a large number of other people, including the Mayor of Gosford, Tony Sansom; Keith Dedden, who has become the CEO of the project and is a former general manager of Gosford Council; members of the chamber of commerce; and others from the university at Lisarow—I would have to say that we put together a project that we really thought had legs.

Senator Tambling—And Jim Lloyd?

Senator NEAL—I have to say that Jim Lloyd was not involved in that organising committee. I will not detract from anything he may have done but I cannot say he was a member of the committee.

In terms of what occurred last year, having had a revised feasibility study done on the basis that the private sector would underwrite and develop the project, a proposition was put to the state government that they would contribute by providing the land at Mount Penang—land valued at somewhere between $15 million and $20 million. It was also proposed that we would seek a similar contribution from the federal government and, with those two contributions, the project could get off the ground. The ultimate result was to be a major international event, employing in a general sense about 16,000 people, to be launched on the Central Coast. You can imagine that, in an area where there is a reasonably high level of unemployment and where those who are employed often commute to Sydney, this was an extraordinarily popular proposition.

A letter was sent by the state government to the federal government indicating its support for the project and suggesting that the federal government might like to throw in an equal amount—a sum of $300,000—as seed funding to the state government. The state government intended to donate the land for the project. The response of the Prime Minister, Mr Howard, was that once a private sector developer and underwriter were secured, he would provide a contribution 'consistent with normal responsibilities for such events'.

In questioning during estimates, a Mr Maxted from the Office of National Tourism indicated that the normal national responsibility for these sorts of festivals was an Australian pavilion, a commissioner-general for the event, quarantine and customs services and the lodgment of the application.

The Prime Minister indicated that the federal government would be prepared to contribute in this way if a private underwriter was secured. After a great deal of work by the community representatives and the CEO of the project, a preferred tenderer was secured—a fairly major construction company, Thiess. A letter was then sent to Mr Howard asking for the application to be lodged with the BIE and asking for the intended contribution to be confirmed.

Just seven days before the final date for the lodgement of that application, Mr Howard wrote back saying that the provision of a private developer and underwriter was insufficient and that they required not only that but also the underwriting by the New South Wales government. I have to say that it seems to me to be rather extraordinary that this government sing the praises of private industry and private sector involvement and private finance but, when it actually comes down to

involving themselves in a project and providing support, they would not accept the underwriting of a major construction company with a balance sheet in the billions of dollars.

There was some suggestion put that, because a similar situation existed with Queensland and the Queensland government was prepared to underwrite the project, the New South Wales government should as well. There was a major difference between the two projects which the federal government failed to acknowledge. That was that the Queensland project was established, set up and put forward by the state government, while this particular project was nurtured, created, dreamed up and promoted by a group of community based people who really just wanted to see something good done for the central coast and the area.

There are some rather interesting issues that have arisen as a result of all this. I must confess that I am not one who is prone to conspiracy theories, but the whole support and approval provided to the Queensland government for their project was well in excess of the support and encouragement provided to the central coast project. I must confess that I was somewhat concerned by an indication that—

Senator Woodley—The Queensland government has to be propped up.

Senator NEAL—That is right. Though the Commonwealth government could not see fit to attend the BIE and support the central coast project; they attended and put forward a proposition that the Queensland project should be supported. They also put forward a proposition that the moratorium that had existed, which would have been a bar to the Queensland garden festival proceeding in the year 2002, should be lifted. The reason this moratorium had been in place was that there have been too many international events and too many garden festivals around. In fact, this was put in place to prevent a further proliferation.

I must say I wish to draw no sinister conclusions from this set of events. But the fact is that, if an event were not to occur in the year 2000 in New South Wales, it would be a major boost for the Queensland government in arguing that the moratorium should be lifted and that the Queensland international garden festival would not be the second Australian event in two years but, in fact, would be the first in many years in Australia. It is very sad to see that possibly the same support that should have been given to Gosford was not because of the Queensland garden festival. *(Time expired)*

Mount Gambier

Senator WOODLEY (Queensland) (7.40 p.m.)—I would like to reflect on a visit I made on 7 and 8 June to a very beautiful part of South Australia—Mount Gambier.

Senator Ferris—Great state.

Senator WOODLEY—I must say, Senator Ferris, I always have said that South Australia is the most civilised state in the Commonwealth, and that is always confirmed for me when I go there.

While I was in Mount Gambier, I met with various industry representatives not only to learn about various industries in the area—particularly the forestry and timber industry there, which I think deserves a very big tick for the innovative processing and for the fact that it is all plantation timber—but also to discuss rural policy so that I could be informed as we think through what is needed in rural policy into the next century. I must say that Mount Gambier—as it always has been whenever I visited there—impresses one. It is a most impressive area. It is an area of great beauty, an area of innovative industry. As I drew attention to the fact before, with that innovation, the timber industry certainly is near the top.

I want to say to the government that I think there is a very urgent need to upgrade and restore the rail services to that area. That is why I must say that the government's quite shameful pushing through of the legislation really gave no guarantees whatsoever to the future of the rail industry in the southern states the other day. One of the reasons why I am disappointed at what happened is that this is an area where the restoration of rail services is urgently needed but not likely to happen.

There is one other industry that I would like to underline—which is desperately needed in this area and which was a promise of the coalition prior to the last election—and that is the delivery and installation of SBS services to that area. This was a coalition promise. Since the election, of course, nothing more has been heard of it for the people of this area.

It is a very closely settled area in comparison with the rest of South Australia. Senator Ferris could probably confirm it, but I would assume it is probably the second most closely settled area in South Australia. I was very pleased to be invited by Frank Paneri, from Cafe Capri in Mount Gambier, to receive petitions, with about 2,000 signatures on them, petitioning the government to give them an SBS service. I was very impressed with Mr Pinneri. He is a very gracious and delightful person to meet. He was very happy that he was able to include the presentation of the petition in my visit.

I will at a later time be presenting those signatures and those petitions. Unfortunately, a couple of them are not in the correct order, and that has delayed my tabling of them. I will just read into the record the words of the petition, because I think it is a compelling plea that the people of Mount Gambier make. It reads:

> We the residents and people of the South East of South Australia humbly beseech that SBS Services be provided to this important Region. We represent people of many ethnic backgrounds and interests who strongly desire to have these important cultural services provided to us and to Tourists. We remind you—

That is addressed to Senator Alston—

> of electoral promises to this region during the last Election, that this region would be a priority for SBS Services.

I add my name to that plea. My only question to Senator Alston is: will you please tell us and the people of Mount Gambier when you are going to keep that election promise?

Howard Government

Senator FERRIS (South Australia) (7.46 p.m.)—It is almost a year since I came to this place to represent the state of South Australia. In my first speech I acknowledged the hundreds of thousands of people who had voted overwhelmingly for a new approach to our country. We are now almost halfway through the first term of this government and that provides us with a useful point to reflect on our achievements and to consider what we might do in the remainder of this term.

We have been focused very importantly on tackling Australia's crippling debt—the quite disgraceful Beazley black hole—while keeping faith with our election commitments. Let us never forget that we inherited in this place a deficit of $10.5 billion, but in our first term of office we will have turned this into a surplus of $1.6 billion. By any measure, that is a dramatic turnaround—without raising income tax, company tax, wholesale sales tax or petrol excise. It is a significant achievement.

I would like to have a look at some of these achievements. The list is extensive and very significant. Most importantly, there is the $1 billion family tax package providing a billion dollars of tax relief for thousands of people who voted for our policies. That is $200 per child and $500 for single income qualifying families all delivered in full on 1 January.

Senator Neal—$1.94 a week. Big deal.

Senator FERRIS—Senator Neal, there is no L-A-W on this side of the chamber. We have delivered the lowest interest rates in 30 years and families have benefited by an average of $293 every month on an average $100,000 loan. That is a long way from the crippling interest rates imposed on families by those opposite. Importantly, we are encouraging Australians to save some of these extra earnings by providing a universal tax rebate on savings—a 15 per cent rebate on up to $3,000 of savings.

A second, and very significant cornerstone, was our industrial relations reform which took effect on 1 January and encourages employers and employees to make their own working arrangements free of coercion and compulsion and to have a real choice at last. We have given a boost to small business—exempting them from unfair dismissal laws if they employ fewer than 15 people and abolishing the fringe benefits tax on car parking and taxi travel to and from work.

We have continued the well-established program of privatisation begun by those across the chamber by preparing for the sale of one-third of Telstra. This has enabled the establishment of the $1.25 billion Natural Heritage Trust which guarantees long-term benefits to our environment and surely one of the most important benefits that we can offer to our wealth generating industries in Australia.

As well as that, we are trying to clean up the absolutely unworkable Native Title Act which was a clumsy attempt to satisfy special interest groups and eventually satisfied none except the lawyers—and plenty of them. Our amendments will provide certainty and fairness to Australian pastoralists and to Aboriginal communities.

There are more significant changes which will come into effect next Tuesday. Briefly I wish to highlight some of those extra reforms that will take effect next week with the beginning of the new financial year. A substantial first start will be the $290 million of capital gains tax relief to small business. This will allow small business to reinvest in another business without incurring capital gains tax—a very important incentive to this huge group of employers. Then there are the tax incentives for private health insurance worth up to $450 a family or $125 for singles available from next week and Medicare retained as promised.

There is the one-stop shop approach to more efficient employment opportunities, apprenticeships and traineeships and the superannuation reforms which will allow a contributing spouse to receive an 18 per cent rebate for contributions up to $3,000 for a low income spouse. That is a very important policy initiative. From 1 July the carer's pension will increase to 52 the number of days within a year a carer may temporarily cease caring without affecting their payments. We are doubling the hours per week that carers may spend in employment. Legislation for a more competitive telecommunications regime will also come into effect next Tuesday.

We are only halfway through our first term of government. The process of reform will continue with policies that are consistent and ambitious. This year we will repay another $5 billion of the debt left by those opposite and the following year we will repay another $5 billion and so on until the year 2000 when the debt left to us will have been halved—not a bad effort.

This government has accepted the responsibility to open up the tax system to make it a better and fairer system. We will not be heading for the trenches at the first whiff of grapeshot from those across the chamber. So this government is starting to clean up Labor's mess, to climb the Mount Everest of the problems they left behind. Most importantly, all Australians will be the beneficiaries of these changes and, equally importantly, we will never stop listening to them.

One Nation Party

Senator O'CHEE (Queensland) (7.53 p.m.)—Last week Senator Boswell gave what I believe to be a landmark speech in this chamber in which he showed honourable senators links between the One Nation Party and groups of extremists in Queensland and elsewhere around the country. I now wish to take the opportunity to bring to the further attention of the Senate some of the nefarious infiltration of the One Nation Party by groups of extremists. I start in Hervey Bay where a man well known to members of parliament from Queensland, Mr Tony Pitt, resides.

Mr Pitt has a long history of being associated with extremist causes. He is now the secretary of the Hervey Bay branch of the One Nation Party. His wife is the secretary of the Maryborough branch of the One Nation Party. Quite recently, he was one of the organisers for a series of meetings for the One Nation Party in the Hervey Bay area. Why then, honourable senators may ask, was the same Mr Pitt the author of an open letter of 2 May in the notorious *Lock, stock and barrel* magazine, in which Mr Pitt described himself as the national chairman of a political party called The Australians?

Just so that honourable senators have some idea of the ramblings of Mr Pitt I will only read into the *Hansard* a short bit. I am happy to table the whole thing. He says:

A few hundred miles north, there are a million soldiers who would gang rape a girl, then cut off her breasts, and chatter and laugh like monkeys as she then ran blindly in terror, pain and shock, past oppressed locals who were too scared to help or even look at her out of fear that they would suffer similarly if they were to intervene.

Mr Pitt, in edition No. 26 of *Lock, stock and barrel*, in fact advertises for the political party called The Australians. He describes the party as follows:

The Australians are different. The party believes that candidates should be independent and represent the electorate. The state elements of the party are also independent in a voluntary alliance to achieve the broad aims set out above. Minor differences of opinions and aims are to be expected, tolerated, even encouraged. There are 270 pro-freedom organisations working to save Australia. In the past they have been too independent to even work together. This disarray has kept crooked politicians on seats in Canberra. Let us co-operate and end their reign.

It gives a series of contacts for this party The Australians in different states. As I said, the Queensland contact is none other than Mr Tony Pitt, whose address is 79 Ferry Street, Maryborough. My office has made some inquiries of some of the other contacts, Mr Acting Deputy President, and this may interest you.

The contact in South Australia is a Mr Algie Walker, whose phone number is identified as is his postal address. He advised my office that he has joined the One Nation Party. So my office then contacted somebody in Western Australia, a Mr Allan Rossiter, who is listed as the contact for The Australians in Western Australia. He advised that the party members have all gone and joined One Nation and in fact have donated their money to One Nation. So it is quite clear that One Nation is not the voice of mainstream ordinary Australia; One Nation is now just a front for this extremist group called The Australians. They have infiltrated its branch network. They are the organisers of these functions and they are taking decent and well-meaning Australians for a ride into political oblivion.

Mr Pitt's activities are well known in Queensland as are those of his friends, for example, Mr Ron Owen. Mr Owen is a well-known associate of Mr Pitt and is a publisher of the *Lock, stock and barrel* magazine in which Mr Pitt is a frequent advertiser and to which he wrote the open letter of 2 May, to which I have referred. Honourable senators and others might be interested to know that Mr Owen was recently fined for offences in Queensland relating to the sale of banned copies of *Lock, stock and barrel* magazine in 1993. Why were these four issues of *Lock, stock and barrel* banned by the Office of Film and Literature Classification? Let me tell you.

This magazine was banned because it gave instructions to tell Australians how to convert a rifle into a machine-gun. Another copy of *Lock, stock and barrel* magazine contained an article entitled 'Pyrotechnics in the kitchen'. This article told Australians how to manufacture two-part explosives. The purpose of manufacturing a two-part explosive was specifically stated to kill police officers. The explosion would go off in two parts: the first part would kill a police dog and the second part would kill the handler as he went to the assistance of the dog.

These are the people who are now infiltrating Mrs Hanson's party through The Australians, through people like Mr Pitt, through his active involvement in the *Lock, stock and barrel* magazine. I think many of the Australians who have unwittingly signed up to One Nation would be horrified to know that they are keeping the company of extremists who advocate the making of explosives to kill police officers. I think many of these decent Australians would be horrified to find that they keep the company of foul-mouthed individuals like Mr Pitt, whose obscenities are reprinted on a regular basis in *Lock, stock and barrel* magazine. But when they join One Nation they join people like this.

One Nation is not about giving a voice to the aspirations of oppressed and undertrodden Australians. One Nation is merely a front for extremist organisations who wish to peddle their own form of conspiracy, paranoia and hatred. I do not believe that there are any decent people in this country who really want to see explosives manufactured to kill police officers, who really want to see people manufacturing machine guns in their home.

People like Mr Pitt and Mr Owen seem to think this is fit and proper to be published. The Office of Film and Literature Classification disagreed. Mr Owen has been taken through the courts in Queensland. He was fined $1,500 when the matter came up for court last year. But these people continue to infiltrate the organisation. These people are a danger to democracy and rather than assisting free speech they destroy it.

Senate adjourned at 8.00 p.m.

DOCUMENTS

Tabling

The following government documents were tabled pursuant to order of the Senate agreed to on 18 August 1993:

Australian Government Actuary—Reports on long term costs carried out by the Australian Government Actuary using data as at 30 June 1996—

Military Superannuation and Benefits Scheme and Defence Force Retirement and Death Benefits Scheme (MSBS and DFRDB).

Public Sector Superannuation Scheme and Commonwealth Superannuation Scheme (PSS and CSS).

Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 1996.

Department of Primary Industries and Energy—Management of safety in the offshore operations of BHP Petroleum—Second review by Dr Tony Barrell, April-June 1997.

Department of Foreign Affairs and Trade—East Asia Analytical Unit—Report—The new ASEANS: Vietnam, Burma, Cambodia and Laos.

Services Trust Funds Act—Royal Australian Navy Relief Trust Fund—Report for 1996.

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Regulations—Statutory Rules 1997 No. 139.

Corporations Act—Regulations—Statutory Rules 1997 No. 142.

Endangered Species Protection Act—Regulations—Statutory Rules 1997 No. 134.

Evidence and Procedure (New Zealand) Act—Regulations—Statutory Rules 1997 No. 135.

Federal Court of Australia Act—Rules of Court—Statutory Rules 1997 No. 143.

Immigration (Education) Act—Regulations—Statutory Rules 1997 No. 136.

Income Tax Assessment Act—Regulations—Statutory Rules 1997 No. 141.

Marine Navigation Levy Act—Regulations—Statutory Rules 1997 No. 140.

Migration Act—Regulations—Statutory Rules 1997 Nos 137 and 138.

Pasture Seed Levy Act—Pasture Seed Levy Declaration No. 1 of 1997.

Seafarers Rehabilitation and Compensation Act—Seacare Authority Notice No. 1 of 1997.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Attorney-General

(Question No. 483)

Senator Murray asked the Minister representing the Attorney-General, upon notice, on 7 March 1997:

With reference to the speech made in the House of Representatives on 26 February 1997 (House of Representatives Official *Hansard*, pg 1361) in which the Attorney-General stated 'There is a case in Victoria, about which I have been told, where a person is on trial on criminal charges. Legal aid has provided $2 million in funding to that accused and the trial has not started. What is happening is that legal aid is being treated as if there were no end to the funding. The representatives of that particular accused are doing things that, if the accused were not in a legal aid applicant situation but were an ordinary person, would never be done':

(1) Is the case to which the Attorney-General was referring the case of R v Beljajev.

(2) Is it a fact that the Commonwealth Director of Public Prosecutions (DPP) has dropped charges against one co-accused.

(3) How much money has been expended by the Commonwealth DPP on this case and on the defence of the co-accused against whom charges were dropped.

(4) Is it a fact that the $2 million mentioned by the Attorney-General was monies actually expended in whole or in part by the department; if so, was this funding provided under a specific program run by the department.

(5) (a) How many appeals on points of law has the Commonwealth DPP initiated concerning this case; and (b) what was their total cost.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator's question:

Insofar as the question relates to the provision of legal aid, the Attorney-General cannot divulge details of funding in individual cases. There exists a long standing practice, endorsed by successive Attorneys-General, to treat applications for legal assistance confidentially.

In relation to other issues raised, this matter is currently before the Court and, in accordance with accepted principles, it would not be appropriate that any answer be provided until the matter is completed.

Austudy: Actual Means Test

(Question No. 510)

Senator Stott Despoja asked the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 20 March 1997:

How many complaints regarding the Austudy Actual Means Test over the period January to March 1997 were made to the office of: (a) the Minister; and (b) the Parliamentary Secretary to the Minister for Employment, Education, Training and Youth Affairs.

Senator Vanstone—The answer to the honourable senator's question is a follows:

(a) Approximately 345 letters and facsimile messages were received by my office concerning the Austudy Actual Means Test between 1 January and 31 March 1997. Not all of these representations were complaints.

(b) Approximately 280 letters and facsimile messages were received by the Parliamentary Secretary's office concerning the Austudy Actual Means Test over the period January to March 1997. Again, not all of these representations were complaints.

It has not been possible to establish the number of these letters and messages which were duplicated between the two Offices. However, it is highly likely that there was some measure of duplication and accordingly, the total number of individual representations is likely to have been less than the sum of the two figures quoted.

Information Technology Outsourcing

(Question No. 619)

Senator Faulkner asked the Minister representing the Prime Minister, upon notice, on 30 May 1997:

(1) Does the department support the proposal to outsource the Commonwealth's information technology (IT) infrastructure support services.

(2) Is the department aware that numerous overseas IT outsourcing initiatives, such as the United Kingdom (UK) Inland Revenue, UK Child Support Agency, Florida State Social Security Department and others, have failed to achieve the cost savings expected of them.

(3) Is the department aware that the whole of government outsourcing by the South Australian Government is beginning to show significant cost overruns.

(4) Is the department aware of recent studies by the Gartner Group and Deloittes which indicate that outsourcing has about a 50 per cent chance of achieving the savings targets set for it.

(5) Does the department believe that these examples have any relevance to the proposal to outsource the Commonwealth's IT infrastructure services; if not: (a) what is it that differentiates the Commonwealth from these specific examples; and (b) what is the department's response to the criticisms of the outsourcing proposal by numerous Commonwealth agencies.

(6) Does the department believe that there is a sharply competitive market for outsourcing IT services.

(7) Given that the contracts being contemplated by the Government are among the largest ever let, and that the Government is proposing vertical integration within the five clusters, why should it be expected that competition will extend further than the three multinational vendors that dominate the market: EDS, ISSC/IBM and CSC.

(8) How can a clearly inefficient market be expected to deliver the promised savings.

(9) Does the department believe that in-house bids should be part of the tendering process; if so, does the department agree that in-house bids should be properly resourced by means of a specific budget allocation.

(10) If the department does not believe that extra budget allocations should be made available for in-house bids, how does the department expect agencies to realistically compete with the large multinationals who will tender.

(11) Is not the practical effect to make in-house bids impossible; how can this be reconciled with the department's views on market testing of providers of Government services.

(12) If the department believes that in-house bids should not be part of the tendering process, what is the basis of this view.

(13) If agencies have less control over mission-critical IT systems after outsourcing, how will they avoid losses in service quality.

(14) Does the department believe that such losses will occur; if not, what is its view of the poor service quality attributed to EDS by the South Australian Government, as reported in the Australian of 3 and 4 May 1997.

(15) Why does the department believe that such losses of service quality will be avoided by the Commonwealth.

Senator Alston—The Acting Prime Minister has provided the following answer to the honourable senator's question:

(1)—(15) The honourable senator's question seeks the views and beliefs of the Department of the Prime Minister and Cabinet on a policy matter, the outsourcing of IT, which has recently been the subject of consideration and decision by the Government.

The department provided advice for consideration by ministers within the confidentiality of the Cabinet process. Now that the Government has taken its decision, the views of departments are of no continuing significance and public debate of them is inappropriate. In accordance with the long-standing convention, Ministers are bound by Cabinet's decision and all departments will assist their ministers in the implementation of the Government's policy.

Australian Nuclear Science and Technology Organisation

(Question No. 622)

Senator Stott Despoja asked the Minister representing the Minister for Science and Technology, upon notice, on 6 June 1997:

(1) (a) Is it contemplated that a reprocessing facility on any scale would be sited at Lucas Heights in what has now become a residential area at the edge of a major city; and (b) are there any recent, for example post cold war, comparable examples anywhere in the world of such reprocessing facilities.

(2) Was Senator Parer correctly quoted as claiming that to reprocess all the accumulated spent Hiflux Australian Reactor fuel to Synroc "would involve significant lower levels of radioactivity than those associated with ANSTO's current radiopharmaceutical production" and is the documentation supporting this claim available to the public.

(3) What would be left behind at Lucas Heights from any pilot plant if a commercial scale facility was subsequently built elsewhere.

(4) Where in the world has a nuclear fuel reprocessing plant, not just a reactor, been decommissioned and completely decontaminated.

(5) What is the long-term business plan for Synroc development.

(6) Is it intended to use the excuse of commercial-in-confidence to justify secrecy in relation to project stage schedules, engineering specifications, costs and projected savings or returns despite this being a Government-funded development proposal designed to process its own spent fuel.

(7) Why was this proposal not discussed at the Australian Nuclear Science and Technology Organisation community consultation meeting prior to media announcement.

(8) Has consideration been given to developing an Australian-built and funded demonstration Synroc plant at an already contaminated overseas site where high level waste is currently stored.

(9) Is this whole issue a ruse to make the 24-hour Holsworthy airport proposal appear comparatively benign.

Senator Parer—The Minister for Science and Technology has provided the following answer to the honourable senator's question:

(1) (a) and (b) The Government is still considering the management options for ANSTO's stockpile of spent fuel rods. It is too early to be able to give a definitive answer as to what management option the Government will take and where a facility, if any, would be built.

(2) Yes. The statement that processing the spent fuel rods would involve significantly lower levels of radioactivity than those already associated with ANSTO's current radio-pharmaceutical production is based on calculations by ANSTO that radio-pharmaceutical production on site involves processing 30kg of irradiated uranium containing 10^{17} Becquerels of radioactivity each year, while processing one hundred spent fuel rods a year would involve only some 14kg of irradiated uranium and about fifty times less radioactivity. These calculations do not appear in any publicly available document or report.

(3) See answer to 1. The Government does not have under consideration the building of a commercial scale facility anywhere in Australia.

(4) The recent OECD publication, 'The NEA Co-operative Program on Decommissioning—The First Ten Years 1985-95', lists three irradiated uranium processing facilities that have been decommissioned and completely decontaminated, and a number of others are in various stages of decommissioning. The three completed decommissioning operations are the AT-1 reprocessing plant in France, the BNFL Co-Precipitation Plant in the UK and the Tunneys Pasture Facility in Canada.

(5) The Synroc business plan is a Commercial-in-Confidence document which I am not at liberty to disclose.

(6) Should the Government choose the processing option, the proposal would undergo environmental assessment in accordance with the Environment Protection (Impact of Proposals) ACT 1974. Under this process various details on the Synroc project would become available to the public.

(7) It would be premature for ANSTO to discuss a proposal for siting a reprocessing facility at Lucas Heights before the Government has given the matter its due consideration.

(8) Yes, consideration has been given to developing a Synroc plant overseas. For example, ANSTO has held discussions with UK, French and US organisations active in waste remediation; details of these discussions are, however, commercial-in-confidence.

(9) No.