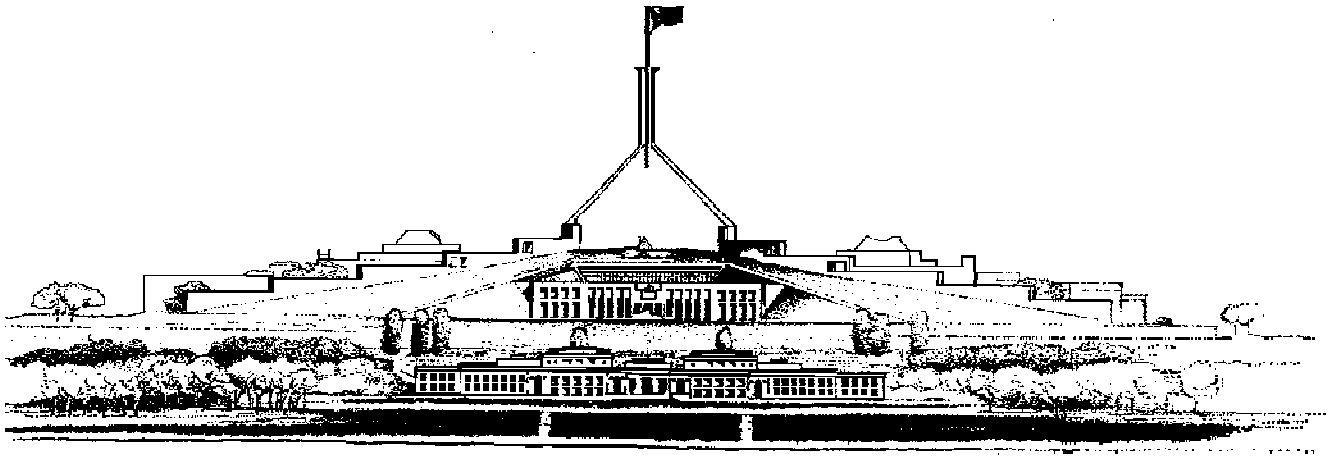
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

MONDAY, 9 SEPTEMBER 1996

THIRTY-EIGHTH PARLIAMENT
FIRST SESSION—FIRST PERIOD

BY AUTHORITY OF THE SENATE
CANBERRA

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Monday, 9 September 1996

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

REPRESENTATION OF TASMANIA

The PRESIDENT—I inform the Senate that I have received, through the Governor-General from the Governor of Tasmania, a facsimile of the choice of the houses of the Tasmanian parliament of Senator Kerry Williams Kelso O'Brien to fill the vacancy caused by the resignation of Senator John Coates.

SENATORS: SWEARING IN

Senator Kerry Williams Kelso O'Brien made and subscribed the affirmation of allegiance.

QUESTIONS WITHOUT NOTICE

Telstra

Senator SCHACHT—My question is directed to the Minister for Communications and the Arts. Minister, were you telling the truth when you said on *Meet the Press* on Sunday, 1 September, that the full privatisation of Telstra was not only inevitable but highly desirable?

Senator ALSTON—The only thing that is inevitable is our total commitment to the policy we took to the last election. I hope you will understand—

Opposition senators—Oh!

Senator ALSTON—You have very short memories and I know they are very convenient memories, so let me just remind you. Our policy was:

> To give Australians a direct stake in one of Australia's major companies, the coalition will offer by way of a share float if necessary in two tranches depending on market conditions one third of the Commonwealth's equity in Telstra. There will be no sale beyond the one third . . . without an explicit mandate—

The important thing is this—our position is quite clear: we have put it on the table. But what is the Labor Party's position? Did you read that appalling interview in the *Age* on Saturday called 'The long and winding road', where Mr Beazley said that he felt:

> . . . there are good reasons for keeping Telstra in public ownership, but doesn't see it staying that way forever?

The article continued with Mr Beazley saying:

> "These are good reasons, to keep Telstra at this point in public ownership, and for the foreseeable future."
>
> Not forever? "Well for the foreseeable future, beyond any time scale relevant to you and me."

In other words, how vague, how non-committal and how totally dishonest and hypocritical. Our policy position is quite clear. We are committed to selling one-third of Telstra. We said that prior to the last election, and that remains our policy position. Let me just say this. It is time for the Leader of the Opposition to stand up and be counted—

Senator Faulkner—Madam President, I take a point of order on relevance. Senator Alston was asked a very clear question. He was asked whether he was telling the truth in the comments he made on the *Meet the Press* program, when he indicated that the full privatisation of Telstra was both inevitable and highly desirable. The question Senator Short asked was not about any other individual. Senator Alston was asked whether he was telling the truth. I ask you, Madam President, to direct him to answer the question.

The PRESIDENT—I think it was Senator Schacht's question, not Senator Short's. Senator Alston, do you wish to speak to the point of order?

Senator ALSTON—I will simply say this. I am being asked, on behalf of the government, to state our policy in relation to certain matters, and I am quite prepared to do just that.

Opposition senators—Why didn't you?

The PRESIDENT—Order! Have you finished speaking on the point of order, Senator Alston?

Senator ALSTON—Yes.

The PRESIDENT—I did not hear the last part of it because of the noise.

Senator ALSTON—Madam President, my response was this: I am being asked on behalf of the government to state our policy position, and I am perfectly prepared to do just that. That is what question time is all about.

The PRESIDENT—That is your role, but you should be answering the question within those guidelines.

Senator Faulkner—Were you telling the truth?

The PRESIDENT—Order!

Senator ALSTON—I was absolutely telling the truth when I stated our policy position, which was that we would give one-third of Telstra up for public auction. In other words, what has been made perfectly clear both at the time and subsequently is that there has been no change in our policy.

The point I am making to you is this: it is about time that the Leader of the Opposition came clean. If you look at the *Herald-Sun* of 9 August, it said:

> . . . was he the senior Labor minister who told Telstra's chief executive, Frank Blount, that Telstra would be privatised in the early 90s?

The fact is that Mr Beazley was the minister for communications at that time. It was not Michael Lee; he was not the minister. Mr Blount said that he would not name the minister; he said that he was still very active.

So the question is: will the Leader of the Opposition stand up in the House of Representatives and say that it was not him? I am telling you that your position on this chops and changes all the time; our position is crystal clear. I am telling the truth now; I was telling the truth then. Our policy is that we will sell one-third and no more, unless the matter is put before the public at election.

Senator SCHACHT—Madam President, I ask a supplementary question. In view of the fact that the minister has said that he was telling the truth, then, Minister, when the Prime Minister rang you to carpet you, did you ask him how your comments differed from the statement he made only a month or so ago in a magazine printed by Clayton Utz, a company he used to work for as an adviser, which said that Telstra will be privatised within five years?

Senator ALSTON—Even if I were minded to, I certainly would not be discussing any conversations that I had with the Prime Minister—

Senator Schacht—Too embarrassing!

Senator ALSTON—Absolutely not. What the Prime Minister and I agreed on was that our policy position has not changed.

I want to know if your policy position has changed. Will Kim Beazley get up in the House of Representatives and deny that it was he who said that to Frank Blount? It is a very critical question. You will be in tatters; if Mr Beazley was the one who was prepared to sell it and if all that you get from his policy statement as recently as last Saturday is that it will not be sold for the foreseeable future, you have a chasm between us.

Our policy position is clear, up-front. We put it to the last election. You tried to bag us; you got nowhere. The people voted for it. We offered to sell one-third. What is he saying? 'We'll do it in the foreseeable future.' What is his relevant timeframe? Of course, if you happen to ever win government, he would change as quick as a flash.

The public know this wherever you go; they know that Labor was wanting to privatise Telstra. Indeed, Keating's recipe was to rip it into pieces. Is that still your policy or not; or do you, in fact, have the policy that Mr Beazley explained to Mr Blount? *(Time expired)*

Government's Mandate

Senator KNOWLES—My question is addressed to the Leader of the Government in the Senate. On March 2 this year the people of Australia voted overwhelmingly to change the government. As recently as last week, a Morgan poll in the *Bulletin* showed overwhelming public support for the government's budget strategy—and that included, I might add, 60 per cent of Labor supporters who supported that strategy. Minister, what will the implications be if the Labor Party continues to fail to accept the result of the election and the public support for the government's plan to reduce the debt that Labor inflicted on all Australians?

Senator Patterson—A good question!

Senator HILL—I agree that that is a good question. What we are faced with is the prospect of the Labor Party, having been defeated, now seeking in this place to tear down a key part of the government's budget strategy that makes a significant reduction in the deficit.

What is particularly pleasing is that, after having overwhelmingly elected a government that is prepared to take the hard decisions, and having seen the government take those hard decisions in this budget with that very substantial reduction in the deficit—so much so that it would be put in underlying surplus during the term of this parliament—the moves by the government to do that have actually been endorsed in the public opinion polls. In other words, contrary to what the Labor Party always believes—that it is necessary to spend and spend and spend again in order to remain popular—this government has, in fact, said that it is important that we be responsible and cut this huge deficit, and in the opinion polls they are saying that we are on the right track. A stunning 77 per cent of them surveyed in the recent *Bulletin* poll rated this budget as average or higher, which is a better result than Labor achieved in 13 years of government—a stronger endorsement than Labor got in any of its 13 years of government.

Furthermore, what is particularly pleasing to the government is that 59 per cent of those surveyed particularly commended the government on its decisions to cut the deficit and to increase national savings. So the people of Australia are now telling the government that we are on the right track; we have put down the budget that they believe is in the national interest. Now it is a question as to whether the opposition parties in this place are prepared to allow the government to govern and have its budget implemented.

Unfortunately, early signs are that Labor will not accept it. What we have read in the last few days is that, in fact, they want to reverse the budget figure by some $7 billion over the next four years. They spent in government and now in opposition they are not prepared to allow us to save.

What will be the effect of this? If this occurs, we will be unable to achieve all the benefits we are wanting. The objectives of this budget are clear: we are trying to cut expenditure in order to keep pressure off interest rates, so that we can give small business lower rates of interest in order to keep pressure off inflation, in order to enable us to keep pressure off taxation—all these critical steps that are necessary to enable the economy to grow and, in particular, to enable employment growth to proceed out of a continually growing and strengthening economy.

So it is regrettable that the Labor Party, out of its disappointment of defeat—

Senator Sherry—What did you do in 1993?

Senator HILL—is not prepared to come in here and allow the government to govern, to implement a budget that the Australian people want—

Senator Sherry—What did you say—1993?

The PRESIDENT—Order! Senator Sherry!

Senator HILL—and a budget that will bring substantial benefits to the Australian people in terms of lower interest rates, continuing growth and better employment prospects.

Telstra

Senator FAULKNER—My question is directed to the Minister representing the Prime Minister. Minister, I refer you to the Prime Minister's humiliating rebuke of Senator Alston for admitting that the full privatisation of Telstra was inevitable. I ask you: can you guarantee here and now that the coalition government will not attempt to privatise more than one-third of Telstra?

Senator HILL—This government has said it will not be attempting to privatise more than one-third of Telstra. That was the policy we took to the last election. It is clear and unambiguous. It remains the case and has just been repeated, clearly and unambiguously, by the Prime Minister. So yes, Senator, I can tell you that is the case.

Senator FAULKNER—Madam President, I ask a supplementary question. Senator Hill, given your answer, will you be willing to demonstrate your bona fides on this issue by moving to prohibit the full privatisation of Telstra by way of legislation?

Senator HILL—Why don't you pass our bill with a provision in it saying that we cannot move further during the course of this parliament? That will achieve what you want and it will achieve what we want. We want to sell—

Senator Carr—The answer is no.

The PRESIDENT—Order!

Senator HILL—I just told you: put it in the bill. Give us our bill: one-third of Telstra. Madam President, it is worth remembering why we want to sell one-third of Telstra. It is in order to substantially reduce public debt which rose so enormously under the last Labor government for the reasons that I outlined in relation to the first questionto me, to get the fundamentals of the economy right; to reduce interest rates; to take pressure off inflation; and to enable taxation to stay down. Also, it is to enable us to invest $1 billion in a natural heritage trust. *(Time expired)*.

Parliament House: Demonstration

Senator MacGIBBON—My question is to the Leader of the Government in the Senate. In view of the fact that it is now over two weeks since the disgraceful assault on Parliament House and that, in that period, it has emerged that paid union officials, people who were members of unions affiliated with the ACTU, took part in that attack, has the ACTU apologised in any way for the disgraceful attack on this bastion of democracy or offered to make any reparations?

Senator HILL—It is interesting the extent to which the community at large has been distressed by the events that occurred here a few weeks ago. It is unprecedented, in the life of this Parliament House, that a rally would turn into a riot resulting in very substantial damage to property and over 100 individuals, many of whom were police and protective officers doing their duty to protect us in this building, being hurt.

This rally, which went so terribly wrong and resulted in this damage, was sponsored by the ACTU. It is not surprising that the Australian people have been expecting the leadership of the ACTU, as the organiser of this rally, to apologise for what happened—the damage that was caused and the injury to persons. Regrettably, although time has gone by, the ACTU leadership has not been prepared to do so. Furthermore, the Australian Labor Party, the political wing of the trade union movement, has not been prepared to ask the ACTU to apologise.

It is worth reflecting that this was the rally that Mr Kelty described as 'the most successful in Canberra's history'—the most successful that ended up in a riot and caused so much damage to property and persons. Has he retracted that? Has he apologised on behalf of his organisation? No, he has not.

Has Jennie George done so? No, she has not. When she was pressed on the issue, she said she was waiting for the police to report to her on the details of the event and she was disappointed to hear that what the police were interested in doing was prosecuting those who broke the law. The police are not there to protect the interests of the ACTU. But even in those circumstances, she was not prepared to come clean and acknowledge the failure of her rally and to say how much the ACTU regretted what had occurred.

Unfortunately, we all have responsibilities in relation to political rallies and we have responsibilities when they go wrong. When we speak to rallies, it behoves us to speak in a way that doesn't incite violence. A good start would have been Mr Beazley not talking about 'Liberals hate this and Liberals hate that'.

If we are in a rally and it is going sour, then, Senator Crowley, what is necessary is a touch of leadership to try to calm those who have become inflamed. Senator Crowley was 20 feet from the front of the rally but did not see anything. This was a rally that was battering down the front doors of Parliament House. Senator Crowley was 20 feet from there and saw nothing. Her behaviour was described by one police office as totally unreasonable in a volatile and dangerous

situation. She was bellowing and arguing that the doors should be opened so that the mass could charge in. This was a mass that was violently trying to break down the doors and physically hurting people within the building, and she was demanding that the doors be opened up so that they could charge in.

That is the sort of leadership that the Australian people do not need to get from a political party with the history and standing of the Australian Labor Party. It is about time that somebody on the other side, either in the political wing or in the trade union wing, actually got up and said, 'I'm sorry for what happened. It got out of hand.' How low and how disappointing it has become that the—

Senator Faulkner—Go and read the *Hansard*.

Senator HILL—You would not apologise. You even half excused what occurred. You said we should understand that people get upset by these things. There has been no apology and that is a matter of great regret. *(Time expired)*

Telstra

Senator SHERRY—My question is to the Minister representing the Treasurer. I refer the minister to comments made by Mr Costello in the context of a debate on the Qantas Sale Amendment Bill. He said that a partial privatisation of a government utility was 'death by a thousand cuts'. He used the example of Telecom, as it then was, and stated that it was economically necessary and inevitable that government utilities operating a commercial service be fully privatised. Who is wrong—the Treasurer and Senator Alston or the Prime Minister?

Senator SHORT—It seems to be quite obvious that Senator Sherry is not only part of the brigade opposite who has been described by his own deputy leader as increasingly irrelevant in this place—in fact, I think suffering from a relevancy depravation syndrome.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator SHORT—He ought to be aware of the government's policies in relation to privatisation and particular elements of businesses in public ownership, which are crystal clear and there for all to see. We went to the election with them very clearly.

If you are referring, as you obviously are, to the situation of Telstra, the policy that was laid down in the election context is, as Senator Alston has already said today, as Senator Hill as already said today and as the Prime Minister has said on numerous occasions, crystal clear. That policy was to seek the partial—one-third—sale of Telstra. That is the policy—no more and no less.

Senator SHERRY—Madam President, I ask a supplementary question. Mr Costello clearly said, in reference to the sale of Telecom, that it was 'economically necessary and inevitable' that government utilities operating a commercial service be fully privatised. He is your Treasurer. Is he right or wrong?

Senator SHORT—I said in response to his first question—he obviously did not hear me—that the policy in relation to Telstra is that we have a policy that we will privatise, sell, one-third of Telstra. That is in black and white. It is an unequivocal commitment, and I have nothing more to add to what I have already said.

Unemployment

Senator KERNOT—My question is directed to the Minister representing the Prime Minister. The Prime Minister said this morning that the solution to unemployment over the medium term was to pass the workplace relations bill. Isn't the real question just how much damage the Howard/Costello budget will do to jobs growth in the short term? Isn't there a more direct link between your budget and unemployment, with Treasury papers showing that unemployment will rise by 30,000 this year? Isn't it true that your budget retrenches at least 10,000 workers directly and cuts programs that help create jobs—programs which encourage research and development, which promote exports and which assist the start up of new small businesses? Aren't you just trying to use the smokescreen of the workplace relations bill to walk away from

your government's total lack of commitment to the unemployed in your first budget?

Senator HILL—We totally disagree with what Senator Kernot says. She is endorsing the track of the past. The budget papers actually forecast an increase in employment. Senator Kernot is saying that we should return to the failed ways of the past that gave us record unemployment and still give us unemployment of about 8½ per cent even after five years of recovery.

The approach of Labor, which she endorsed and still seems to endorse, is that you solve the unemployment problem by spending—the further you want to reduce unemployment, the further you spend! But you cannot afford to do that and at the same time create an economic environment that provides the essential fundamentals for the private sector to grow and employ. That is where she is fundamentally wrong.

Senator Cook—It is true.

Senator Bolkus—It is in the budget papers.

Senator HILL—Senator Cook, we are five years into the recovery and what you have given us is $65 billion of accumulated deficits. In this last budget it was forecast to be about $10 billion of deficit. You are in there competing for interest and you are forcing up interest rates. You are still arguing for a formula that failed.

The people of Australia elected us because they want a fundamental change. They want governments to reduce public expenditure so that they can start creating fundamental economics that actually encourage the private sector to grow and to employ and provide long-term sustainable jobs.

Labour market schemes were simply an excuse for failure and recycled unemployed from scheme to scheme. All they did was disappoint those to whom we owe the greatest responsibility. These are the people who are not wanting to be recycled through labour market schemes. These are the people who are wanting real jobs.

Senator Bolkus—Total rubbish! Go back home and talk to school children.

The PRESIDENT—Order! Senator Hill is entitled to answer Senator Kernot's question and Senator Kernot is entitled to hear it.

Senator HILL—The young are entitled to a chance.

Senator Cook—I rise on a point of order, Madam President. Senator Hill did not address a question directly to me in his answer. I thought that since he had done that, it was appropriate for me to respond.

The PRESIDENT—Senator Cook, you know perfectly well what the standing orders are.

Senator HILL—Senator Cook interjected—actually, I think it was Senator Bolkus in the end—about young people. We want to give young people real hope for the future. Unless you are prepared to tackle the fundamentals of this economy, they will not have real hope for the future.

A few months ago in this place I quoted what the new governor of the Reserve Bank said. He said that there is an easy way and that is to keep spending, but that is failing in your responsibility to future generations. If you want to give future generations a chance, then you have to as a government be prepared to take the hard decisions. I am sorry that Senator Kernot and the Australian Democrats have not also realised that. Now that I am on my feet, I am sorry that they are also going down the path of Labor and now trying to undo this budget that gives a real chance for long-term, sustainable employment growth.

Senator KERNOT—My question was about the short-term effects of the budget on unemployment. The minister failed to address that completely in his answer. I can refer to the Treasury papers, a summary of which says that the growth in employment will be less than the expected growth in people seeking jobs. Is it not true that your government has made a choice, that it has made a trade-off, that it says: 'We will accept increased unemployment and all the social consequences in order to reduce the deficit and keep the computer jockeys in the financial markets happy'? Is that not the choice you have made?

Senator HILL—No, it is not the choice we have made. The greatest social evil facing Australia is mass unemployment. We have inherited three quarters of a million unemployed. That is the legacy of Labor. In terms of young unemployed we have figures still up to 30, 35 per cent. Labor's way, which is endorsed by the Democrats, has not worked. It is no good just looking to short-term solutions. That is the point, Senator Kernot, that I was trying to make. With each bad unemployment figure what Labor did was to spend more money, but it did not work because it destroyed the fundamentals that were necessary for long-term, job creating growth.

We have decided to travel down a different path, tackle the hard decisions, tackle the expenditure, take pressure off interest rates, take pressure off inflation, take pressure off taxation and give the non-government sector, particularly small business, the chance to grow and to provide real jobs.

Health Insurance

Senator ROBERT RAY—I direct my question to the Minister representing the Minister for Health. It relates to the decision of private health insurers to increase health insurance premiums. The Prime Minister recently stated:

> If I had known, if I had been told about these increases, I would have requested that they be announced publicly and openly before the budget was brought down.

How do you reconcile this with the fact that Dr Wooldridge received a letter from the National Mutual Health Insurance on 26 July advising him that the health department had approved increases in premiums? How do you reconcile this with Dr Wooldridge's claim on budget night that the tax rebate would 'remain in the pockets of contributors,' when it was clear that he knew this was incorrect? Minister, when did Dr Wooldridge first learn that the funds had applied for increases and when did he learn that they had been approved?

Senator NEWMAN—I do not see that there is anything inconsistent with the statements that Senator Ray has drawn to the Senate's attention. As I understand it, the health minister, minister Wooldridge, continued a system which had operated during the Labor years of having the department make decisions on requests for private health insurance premiums. The advice which the Prime Minister and I were given is that that system continued in the early months of this government. As the Prime Minister has previously said, the department did not inform the minister—

Senator Bob Collins—He got direct written advice himself.

Senator NEWMAN—Apparently any more than they did during your term of government.

Senator Crowley—This is interesting, Senator Collins—keep talking.

The PRESIDENT—Order.

Senator NEWMAN—I am interested that the opposition is not prepared to allow this to be made very clear. On 29 August, according to the briefing that I have, the government received advice from the Department of Health and Family Services that the minister—this is advice to the government while the minister was overseas—had not been informed by them of any of the premium increases granted since the election. That has been confirmed in a formal minute dated 6 September. As the Prime Minister stated on 29 August, the only way that the minister had been finding out about premium increases was when the funds themselves had written to him as a matter of courtesy.

Senator ROBERT RAY—What we want to know from Senator Newman is when Dr Wooldridge found out about these increases. Did it occur on 26 July, well before the budget, and therefore was his comment made on budget night an absolute fabrication when he said: 'All increases will remain in the pockets of people who receive them'? We want to know not when he got the advice from the department, although that was useful information—thank you for that—but when he had first knowledge of this. I understand that at least one company, maybe two, wrote to him and informed him of this decision before the budget, which I think he has also acknowledged.

Senator NEWMAN—I understand that the minister's office did receive correspondence from health funds as a courtesy but that that information was not translated or transferred to the minister.

Natural Heritage Trust

Senator BROWN—I would like to add a word of welcome to Tasmania's new senator, Senator O'Brien. I ask the minister for the environment the following question. In the budget speech the Treasurer stated:

> This budget provides an additional $158 million over four years for environmental related initiatives on top of the planned Natural Heritage Trust.

Treasury lists 12 programs costing $28.26 million for this financial year as part of that $158 million. However, minister, in your budget statement these same 12, including wilderness, World Heritage and anti-pollution measures in major cities, are listed as Natural Heritage Trust of Australia programs which depend on the sale of Telstra. Was the Treasurer's statement correct and yours wrong on budget night? Is the funding for all the programs which make up the $158 million referred to by the Treasurer additional to and in no way dependent on the sale of Telstra? *(Time expired)*

Senator HILL—I do not think there is any secret in this matter. I think I have answered similar questions before. We have not been able to bring forward all of the expenditure that we would have liked in the first year of our implementation of our Natural Heritage Trust principally because the opposition parties in this place say that they are not going to pass the funding base for that. Nevertheless, we have brought some of it forward because we remain optimistic. We trust that in the end the Labor Party, the Greens and the Australian Democrats will realise that this $1 billion investment in the Australian environment is very worthwhile and that it is wholly legitimate to sell part of one capital asset, a telecommunications company, and to re-invest part of that in another capital asset, our natural environment.

With regard to the balance of the environment budget, certainly there has had to be some savings—as there has across the range of portfolios—to meet the deficit reduction target that we undertook and which I said in answer to an earlier question today is, nevertheless, in the best interests of the Australian people. But that is a shared burden and we do not apologise for that. We inherited a deficit of nearly $10 billion and it was our responsibility to do something about it because, as Senator Brown might know, research will tell you that the Australian people want of us not only economic growth but also economic growth in an environmentally responsible way. In other words, they want us to create an economic situation in which we can achieve the economic goals that we would seek—in particular, job growth and rising living standards. On the other hand, they also want us to invest in the environment to ensure that that economic growth occurs in an environmentally responsible way.

We are seeking to meet those dual objectives and we will be greatly assisted in meeting those dual objectives if the opposition parties in this place would, firstly, pass our budget and, secondly, pass the bill that will enable us to sell one-third of Telstra and set up our natural heritage trust.

Senator BROWN—I ask a supplementary question. I am referring not to the programs predicated on the sale of Telstra, but those which are four-year programs and which the Treasurer cited. I ask you to confirm that these programs are not dependent on the sale of Telstra—namely, the Tasmanian water quality program and those for national vegetation, World Heritage areas management, air pollution in major cities, waste management awareness, a national system of reserves, endangered species, national feral animal control, national weeds strategy, national wetlands, funding for national landcare projects and Murray-Darling 2000.

Senator HILL—What I can tell you is that the following programs expired under Labor. We have been able to continue them, not without some difficulty, and they include ones that Senator Brown mentioned: national weeds strategy, we have put in $1.3 million; national wetlands program, $2.2 million; national reserve system, another million; national feral animal control, $2.9 million;

national pollutant inventory, $1.4 million; Waterwatch, $800,000; national river health program, $500,000; corridors of green, $1 million; greenhouse research—

Opposition senators interjecting—

Senator HILL—There was no money put in your budget for greenhouse research and we have found $4 million for it! You should applaud it and Senator Brown should be applauding it as well.

Senator Brown—I asked specifically about 12 programs that are not mentioned.

The PRESIDENT—I think Senator Hill has sat down and that is the end of the question.

Fairfax Share Prices

Senator CARR—My question is to the Minister for Communications and the Arts. I refer to your comments on the *Meet the Press* program on 1 September when you said that you could envisage the carving up of the Fairfax group. Noting the trenchant criticism directed at you by both Conrad Black and Sir Laurence Street, could your remarks affect the share price of Fairfax? What is the status of your much vaunted media inquiry which the coalition promised prior to the election? Is this to be a further broken promise and will media ownership policy be driven by further intemperate remarks like those on *Meet the Press*?

Senator ALSTON—I am seriously being asked by the leader of the Trotskyist faction in this parliament whether I would explain what drives the share price of Fairfax. In other words, he wants me to give him a lesson on what causes share prices to rise and fall.

Opposition senators interjecting—

Senator ALSTON—You asked the question. You asked me whether any remarks of mine could affect the share price of Fairfax. I thought I was answering it. What you are really asking me is: what are the factors that come into play when share prices go up and down? It is a very interesting question. It can cover a lot of things. For example, it can mean if the price of the goods that they sell falls or if volume falls or if investors, for one reason or another, choose to move into another stock—there is a myriad number of reasons why share prices can fall. I am amazed that, even with your ideological blinkers, you would not really have come to terms with all this so that you have some understanding of what it is that drives media and other stocks.

They are not driven simply by what might be said on a particular occasion by anyone in particular. They are driven by investors making—

Senator Bob Collins—By the minister for communications.

Senator ALSTON—They might be. You might buy shares on the basis of what you pick up in the non-members bar. Right? You might be interested in putting your superannuation reserves into the latest stock because of what someone told you when you were walking into Parliament House. I do not think too many investors operate that way. Investors make hard-nosed judgments about whether they think that the stream of earnings of a company is going to rise over time, whether they think it is going to expand its market share, whether they think it is performing well, whether they think it has got good management and whether they think it has got increased market opportunities. There is a whole range of factors that I am surprised even Senator Carr is not aware of. Can I suggest that he goes back to basics and buys a book on how the stock exchange works? He might start to understand that the share price of Fairfax—and very many other shares—is driven by a whole range of factors that are unrelated to what you and I might have to say in this place.

Senator CARR—I ask a supplementary question. I asked a simple question in relation to the media inquiry. You were not going to answer, Minister. You have some difficulty answering. Will you reaffirm categorically your commitment to conduct a public inquiry into cross-media ownership and, if so, when are you going to announce the composition and the terms of reference of this inquiry? See whether you can answer that, Minister.

Senator ALSTON—I gather Senator Carr concedes the point. He was not prepared to

come back and even give us the slightest idea of how he had thought anyone's remarks might affect the share price, so he is going to change the subject and talk about something else. Let me say on the second leg that when we make an announcement on this you will be the first to know because it will be in a press release. We quite clearly continue to have the concerns about your mogul specific attitude to cross-media. We know that it did not achieve anything in terms of diversity and plurality in the media.

You could not have identified a worse way of going. If you talk to anybody in the media they will say, 'There was nothing worse than the old days when you had to go and do a wink or a nod with whoever happened to be holding the baton on the Labor Party side.'

Senator Carr—What about your deal with Packer?

Senator ALSTON—It's pathetic. Now he's talking about what to do with Packer. If ever there was a crowd that invented the term 'deal'—*(Time expired)*

Energy

Senator SANDY MACDONALD—My question is directed to the Minister for Resources and Energy, who recently chaired the inaugural meeting of APEC energy ministers. What is the importance to Australia and to the Asia-Pacific region of this meeting's outcomes?

Senator PARER—I wish to thank Senator Sandy Macdonald for that question, which is very important to Australia. It is pretty obvious from the noises made by those opposite that these people are just not interested in the advancement of Australia as an economy. It was my great privilege to actually host and chair the inaugural meeting of APEC ministers in Sydney on 28 and 29 August. All APEC economies were represented at that meeting.

The importance of the meeting was that it took place at a critical time in Asia's energy future. The meeting provided a major impetus to Australia's goal of reforming energy policies across the region and advancing regional free trade in energy. As the Prime Minister said in his address to delegates, energy is the source of growth. The APEC economies are forecast to grow at about a third faster than the OECD economies over the next 20 years, so the region's demand for energy will grow dramatically.

The expected investment in APEC regions between now and the year 2010 in energy related infrastructure is in the order of $A2 trillion. There are potentially valuable mutual benefits for strong cooperative action to address the three fundamental energy issues facing the region, commonly known as the three Es; that is, economic growth, energy security and the environmental impact of these energy measures.

Ministers around the table readily recognised the benefits of working together to address those challenges and agreed on outcomes which will be important in the future energy policies of all member economies. These outcomes included the endorsement of 14 principles to guide members' energy policies. These include pursuing enhanced efficiency in energy production; distribution and consumption; pursuing open energy markets; and better transfer between the economies of environmentally sound technologies.

Another outcome was that of reforms to mobilise private sector investment in the region's energy infrastructure, responding to detailed recommendations generated by businessmen from across the region. The sheer size of investment will require private sector involvement in the investments in energy infrastructure.

There was agreement on action to reduce the environmental impact of energy production, distribution and use. This involves making sure environmental considerations are integrated into energy policies; a program to accelerate the uptake of environmentally sound technologies; and pursuing opportunities for joint projects to reduce greenhouse gas emissions.

Other outcomes were: launching the new Asia Pacific Energy Research Centre in Tokyo to improve understanding of the economies' energy needs and their implications for energy policy; and instructing officials to develop proposals to reduce impedi-

ments to trade arising from different standards for energy appliances and equipment.

These outcomes will be directly reported to APEC economic leaders when they meet in the Philippines in November. The scale of meeting the region's energy challenges is vast. To the year 2010, as I mentioned earlier, some $A2 trillion will be needed.

For Australia, as a net exporter of energy, the opportunities arising from the region's strong growth in energy demand are enormous, not just for increased exports of commodities such as coal, LNG and uranium but also for the export of our sophisticated technology and equipment, including in the renewable energy area, and project management skills.

The three Es to which I referred earlier are issues with which Australia must come to grips in domestic policy. Energy policy must take a long view and not be formulated with a short-term perspective. *(Time expired)*

Health Insurance

Senator FAULKNER—My question is directed to the Minister representing the Minister for Health and Family Services. In reference to an answer you gave earlier in question time, could you clarify for the Senate whether the minister for health knew before the budget that the private health insurance companies had put up their premiums?

Senator NEWMAN—I do not have any further briefing for Dr Wooldridge's portfolio on this matter other than what I have already said. I have given you the answer which has been supplied to me by the minister for health.

Senator FAULKNER—Madam President, I ask a supplementary question. How does Senator Newman reconcile the answer she gave earlier to the Senate with an admission Dr Wooldridge has just made in the House of Representatives that he did know about the price rises before the budget? Apparently the only people who did not know were Mr Howard and Senator Newman.

Senator Hill—Madam President, on a point of order: a supplementary question must arise out of the answer given and that one didn't. That was another question and therefore it is out of order, I respectfully suggest.

Senator Herron—On the point of order: Senator Faulkner just tried to mislead the Senate in that question. I would ask him to refer to the transcript of what occurred in the House of Representatives.

Senator Faulkner—On the point of order: this is a clear case of Senator Hill pathetically trying protect the minister who has just misled the Senate. I ask you to rule my supplementary question, which is clearly in order, in order and direct Senator Newman to answer the question.

Senator Alston—On the point of order: I don't see how anyone, and Senator Newman is the one being asked, could possibly comment on what Dr Wooldridge might have just said in the House of Representatives.

Senator Faulkner—I am referring to her earlier answer, you dope.

Senator Alston—It is a physical impossibility for her to know what Dr Wooldridge said in the House of Representatives, particularly when you don't have the transcript and when you don't then respond to what Senator Herron just said that your remarks may well have been a very inaccurate representation of what went on. I think you ought to be the one asking yourself a supplementary question: 'Should I have asked that in the first place?' The fact is, as Senator Hill rightly said, this does not in any shape or form arise out of the original question. It introduces entirely new material—material that could not possibly be within the knowledge of the minister.

Senator Vanstone—On the point of order: as I recall Senator Faulkner's first question that he asked prior to the supplementary, he asked Senator Newman whether Dr Wooldridge knew something before a particular time. Senator Newman responded that she had nothing further to add to the answer she had already given. He then purported to get up and ask a supplementary question to that question, which in fact was not a supplementary question to that question but another question all together. He basically stood up and said, 'Well, I didn't get anywhere with that, so I'll ask another one.' He then asked

Senator Newman how she reconciled her earlier answer with something that he alleges Minister Wooldridge has said in the lower house. The question as to how Senator Newman might rationalise an answer she has given with what Dr Wooldridge might have said is entirely different from his first question and therefore is not a supplementary question and should be ruled out.

Senator Bolkus—On the point of order: the question that Senator Faulkner asked goes very clearly to when did the minister know of the proposed increase in medical fees.

Senator Bob Collins—Simple enough.

Senator Bolkus—Very simple. That was the preceding question that was asked to which Senator Newman said that Dr Wooldridge's staff knew before the budget but he didn't. Senator Faulkner's most recent question goes to the question that was asked earlier. Senator Newman was asked whether she had anything further to add to her answer—an answer which said that only Dr Wooldridge's staff knew before the budget but he didn't.

In that context, that is the issue that is at heart here. When did Dr Wooldridge know? Senator Newman said that he didn't know but his staff did. Senator Faulkner said that this was contradicted in the House of Representatives. It is very much to the core of the question. The supplementary question was totally relevant to the question asked and totally relevant to the issue at heart. There is no degree of obfuscating by the opposition. That is what the public wants to know. That is what Senator Faulkner asked. That is what this question is about. You can in no way rule it out as not being a supplementary question to the basic issue that Senator Faulkner raised.

Senator Faulkner—On the point of order: what the government is submitting to you is that it is improper for a member of the Senate to ask a supplementary question that goes to the responsibilities of the relevant minister, in this case Senator Newman, who represents the minister for health in this chamber.

Government senators interjecting—

The PRESIDENT—Order! There is far too much noise!

Senator Faulkner—Further, they are putting to you, Madam President, that it is improper for an opposition to draw to the attention of the parliament inconsistencies between what a minister representing another minister is saying in this chamber and the responsible minister is alleging in the House of Representatives. It is a nonsense. It is an outrage. You should rule the supplementary question in order.

The PRESIDENT—I think the debate that has ensued indicates quite clearly the comments I made the other day: that supplementary questions in recent times have come to rise out of the question and not out of the answer. The statement I will make at the end of question time is that I think this matter should be referred to the Standing Orders committee for guidance on whether the Senate wishes to continue with the current practice or return to the practice that arose in 1973. This particular supplementary question by that standard would be quite out of order. If the minister has anything that she wishes to add, I will allow her to do so.

Opposition senators interjecting—

The PRESIDENT—Order! I call Senator Woodley.

Senator Faulkner—On a point of order: is it proper for a minister to answer a question by simply sitting in her seat and pathetically shaking her head? Is that in order?

Senator Patterson—On the point of order: I refer Senator Faulkner to the *Hansard* when he was in government. I am sure he will find occasions when his ministers did exactly the same thing.

The PRESIDENT—I think at the moment we are using up a great deal of question time not specially productively. I call Senator Woodley.

Senator Bob Collins—Is that an editorial?

Senator Faulkner—On a point of order: I ask you to rule on the point of order I have taken.

The PRESIDENT—Normally the senator if she had something to add would rise in her place and receive the call. Senator Newman

indicated that she had completed her answer and I did not then call her.

Pensioners' Bank Accounts

Senator WOODLEY—My question is addressed to the Minister for Social Security. I draw the minister's attention to the budget announcement that a deeming rate of five per cent is to be applied to small bank balances held by pensioners and those who receive—

Opposition senators interjecting—

Senator Alston—On a point of order: I am sitting next to Senator Newman. It is absolutely impossible for her to hear over this hyena and some of his colleagues. The matter of concern is that it seems to be a deliberate strategy. It is not accidental because it happens all the time. It is most unfair to Senator Newman, who is wanting to hear what Senator Woodley has to say. You ought to direct those on the other side to have the courtesy to allow questions. It is bad enough interrupting answers—we can't make ourselves heard—but you should at least allow the question to be heard in silence.

Honourable senators interjecting—

The PRESIDENT—Senator Woodley, when it is quiet enough to hear you, I will ask you to commence your question again. Order! Would the clocks please be set again for this question.

Senator WOODLEY—Thank you, Madam President. My question is addressed to Senator Newman. I draw the minister's attention to the budget announcement that a deeming rate of five per cent is to be applied to small bank balances held by pensioners and those who receive a Social Security allowance. I ask: one, can the minister confirm that around 600,000 pensioners will have their pension cut because of this change? Two, can the minister confirm that, as well as aged pensioners, widows, carers, sole parents, the unemployed and the disabled will also be hit by this change? Three, is the minister aware that the interest rate that most of the banks are offering on small balances is currently around 0.5 per cent, meaning that the government will be deeming these people to be receiving an interest rate 10 times that which they actually receive?

Senator NEWMAN—Senator Woodley, I thank you for your question. The situation is that people who have low savings have been able to put them under the bed or have been giving a special advantage—

Senator Schacht—Are they putting them under there with the reds?

Senator NEWMAN—Madam President, could you please ask those people opposite to be quiet? Senator Woodley wants to know the answer.

The PRESIDENT—Senator Woodley is not able to hear the answer. Please be quiet.

Senator Sherry—How much will you raise?

Senator NEWMAN—Senator Woodley is not the only person who would like to hear the answer; I would guess that there are an awful lot of Australians who would like to hear the answer. The situation is that a lot of pensioners have been giving the banks a great advantage by allowing them to have the holdings of pensioners and allowees without paying proper returns on the investment.

That is exactly what happened when the previous government introduced extended deeming, which we supported. As soon as the previous government introduced that procedure, the banks at last started to give elderly people and other people on low incomes a fair return for their investments. We are saying that that was a good thing to do. Already there are two major banks, as I understand it, who are giving a deeming rate of five per cent. I believe that, with the new measures being introduced, other banks competing for business will be in the same situation.

It is a proper thing to maximise the income going to people on low incomes. I do not think that anybody would deny that that is something we should all aspire to to make sure that people on low incomes maximise their income from whatever source. I would expect the same support from other parties in this chamber that we gave to the extended deeming proposal. As to the specifics of the 600,000, I cannot give that answer to you now, Senator Woodley, but I will get you the detail.

Senator WOODLEY—Madam President, I ask a supplementary question. I thank the minister for her answer. I am aware of the pension deeming accounts. However, these are available only to aged pensioners. So I am wondering what advice the minister can give to all those other people on pensions and allowances who will also be hit by this change.

Senator NEWMAN—My understanding is that the basis of your question is incorrect and that it is not restricted to pensioners.

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

QUESTION TIME

The PRESIDENT—During question time on 22 August, which was somewhat disorderly even by recent standards, I was asked to consider the practices applying to questions which invite comment on policies of non-government parties and to the content of supplementary questions. On the first issue, in relation to questions on other parties' policies, presidents have consistently ruled that questions must relate to matters within the responsibility of ministers and the government and that questions which merely seek comment on the policies of other parties do not meet that test and therefore are not in order.

Questions may refer to other parties' policies only for the purpose of asking a minister to indicate the government's intentions or actions in relation to particular matters. In answering such questions, ministers must confine themselves to areas within their ministerial responsibility and to the government's intentions and actions.

Having examined the *Hansard* transcript of the question concerned, I consider that that part of the original question was out of order, and the whole of the supplementary question should have been ruled out of order. It is obvious that this kind of question can be used as a pretext for a minister simply criticising the other parties' policies in an answer. It is for the chair to control this kind of misuse of such questions in the circumstances of particular cases, and I will continue to endeavour to do so.

In relation to supplementary questions, the practice of allowing supplementary questions was introduced by President Cormack in 1973 on the basis that such questions were asked to elucidate an answer already given. It was ruled that supplementary questions were only for the purpose of elucidating information arising from the original answer and not for the purpose of introducing additional or new material or proposing a new question, even though such a question might be related to the subject matter of the original question.

It is clear that many supplementary questions have now departed from these principles and have simply become additional questions. As this situation has developed over a period of years, I have referred the matter to the Procedure Committee for advice on whether supplementary questions should be confined to their original intended purpose.

QUESTIONS ON NOTICE

Question No. 141

Senator HERRON—I wish to table an answer to a question asked of me on notice by Senator Bob Collins on 17 July and to have it incorporated in *Hansard*.

Leave granted.

The answer read as follows—

Senator Collins asked the Minister for Aboriginal and Torres Strait Islander Affairs upon notice on 17 July 1996:

1. (a) What is the function of the Audit and Evaluation Committee within the Aboriginal and Torres Strait Islander Commission (ATSIC); and (b) is it a fact that the committee contains two independent members, nominees of the Australian National Audit Office (ANAO) and the Department of Finance.
2. Is it a fact that this committee provides, among other things, a focus for discussions and implementation of ANAO recommendations and consideration of major audit criticisms of ATSIC to ensure appropriate action is taken.
3. Has this committee ever recommended the appointment of a special auditor to conduct an exercise similar to that agreed by Cabinet on 10 April 1996; if so, when.
4. Has any other body, within or outside ATSIC, recommended the appointment of a special auditor in similar terms to those decided by Cabinet on 10 April 1996; if so, when.

5. How many companies bid for the contract as special auditor to ATSIC in line with Cabinet's decision of 10 April 1996.
6. Which department conducted the tender process.
7. How was the bidding process conducted.
8. What criteria was used to establish the successful tenderer.
9. Was ATSIC involved in the tender and bidding process; if so, what was the nature and extent of its involvement; if not, why not.
10. (a) How much did the tender process cost; (b) can a detailed breakdown of those costs be provided; and (c) which department will pay these costs.
11. Given that the Government stated in June 1996 that the initial total costing for the work of the special auditor was $750,000 and the work program was expected to take 6 months; (a) which department provided the initial estimates on the projected $750,000 cost and 6-month work time frame; (b) on what material, if any, were those assumptions based; and (c) was a review process put in place.
12. Is it correct that the progress report received during the week ending 14 July 1996 alerted the Minister to a significant blow-out in the original cost estimate and the scale of the work program to be undertaken by the special auditor; if not, how and when did the Minister become aware of the blow-out.
13. Can a written copy of that progress report be provided; if not, why not.
14. Has ATSIC been provided with a full and unabridged copy of this progress report; if not, why not.
15. Was this the first progress report received by the Minister.
16. (a) What mechanisms have been put in place for progress reports; and (b) when will the special auditor provide further progress reports and to whom.
17. How much money was actually expended by the special auditor between its appointment on 4 June 1996 and 12 July 1996 in conducting the special audit.
18. Is it a fact, as reported, that the special auditor withdrew staff, without warning, from a large number of ATSIC offices during audit work in the week ending 14 July 1996; if so, why.
19. Is the contract settled between KPMG Peat Marwick and the Government open ended; if not, what limits have been placed on it.
20. (a) What is the Government's new cost estimate for completion of the special audit process; (b) when does the Government expect this work to be completed; and (c) what advice are these estimates based on.
21. Given that the Government has stated the $750,000 originally allocated for the work of the special auditor would come from the ATSIC budget; (a) what, if any, additional costs of the special audit process will also be drawn from the ATSIC budget; and (b) from what line of the budget will the allocation be drawn down.
22. (a) How many Aboriginal organisations funded by ATSIC will have to be cleared by the special audit process; and (b) can these be listed, together with the location of their registered offices.
23. (a) How many of these organisations were audited in the 1994-95 and 1995-96 financial years by KPMG Peat Marwick under contract to ATSIC's Office of Evaluation and Audit; and (b) can a list of the organisations involved and the dates and outcomes of those audits be provided.
24. Given the potential conflict of interest, who is conducting the special audit into those organisations previously audited by KPMG Peat Marwick.
25. (a) Is it a fact that KPMG Peat Marwick must advise of any conflict of any interest before a replacement special auditor is appointed; if so, what has been the extent of any time delays which have occurred in having a special auditor begin work on affected organisations; and (b) has this resulted in delays to Community Development and Employment Projects (CDEP) payments from ATSIC to any organisations; if so, how many, and are those delays still occurring.
26. How many organisations have been placed, to date, in the red, green and amber categories.
27. When, and how, did the Minister first become aware that a number of ATSIC-funded organisations would not receive their first quarter advance for CDEP schemes before 30 June 1996 because of the special clearance provisions imposed on ATSIC as a result of the appointment of the special auditor.
28. What other grant monies, normally paid by 30 June 1996, were also delayed because of the special clearance provisions attached to the appointment of the special auditor.
29. (a) How many organisations failed to receive their first quarter's funding for the 1996-97 financial year, including CDEP funding, by 30 June 1996 as a result of having to wait on clearance by the special auditor before the Minister issued fresh general directions on 28

June 1996; and (b) have any organisations retrenched, or will they retrench, CDEP participants as a result of this situation; if so, how many, in what communities and for how long.

30. (a) How many special audits had been completed by 27 June 1996; (b) when was the Minister advised of the result of those audits; and (c) what action was taken as a result.

31. (a) How many organisations have been classified by the special auditor, to date, as not fit and proper; (b) when was the Minister advised of these results; and (c) what does the Government plan to do with the funding for these organisations/communities.

32. With reference to the Minister's letter to ATSIC Chairperson, Ms Lois O'Donohue, on 11 April 1996, which refused her request for the Government to provide its legal advice regarding the appointment of the special auditor; Why has the Government refused to supply this legal advice to ATSIC.

33. Does the Minister agree that his letter of 6 June 1996, to the ATSIC Chairperson, clearly illustrates the validity of the claims by a number of grantee organisations that the advice they were receiving from ATSIC that no monies could even be offered, let alone provided, for the first quarter's funding for the 1996-97 financial year grant monies, until clearance had been given by the special auditor.

34. Does the Minister agree this situation prevailed even under his own transitional arrangements.

35. Does the Minister agree that his letter to the chief executive officer of ATSIC, of 26 June 1996, contradicts his letter of 6 June 1996 to the ATSIC Chairperson in terms of what ATSIC regional offices had been instructed to inform clients who sought to comply with conditions of the special auditor.

36. (a) How many staff have been employed by the special auditor to specifically perform its audit functions; (b) has the special auditor employed additional staff to perform this contract since 4 June 1996; and (c) are all staff performing audit functions fully qualified auditors.

37. (a) What savings has the Government made, to date, as a result of the special audit process; and (b) how has accountability within ATSIC been improved on the processes already in place, or in train, before its appointment.

Senator Herron: The Aboriginal and Torres Strait Islander Commission, the Office of Indigenous Affairs and the Office of Evaluation and Audit have provided the following information in response to the honourable senator's question.

1. The Office of Evaluation and Audit advises:

(a) The function of the Audit and Evaluation Committee within the Aboriginal and Torres Strait Islander Commission (ATSIC) is set out in the Terms of Reference of the Committee, as follows:

1. The Evaluation and Audit Committee shall comprise members appointed by the Chief Executive Officer and a member recommended by the Board of Commissioners, in accordance with the Background notes on the Composition, Role and Operation of the ATSIC Evaluation and Audit Committee.

2. The Evaluation and Audit Committee shall be responsible for ensuring that the Commission's programs and activities are regularly evaluated and audited, that evaluation audit resources are effectively targeted and that problems identified are addressed and rectified in a timely manner.

3. In particular, the Evaluation and Audit Committee shall:

. examine and consider proposed evaluation and audit plans developed by the Director;

. ensure all programs and activities of the Commission are considered when making recommendations to the Director OEA in relation to evaluation and audit plans;

. monitor the implementation of evaluation and audit reports issued by the OEA, review corrective action if taken and advise the CEO of further corrective action if required;

. review all reports from the Australian National Audit Office and review corrective action taken;

. review identified deficiencies in the Commission's internal controls and any action taken to remedy the deficiencies;

. oversight the Commission's responsibilities in relation to the development of a fraud control plan and strategies for providing fraud awareness and the processes for detection and investigation of fraud;

. monitor developments in the field of evaluation and audit and encourage the application of the best techniques and highest standards in all audit/evaluation work conducted within the Commission;

. encourage the on-going monitoring of program performance by program managers within ATSIC;

. deal with such other matters relating to the evaluation and audit function as may arise from time to time; and

. foster an atmosphere which encourages the flow of information and discussion between OEA and the management of the Commission.

4. Nothing in these terms of reference shall be interpreted as in any way limiting or constraining the statutory responsibilities of the Director and the Office of Evaluation and Audit.

(b) Yes.

2. The Office of Evaluation and Audit advises:

Yes.

3. The Office of Evaluation and Audit advises:

No.

4. The Aboriginal and Torres Strait Islander Commission advises:

No.

5. The Office of Indigenous Affairs advises:

8 companies bid for the contract as Special Auditor.

6. The Office of Indigenous Affairs advises:

The tender process was conducted by the Department of the Prime Minister and Cabinet, with assistance from the Australian National Audit Office.

7. The Office of Indigenous Affairs advises:

11 firms were invited to submit a proposal for the Special Auditor contract, based on Terms of Reference for the project.

Prior to submission of tenders, all bidders were invited to and attended a briefing session, at which the scope of the assignment was outlined and potential bidders were given an opportunity to clarify any aspects of the Terms of Reference and the assignment in general prior to finalising tenders.

Firms then submitted tenders.

8. The Office of Indigenous Affairs advises:

Price and assessed value for money.

Assessed understanding of the requirements and proposed methodology for conducting the assignment;

Qualifications and relevant experience of staff proposed to undertake the work;

Extent of firms national network;

Capacity to undertake the work within the required time frame; and

Suitability of proposed arrangements for dealing with potential conflict of interest.

9. The Office of Indigenous Affairs advises:

Yes, ATSIC was involved in the tender and bidding process through the provision of grant procedures data to the Department of Prime Minister and Cabinet, and ATSIC officers attended and answered questions at the information session held for prospective tenderers. An officer seconded to the Department of the Prime Minister and Cabinet who has experience with the Office of Evaluation and Audit was a member of the tender selection committee.

10. The Office of Indigenous Affairs advises:

(a) The cost of the tender process related to the time of the staff involved in

- preparing letters of invitations to potential bidders;

- conducting briefing session; and

- assessing tenders.

(b) No.

(c) Principally, the Department of the Prime Minister & Cabinet.

11. The Office of Indigenous Affairs advises:

(a) The Department of the Prime Minister and Cabinet, after consultation with KPMG, ATSIC and the Registrar of Aboriginal Corporations.

(b) The estimated cost was based on a charging structure reflecting the number, history and complexity of organisations to be reviewed. The 6 month timeframe was based on ATSIC information regarding the normal funding cycle. These estimates were based on information provided by ATSIC and the preferred tenderer KPMG.

(c) The contract contains a mechanism for monitoring performance and a standard contract variation mechanism.

12. The Office of Indigenous Affairs advises:

The progress report received on 9 July advised that the scope and complexity of the process had proved larger than estimated, and that completion of the task would require additional resources. The Special Auditor first alerted me to this situation in a meeting on 4 July, at which I requested the progress report be prepared.

13. The Office of Indigenous Affairs advises:

No; the report is Commercial-in-Confidence because it includes costs and charging information.

14. The Office of Indigenous Affairs advises:

Yes.

15. The Office of Indigenous Affairs advises:

Yes.

16. The Office of Indigenous Affairs advises:

The Special Auditor provides frequent updates on progress of the tasks to the Department of the Prime Minister and Cabinet and ATSIC.

17. The Office of Indigenous Affairs advises:

Invoices totalling $838,102.68 have been presented for work undertaken during this period. However until contract renegotiation was finalised the Commonwealth liability for payment was limited to $750,000.

18. The Office of Indigenous Affairs advises:

Special Auditor staff were withdrawn from a number of ATSIC Regions as they completed the reviews on all files submitted to them, or pending preparation of the progress report for my consideration.

19. The Office of Indigenous Affairs advises:

No; the contract is limited as to cost per review, time and the manner in which the contract is performed.

20. The Office of Indigenous Affairs advises:

(a) The final cost of the Special Auditor partly depends on the actual number of organisations ATSIC proposes to fund, together with the out-of-pocket expenses actually incurred in carrying out the reviews. It is therefore not possible to give a final cost figure at this stage.

(b) The reviews of organisations are virtually complete, but scrutiny by KPMG under the contract will apply to any organisation which ATSIC/TSRA propose to fund within the six-month period of the contract, that is until 4 December 1996.

(c) Refer (a) and (b).

21. The Aboriginal and Torres Strait Islander Commission advises:

(a) All the costs will be met from the ATSIC budget.

(b) The costs will be drawn from ATSIC's Running Costs (administrative and staffing budget).

22. The Aboriginal and Torres Strait Islander Commission advises:

(a) Approximately 1400 organisations seeking ATSIC funding in 1996/97 are expected to require review by the Special Auditor. (b) Until the Commission's full-year budget for 1996/97 is resolved, and funding is approved, the identity of such organisations will not be determined.

The Commission does not keep a separate record of the registered addresses of Aboriginal organisations requiring review by the Special Auditor and such a listing is not readily available.

23. The Office of Evaluation and Audit advises:

(a) KPMG Peat Marwick have been engaged by the Office of Evaluation and Audit to undertake two audits of organisations over the 1994/95 and 1995/96 financial years.

(b) The organisations audited were the Aboriginal and Torres Strait Islanders Corporation (QEA) for Legal Services and the Aboriginal Legal Service Ltd (NSW). Both audits were undertaken as part of a program of audits of Aboriginal Legal Services in New South Wales, Victoria, Tasmania and Queensland.

The audit reports were tabled in Parliament on 26 June 1996.

24. The Office of Indigenous Affairs advises:

In the case of conflict of interest, the contract provides for substituted performance by the firm of Pannell Kerr Forster or its national affiliates.

25. The Office of Indigenous Affairs advises:

(a) KPMG must obtain the Commonwealth's permission before transferring reviews to the substitute performer. The Commonwealth has not been advised of any delays in having the alternate Special Auditor beginning work on affected organisations. (b) No.

26. The Office of Indigenous Affairs advises:

To the 5th August, the Special Auditor had dealt with organisations in the following categories:

Red—65; Amber—863; Green—160

In addition, further information was being sought on 105 organisations.

27. The Aboriginal and Torres Strait Islander Commission advises:

The first quarter advance for CDEP schemes is not paid before 30 June except in a very limited number of cases where financial hardship can be demonstrated. Such payments are normally made in early July. Refer to the answer to Question 29.

28. The Aboriginal and Torres Strait Islander Commission advises:

Delays did occur in the payment of some grant monies, normally paid before 30 June 1996, but only in the case of new grants for the 1995/96 funding year which were proposed to be provided to organisations late in the financial year. Such delays, of the order of 2 to 3 weeks, occurred with approximately 40 organisations in various states. Although there were delays, all such payments were made before 30 June 1996.

29. The Aboriginal and Torres Strait Islander Commission advises:

(a) No organisations, including CDEP organisations, received 1996/97 funding by 30 June 1996.

Traditionally, first quarter funding for CDEPs is allocated to Regional Council Cost Centres by the end of the second week in July. This year, all allocations were transferred to the Cost Centres by 4 July 1996, thus enabling funding to be released to CDEPs as soon as the proposed grant recipient's written acceptance of the grant offer was received by ATSIC.

The amended Directions issued on 28 June 1996 allowed initial 1996/97 funding to be released in the usual manner and within normal timeframes.

(b) ATSIC advise that there are no known instances of organisations retrenching CDEP participants while awaiting review by the Special Auditor.

30. The Office of Indigenous Affairs advises:

(a) 210.

(b) The Minister is only advised of those organisations found not fit and proper, see answer 31 below.

(c) Nil, in the absence of any relevant advices as of 27 June 1996.

31. The Office of Indigenous Affairs advises:

(a) To 20 August, advices regarding seven organisations found not fit and proper have been received.

(b) These advices were provided on 12 and 20 August.

The Aboriginal and Torres Strait Islander Commission advises:

(c) Where organisations are found to be not fit and proper, ATSIC will make an initial assessment of the most appropriate course in regard to the ongoing provision of services or other function for which the grant was proposed, and advise the Minister accordingly.

32. The Office of Indigenous Affairs advises:

The issue of general directions to ATSIC was a matter which could be the subject of litigation. As such it was not appropriate to release any Commonwealth legal advice in relation to the matter.

33. The Office of Indigenous Affairs advises:

No.

34. The Office of Indigenous Affairs advises:

No.

35. The Office of Indigenous Affairs advises:

No.

36. The Office of Indigenous Affairs advises:

KPMG have advised that the answers to these questions are as follows:

(a) 99; (b) No; (c) Yes.

37. The Aboriginal and Torres Strait Islander Commission advises:

(a) and (b) The accountability and other benefits to arise from the Special Auditor process will emerge when the Special Auditor has completed the review process and reported on issues of relevance.

QUESTIONS WITHOUT NOTICE

Telstra

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)(3.07 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 Schacht today, relating to Telstra.

No amount of dodging from Senator Alston, no amount of weaving from Senator Alston, no amount of protestation of any kind from Senator Alston and no amount of glib rehearsed defence on this issue from Senator Alston can disguise the fact that Senator Alston—the Minister for Communications and the Arts, the Deputy Leader of the Government in the Senate, the person who has demonstrated time and time again that he is the impatient pretender to Senator Hill's throne—has been humbled, has been humiliated, has been carpeted by the Prime Minister, Mr Howard. He has been put back in his box by Mr Howard.

The Senate needs to consider what is Senator Alston's crime. What has Senator Alston done? Why was he carpeted? It is quite simple. He was carpeted because he let the cat out of the bag.

Senator Bob Collins—Because he told the truth.

Senator FAULKNER—Because he told the truth. That was his crime. He told the truth. He admitted that this government's intention is to flog off all of Telstra. Forget about one-

third, their intention is to flog off the lot. One-third is just a softener.

They thought there might be an easy way to get around this without scaring the horses if they could just propose the partial privatisation of Telstra. But just six months down the track since the election, the real agenda has come out courtesy of Senator Alston. The real agenda is now in the public arena—that is, the full privatisation of Telstra. It was admitted for all to see on national television that the full-scale privatisation of Telstra was inevitable.

This was not just a throwaway line from some junior shadow minister. This is perhaps not to be compared with his pre-election commitment of maintaining the existing funding for the ABC. This is the responsible minister. This is the minister for communications. This was a revelation. This was Senator Alston being honest. This was Senator Alston being frank. This was Senator Alston telling the truth. This was an unguarded moment, an unguarded revelation from Senator Alston—the No. 6 minister in cabinet—that Telstra was to be sold, not a third of it, but the whole lot. For good measure, what did Senator Alston do? For good measure, he threw in his view that the sale of Telstra was not only inevitable but also highly desirable.

You must ask yourself the question: why would a minister in this government let the cat out of the bag in such a flagrant way? Senator Alston has been carried away for some time by his self-importance. He has puffed himself up—full bombast, full pomposity, full self-importance. He is really buoyed by his own self-importance. Senator Alston was quite oblivious to what he was saying.

We would have to say that he was guilty of hubris, which is what Mr Howard says is the greatest sin of all. He is guilty of hubris, and we all know what Mr Howard thinks of that. That is why he has been repudiated. He has been humiliated. He has been humbled in such a way by his own leader.

Leaving Senator Alston's clear political ineptitude to one side, he has revealed this government's true agenda. No-one is now mistaken. No-one misunderstands what they are on about. This government plans to sell the whole of Telstra. No matter what rock solid, ironclad guarantees John Howard gives on this matter, no matter what core or non-core promises John Howard makes on this particular matter, he plans to flog off the lot. We now know that that is the case. *(Time expired)*

Senator TIERNEY (New South Wales) (3.12 p.m)—Let me congratulate you, Mr Deputy President, on your elevation to the deputy presidency, this being the first occasion I have had in this chamber to congratulate you. The Leader of the Opposition (Senator Faulkner) shows that empty vessels certainly make the most noise because he kept repeating the same point over and over without much substance at all.

The position of the government on this matter is very clear, Senator Faulkner. We made our policy on Telstra very clear before the last election. We were going to sell one-third of Telstra. We were quite up front about that before the last election.

Senator Kernot took a most surprising position on this matter. There is the party that claims they are going to keep the bastards honest. If they really mean that, they should be keeping us to our promise of selling one-third of Telstra. We plan to do that. Instead—and this is what came out again and again of the hearings by the Senate Environment, Recreation, Communications and the Arts References Committee—the Democrats are taking a position on Telstra that is way off to the left of Fidel Castro.

Fidel Castro has done this. Albania has done this. The worldwide move is to partially privatise or privatise these bodies. We are moving to partially privatise in line with what governments right around the world are doing. Why are they doing it? They are doing it because it is a much more efficient way to run telcos. It is on the record of the Telstra inquiry.

The evidence time and time again was that Telstra was 20 per cent to 30 per cent off the pace in terms of efficiency. Just think what that is costing the Australian economy in terms of cost and in terms of missed opportunities for lowering the price of calls. We

need more competition. We need the government telco partly privatised so it can compete a lot better in this market.

Yet we had the opposition parties conspiring during that Telstra inquiry to set up a terms of reference to take control of the inquiry away from the government, to put in a whole range of other matters for inquiry, including matters that could be totally separate inquiries on their own behalf. I mention, in particular, overhead cabling and the post-1997 regime. In the end, of course, what they were really on about was this matter of the part-privatisation of Telstra.

It is absolutely amazing that Senator Faulkner gets up and criticises, given the machinations within the Labor Party about this matter over the last five years. The fact is that Paul Keating wanted to sell the lot. Keating wanted to sell the lot. I did not hear Senator Faulkner mentioning that position of the Labor party or its previous leader, to try to sell the whole of Telstra.

The government is not proposing to do that. We were quite up front before the last election that we would sell one-third of Telstra. That will take place. We will see how that works out. Before we take any new position on this matter, we will go back to the people with a policy. We will be totally up front, unlike this Labor government which was going to—if the previous Prime Minister had his way—flog the whole thing off without a mandate.

We have received a very strong mandate from the people to sell one-third of Telstra, and that is what we are determined to do. If we do change our minds later on, we will take it back to the people and be most up front again going into another election. We said that before the election. We have said that since the election and, in question time today, Senator Alston has reinforced what is our policy position. It does not matter how much that empty vessel up the back clangs and makes noises, it will not really overcome that very basic point.

Senator SCHACHT (South Australia) (3.17 p.m.)—I speak to the same motion. I speak to it because the question I asked and the answer given by Senator Alston today again exposes the fact that Senator Alston had his knuckles severely rapped by the Prime Minister (Mr Howard)—I have to say, I suspect, somewhat unfairly. Senator Alston in the *Meet the Press* program got himself into a fair bit of strife. He got himself into strife over Telstra and was admonished very severely by the Prime Minister, who the next day in a press conference said:

> But I just want to make it clear on behalf of the government, and I spoke to Senator Alston both last night and this morning, and I reinforced to him there's been no policy change, any suggestion cabinet has discussed the matter is completely wrong.

That is what the Prime Minister said on the public record within 18 hours of that press interview that Senator Alston had. If ever there were a put down by the Prime Minister, that is one of the best put downs by a Prime Minister to any minister in a long time. Senator Alston got hit very clearly over the head and went to ground for 24 hours. His office would not make any comment. There was no comment from Senator Alston on the fact that the Prime Minister had clearly told him to shut up because he was ruining any chance or strategy the government had of getting the privatisation bill through the Senate.

Of course, when I asked my supplementary question, I wanted Senator Alston to comment about the fact that only a month or so ago there were some published remarks by the Prime Minister. I will quote from the Clayton Utz publication, winter issue 1996. It states:

> . . . I believe within five years from now the whole of Telstra would be privatised. There are certain things that are unstoppable.

That is what the Prime Minister said a month ago. I trust that when Senator Alston was being abused by the Prime Minister in those phone calls, which the Prime Minister has put on the record that he made to Senator Alston, Senator Alston had the wit to point out, 'Hang on, John, you were only a month ago saying that in five years it is all inevitable.'

I would suggest that Senator Alston also would have pointed out the contradiction in the Prime Minister's remarks in that same press conference on 2 September, when he said, 'and vote against any legislation that

might be submitted in ten years time to sell any more.' The Prime Minister suddenly within a month had gone from saying it is inevitable within five years to saying it might be privatised within ten. I presume, Senator Alston, that you might have had a slight modicum of courage to tell the Prime Minister he had got it wrong, because he severely embarrassed your credibility.

Of course, over the last month is not the first time Senator Alston has been done over by his Prime Minister. Back in July, the Prime Minister and Mr Costello did the Minister for Communications and the Arts right over on the issue of ABC cuts. Senator Alston was arguing up until the time in July that it was reasonable for the ABC to take a 2½ per cent efficiency cut, but that was about it. Suddenly the ERC imposed on him, ambushed him and said, 'You've got to have a $55 million cut every year for the next four.' The ABC has a $209 million cut all up over the next four years. So Mr Howard and Mr Costello did the minister over again.

Finally, today we have press stories appearing that the so-called, much vaunted Senator Alston public inquiry into cross-media ownership rules is now going to be dropped and that there would be some sort of green paper. I have to say I think it is more like the shade of green of Senator Alston's face. This is an inquiry which he promised at the election. He has been saying to the media about every two or three weeks since the election, 'I will be announcing the chairperson of this inquiry. Next week or the week after, I will be announcing the terms of reference.'

For six months we have waited, and it has not turned up. What has turned up today is an indication from John Howard that this inquiry is too tricky for good old Senator Richard Alston to be involved in. Therefore, we will back away from that. We will destroy Senator Alston's credibility about a media inquiry. We will now have a green paper which will be under the control of the Prime Minister, not Senator Alston, who on three occasions now has been struck out by his Prime Minister. The old saying in politics is, 'Three strikes and you're out.' This minister has been done over by his Prime Minister on three separate occasions in the last month, and he still sits there posturing and blabbering about what he is doing in the portfolio.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (3.22 p.m.)—There are a couple of things that need to be said. The first is that Senator Faulkner quite incorrectly, and I presume quite deliberately, said that I had made comments about the government's intention. My reading of the transcript of that interview shows nothing of the sort. Therefore, what the Prime Minister (Mr Howard) had to say was perfectly correct—that there has been no change in government policy. I did not hear Senator Schacht say anything particularly enlightening, except that he did quote very selectively from something that Mr Howard said—that it might not be submitted for ten years.

What Mr Howard said was, if some people support the sale of a third of Telstra, they can vote for legislation to sell a third of it and vote against any legislation that might be submitted in 10 years time to sell any more. It is quite clear that the real issue is the credibility of the other side of politics. Mr Beazley will need to be very careful when he finally gets to his feet in the House of Representatives and comes clean about whether, indeed, he is the senior Labor minister. There is nothing more serious in this business than misleading the House.

Senator Schacht—Get Frank Blount on the record. Go on. Identify what he actually said.

Senator ALSTON—It is already in the newspaper. Mr Blount said that this particular senior Labor minister was still very active. There are not too many people around who fit that tag, are there? Let us hear from the horses mouth. Let Mr Beazley stand up and say whether he told Mr Blount that Telstra would be privatised in the early 1990s. We know that Mr Beazley was the minister for communications between April 1990 and December 1991.

There is a very important issue at stake here. It goes completely to the heart of Labor's attitude to the privatisation of Telstra. As I said, all of the research indicated that not only were you regarded, as Gary Gray said, as a bunch of liars generally but, on this

whole issue of privatisation, they knew what you wanted to do. I simply ask this, Senator Schacht, seeing that you are the spokesman pro tem: is your policy still, as enunciated by Mr Keating at the last election, to tear Telstra limb from limb? In other words, he said that you could sell off the *Yellow Pages* and MobileNet. He said that none of these were core businesses.

Senator Schacht—You are misleading the Senate, Alston. You are misleading—the usual trick of a sleazy barrister from Melbourne.

Senator ALSTON—I will table it if you like. But is that your policy or, indeed, is your policy the one that Mr Beazley and others have been talking about in private for years? In other words, they wanted to privatise Telstra lock, stock and barrel. That is what we want to know. We want to know, in terms of credibility—

Senator Schacht—Mr Deputy President, on a point of order: you might say that I am interjecting too much but all of Senator Alston's remarks have been directed straight across the chamber at me in a completely misleading way and they do not tell the truth. Obviously, I am going to respond while he continues to tell lies.

The DEPUTY PRESIDENT—Order! You will withdraw that remark.

Senator Schacht—I withdraw and say 'untruths' then.

Senator ALSTON—I simply ask you, as a matter of policy, whether you still stand by what Mr Keating said prior to the last election? It was on *Lateline*. I have got the transcript and I am sure you have it.

Senator Schacht—On a point of order, Mr Deputy President: are we going to have a new system here whereby, if Senator Alston wants to ask me directly, I can respond by interjection directly to his question? If that is the case, I am more than happy to oblige but I suspect that I will get myself into trouble with you in the chair.

Senator ALSTON—I was not expecting Senator Schacht to answer on the run. I know he would have to go away and think long and hard about this.

The DEPUTY PRESIDENT—We have a point of order. It might be wise to direct your remarks through the chair.

Senator ALSTON—Thank you, Mr Deputy President. I am simply making the point that it would be very interesting to hear what the alternative approach is to our proposed sale of one-third. Is it, as Mr Keating said prior to the election, to rip up Telstra bit by bit, or was Mr Beazley the one who was actually promising Frank Blount—as the *Herald-Sun* makes perfectly clear—that he was not only in favour of this but also that Telstra would be privatised in the early 1990s? It is a very simple proposition. We are entitled to know. The Australian public is entitled to know.

You want to know where we stand. We have introduced a bill that limits our ability to sell any more than one-third. Whether you like it or not, that is what you have got. You have got one-third and not a skerrick more because the bill does not allow it. That is completely in line with the policy that we took to the last election. We have not changed our policy, as Mr Howard made very clear.

I am asking you: what is the alternative? Is it indeed Mr Keating's proposal or is it Mr Beazley's, as he was telling Mr Blount back in the early 1990s, that he favoured privatisation of Telstra? Indeed, how many others were there? Senator Ray ought to know this. I will bet you that the whole of the right wing of the Labor Party thought that privatisation of the Telstra was a very good idea, indeed.

Senator Bob Collins—Rubbish! You have got to be joking!

Senator ALSTON—There might have been a few renegades because you might have been too busy wanting to break down the three uranium mines policy but there were certainly no shortage of takers in support of privatisation. We know that and you know that. Let us come clean about this debate. Let us know where you really stand. You know where we stand because it is in our policy. You did not have a policy at the last election in terms of documents. What did you have? You simply had Mr Keating's position on the subject and I want to know whether it still stands. *(Time expired)*

Senator ROBERT RAY (Victoria) (3.28 p.m.)—Today during question time Senator Alston had four minutes to answer a question and one minute to give a supplementary answer. He also had five minutes to make a contribution during this debate. At no point has he tried to explain whether he was misrepresented—whether a double appeared on *Meet the Press* and uttered the immortal words. The words were that he regarded that the privatisation of Telstra was inevitable and desirable. He has made no attempt here today to explain in what context those remarks were made. He has not denied making them; he has not explained them away.

If it is a non-issue, why did the Prime Minister (Mr Howard) have to ring him on two occasions when he was involved in detailed preparations to go to the South Pacific Forum? Why did the Prime Minister have to call a press conference, interrupting his visit to the South Pacific Forum on his way there? Why did he have to have a press conference to discuss this particular matter? I am not concerned with the ostensible reason for calling it. It was called specifically so that he could hose down Senator Alston's remarks.

You would have to say, if you were rating Senator Alston, that he had a big break out on *Meet the Press*. He not only bungled and let the truth out on Telstra, he also made intemperate remarks on the Fairfax organisation off the top of his head. It was a sort of Dougie Walters effort: do it off the stick; no preparation or anything else; open your big mouth and pontificate as much as you can regarding the press.

This is forgivable, Senator Alston, if you have the runs on the board and you have a good track record. But, when we look at your track record in communications, you have had the ABC slaughtered in its funding; you have had a new chairman of the board selected by the Prime Minister and not you. One of the Prime Minister's friends has been put on and all your candidates have been rolled.

You cannot get together an inquiry on cross-media ownership. It is going to come every week. It is going to take as long as Halley's comet before it arrives. You cannot name who is going to chair that because the Prime Minister has not ordered you yet and told you which next crony is going to head this up. You set up an inquiry into the ABC, being a bit like an Alice in Wonderland—cut their funds first. You set that up and you make sure that it is not held in public; it is held behind closed doors, whether at your direction or otherwise.

If you had a track record of solid decision making in communications, one could at least forgive the odd outbreak, the odd loose language. But we have discovered on this occasion that for the first time ever Senator Alston has said the truth. This comes as a terrible shock. We did not know whether in fact he was lying when he said that privatisation of Telstra was inevitable and desirable.

Given the Prime Minister's reaction, for the first time ever we have Senator Alston, Tricky Dicky, opposite over here finally going on the public record and saying something truthful. It is a terrible shock indeed to my system that Senator Alston would say the truth on this! But it is consistent, basically, with what the Prime Minister hinted at the Clayton Utz function, these former employers who used to pay him while he was in parliament to give them advice. It is at least consistent with that. It is consistent with what the now Treasurer said in the Qantas debate: that if you only one-third or partially privatise something, that organisation dies the death of a thousand cuts.

The real answer today was not given by Senator Alston. It was given by Senator Hill, who has at least given a let-out. Senator Hill was asked whether he would introduce some sort of legislative amendment to their Telstra bill absolutely forbidding any further sale. And Senator Hill wimped it! Senator Hill wimped the question and did not answer it.

The credibility question still is here: is the full privatisation of Telstra on the Liberal Party agenda? Is it going to be like so many of their other election promises, core and non-core, 'We will implement whatever we like; we will dump whatever promises we like,' because all they are interested in in this issue is getting their right wing ideological baggage up, as this section of the Senate chamber most reflects, to their own disgrace.

Senator Alston has had the opportunity to explain himself. He has not. His Prime Minister has humiliated him and I feel quite sorry for him. *(Time expired)*

Senator KNOWLES (Western Australia) (3.33 p.m.)—Today I find this debate absolutely breathtaking in its hypocrisy from the point of view that we have an opposition here which has publicly touted, via its leadership, the total sell-off of Telstra. Now, in the opposition ranks, you cannot deny that the leader of the opposition has publicly said that he believes that Telstra will be sold off. From that point, you just go back to the years that the Labor Party were in government and prior to the time when they were saying that to sell the Commonwealth Bank would be just absolutely heresy.

Senator Campbell—'Ben Chifley would turn in his grave,' they said.

Senator KNOWLES—That's right. 'Ben Chifley would turn in his grave if the Commonwealth Bank were to be sold off.' That is what the Labor Party said. All I can say is that he must be spinning like a top because you had no respect in the Labor Party for what you had promised in relation to the Commonwealth Bank. You had no respect in the Labor Party at all for what you had promised in relation to Qantas. You had no respect in relation to CSL. There are a whole range of privatisation measures that the Labor Party took while in government and now, in opposition, they are trying to portray that they have not got a policy of the total privatisation of Telstra.

Our policy has been quite clear and unequivocal from day one: that there would be a partial privatisation of Telstra in the bill that is currently before the parliament, a one-third sell-off, and that is all. The minister has repeated that time and time again. Isn't it interesting that there is no mention of the quote of the minister on the same show, the same day, at the same time, when he said and repeated our policy commitment that was in place prior to the election, that 'to go any further we would seek a specific electoral mandate'? That is a quote from the same show which quite accidentally, I am sure, is always excluded from any debate that comes from the opposition.

This grizzling, whining, bitching opposition cannot accept the result of 2 March and they will not accept the fact that this is only a partial privatisation that is contained in the legislation that is before the Senate today. There is a report coming down later on today and yet all we have heard is the way in which they do not discuss the bill; they do not discuss what their position is.

Mr Beazley says there are good reasons for keeping Telstra in public ownership but does not see it staying that way forever. Does the Labor Party talk about that? No. Then Mr Beazley says, 'There are good reasons to keep Telstra at this point in public ownership and for the foreseeable future.' Not forever? Well, for the foreseeable future, beyond any time scale relevant to you and me.

Now, why don't you come clean? That is your leader. Here you are trying to misrepresent what the minister said repeatedly prior to the election and subsequent to the election, that there would be no further sell-off of Telstra than the one-third that is currently before the parliament without seeking a further electoral mandate. There it is, Senator Collins, in the transcript.

The DEPUTY PRESIDENT—Order! The time for taking note of answers has expired.

Question resolved in the affirmative.

PETITIONS

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

Uranium Mining

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

The petition of the undersigned condemns the Government's scrapping of the three mines policy and calls on it to completely ban the mining and exploration of uranium.

by **Senator Kernot** (from 204 citizens).

Logging and Woodchipping

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

We are dismayed at the continuing destruction of old growth and wilderness forests around Australia, despite the National Forest Policy Statement jointly

signed by the Commonwealth and all States except Tasmania.

Intensive logging, most often to feed a voracious woodchip industry is underway or planned for many high conservation value forests. These forests should be protected by the commitments of the Commonwealth and State Governments under the NFPS.

These forests include:

Coolangubra Wilderness and other areas of the S.E. Forests of NSW along with rainforest and other N.E. areas of NSW including Wingham, Mistake, Richmond Range, Chaelundi, North Washpool, Barrington and Dorrigo.

The Southern Highlands, Great Western Tiers and Tarkine Wilderness of Tasmania.

The Karri and Jarrah forests of S.W. Western Australia.

The Errinundra Plateau and other areas of the East Gippsland forests of Victoria.

The rainforests of the Proserpine region of Queensland.

We request that the Government act urgently to protect our precious forests by utilising the Commonwealth's legal and constitutional powers, including:

Refusal of export woodchip licences

Powers to control corporations

Protection of areas listed on the register of the National Estate

Protection and effective funding of areas identified for their World Heritage values.

Genuine and effective action by the Government to protect these and other old growth and wilderness forests is critical. A comprehensive plantation strategy rather than exploiting native forests is the way forward for a truly environmentally responsible timber industry. We further request that the Government take effective action without further delay.

by **Senator Knowles** (from 200 citizens) and **Senator Lees** (from 20 citizens).

Freedom of Choice

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

The humble Petition of the Citizens of Australia, respectfully showeth:

That we:

(1) Affirm the importance of quality education for all the children of this Commonwealth of Australia irrespective of their religion, nationality or sex;

(2) Support the rights of parents to have freedom of choice of the school for their child;

(3) Support the right of all non-government schools to maintain their distinctive moral values and foundational ethos;

(4) Support the freedom of choice in staffing of all Churches and religious organisations.

(5) Support freedom of religion and the right of all Churches and religious organisations to maintain their distinctive foundational ethos.

Your petitioners therefore humbly pray that the Senate oppose any attempts to introduce legislation that would jeopardise these freedoms and rights and which would force Schools, Churches and religious institutions to compromise their distinctive moral values and foundational ethos.

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

by **Senator Panizza** (from 202 citizens).

Telstra

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

The petition of the undersigned strongly opposes attempts by any Australian government to privatise Telstra as well as any other Australian public assets.

Your petitioners ask that the Senate oppose any intentions by an Australian government to sell off national assets through privatisation.

by **Senator Kernot** (from 136 citizens).

Industrial Relations

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

We the undersigned citizens respectfully submit that any reform to Australia's system of industrial relations should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

We the petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program and ensuring that:

1. The existing powers of the Australian Industrial Relations Commission (AIRC) be maintained to provide for an effective independent umpire overseeing awards and workplace bargaining processes.
2. The proposed system of Australian Workplace Agreements (AWAs) should be subject to the same system of approval required for the approval of certified agreements (through enterprise bargaining). Specifically,

an AWA should not come into effect unless it is approved by the AIRC.

3. The approval of agreements contained in the legislation should be public and open to scrutiny. There should be provision for the involvement of parties who have a material concern relating to the approval of an agreement, including unions seeking to maintain the no disadvantage guarantees.
4. Paid rates awards be preserved and capable of adjustment, as is currently the case in the legislation.
5. The AIRC's powers to arbitrate and make awards must be preserved in the existing form and not be restricted to a stripped back set of minimum or core conditions.
6. The legislation should encourage the processes of collective bargaining and ensure that a certified agreement within its term of operation cannot be over-ridden by a subsequent AWA.
7. The secondary boycott provisions should be preserved in their existing form.
8. The powers and responsibility of the AIRC to ensure the principle of equal pay for work of equal value should be preserved in its existing form. We oppose any attempt by the Coalition to restrict the AIRC from dealing with overaward gender based pay equity issues.
9. A 'fair go all round' for unfair dismissal so that all workers currently able to access these remedies are able to do so in a fair manner, at no cost.
10. Workers under state industrial regulations maintain their rights to access the federal awards system in its current form.

Your petitioners therefore urge the Senate to reject the above proposed reforms to the area of industrial relations.

by **Senator Crowley** (from 17 citizens),

Senator Panizza (from 19 citizens) and

Senator West (from 48,846 citizens).

Gun Control

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

The petition of certain citizens of Australia draws to the attention of the Senate the need for tighter gun laws.

Your petitioners therefore ask the Senate to support moves by the Prime Minister to tighten gun laws through the following measures;

the banning of fully automatic and semi-automatic weapons;

the introduction of a nation-wide shooters licence system; and

the introduction of a nation-wide gun registration system.

by **Senator Knowles** (from 58 citizens).

University Funding

To the Honourable the President and Members of the Senate in Parliament assembled: The humble petition of the undersigned citizens of Australia respectfully showeth:

That we are opposed to any moves to cut funding to universities. We believe that funding cuts to universities can only be to the detriment of an educated and democratic society. We believe that a broadly accessible and liberating higher education system is fundamental to efforts at creating a more just and equitable society.

In particular we are opposed to any attempts to:

introduce up front fees for any students, including any attempt to allow universities to charge up front fees to students enrolled in excess of Commonwealth funded quotas;

increase the level of debt incurred by students through the Higher Education Contribution Scheme (HECS);

lower the level at which HECS debts must be repaid through the taxation system;

replace the grant based component of the AUSTUDY/ABSTUDY scheme with a loans scheme;

expand the loans component of AUSTUDY/ABSTUDY;

cut funding on a per student basis, in particular operating grants; and

cut the number of Commonwealth funded places already in the system or promised during the previous Parliament.

Your petitioners therefore humbly pray that you will not cut funding to universities or increase the financial burden on current or future students by raising fees or reducing access to financial assistance. We call on the Parliament to at least maintain current funding to higher education with a view to increase funding per student and the number of student places available in the remainder of the thirty-eighth parliament.

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

by **Senator Stott Despoja** (from 21 citizens).

Gun Control

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

The petition of the undersigned shows:

that the overwhelming majority of Australians support uniform, national gun laws and the associated compensation measures as agreed between the Prime Minister, State Premiers and the Chief Ministers of the ACT and NT.

Your petitioners ask that the Senate:

continue to demonstrate its firm support for these measures;

take all possible action to expedite their implementation; and

resist all calls for the control measures to be watered down or abandoned.

by **Senator Kernot** (from 572 citizens),

Senator Newman (from 3,605 citizens) and

Senator Panizza (from 22 citizens).

Labour Market Programs

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

We the petitioners here undersigned oppose the cuts made to programs associated with the provision of labour market assistance to the unemployed.

We view the decision to make these cuts as ill advised and in contravention of the Government's pre-election commitments to maintain services to the unemployed.

We call on all members of Parliament, regardless of political party to do everything possible and ensure that:

1. The Government maintain the real level of labour market program funding at levels equal to or greater than that provided for under the previous Government's Working Nation Initiatives.

2. The Government recognises the value of the current SkillShare program as a community provider of services to the unemployed and make provision for the continued existence of, and extension to, this highly successful program.

3. The Government immediately declares a moratorium on any cuts to funding for community based program providers of services to the unemployed and enter into discussions with peak industry advocates, representatives of the unemployed and representatives of employees employed in these services about the most effective ways to deliver these services. That no changes be made to the delivery of these services until these discussions occur.

4.The Government does everything possible to ensure that the experienced and trained employees currently engaged in the provision of community based labour market assistance programs be maintained in these services in order to ensure that unemployed people get the greatest possible opportunity to be successful in gaining meaningful employment.

by **Senator Panizza** (from 590 citizens).

Head of State

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

The petition of the undersigned expresses widespread community support for an Australian as Head of State for Australia.

Your petitioners ask that the Senate note and endorse the wishes expressed in this petition.

by **Senator Crowley** (from 390 citizens).

Telstra

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

The petition of the undersigned strongly opposed the Government's proposed sale of one third of Telstra and urges the Government to meet its environment responsibilities from other revenue sources.

by **Senator Kernot** (from 283 citizens).

Telstra

To the Honourable the President and Senators, and to the Speaker and Members of the House of Representatives assembled in Parliament:

The petition of the undersigned citizens respectfully shows that:

As members of the Australian community, considering:

the strategic importance of Telstra in the national economy;

the high levels of foreign ownership in the rest of the telecommunications industry;

the growing importance of communications services to the lives of all Australians;

the threat that privatisation poses to the universal availability of both present and future communications services;

We believe that it is in the national interest for Telstra to be kept in full public ownership.

We therefore call on the Federal Government to abandon its proposal to privatise Telstra, the nation's chief telecommunications provider, and to explore alternative means of funding its environmental policy.

And your petitioners as in duty bound will ever pray.

by **Senator Panizza** (from 19 citizens).

Uranium Mining

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

The petition of the undersigned strongly oppose any uranium mining for the following reasons:

(1) There is no safe way to dispose of radioactive waste

(2) Uranium mining involves a disproportionate consumption of raw materials and production of waste products for the amount of oxide produced

(3) Uranium mining poses a health hazard to workers and communities living in the region

(4) Any mining in the World Heritage Kakadu region will have a detrimental impact on this fragile area

(5) Control of nuclear proliferation can only be achieved by halting supply

(6) Any nuclear power station, uranium mine or disposal site has the potential for unforeseen disasters.

The petitioners ask that the Senate block the passing of legislation which approves any mining of uranium in Australia.

by **Senator Kernot** (from 24 citizens).

Port Hinchinbrook Development Project

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

We the undersigned humbly request that the Senate honours the obligations of the Commonwealth of Australia to protect its territory that has received World Heritage status according to the World Heritage Convention of which Australia is a signatory.

Significant ares of marine and mangrove ecosystems of Australia's World Heritage Great Barrier Reef Marine Park are directly threatened with destruction by the adjacent construction of Australia's largest tourist resort and marina complex at Oyster Point near Cardwell North Queensland (opposite Hinchinbrook Island).

We implore the Senate to use its powers immediately to permanently halt the construction of the marina and access channel in the World Heritage "Buffer Zone" as recommended by the Valentine Report made to his Department in October 1994.

by **Senator Panizza** (from 11 citizens).

Austudy

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

The petition of citizens and residents of Australia draws attention to the Senate that we refuse to accept any moves to change Austudy from a grants based system to a compulsory loans scheme.

This is on the basis that:

a loans scheme will create further barriers to participation in higher education, particularly for equity groups such as women, Aboriginal and Torres Strait Islanders, rural and isolated students, and people from low socio-economic backgrounds,

participation in higher education will result in a massive debt from both HECS and Austudy,

debt is a significant disincentive to study because students simply cannot afford to commit themselves to lifetime debt to participate in education,

the proposed cuts to youth wages leaves no alternative for sufficient financial support during study.

And your petitioners ask that the Commonwealth Government reaffirm its pre-election commitment to maintain Austudy and Abstudy at real levels for tertiary students.

by **Senator Stott Despoja** (from 264 citizens).

Australian Broadcasting Corporation

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

The petition of certain citizens of Australia.

Your petitioners request that the Senate, in Parliament assembled, should recognise that the Coalition's proposed cost-cutting measures to the Australian Broadcasting Corporation will remove the broadcaster's ability to properly provide services to both its radio and television audiences—particularly those in rural and regional areas.

Your petitioners oppose any cuts to the ABC and request that the Coalition be held to its pre-election promise to "maintain existing levels of Commonwealth funding to the ABC".

Your petitioners request that the Senate reject any measures to downgrade the ABC's budget.

by **Senator Panizza** (from 42 citizens) and **Senator West** (from 353 citizens).

Medicare Offices

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

The petition of certain citizens of Australia.

Your petitioners request that the Senate, in Parliament assembled, should recognise the value of maintaining existing Medicare offices in rural Australia, and are opposed to the closure of any of these offices.

Your petitioners request that the Senate reject any measures that would have the effect of removing any existing Medicare offices.

by **Senator West** (from 415 citizens).

SkillShare Program

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

The petition of the undersigned draws to the attention of the Senate, the recent funding cut of 20% to the SkillShare Program and a lack of commitment to the Program beyond September 1996. This cut will force a dramatic reduction of services, support and assistance to unemployed people—the most vulnerable disadvantaged members of our community.

Your petitioners therefore request the Senate to intercede on our behalf to strongly oppose these and any further cuts and to defend the cost-effective SkillShare Program.

by **Senator Crowley** (from 36 citizens).

SkillShare Program

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

The petition of citizens of Australia draws to the attention of the Senate the recent funding cut of 33⅓ per cent to the SkillShare program and a lack of commitment to the Program beyond September 1996. This cut will force a dramatic reduction of services, support and assistance to unemployed people—the most vulnerable and disadvantaged members of our communities.

Your petitioners therefore request the Senate to intercede on our behalf to strongly oppose these and any future cuts and to defend the cost-effective SkillShare Program.

by **Senator Panizza** (from 140 citizens).

SkillShare Program

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

The petition of the undersigned strongly requests the Senate to reject the Government proposals to cut SkillShare funds by one third, on the basis that SkillShare is the most efficient and effective of all labour market programs providing vocational training and support to the long term unemployed and disadvantaged people across Australia and further, that these cuts will deny support to one in three of those people requiring help from SkillShare Projects.

by **Senator Panizza** (from 97 citizens).

Overhead Cables

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

The petition of the undersigned shows:

the strong opposition of residents of the City of Burnside in South Australia to the proposed roll-out of overhead cables within our city, based on the impact upon residential amenity, our local streetscapes and the environment.

In addition to our concern about visual pollution, we are strongly opposed to the unnecessary duplication of infrastructure and the extent of immunity granted to telecommunications carriers from state and local government regulations.

Your petitioners request that the Senate should:

intervene in this matter with a view to preventing the despoliation of residential amenity caused by aerial cabling, and obtain a positive outcome for the residents of Burnside and the wider community.

by **Senator Lees** (from 1,724 citizens).

Child Care

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

The petition of the undersigned strongly oppose the cuts to Childcare Assistance available for holiday absences for families who use long day care centres.

These cuts, which both the Liberal/National Coalition and the ALP support, reduce the amount of Childcare Assistance previously paid by the Government to parents for allowable holiday absences by half.

Your petitioners ask that the Senate reverse its support for these regressive changes to Childcare Assistance.

by **Senator Lees** (from 182 citizens).

Industrial Relations

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

The petition of certain citizens in Australia.

Your petitioners request that the Senate, in Parliament assembled should recognise that any reform to Australia's system of industrial relations should acknowledge the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

Your petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective

check and balance to the Coalition's legislative program by rejecting such a program.

Your petitioners request that the Senate reject the proposed reforms to the area of industrial relations as outlined in the Workplace Relations Bill 1996.

by **Senator West** (from 16 citizens).

Education Funding

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

The petition of the undersigned shows that the students of Communication at the Queensland University of Technology are opposed to the Federal Government's proposed budget cuts to education. These cuts have resulted in overcrowded tutorial groups, tutorials being dropped from the curriculum and a general decline in the quality of education.

Your petitioners request that the Senate reject the section of the budget that proposes massive cuts to education funding.

by **Senator Kernot** (from 161 citizens)

Radio Triple J

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

The petition of the undersigned shows that the potential funding cuts to Radio Triple J will drastically affect services and public broadcasts to the youth of Australia.

Your petitioners therefore ask the Senate to retain the current level of funding for Triple J.

by **Senator West** (from 48 citizens).

Medicare Offices

To the Honourable President and Senators assembled in Parliament.

The petition of certain electors of the Division of Calare draws to the attention of the Senate our opposition of the possible closure the Lithgow Medicare Office.

Your petitioners therefore request the House to ensure the Lithgow Medicare Office remains open.

by **Senator West** (from 929 citizens).

Legislation

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

The petition of the undersigned citizens of Australia draws to the attention of the Senate our concern that the Senate is obstructing the Government's attempts to implement its legislative programme.

We call upon Honourable Senators to allow the Government to implement its key legislation, as outlined prior to the last federal election.

by **Senator Panizza** (from 28 citizens).

Industrial Relations

Senator WEST (New South Wales)—by leave—I present to the Senate the following petition, from 9,204 citizens, which is not in conformity with the standing orders as it is not in the correct form:

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

We the undersigned citizens respectfully submit that any reform to Australia's system of industrial relations should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

We the petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program and ensuring that:

1. The existing powers of the Australian Industrial Relations Commission (AIRC) be maintained to provide for an effective independent umpire overseeing awards and workplace bargaining processes.
2. The proposed system of Australian Workplace Agreements (AWAs) should be subject to the same system of approval required for the approval of certified agreements (through enterprise bargaining). Specifically, an AWA should not come into effect unless it is approved by the AIRC.
3. The approval of agreements contained in the legislation should be public and open to scrutiny. There should be provision for the involvement of parties who have a material concern relating to the approval of an agreement, including unions seeking to maintain the no disadvantage guarantees.
4. Paid rates awards be preserved and capable of adjustment, as is currently the case in the legislation.
5. The AIRC's powers to arbitrate and make awards must be preserved in the existing form and not be restricted to a stripped back set of minimum or core conditions.
6. The legislation should encourage the processes of collective bargaining and ensure that a certified agreement within its term of operation cannot be over-ridden by a subsequent AWA.

7. The secondary boycott provisions should be preserved in their existing form.

8. The powers and responsibility of the AIRC to ensure the principle of equal pay for work of equal value should be preserved in its existing form. We oppose any attempt by the Coalition to restrict the AIRC from dealing with overaward gender based pay equity issues.

9. A 'fair go all round' for unfair dismissal so that all workers currently able to access these remedies are able to do so in a fair manner, at no cost.

10. Workers under state industrial regulations maintain their rights to access the federal awards system in its current form.

Your petitioners therefore urge the Senate to reject the above proposed reforms to the area of industrial relations.

SkillShare Program

Senator PANIZZA (Western Australia)—by leave—I present to the Senate the following petition, from nine citizens, which is not in conformity with the standing orders as it is not in the correct form:

To the honourable Speaker and members of the House of Representatives assembled in parliament

The petition of citizens of Australia draws to the attention of the House the severe loss of training places, services and assistance which will be suffered by the most disadvantaged members of our communities following the recent funding cut of 33.3 per cent to the SkillShare Program and lack of commitment to the SkillShare Program beyond September 1996.

Your petitioners therefore request the House to intercede on our behalf to ensure that any funding cuts to the SkillShare Program be strongly opposed to ensure that the level of services, training places and assistance for those who need it most be maintained.

Labour Market Programs

Senator PANIZZA (Western Australia)—by leave—I present to the Senate the following petition, from 235 citizens, which is not in conformity with the standing orders as it is not in the correct form:

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

We the petitioners here undersigned oppose the cuts made to programs associated with the provision of labour market assistance to the unemployed.

We view the decision to make these cuts as ill advised and in contravention of the Government's pre-election commitments to maintain services to the unemployed.

We call on all members of Parliament, regardless of political party to do everything possible and ensure that:

1. The Government maintain the real level of labour market program funding at levels equal to or greater than that provided for under the previous Government's Working Nation Initiatives.

2. The Government recognises the value of the current Skillshare program as a community provider of services to the unemployed and make provision for the continued existence of, and extension to, this highly successful program.

3. The Government immediately declares a moratorium on any cuts to funding for community based program providers of services to the unemployed and enter into discussions with peak industry advocates, representatives of the unemployed and representatives of employees employed in these services about the most effective ways to deliver these services. That no changes be made to the delivery of these services until these discussions occur.

4, The Government does everything possible to ensure that the experienced and trained employees currently engaged in the provision of community based labour market assistance programs be maintained in these services in order to ensure that unemployed people get the greatest possible opportunity to be successful in gaining meaningful employment.

Petitions received.

NOTICES OF MOTION

Port Hinchinbrook Development Project

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

That there be laid on the table, on or before Wednesday, 10 September 1996, by the Minister for the Environment (Senator Hill), all documents, correspondence, reports, advices and memos and scientific assessments received by the Minister, his office, the secretary of the Department of the Environment, Sport and Territories and his portfolio after 1 January 1995 regarding the Port Hinchinbrook project.

National Commission of Audit

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)—I give notice that, on the next day of sitting, I shall move:

That the Senate call on the Assistant Treasurer (Senator Short) to provide the following information in respect of each of the 12 items of correspondence between the Commission of Audit and departments and ministers which were withheld from tabling on 21 August 1996:

(a) a brief description of the communication;

(b) the originator of the correspondence; and

(c) the reasons for withholding the correspondence.

Research and Development

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

That the Senate—

(a) notes:

(i) a letter written by the Tax Concessions Committee of the Industry Research and Development Board to the then Minister for Industry, Science and Technology (Senator Cook) on 8 August 1995,

(ii) that in the letter the committee sought immediate legal advice from the Minister about the 'usurping' of its powers by AusIndustry, which overturned the committee's recommendation that the 150 per cent industry research and development (IR&D) concession to the John Bertrand America's Cup syndicate be withdrawn because of its failure to comply with reporting requirements and its failure to carry out the proposed research and development (R&D), which the committee had reason to believe was 'only the beginning, and serious discrepancies may exist in the nature of the R&D performed and the location of the expenditure (overseas)', and

(iii) that the committee further complained that 'allegations made by a senior public servant of corruption in the tax concession scheme', which should have been referred to the committee, were wrongly referred to the Industry, Research and Development Board, causing the committee 'grave concern'; and

(b) expresses its serious concern that Senator Cook never replied to the committee and failed to respond to its request for an urgent private meeting during his remaining 7 months in office, and that he and his ministerial colleagues not only allowed such allegedly multi-million dollar rorts of the IR&D system to continue despite such high-level warnings, but also appointed the person who headed this syndicate to be chairman of the board that swept this matter under the carpet.

Introduction of Legislation

Senator LEES (South Australia—Deputy Leader of the Australian Democrats)—I give notice, also on behalf of Senator Brown, that, on Wednesday, 11 September, we shall move:

That the following bill be introduced: A Bill for an Act to protect Australia's native forests, and for related purposes.

Native Forest Protection Bill 1996.

Pairs in Secret Ballots

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)—I give notice that, on the next day of sitting, I shall move:

That the Senate notes:

(a) the following statements in relation to the granting of pairs in secret ballots made by senators during the debate on the election of the Deputy President on 20 August 1996, namely:

(i) Senator Hill's statement 'Pairs are never given in secret ballots',

(ii) Senator Baume's interjection 'Never for a secret ballot',

(iii) Senator Harradine's statement 'In my time here it has never happened before', and

(iv) Senator Alston's statement 'They have never been used in this chamber'; and

(b) the record of the Senate *Hansard* for 21 April 1983 when Senator Kilgariff, the Opposition Whip, stated, following the election of the President 'I wish to draw to your attention the fact that in the election that has just taken place it was necessary to ask for a pair for Senator Archer who is unable to attend the Senate today. This was provided by Senator Georges from the Government ranks'.

Fringe Benefits Tax

Senator CHAPMAN (South Australia)—I congratulate you, Mr Deputy President, on your election to this very important office. I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that:

(i) the former Prime Minister, Mr Keating, told Parliament, when introducing the

fringe benefits tax on 2 May 1986, that its absence had 'allowed many thousands of Australians to escape their fair share of tax while adding their burden to the backs of their fellow taxpayers', and that its introduction would 'flush out the rorts and ramps' and 'make people pay their fair share of tax',

(ii) when regretting his own failure to file his income tax return in a speech to Parliament on 28 November 1986, Mr Keating said 'My future tax returns will not be overdue',

(iii) on 22 August 1996, the Supreme Court of New South Wales made an order to wind up Brown and Hatton Group Pty Ltd and appointed Mr Thomas Javorky as official liquidator,

(iv) the successful petitioning creditor was the Australian Taxation Office, and that its petition related to the company's non-payment of penalties imposed because of its failure to pay fringe benefits tax for the 5 years from 1989 to 31 March 1994 as required by law, and

(v) for most of this period of failure to pay fringe benefits tax, Mr Keating, first as Treasurer and then as Prime Minister, was a half-owner of the company;

(b) regrets that this breach of the taxation law is yet another example of Mr Keating's piggery group flouting the law while under his half-ownership, in line with its continued breaking of the Corporations Law (which has now resulted in successful prosecutions of his piggery partner, Mr Constantinidis, and the secretary of his family company, Mr Coudounaris) and its disregard for environmental laws;

(c) commends Senator Baume for his steadfast determination to reveal details of the improper and illegal activities of the former Prime Minister's piggery group, despite an unprecedented campaign of personal vilification against him by Mr Keating and his former ministerial colleagues; and

(d) calls on Mr Keating, in his new commercial ventures, to ensure that there will be no continuation of this pattern of disregard for the requirements of Australian law by any entity in which he has a significant direct or indirect interest.

Tibet

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

That the Senate—

(a) expresses its deep concern about the current situation in Tibet;

(b) recognises that human rights abuses have been committed in Tibet by the People's Republic of China since 1959, and that human rights abuses are reportedly continuing;

(c) endorses United Nations General Assembly Resolutions Nos 1353 of 1959, 1723 of 1961 and 2079 of 1965, and recognises that they remain relevant today; and

(d) endorses the call for the cessation of practices which deprive the Tibetan people of their fundamental human rights and freedoms.

Regulations and Ordinances Committee

Senator O'CHEE (Queensland)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notices of motion Nos 1 to 13 standing in my name for the next day of sitting. I seek leave to make a short statement.

Leave granted.

Senator O'CHEE—On 30 May 1996, I reported to the Senate on the committee's concerns with these instruments which included possible prejudicial retrospectivity, possible invalid incorporation of material, fees with no explanation, non-payment of witnesses' expenses, inappropriate use of regulations, discretions which may not be subject to merits review, a possible unreasonably short period within which certain actions must be completed, and the use of blanket rather than specific amendments. The relevant ministers have now provided the committee with information which meets our concerns. The committee is grateful for this cooperation. At a future date, I will report to the Senate on the committee's continuing scrutiny of several of these instruments. As usual, I seek leave to incorporate the committee's correspondence in *Hansard*.

Leave granted.

The correspondence read as follows—

TRADE PRACTICES REGULATIONS (AMENDMENT)

STATUTORY RULES 1996 NO 20

15 April 1996
Senator the Hon Jim Short
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Trade Practices Regulations (Amendment), Statutory Rules 1996 No 20, which provide for the procedural aspects of the declaration mechanism in the new access dispute regime.

Subregulations 6C(2) and (3) provide for the payment of a notification of access dispute fee of $2,750. The Committee would be grateful for your advice about the basis on which this fee was set. Regulation 6D provides for withdrawal of notification, but does not appear to provide for a refund on withdrawal, as provided, for instance, by r.3(4) of the Moomba-Sydney Pipeline System Sale Regulations, Statutory Rules 1996 No 19.

Regulation 6F sets discretionary pre-hearing and hearing fees; the latter, if imposed, must be apportioned between the parties. Again, the Committee would be grateful for your advice on the basis for setting the fees at those levels and on why the fees are discretionary.

Regulation 6E and Form AA provide for a summons to witnesses. There does not, appear, however, to be any provision for witnesses' expenses. The Committee would appreciate your advice.

Yours sincerely

Mal Colston
Chairman

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27 May 1996
The Hon Daryl Williams AM QC MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Minister

In its Annual Report 1993-94 this Committee reported that certain decisions provided for by the Trade Practices Regulations were not subject to external merits review by the Administrative Appeals Tribunal. Subsequently, on 14 August 1995, the President of the Administrative Review Council, quoting the Committee's Report, wrote to the then Minister for Justice advising that, in the view of the ARC, those decisions should be subject to such review. The President copied her letter to the Assistant Treasurer and to the Committee.

On 22 September 1995 the Committee wrote to the Assistant Treasurer, referring to the ARC advice, asking that the Regulations be amended to provide for AAT review of the decisions. On 11 October 1995 the Minister for Justice wrote to the Assistant Treasurer suggesting merits review of the decisions by the Trade Practices Tribunal. On 13 December 1995 the Assistant Treasurer replied to the Minister, copying his letter to the Committee, advising that he did not favour merits review by either the AAT or the TPT.

The Committee notes that the ARC is a statutory agency with the function, among other things, of making recommendations to the Minister on review of administrative decisions. The Committee would be grateful for your advice on whether you accept the present recommendation of the ARC.

The Committee supports the position of the ARC. In this context the Committee had previously referred similar discretions in the Export Inspection and Meat Charges Collection Regulations to the ARC for advice. Following advice from the ARC that the discretions should be subject to AAT review the Committee formally resolved on 30 November 1995 to recommend that the Senate disallow the relevant Regulations if the Minister did not, on that day, give the Committee an undertaking to amend them. The Minister then gave such an undertaking. On 17 June 1996 I will give notice of a motion of disallowance of regulation 8 of the Trade Practices Regulations (Amendment), Statutory Rules 1996 No 20, for 15 sittings days after that date.

I will send a copy of this letter to the Assistant Treasurer and to the President of the ARC.

Yours sincerely

Bill O'Chee
Chairman

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22 August 1996
Senator Bill O'Chee
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator O'Chee

On 15 April 1996 the former Chairman of the Senate Standing Committee on Regulations and Ordinances, Senator Mal Colston, wrote to me concerning procedural aspects of the Trade Practices Regulations (Amendment).

These regulations amend the Trade Practices Regulations to establish fees for arbitration determinations by the Australian Competition and Consumer Commission ('the Commission') in relation to access disputes. Such disputes are likely to be large scale commercial disputes involving access to the services of significant infrastructure. For example, an electricity generator seeking access to

an electricity grid could seek arbitration by the Commission in respect of grid services 'declared' under Part 3A of the Trade Practices Act 1974 (the Act).

As noted by Senator Colston, subregulations 6C(2) and (3) provide for a notification of an access dispute fee of $2,750. Regulation 6D provides for the withdrawal of notification but has no provision for a refund on withdrawal. The subregulations were put in place to allow the Commission to recover its costs for processing each notification. The figure of $2,750 represents the minimum costs that the Commission will incur every time in processing a notification, covering initial processing costs, including the costs of notifying other interested parties. These costs would be incurred irrespective of whether or not an arbitration hearing occurs and accordingly, there is no provision for a refund. The figure was arrived at in close discussions with the Commission's management, who provided information about the costs involved.

The second question raised by Senator Colston concerns the discretionary pre-hearing and hearing fees. Similarly, these fees were also set with a view to cost recovery, particularly given that the parties could use private dispute resolution if they so wished.

The fee of $10,000 represents the minimum 'get-up' work which the Commission must undertake before conducing arbitration hearings. In the case of disputes about variations of an earlier determination a lower fee is specified ($2,000) because the Commission will have previously considered the matter. The daily hearing fee of $4,000 covers the minimum cost of daily hearings, including the cost of two Commissioners, Commission staff, counsel for the Commission, facility expenses, transcription fees, etc.

By specifying these fees in the regulations, the parties know in advance what costs will be incurred, thus allowing the parties to control the costs of the arbitrations. In each case, the Commission must simply decide whether or not to charge the amounts specified in the regulations. If the Commission believes that the fees are not warranted in a particular situation (eg the hearing day has only lasted for 15 minutes) it could decide not to charge any fee for the day.

As noted, these fees are different from those set out in the Moomba-Sydney Pipeline System Sale Regulations (MSP Regulations) and do not contain a provision for a refund. This is because the MSP Regulations rely on a different regulation-making power, which would not appear to permit step-by-step charging. Given that, under regulation 6 of the Trade Practices Regulations, costs are only charged after they have been incurred there is no need for refund provisions.

The third issue relates to the question of why no provision has been made to cover the expenses of witnesses summoned to appear before the Commission. Experience has shown that a specific provision is unnecessary, in light of the Trade Practices Tribunal decision in re John Dee (Export) Pty Ltd ATPR 41-006. In that case, the President of the Tribunal held that the payment of expenses incurred by persons in compliance with summonses was an incidental aspect of the procedure of the Tribunal. As the Commission has the right to determine its own procedure (see s.44ZF of the Act), it appears the Commission has the power to order the payment of those witnesses expenses.

I note that a disallowance motown was moved in the Senate on 30 May 1996 in respect of regulation 8 of the Trade Practices Regulations (Amendment). This issue had not been raised with me prior to the motion being made. Regulation 8 does not deal with the matters examined above, but merely amends regulation 28 of the Trade Practices Regulations. The amendments to regulation 28 enable the Commission to charge for providing copies of documents on the register held by the Commission under Part IIIA of the Act. The level of fees is the same as that charged by the Commission for copying documents held on the register under other parts of the Act.

I trust this explanation meets the concerns of the Committee. I request that you take action to withdraw the above disallowance motion.

Yours sincerely

JIM SHORT

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5 September 1996
Senator Bill O'Chee
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator O'Chee

Thank you for your letter (cttee\1041) dated 27 May 1996 concerning recommendations by the Administrative Review Council for merits review of Australian Competition and Consumer Commission decisions on whether concessional fees may be paid. You ask whether I accept the Council's recommendation. In short I have accepted the substance and effect of the President's advice in this matter.

You may be aware that the former Minister for Justice responded to the President's letter on 11 October 1995, expressing support for the general proposition that decisions of the kind in question should be subject to administrative review. The former Minister also expressed the view that the

particular decisions should be within the jurisdiction of the (then) Trade Practices Tribunal.

The former Assistant Treasurer wrote on 13 December 1995 to the former Minister for Justice indicating that it would be inappropriate for the Administrative Appeals Tribunal to be in an authoritative position making findings which bear upon one of the key technical issues underpinning competition law. The former Assistant Treasurer also rejected the suggestion that jurisdiction be conferred on the Australian Competition Tribunal (the successor to the Trade Practices Tribunal).

This matter came before me after the election and I have written to my ministerial colleague Senator Jim Short, the Assistant Treasurer, about the advice provided by his predecessor to the former Minister for Justice. I have expressed my view (consistently with the advice of the President of the Council) that there should be external merits review of the decision making power in question. I have also considered which is the most appropriate body to review the particular decisions. I understand that the Administrative Review Council resolved in December 1995 not to pursue further the question of which tribunal would be the appropriate review forum. After considering the earlier correspondence, I have come to the view that the Australian Competition Tribunal is the most appropriate external review body. I have advised Senator Short accordingly. A copy of my letter to my ministerial colleague is enclosed for your information.

I note your intention to give notice of a motion of disallowance of regulation 8 of the Trade Practices Regulations (Amendment) Statutory Rules 1996 No. 20. As the implementation of the recommendation is essentially a matter for my colleague the Assistant Treasurer to respond to I have sent a copy of this letter to the Assistant Treasurer.

I have also sent a copy to the President of the Administrative Review Council for her information.

Yours sincerely

DARYL WILLLAMS

AUSTUDY REGULATIONS (AMENDMENT)

STATUTORY RULES 1995 NO 393

27 May 1996
The Hon David Kemp MP
Minister for Schools, Vocational
Education and Training
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to two letters to the Committee from Senator Brian Harradine, copies of which are attached, about the AUSTUDY Regulations.

Senator Harradine's letter of 11 December 1995 relates to the validity of certain administrative action in the light of provisions of the AUSTUDY Regulations (Amendment), Statutory Rules 1995 No 132. In this context I attach a copy of a memorandum prepared for Senator Harradine by the Parliamentary Research Service. In summary, the advice in the memorandum appears to be that action by the Minister, the Secretary and the Department may be inconsistent with provisions of the AUSTUDY Regulations and therefore invalid. The Committee would be grateful for your advice on whether administrative action taken in the relevant area has complied with the requirements of the Regulations.

As you know, regulations are made by the Governor-General, acting with the advice of the Federal Executive Council, under the authority of an enabling Act of the Parliament. It would be a matter of concern if administrators failed to observe the provisions of regulations, or substituted other requirements in place of those prescribed by regulation. The Committee has often pointed out that the rights and duties provided for by regulations are as significant as those provided for by Acts.

Senator Harradine's letter of 1 May 1996 concerns Statutory Rules 1995 No 393 which, among other things, abolish the AUSTUDY Dependent Spouse Allowance. Senator Harradine points out that a provision dealing with the same matter was included in the Student and Youth Assistance Amendment (Budget Measures) Bill 1995. That Bill was passed by the House of Representatives on 22 November 1995 and was introduced into the Senate on 27 November 1995, with the second reading adjourned on that date. The Regulations were subsequently made 15 days later, on 12 December 1995, and came into effect on the same day. The Committee would be grateful for your advice on why regulations were made covering a matter provided for in a government sponsored bill then before the Senate. Your advice would also be appreciated on the date on which drafting instructions for the Regulations in question were sent to the Office of Legislative Drafting. The Committee notes that the provision in the relevant Act relating to Dependent Spouse Allowance came into effect as recently as 1 January 1995. As it now stands, a provision of an Act appears to contemplate that there will be such an allowance, whereas the allowance was abolished by regulation.

The Committee would also be grateful for your advice on why the date of commencement of the Regulations is 12 December 1995, whereas the relevant date of commencement provided for in the Bill was almost three weeks later, on 1 January 1996.

I will send a copy of this letter to Senator Harradine.

Yours sincerely

Bill O'Chee
Chairman

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26 June 1996
Senator Bill O'Chee
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Bill,

Your letter of May 27 to my colleague David Kemp MP has been referred to me as the senior Minister in the portfolio. Thank you for forwarding a copy of the paper prepared by the Parliamentary Research Service and the letter of Senator Harradine—to whom I am responding separately.

As a former member of your Committee, I entirely take your point about the primacy of legislation over regulation and would be most concerned at any breach of this important principle.

As you know, the Austudy scheme is established under the Student and Youth Assistance Act 1973. This principal Act provides for the level and type of benefits to be specified by regulation. Regulation 64 of the Austudy regulation, provides for the payment of a Dependent Spouse Allowance (DSA) to some Austudy recipients. The DSA, created by regulation, has been a part of Austudy benefits from the inception of the scheme.

The point I wish to stress is that the DSA was created by regulation and therefore its termination should be by regulation. The DSA only found its way into the principal Act by an amendment which came into effect on January 1 1995—after which the principal Act contained a reference to the DSA in Schedule 1, Module F.

According to Schedule 1 (F3), "The parental income test does not apply to the person while a parent of the person: . . .

(e) gets Austudy or Abstudy and:

(i) also gets dependent spouse allowance under Austudy or Abstudy . . . ".

This reference substantively dealt with eligibility for the Youth Training Allowance. The DSA was mentioned only because the amendment granted exemption from a parental means test if the parent was getting Austudy or the DSA. This provision in the principal Act does not create an obligation to pay. Rather it simply refers to an allowance already set up under the Austudy regulations.

In my view, removing this reference to the DSA in the Act was a form of legislative house-keeping to acknowledge the cessation of an allowance (by removing a reference to it) which having been created by regulation, was being abolished by regulation.

As you know, the previous Government—as part of a general move to replace the DSA with another benefit—repealed Austudy Regulation 64 by Regulation 9 of the Statutory Rules 1995 No. 393. The drafting instruction to repeal Regulation 64 was issued on October 30, 1995. The date of commencement of Regulation 9 was December 12, 1995—so that it could cover processing of 1996 Austudy applications in late 1995.

The proposed amendment to the principal Act to delete, amongst other things, reference to the DSA, was introduced into the Senate on November 27, 1995, but was not passed before the Parliament was prorogued. The deletion of reference to the DSA was, as I say, a piece of legislative house-keeping to acknowledge the fact that the DSA would no longer be available—under the Regulations—after January 1 1996.

I very much appreciate your Committee's vital role in safeguarding the legislative process and I congratulate you, your Committee and Senator Harradine for your vigilance on this subject. I hope, however, I have satisfied you that there has been no breach of legislative principle in this case.

I note Senator Harradine's concerns and those of the PRS that the "deeming" provisions of the Austudy Actual Means Test might be in breach of the Austudy Regulations which require decisions to be made on the basis of information supplied by applicants. Naturally, I am concerned to ensure that no breach could occur and have asked the AMT review team now looking into this matter to take Senator Harradine's concerns fully into account.

I appreciate that there are a number of important political objections to some aspects of the Austudy scheme which are governed by the Austudy Regulations. The Government is addressing these objections through the AMT review to which, as indicated, I will treat Senator Harradine's letter and attachments as a most important submission.

In all the circumstances, I hope you will consider withdrawing the notice of motion which you gave to the Senate on May 30, 1996, to disallow Statutory Rules 1995 No. 393.

Yours sincerely,

AMANDA VANSTONE

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23 August 1996
Senator the Hon Amanda Vanstone
Minister for Employment, Education,
Training and Youth Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your letter of 26 June 1996 on aspects of the AUSTUDY Regulations.

The Committee noted your advice on the relationship between the enabling Act and the regulations in relation to the Dependent Spouse Allowance and about the primacy of Acts over delegated legislation. The Committee will now remove its notice of disallowance on Statutory Rules 1995 No 393.

The Committee would, however, appreciate your further advice on the other matter raised by Senator Harradine, concerning a possible failure by the Department to comply with the AUSTUDY Regulations. The Committee accepts your advice that no future breach should occur, but would be grateful for your assurance that no breach of the Regulations occurred previously in the circumstances set out in the memorandum prepared by the Parliamentary Research Service.

I will send a copy of this letter to Senator Harradine.

Yours sincerely

Bill O'Chee

Chairman

MOOMBA-SYDNEY PIPELINE SYSTEM SALE

REGULATIONS, STATUTORY RULES 1996 NO 19

15 April 1996
Senator the Hon Jim Short
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Moomba-Sydney Pipeline System Sale Regulations, Statutory rules 1996 No 19, which set out the procedural aspects of the new Moomba pipeline access regime.

Subregulation 3(2) provides that the notification of access dispute fee is $5,000 if related to a variation of an existing determination and $15,000 in any other case. Subregulation 3(4) then provides that if a notification is withdrawn before an arbitration hearing then $2,250 of the $5,000 or $12,250 of the $15,000 must be remitted to the notifier. The Explanatory Statement does not appear to advise of the basis upon which the fees or the remissions were set, or of whether this is the only fee payable in relation to the dispute whether the notifier wins or loses the dispute.

Next, regulations 5 and 13 and Forms 1 and 3 provide for a summons to witnesses. There does not appear, however, to be any provision for witnesses' expenses.

The Committee would appreciate your advice on these matters.

Yours sincerely

Mal Colston
Chairman

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22 August 1996
Senator Bill O'Chee
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator O'Chee

On 15 April 1996 the former Chairman of the Senate Standing Committee on Regulations and Ordinances, Senator Mal Colston, wrote to me concerning procedural aspects of the Moomba-Sydney System Sale Regulations.

These regulations establish fees for arbitration determinations by the Australian Competition and Consumer Commission ('the Commission') in relation to access disputes under Part 6 of the Moomba-Sydney Pipeline System Sale Act 1994 (the Act). Such disputes are likely to be large scale commercial disputes involving access to the Moomba-Sydney pipeline.

As noted by Senator Colston, subregulation 3(2) provides for a dispute notification fee of $15,000 (or $5,000 if the dispute relates to an existing determination). Subregulation 3(4) then provides that if a notification is withdrawn before an arbitration hearing then $12,250 of the $15,000 (or $2,250 of the $5,000) is refunded to the notifier. This leaves a non-refundable component of $2,750, which is equivalent to the initial notification fee under regulation 6D of the Trade Practices Regulations (amendment). However, unlike under Part IIIA of the Trade Practices Act 1974 the regulation making power did not support the progressive fee structure under the Part IIIA regulation. Accordingly, under the Moomba-Sydney System Sale Regulations a larger up-front fee was provided for, but with provision for refund.

The subregulation was put in place to allow the Commission to recover its costs for processing each notification. The figure of $2,750 represents the minimum costs that the Commission will incur every time in processing a notification. It will cover initial processing costs, including the costs of

notifying other interested parties. These costs would be incurred irrespective of whether or not an arbitration hearing occurs and accordingly, there is no provision for a refund. The figure was arrived at in close discussions with the Commission's management, who provided information about the costs involved.

The remainder of the notification fee (ie. $12,250/$2,250) covers the minimum cost of the arbitration, including the cost of two Commissioners, Commission staff, and counsel for the Commission. By specifying these fees in the regulations, the notifier knows in advance what costs will be incurred, thus enabling it to control its arbitration costs. Senator Colston also asked why no provision has been made to cover the expenses of persons summoned to appear before the Commission. Experience has shown that a specific provision is unnecessary, in light of the Trade Practices Tribunal decision in re John Dee (Export) Pty Ltd ATPR 41-006. In that case, the President of the Tribunal held that the payment of expenses incurred by persons in compliance with summonses was an incidental aspect of the procedure of the Tribunal. As the Commission has the right to determine its own procedure (see section 96 of the Act), it appears the Commission has the power to order the payment of those witnesses expenses.

I note that a disallowance motion in respect of those Regulations was moved in the Senate on 30 May 1996. I trust this explanation meets the concerns of the Committee. Therefore, I request that you take action to withdraw the above disallowance motion.

Yours sincerely

JIM SHORT

HEALTH INSURANCE COMMISSION REGULATIONS

(AMENDMENT), STATUTORY RULES 1995 NOS 375 AND 440

25 January 1996
The Hon Carmen Lawrence MP
Minister for Human Services and Health
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Health Insurance Commission Regulations (Amendment), Statutory Rules 1995 No 375.

New r.3Q(2)(d) provides for the HIC to pay administrative costs associated with the Australian Childhood Immunisation Register. Subregulation 3Q(3) then provides that if the HIC makes an overpayment for administrative costs then the amount of the overpayment may be deducted from the next payment. The Committee would appreciate your advice on how the amounts of administrative costs are calculated and what is the result if a payee disputes that overpayment has occurred. Is there AAT review of relevant HIC decisions? The Committee would also be grateful if you could advise of the total amount which the HIC expects to pay in respect of administrative costs.

Yours sincerely

Mal Colston
Chairman

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28 June 1996
The Hon Dr Michael Wooldridge, MP
Minister for Health and Family Services
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the letter of 6 March 1996 from an officer of the Health Insurance Commission on aspects raised by the Committee of the Health Insurance Commission Regulations (Amendment), Statutory Rules 1995 No 375.

The letter advised that the Regulations do not provide for AAT review of decisions by the Health Insurance Commission in respect of recovery of overpayments. The Committee would appreciate your advice on the reasons for this omission and whether the lack of review is within the relevant guidelines of the Administrative Review Council.

Yours sincerely

Bill O'Chee
Chairman

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15 April 1996
The Hon Dr Michael Wooldridge MP
Minister for Health and Family Services
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Health Insurance Commission Regulations (Amendment), Statutory Rules 1995 No 440, which, among other things, omitted and substituted r.3Q(3).

On 25 January 1996 the Committee wrote to the then Minister about the previous r.3Q(3), which was inserted by Statutory Rules 1995 No 373. The Committee's concerns related to aspects of administrative costs and AAT review of relevant HIC decisions. The provisions of the previous r.3Q(3) are reproduced generally in the new r.3Q(3)(f) and the Committee remains concerned about the matters which it raised in its letter of 25 January 1996 and would appreciate your advice.

The Committee would also be grateful for your advice on another aspect of the new r.3Q(3). The

Explanatory Statement advises that the regulation provides for payments to be made by electronic funds transfer and that, in the absence of such provisions, a person entitled to payment could insist on payment other than by EFT. However, the subregulation then provides a discretion for the Managing Director to direct payment otherwise than by EFT. There are no criteria for the exercise of this discretion. Payment by EFT may not be convenient or possible for all persons affected by the Regulations and the Committee asks whether AAT review is available for a decision not to direct alternative payment. If there is no such review, the Committee would appreciate your advice that this exclusion comes within ARC guidelines. The Committee would also appreciate advice on the steps taken to publicise the availability of the new discretion.

Yours sincerely

Mal Colston
Chairman

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19 August 1996
The Hon Dr Michael Wooldridge
Minister for Health and Family Services
Senator W.G. O'Chee
Chairman
Senate Standing Committee on
Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator

I refer to a letter of 15 April 1996 from the former Chairman of the Senate Standing Committee on Regulations and Ordinances, Senator Colston, and your letter of 28 June 1996 concerning Health Insurance Commission Regulations (Amendment). Statutory Rules Nos 375 and 440. I note, also, that these Statutory Rules are the subject of Notices of Disallowance, lodged on 30 May 1996.

In Senator Colston's letter he referred to an earlier letter from the Committee to the then Minister for Human Services and Health concerning aspects of the immunisation register scheme. This earlier letter was the subject of a response by the Health Insurance Commission's Manager, Legal Services on 8 March 1996 (copy enclosed).

Senator Colston advised that the Committee remains concerned about the matters raised in its original letter of 25 January 1996. These matters relate to calculation of administrative costs payable and means of disputing a decision that an overpayment has occurred.

On the issue of administrative costs payable in respect of provision of information for the Australian Childhood Immunisation Register, you would be aware that the Regulations merely make reference to the making of "a payment". The amount payable is determined—as a matter of policy and in accordance with bilateral Commonwealth/State agreements outside the ambit of the Regulations.

The 8 March 1996 response drew to your attention the administrative procedures, within the Health Insurance Commission, in relation to provider overpayments. These procedures involve notification to the payee of apparent overpayment and the giving of an opportunity to present any countervailing evidence or arguments, before any offsetting action would occur. I note also that the ability to offset is expressed as a discretionary, rather than a mandatory power, (the Commission "may" reduce a later payment: sub-regulation 3Q(3)). In fact there have been a small number of instances of overpayment where, upon notification, payees have refunded the appropriate amounts. These factors—together with the point that the issue of whether an overpayment has occurred is a matter, clearly, of fact—suggest that external "merits review" of a decision to involve the offsetting power would appear to be inappropriate.

Officers of the Health Insurance Commission have sought advice (copy enclosed) from the administrative law area of the Attorney-General's Department on the issues you have raised. The advice received is that a decision to recover an acknowledged debt to the Commonwealth must be differentiated from a decision determining the means whereby such a debt is to be recovered. The latter decision does not give rise to the kinds of interests sought to be protected in providing for merits review, and accordingly, review by the Administrative Appeals Tribunal (AAT) would not appear appropriate.

In Senator Colston's latest letter, he also requested advice in relation to possible review of a decision of the Managing Director, under paragraph 3Q(3)(d), to not direct an alternative means of payment to EFT payment. In answer to Senator Colston's specific query, I advise that there is no AAT review of such a decision. Indeed, the advice available to my officers is that this is a matter more properly described as being procedural in nature and one which would not appropriately be the subject of review by the AAT. As a matter of practice, too, the matter appears not to have caused significant concern.

I am advised that to date, only one practice has sought internal reconsideration of a paragraph 3Q(3)(d) decision. Also, in the early days of the scheme's operation (but not more recently), a small number of doctors initially requested payment by cheque—most apparently assuming that the Immunisation Register arrangements were the same as the Medicare arrangements where payment is generally by cheque. When advised of the EFT

payment regime, none of these requesters pursued the matter of payment method.

Yours sincerely

Dr Michael Wooldridge

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9 September 1996
The Hon Dr Michael Wooldridge MP
Minister for Health and Family Services
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your letter of 19 August 1996 on aspects raised by the Committee of the Health Insurance Commission Regulations (Amendment), Statutory Rules 1995 Nos 375 and 440. The Committee considered the letter at its meeting of 22 August 1996.

The Committee noted the advice in your letter and agreed to withdraw the notices of disallowance in respect of the Regulations.

Yours sincerely

Bill O'Chee

Chairman

CUSTOMS (PROHIBITED IMPORTS) REGULATIONS (AMENDMENT), STATUTORY RULES 1996 NO 31

CUSTOMS (PROHIBITED EXPORTS) REGULATIONS (AMENDMENT), STATUTORY RULES 1996 NO 32

19 April 1996
The Hon Geoff Prosser MP
Minister for Small Business
and Consumer Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Customs (Prohibited Imports) Regulations (Amendment) and to the Customs (Prohibited Exports) Regulations (Amendment), Statutory Rules 1996 Nos 31 and 32, which repeal aspects of the Principal Regulations following suspension of United Nations sanctions against parties in the former Yugoslavia.

The Explanatory Statement advised that the United Nations Security Council had on 22 November 1995 partly suspended the previously existing sanctions. The Explanatory Statement further advised that because this was a suspension rather than a termination of the sanctions, it was implemented by 'conditioned blanket permissions' rather than by an amendment of the Regulations. The Committee would appreciate your advice on why this form of permission was used, the result of which appears to have been an unusual use of the permission provisions in the Regulations. The Committee asks why the Regulations were not amended at that time, given that the two Explanatory Statements for the present amendments advise that the latest lifting of sanctions, on 26 February 1996, was also a suspension.

Yours sincerely

Mal Colston

Chairman

Senator Bill O'Chee
Chairman
Senate Standing Committee on Regulations and Ordinances
The Senate
Parliament House
CANBERRA ACT 2600

Dear Bill

I refer to the letter of 19 April 1996 from the former Chairman of your Committee, Senator Colston, concerning amendments to the Customs (Prohibited Imports) Regulations (the PI Regulations) and the Customs (Prohibited Exports) Regulations (the PE Regulations) in Statutory Rules 1996 Nos. 31 and 32, which repealed aspects of the Principal Regulations following the suspension of United Nations sanctions against parties in the former Yugoslavia.

Senator Colston's letter noted that the United Nations Security Council had on 22 November 1995 partly suspended the previously existing sanctions and that the Explanatory Statements advised that, because that was a 'suspension' rather than a 'termination' of the sanctions, it was implemented by 'conditioned blanket permissions' rather than by an amendment of the Regulations. Your Committee seeks my advice on why this form of permission was used and why the Regulations were not amended on that occasion, given that the Explanatory Statements for the amendments made by Statutory Rules 1996 Nos. 31 and 32 advise that the 26 February 1996 lifting of sanctions was also a 'suspension'.

Background

The PI Regulations are made pursuant to section 50 of the Customs Act 1901 (the Act) which provides in part that:

(1) The Governor-General may, by regulation, prohibit the importation of goods into Australia.

"(2) The power conferred by the last preceding subsection may be exercised:

"(a) by prohibiting the importation of goods absolutely;

"(aa) by prohibiting the importation of goods in specified circumstances;

"(b) by prohibiting the importation of goods from a specified place; or

"(c) by prohibiting the importation of goods unless specified conditions or restrictions are complied with.

"(3) Without limiting the generality of paragraph (2)(c), the regulations:

"(a) may provide that the importation of the goods is prohibited unless a licence, permission, consent or approval to import the goods or a class of goods in which the goods are included has been granted as prescribed by the regulations; and. . .

"(b) may make provision for an in relation to—(i) the granting of a licence or permission to import goods subject to compliance with conditions or requirements, either before or after the importation of the goods, by the holder of the licence or permission at the time the goods arr imported; . . . "

Section 112 of the Act provides for the making of Regulations to prohibit the exportation of goods from Australia in terms almost identical to those of section 50.

In June 1992 the PI Regulations and the PE Regulations were amended to implement UNSC Resolutions imposing economic and trade sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY)—(Statutory Rules 1992 Nos. 154 and 155 refer—inserting PI regulation 4QB and PE Regulation 13CC). In May 1992 both the PI and the PE Regulations were further amended to extend the sanctions to the Republic of Bosnia and Herzegovina and the Republic of Croatia—(Statutory Rules 1993 Nos. 67 and 68 refer—inserting PI regulation 4QC and PE regulation 13CD).

Regulations 4QB and 4QC of the PI Regulations prohibited the importation of all goods from, or originating in, the FRY or the Republics of Bosnia and Herzegovina, and Croatia without the permission of the Minister for Foreign Affairs or an authorised person Similarly, regulations 13CC and 13CD of the PE Regulations prohibited the exportation of all goods the immediate or final destination of which was, or was intended to be, one of those Republics without the written permission of the Minister for Foreign Affairs or an authorised person.

All the relevant regulations required the Minister for Foreign Affairs or authorised person to be satisfied, when considering whether or not to grant a permission, that Australia's international obligations would not be infringed.

In accordance with subparagraphs 50(3)(b)(ii) and 112(2A)(b)(ii) of the Act the permission granting powers under the relevant sanctions regulations provided that permissions could specify conditions or requirements to which importation or exportation under the permission was subject (PI Regulations 4QB(3) and 4QC(4) and PE Regulations 13CC(4) and 13CD(3) refer).

This formulation for the trade sanctions was chosen to accommodate Australia's international obligations under the terms of the relevant UNSC Resolutions within the restrictive terms of subsections 50(2) and 112(2) of the Act on the way regulations prohibiting the importation or exportation of goods may be drafted. It is also a formulation which allows Customs, at the time of importation or exportation, to identify goods as prohibited imports of prohibited exports.

The language used in UNSC Resolutions is often expressed in terms of requiring member States to put in place measures prohibiting all trade in goods to or from areas controlled by specified forces, or prohibiting trade with particular parties within a country or region. It is considered that the restrictions in subsections 50(2) and 112(2) of the Act on the way in which regulations may be drafted do not allow sanctions regulations to be drafted in the exact terms of the UNSC Resolutions. Defining goods in terms of their origin as "goods from an area controlled by Bosnian Serb forces" would not be "prohibiting the importation of goods from a specified place" within the terms of paragraph 50(2)(b) of the Act. Likewise, prohibiting importation of goods exported to Australia by an individual who belongs to a particular political party or rebel force, is not within the scope of subsection 50(2).

Drafting the regulations in terms of prohibiting importation from, or exportation to, specified countries unless written permission is presented to Customs, is within the scope of paragraphs 50(2)(c) and 112(2)(c) of the Act, while at the same time allowing Australia to meet its international obligations. At the time of entry Customs will be able to identify the goods as a 'possible' prohibited import or prohibited export because the relevant documentation indicates that it originated in, or is destined for, a place where the UNSC sanctions apply. Whether the goods are actually prohibited imports or prohibited exports can then be determined by Customs on the basis of the existence of a permission in writing that applies to those goods. The decision as to whether or not importation or exportation of those goods would infringe the terms of the UNSC Resolution is left to those with the permission granting power, ie the Minister for Foreign Affairs or authorised officers within the

Department of Foreign Affairs and Trade—who are in a better position to know the terms of Australia's obligations under the UNSC Resolution and possible day-to-day changes in circumstances in the countries to which the sanctions relate.

The December 1995 "suspension"

In December 1995, in accordance with UNSC Resolution 1022 of 22 November 1995, the sanctions in relation to the FRY, the Republic of Croatia and the Republic of Bosnia and Herzegovina were suspended indefinitely, except insofar as they related to the Bosnian Serb party and the foreign assets of FRY.

As detailed above, the terms of sections 50 and 112 of the Customs Act allow regulations to be made which 'prohibit' the importation and exportation of goods in particular ways. It is considered that regulations which 'suspend' prohibitions except insofar as they relate to a particular party, or that 'allow' importation or exportation unless the UN Secretary-General notifies that certain agreements have been breached, would not be within the scope of these restrictive heads of power.

It was therefore not considered possible to give effect to Australia's obligations under the terms of UNSC Resolution 1022 by amending the Regulations. The power of the Minister for Foreign Affairs or an authorised person to grant permissions to import or export subject to conditions or restrictions, however, was used to give effect to Australia's obligations under the UNSC Resolution to suspend all previous sanctions measures, subject to certain exceptions in respect of the Bosnian Serb party and goods owned or controlled by the Federal Republic of Yugoslavia (Serbia and Montenegro). The suspension was achieved by issuing 6 'blanket' permissions under the relevant regulations which allowed:

(a) the importation into Australia of all goods except those goods originating in Bosnia Serb controlled areas of Bosnia and Herzegovina; and

(b) the exportation from Australia of all goods except those goods:

  (i) the immediate or final destination of which was intended to be a Bosnian Serb controlled area of Bosnia and Herzegovina; or

  (ii) that were owned or controlled by the Federal Republic of Yugoslavia (Serbia and Montenegro) or a public utility of that country.

While the issuing of permissions for individual importations or exportations of goods would be the usual manner in which a permission granting power under the PI Regulations or PE Regulations would be administered, the terms of the relevant regulations could be interpreted so as to allow a general permission to be issued. While not entirely satisfactory, this approach was only adopted after extensive consultation between officers of the Department of Foreign Affairs and Trade, the Australian Customs Service and the Office of Legislative Drafting in the Attorney-General's Department.

The March 1996 suspension

By letter dated 26 February 1996 the Secretary-General of NATO advised the Secretary-General of the United Nations that the Bosnian Serb forces had withdrawn from the zones of separation set out in the Dayton Place Agreement, thereby satisfying the last requirement of UNSC Resolution 1022 for the suspension of sanctions against the Bosnian Serb Party.

The net obligation on Australia of this suspension was that no controls were required on the importation into Australia of goods from the relevant Republics and that only the exportation from Australia of goods "owned or controlled, directly or indirectly, by FRY or a public utility of FRY" was to be controlled.

On this occasion the Regulations were amended to give effect to the suspension as, in relation to imported goods covered by the Pl Regulations 4QB and 4QC, using the permission granting power to make "unconditioned blanket" permissions would have completely abrogated the operation of those regulations. It was considered that this would have been an inappropriate use of the permission granting power under these regulations.

In relation to goods for export covered by PE Regulations 13CC and 13CD, there were no longer any conditions to be applied to exports to the relevant Republics, only a general prohibition on exports to ANY destination of goods owned or controlled, either directly or indirectly, by the FRY. As the terms of existing PE Regulations 13CC only related to goods destined for the relevant Republics, and that was no longer the primary consideration under the sanctions regime, PE Regulation 13CC and 13CD was amended to apply the 'exportation is prohibited without written permission' formula to all goods "owned or controlled, either directly or indirectly, by the FRY" rather than to all goods "exported to the FRY". PE Regulation 13CD, which related to goods for export to the Republic of Croatia and the Republic of Bosnia and Herzegovina was repealed, as the only goods destined for those Republics which were now to be covered by the sanctions are controlled under the amended PE Regulation 13CC.

I trust this meets the concerns of the Committee.

Yours sincerely

GEOFF PROSSER

OZONE PROTECTION REGULATIONS

STATUTORY RULES 1995 NO 389

OZONE PROTECTION (LICENCE FEES—IMPORTS)

REGULATIONS, STATUTORY RULES 1995 NO 390

OZONE PROTECTION (LICENCE FEES—MANUFACTURE)

REGULATIONS, STATUTORY RULES 1995 NO 391

25 January 1996
Senator the Hon John Faulkner
Minister for the Environment, Sport and Territories
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the following instruments:

1. Ozone Protection Regulations, Statutory Rules 1995 No 389;

2. Ozone Protection (Licence Fees—Imports) Regulations, Statutory Rules 1995 No 390;

3. Ozone Protection (Licence Fees—Manufacture) Regulations, Statutory Rules 1995 No 391.

Subregulation 3(1) of the Ozone Protection Regulations prescribes fees of $10,000 for the grant of two types of licence and $2,000 for a third. Subregulations 4(1) in both of the other sets of Regulations fix rates for activity fees. The Explanatory Statements do not advise of the basis on which these amounts were prescribed. The Committee would be grateful for your advice on whether this was cost recovery, revenue raising or some other basis.

Subregulation 3(2) of the Ozone Protection Regulations provides that the Minister may waive the fee for the grant of a licence if satisfied that certain activities are for test purposes. As drafted, therefore, the Minister has a discretion not to waive a fee even if satisfied that an activity is for test purposes. The Committee suggests that the drafting in this provision should be amended to provide that, if so satisfied, the Minister must waive the fee. Such an amendment would remove the second level of discretion.

The Committee also suggests that the adverse exercise of the first level of discretion should be subject to AAT review. As noted above, the sums involved are substantial. The Committee would appreciate your advice that such review will be provided if it does not already exist.

Yours sincerely

Mal Colston

Chairman

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21 June 1996
Senator Bill O'Chee
Chairman
Senate Regulations and Ordinances Committee
Parliament House
CANBERRA ACT 2600

Dear Senator O'Chee

Ozone Protection Regulations

In response to a written request from the previous Chairman of the Senate Regulations and Ordinances Committee, Senator Colston, to the former Environment Minister, Senator Faulkner, I am writing to you to clarify a number of matters relating to the Commonwealth's Ozone Protection Regulations.

The letter from the Committee requested clarification on the following matters:

(1) the setting of licence fees under subregulation 3(1) of the Ozone Protection Regulations, and the setting of activity fees under subregulation 4(1) of the Ozone Protection (Licence Fees—Imports) Regulations and subregulation 4(1) of the Ozone Protection (Licence Fees—Manufacture) Regulations; and

(2) the discretionary powers of the Minister for the Environment to waive the fee for the grant of two types of licences under certain conditions specified under subregulation 3(2) of the Ozone Protection Regulations and

(3) the consequential question of whether review by the AAT should be provided for.

These issues are addressed below.

Setting of Licence Fees

The licence fees were set on a cost recovery basis to cover the grant and administration of licences. The licence and activity-based fees reimburse the Commonwealth for costs of furthering the HCFC and Methyl Bromide phase-out programs over a thirty year period. The fees were set following extensive consultation and agreement with affected industry sectors. The funds go into an Ozone Protection Trust Fund for that purpose; after expenditure is incurred, the Commonwealth is reimbursed from the fund.

Discretionary Powers of the Minister

The discretionary power in subregulation 3(2) was included to enable me to grant a licence without payment of the fee where imposing a fee would be

inequitable and against the purposes and spirit of the ozone protection program. For example a company may be importing a small quantity of a substance for purity testing prior to deciding to import bulk quantities. If the import, export or manufacture is of commercial or environmental significance, then the fee must be paid.

If the Minister's discretion was to be further limited, the upper limit at which the fee would be payable would need to be substantially reduced to 5 kg. Industry shares this view.

I am of the view that the discretionary powers in subregulation 3(2) should remain as is.

AAT Review

The Ozone Protection Act sets out in Section 66 those matters reviewable by the AAT. It would be consistent with Government legal policy to extend the scope of AAT review to the decision under subregulation 3(2) as to the Minister's discretion not to waive the fee.

I will have my Department prepare a regulation amendment to this effect. In the meantime, the regulations as enacted should stand.

I thank the Committee for the opportunity to respond to the specific issues raised regarding the Ozone Protection Regulations and would be happy to provide any additional information required.

Yours sincerely,

ROBERT HILL

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27 August 1996
Senator the Hon Robert Hill
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your letter received on 21 June 1996 on aspects raised by the Committee of the Ozone Protection Regulations, Statutory Rules 1995 No 389, Ozone Protection (Licence Fees—Imports) Regulations, Statutory Rules 1995 No 390, and Ozone Protection (Licence Fees—Manufacture) Regulations, Statutory Rules 1995 No 391. The Committee considered the letter at its meeting of 22 August 1996.

The Committee noted the advice in your letter and agreed to withdraw the notice of disallowance in respect of the Regulations. The Committee understands that the Regulations will be amended to provide for AAT review of the discretion to grant a licence without payment.

Yours sincerely

Bill O'Chee

Chairman

AUSTRALIAN MEAT AND LIVE-STOCK ORDERS

NOS MQ64/95, MQ66/96 AND MQ67/96 MADE UNDER

S.68 OF THE *MEAT AND LIVE-STOCK INDUSTRY ACT 1995*

25 October 1995
Senator the Hon Bob Collins
Minister for Primary Industries and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Australian Meat and Live-stock Order No. MQ64/95 made under s.68 of the *Meat and Live-stock Act 1995*.

The Order, which was made on 26 September 1995, provides in paragraph 3.1 that an exporter must not export quota meat to the EU for entry from 1 January 1995 to 31 December 1995 without a quota. On its face this retrospectivity would offend s.48(2) of the *Acts Interpretation Act 1901*, which applies to the Order.

Also, the Order refers in a number of provisions to applications received by 29 September 1995. Given that the Order was made on 26 September 1995 and came into effect on notification in the *Gazette*, this short time limit appears unfair.

The Committee noted, however, that the Meat and Live-stock Act replaced the previous regime provided for by the *Australian Meat and Live-stock Corporation Act 1977* and assumes that transitional provisions in the *Meat and Live-stock Industry Legislation Repeal Act 1995* and elsewhere would cover these apparent difficulties of retrospectivity and unfairness. The Committee would appreciate your advice.

Yours sincerely

Mal Colston

Chairman

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19 April 1996
The Hon John Anderson MP
Minister for Primary Industries
and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to Orders Nos MQ 66/96 and MQ 67/96, both made under the *Meat and Live-stock Industry Act 1995*. The Committee would be grateful for your advice about a number of aspects of the Orders. In this context, the Committee wrote to the previous Minister on 25 October 1995 and 7

December 1995 about similar concerns with earlier Orders and received an interim reply from the Department dated 20 February 1996. The Committee would have no objection to a single reply from you which consolidates your advice on these matters.

Both the present Orders were made on 26 February 1996, but both purport to prohibit the export of Quota Meat to the EU for a period beginning before this date, in one case 1 January 1995. There are also retrospective references in the Schedules to each of the Orders. The Committee would appreciate your advice on the validity of this prejudicial retrospectivity.

Both paragraphs 1.2(c) provide that 'a reference to any statute includes a reference to that statute as amended or replaced from time to time.' (Emphasis added.) Section 49A of the *Acts Interpretation Act 1901* provides for the incorporation by reference of an Act as in force from time to time. However, there does not appear to be a similar provision for incorporation of Acts replaced. The Committee would appreciate your advice on the validity of this provision.

Both paragraphs 10.1(b) provide that an application 'must be made in accordance with conditions advised in writing by the Corporation to the Eligible Exporter from time to time.' The imposition of such conditions from time to time independently of the legislative process may not be a valid exercise of power. The Committee would be grateful for your advice.

Both paragraphs 9 provide for the possibility of an increase or variation of a Quota; both paragraphs 11.4 provide that the Corporation may withdraw an Approval at any time and for any reason; and both paragraphs 16.1 provide that the Corporation may vary certain matters in respect of the Quota. In the case of the discretions in paragraphs 16.1, both paragraphs 16.2 provide for AAT review. The Committee would appreciate your advice on whether there is similar AAT review of the other discretions and, if not, if the exclusion comes within ARC guidelines.

Paragraph 7.4 of No MQ 66/96 provides that certain actions will take place provided that the relevant Certificate 'annotated by the relevant EU authority. . . is received by the Corporation by 5.00 pm on 31 March 1996.' As the Order was only made on 26 February 1996, was sufficient time allowed for the European authorities to receive and annotate the Certificate, which must then be forwarded to the Corporation? The 31 March 1996 limit has already passed, so what actually happened will be known. The equivalent paragraph 7.4 of No MQ 67/96, on the other hand, provides for a date six months later.

The Committee noted in its letter of 25 October 1995 that the new Meat and Live-stock Industry Act has replaced the previous Act and that some of the above matters may have been covered by transitional provisions in the new legislation. The Committee would appreciate your detailed advice.

Yours sincerely

Mal Colston

Chairman

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18 June 1996
Senator M Colston
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Colston

I refer to your letters of 25 October 1995 and 7 December 1995, to the former Minister for Primary Industries and Energy, concerning review of some clauses of the Australian Meat and Live-stock Corporation (AMLC) Orders MQ64/95, MQ65/95 and M73/95.

Advice was sought from the Australian Meat and Live-stock Corporation (AMLC) and the Office of General Counsel of the Attorney General's Legal Practice on all Orders.

With respect to your first query regarding Order MQ64/95, advice from the Attorney-General's Legal Practice is that the Order is not retrospective, an does not contravene the Acts Interpretation Act 1901. A copy of this advice is attached for your information. I have, however, asked the AMLC to consider adopting a new drafting approach to ensure that it avoids any suggestion of retrospectivity in future.

With respect to your second query regarding Clause 10.4 of Order MQ65/95, advice has been received from the Attorney-General's Legal Practice supporting your view. Although the AMLC intention was for all quota variations to be reviewable, not just the decisions set out in paragraph 15.1, this has not been the effect of the drafting. Accordingly I have written to the AMLC indicating that in future drafting of Orders of this kind specific review provisions should be included.

With respect to clause 4.4 of Order M73/95, the Attorney-General's Legal Practice advice on this issue also supports your view that this should be a mandatory provision. I have written to the AMLC suggesting that this Order be amended.

You also sent me another letter on 19 April 1996, regarding Orders MQ66/96 and MQ67/96. I have received advice from the AMLC and will seek further advice from the Attorney-General's Legal

Practice. I will write to you again when this advice has been received.

As a result of your queries on these Orders, the AMLC has agreed to provide more information in explanatory memoranda when tabling documents in the future to assist the Committee in understanding its intention. I have enclosed for your information a copy of my letter to the Hon John Kerin and I am hopeful that the problems you have raised will not occur again.

Yours sincerely

JOHN ANDERSON

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27 August 1996
The Hon John Anderson MP
Minister for Primary Industries and Energy
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your letter of 18 June 1996 on aspects raised by the Committee of Australian Meat Orders Nos MQ64/95, MQ65/95, MQ73/95, MQ66/96 and MQ67/96 made under s.68 of the *Meat and Livestock Industry Act 1995*. The Committee considered the letter at its meeting of 20 June 1996.

The Committee noted the advice in your letter and agreed to withdraw the notice of disallowance in respect of the Orders. The Committee understands that the AMLC has been asked to adopt a new drafting approach , to provide for review provisions in future Orders and to amend MQ73/95 to provide for mandatory recording of the quantity of goods in an exporter's name.

Yours sincerely

Bill O'Chee

Chairman

Australian Broadcasting Corporation

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

That the Senate—

(a) deplores the decision of the Australian Broadcasting Corporation (ABC) management to end its rugby league radio broadcasts;

(b) notes that:

(i) this decision has been dictated by Government cuts to the ABC budget, and

(ii) with regret, the decision to no longer cover cricket tours of India, Pakistan, Zimbabwe and Sri Lanka; and

(c) calls on the Government to fund the ABC to a level sufficient to allow these broadcasts to be reinstated.

Iraq

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

That the Senate—

(a) notes, with concern:

(i) the unilateral United States (US) offensive against Iraq on 4 and 5 September 1996, which was conducted without the support of the United Nations (UN) or regional allies,

(ii) the subsequent refusal by the UN Security Council to adopt a resolution supporting the US offensive,

(iii) that the US grounds were unacceptable and inconsistent, given that Iraq has not been the only country to violate the UN safehaven in Iraq;

(b) further notes:

(i) the moral and strategic failure of violence, in retaliation for violence, as this only leads to the escalation of conflict, and

(ii) the failure of all parties, including the US, to adhere to diplomatic solutions which work towards a negotiated peace agreement between the Kurdish factions and an eventual homeland for the Kurds; and

(c) calls on the Government to:

(i) condemn the US offensives against Iraq,

(ii) inform the US that Pine Gap and Nurrungar military bases will not be allowed to be used in offensives without the permission of the Australian Government first being sought, and

(iii) consult with other nations with a view to establishing ways in which ethnic minorities such as the Kurds could achieve self-determination.

Dalai Lama

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

That the Senate—

(a) commends the Dalai Lama and his representatives for consistently rejecting the use of violence, and notes that this was acknowledged in the awarding of the 1989 Nobel Peace Prize to the Dalai Lama; and

(b) endorses the representations made by successive Australian governments and by members of this Parliament to the People's Republic of China on alleged human rights abuses, both generally and specifically in Tibet.

Superannuation

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

That the Senate—

(a) notes the performance of the Assistant Treasurer (Senator Short) at the 1996-97 Budget briefing for the Queensland Division of the Association of Superannuation Funds of Australia where he was unable to answer many questions asked by the assembled guests;

(b) empathises with the Queensland Division of the association, having also tolerated Senator Short's proclivity to take questions on notice in the absence of appropriate preparation; and

(c) urges Senator Short to avail himself of the presence and technical expertise of Senator Watson when he briefs organisations in the future, as Australians are entitled to an explanation of the 1996-97 Budget superannuation and tax changes.

D'Entrecasteaux National Park

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

That the Senate—

(a) notes:

(i) with outrage, the passage of legislation through the Western Australian Parliament to excise a large part of the D'Entrecasteaux National Park in the south west of Western Australia to facilitate the mining of mineral sands by Cable Sands, and

(ii) that there are currently 22 national parks in Western Australia that have exploration licences or temporary reserves applying to them, with many more applications being made for exploration licences in national parks; and

(b) calls on the Federal Government to put into practice the rhetoric that it has used in relation to the National Heritage Trust of Australia Bill 1996 and urgently intervene to prevent mining in the very important D'Entrecasteaux National Park, which is on the Register of the National Estate, or any other national park.

Tibet

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

That the Senate—

(a) calls on the Government of the People's Republic of China to:

(i) recognise the fundamental human rights and freedoms of the Tibetan people, as set out in the Universal Declaration of Human Rights and the International Human Rights Covenants, including the right to practise their cultural and religious traditions without fear of persecution, arrest or torture,

(ii) enter into earnest discussions, without preconditions, with the Dalai Lama and his representatives with a view to reducing the tensions in Tibet, and

(iii) respond to representations made by successive Australian governments and by members of this Parliament on allegations of human rights abuses, and the human rights situation in general in Tibet; and

(b) calls on the Australian Government to continue to make representations to, and seek responses from, the Government of the People's Republic of China on allegations of human rights abuses in Tibet.

Australian National

Senator BOB COLLINS (Northern Territory)—I give notice that, on the next day of sitting, I shall move:

That there be laid on the table, by the Minister representing the Minister for Transport and Regional Development (Senator Alston), by 5pm on Tuesday, 10 September 1996, the report prepared by Mr John Brew on Australian National and related matters, received by the Minister for Transport and Regional Development on 19 June 1996.

Comprehensive Test Ban Treaty

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

That the Senate—

(a) notes:

(i) that the vote on the draft Comprehensive Test Ban Treaty (CTBT) will be taken to the United Nations General Assembly by

Australia in the week beginning 8 September 1996,

(ii) that India and possibly the G21 countries have refused to sign on the basis of the entry into force provisions, which undermine the basis of the treaty, and

(iii) with concern, that the Australian Government's acceptance of the current CTBT draft will protect the P5 nuclear weapons states by allowing them to coerce smaller nations into signing without any concessions for disarmament or entry into force by the large nuclear weapons powers; and

(b) calls on the Australian Government to act with courage to strengthen the entry into force provisions so the CTBT does not remain a token document without key signatories.

National Council for Aboriginal Reconciliation

Senator BOURNE (New South Wales)—On behalf of Senator Kernot, I give notice that, on the next day of sitting, she will move:

That the Senate—

(a) reaffirms its support for true national reconciliation with the descendants of Australia's original inhabitants; and

(b) expresses its support for the process and work of the National Council for Aboriginal Reconciliation, and the signposts to reconciliation suggested by the Governor-General in the Walter Lingiari address.

Kintyre Uranium Mine

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

That the Senate—

(a) notes:

(i) CRA's application for environmental approval for the proposed Kintyre uranium mine in the Rundall River region of Western Australia, and

(ii) the anticipated decision by the Minister for the Environment (Senator Hill) as to the level of Commonwealth environmental assessment for the project; and

(b) calls on the Government to impose the highest available level of Commonwealth assessment with a full public inquiry for maximum public consultation and a thorough evaluation of the impact of the proposed mine.

Classification (Publications, Films and Computer Games) Regulations

Senator BOURNE (New South Wales)—I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for today for the disallowance of the Classification (Publications, Films and Computer Games) Regulations, as contained in Statutory Rules 1995 No. 401 and made under the Classification (Publications, Films and Computer Games) Act 1995.

ORDER OF BUSINESS

Rural and Regional Affairs and Transport References Committee

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

That business of the Senate notice of motion No. 2, standing in the name of Senator Woodley and relating to the reference of matters to the Rural and Regional Affairs and Transport References Committee, be postponed till Thursday 12 September 1996.

BHP Petroleum

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

That general business notice of motion No. 11, standing in the name of Senator Margetts and relating to BHP Petroleum, be deferred until the next day of sitting.

Classification (Publications, Films and Computer Games) Regulations

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

That general business of the Senate notice of motion No. 1, standing in the name of Senator Bourne for this day and relating to disallowance of regulations, be postponed till the next day of sitting.

King Island Dairy Products Pty Ltd

Motion (by **Senator Chris Evans**, on behalf of **Senator Murphy**) agreed to:

That general business notice of motion No. 174, standing in the name of Senator Murphy for this day and relating to an order for production of documents by the Minister representing the Treasurer (Senator Short) concerning the sale of King Island Dairy Products Pty Ltd, be postponed till the next day of sitting.

East Timorese Refugees

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

That general business notice of motion No. 182, standing in the name of Senator Bob Brown for this day and relating to East Timorese asylum seekers, be postponed till 8 October 1996.

Public Interest Secrecy Committee

Motion (by **Senator Bourne**, on behalf of **Senator Kernot**, agreed to:

That general business notice of motion No. 1, standing in the name of Senator Kernot for this day and relating to the establishment of a select committee to be known as the Select Committee of Party Leaders on Public Interest Secrecy, be postponed till the first sitting day in 1997.

COMMITTEES

Privileges Committee

Reference

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

That the following matter be referred to the Committee of Privileges:

Having regard to the correspondence addressed to the President, whether any false or misleading evidence was given to the Environment, Recreation, Communications and the Arts Legislation Committee, and, if so, whether any contempt was committed.

PARALYMPIC GAMES

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

(a) expresses its sincere congratulations to the 162 elite athletes representing Australia in the Paralympic Games in Atlanta;

(b) congratulates our paralympians on their spectacular achievements and notes their achievement in surpassing their goal of 24 gold medals with an extraordinary total of 42 gold medals;

(c) reserves its special congratulations for our athletes' medal-winning performances: 42 gold, 37 silver and 27 bronze medals;

(d) recognises the determination and courage of our athletes in their struggle to overcome their disabilities and attain an elite level of sporting achievement, and

(e) commends our paralympians on their inspiring example of athletic excellence, equality and dignity.

DOCUMENTS

Auditor-General's Reports

Report No. 5 of 1996-97

The ACTING DEPUTY PRESIDENT (Senator Chapman)—In accordance with the provisions of the Audit Act 1901, I present the following report of the Auditor-General, which was presented to the President on 29 August 1996 pursuant to the order of 13 February 1991:

Report No. 5 of 1996-97, *Performance Audit, Accounting for Aid—Management of Funding to Non-Government Organisations—Australian Agency for International Development.*

Indexed List of Files

The ACTING DEPUTY PRESIDENT—Pursuant to the resolutions of the Senate of 13 February 1991 and 30 May 1996, I present an indexed list of files for the Department of Industrial Relations, which was presented to the President on 29 August

1996. In accordance with the terms of the resolution, the publication of the document is authorised.

COMMITTEES

Treaties Committee

Report

Senator ABETZ (Tasmania) (4.05 p.m.)—I present the first report of the Joint Standing Committee on Treaties and seek leave to move a motion in relation to the report.

Leave granted.

Senator ABETZ—I move:

That the Senate take note of the report.

The tabling of this report of the Joint Standing Committee on Treaties is a significant event for both the committee and for the parliament. While it is a relatively short cameo report, it contains a number of intentions and recommendations which the committee feels will improve the parliamentary processes.

This committee is the most recently appointed joint committee and, with 16 members, is the second largest in the parliament. It came into existence as a result of widespread community concerns about the treaty making process. I would like to acknowledge the presence of Senator Kemp in the chamber and divert from the prepared text that I have in front of me. Senator Kemp was one of those who ran with that issue.

In the short time since it was formed, I and my colleagues would like to think it has begun to change not only practices but, more importantly, attitudes to the process of making treaties in this country. Public perceptions of past processes generally have been critical of inadequate consultation.

The establishment of this committee was foreshadowed by the Minister for Foreign Affairs (Mr Downer) in his first ministerial statement, on 2 May 1996, and gave substance to assurances given by the present Prime Minister (Mr Howard), when in opposition last year. I would like to thank the Foreign Minister, the Attorney-General (Mr Williams) and their departmental staff for getting the committee off to a good start.

Before I talk briefly about the 25 treaties tabled on 21 May and 18 June, which are dealt with in this report, I would like to make some general comments about the revised procedures which have been set in place by the government, together with a few words on the way the new arrangements are working. Prior to the present arrangements, while lists of the treaties into which Australia had entered were tabled in the parliament each six months, the Australian people had no way of knowing what their government had done in their name. Increasingly, this closed process caused concern at all levels of society. Significantly, it resulted in a lack of knowledge within the bureaucracy of the implications of these treaties. This, to take one notable example, led to the High Court's judgement in the Teoh case, with continuing legislative question marks.

In November 1995 the Senate Legal and Constitutional Affairs References Committee—I note the then chairman, Senator Ellison, is in the Senate—tabled a report titled *Trick or treaty? Commonwealth power to make and implement treaties.* This report reflected concerns about the impact of international treaties on Australia's federal system and the degree of consultation undertaken by government prior to ratification. Included in its recommendations were the establishment by legislation of a joint treaties committee, the preparation of treaty impact statements for each treaty tabled in parliament and increased efforts by government to identify and consult groups which may be affected by a treaty into which Australia proposes to enter.

Although the government did not implement the Senate committee's recommendations in quite the way they were framed, the changes it has made meet most of that committee's suggestions. It is pleasing that a number of senators from that committee—including Senator Ellison and, might I say, me—are now continuing their work as members of the joint committee. National interest analyses are now required for each treaty and there is also much greater emphasis on consulting those who might be concerned. A treaties council of COAG has been established as well.

Treaties now will be tabled for 15 sitting days, at the end of which time the committee is expected to report to the parliament. Provision has been made also for the tabling of urgent treaties which cannot be tabled for 15 sitting days before action must be taken. More on that later. In its turn the committee has advised the Minister for Foreign Affairs that as soon as practicable after each tabling it will inform him of those treaties on which it will report at the end of the 15-day period and those for which it will require additional time to report. In the latter cases it is the committee's expectation that binding treaty action will not be taken until it has tabled a report.

This report completes the process for consideration of the 25 treaties tabled on 21 may and 18 June. It is not a lengthy report and does not comment in detail on each of those treaties.

On 15 July the committee held private discussions with officials of the sponsoring agencies and DFAT, in its coordinating role, about these treaties. This was very useful and the agencies were prompt in forwarding additional information on some matters which is now publicly available in accordance with normal committee practice.

Highlighting briefly a number of issues, the committee found that the multilateral regional convention on hazardous wastes, the Waigani convention, is an appropriate way for the small countries of the South Pacific to deal with their hazardous waste, given their limited

bureaucratic and other resources. Additionally, it has sought information on successful Australian tenders for work being carried out under the agreement with the Korean Peninsula Energy Development Organization, KEDO. With regard to the agreement establishing the International Institute for Democracy and Electoral Assistance, the committee has called for a progress report on the institute after it has been in operation for 12 months to validate its need.

After lengthy discussion the committee decided not to undertake an inquiry into the treaty with Indonesia on maintaining security at this time, but will consider an inquiry when it has been in operation for a year or so. It agreed also to undertake a relatively short inquiry into the subsidiary agreement between the governments of Australia and Japan concerning tuna long-line fishing. This inquiry called for public submissions and has now had two public hearings, one in Canberra and the other in my home state of Tasmania. Other hearings are scheduled for later this month in Fremantle, together with an inspection of a tuna boat and a tuna farm at Port Lincoln. We intend to table our report by the end of next month. The secretariat has gone to great lengths to publicise that inquiry, and this has resulted in a large number of submissions. This response demonstrates that there is a genuine interest in treaty making at the community level in Australia.

At its meeting on 15 July the committee also decided to investigate and report on the implications for Australia of the UN convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa. As this convention was tabled in parliament on 5 December 1994, it falls outside the 15 sitting day rule. However, nothing in the committee's resolution of appointment prevents it from examining treaties which have already been tabled. Submissions for this inquiry have been sought and are coming in, albeit more slowly than the subject might have indicated. Depending on the number received and their sources, a program of hearings and inspections around Australia will be arranged. At this early stage of the inquiry we intend to table a report on this as early as practicable in 1997.

It is still too early to assess with any precision the effectiveness of our approach and the new processes. In this context we understand that another small group of treaties will be tabled tomorrow for report by 28 October and that a much larger group is likely to be tabled on 15 October for report on the day parliament rises for the year, namely, 5 December. In the latter case, it is likely we will be advising the Minister for Foreign Affairs of our intention to look at some of these treaties in more detail with correspondingly later tabling dates.

In his May statement, Minister Downer said that where tabling in advance of binding action is not possible the resulting treaty would be tabled as soon as possible with an explanation. He noted that the exceptions would be used sparingly and only where necessary to safeguard the various national interests. To date only one treaty has been tabled in this category. The committee is keen to press the point that urgent cases remain just that and that most will be dealt with in the specified time scale.

To conclude, the committee has taken to its task with enthusiasm and I would like to thank all members for their hard work, particularly the chairman, the honourable member for Groom (Mr Taylor) and his deputy chairman, the honourable member for Barton (Mr McClelland). The committee's thanks are due also to the secretariat which has produced briefing material of a high standard and other documents as and when required. I commend the first report of the Joint Standing Committee on Treaties to the Senate and to the appropriate ministers.

Senator CARR (Victoria) (4.15 p.m.)—I join with Senator Abetz in stating that this first report of the Joint Standing Committee on Treaties is a significant report both in terms of the committee and the parliament. The chamber would be aware that this committee was established by the parliament to consider the tabling of treaties and to provide detailed scrutiny and examination of those treaties which are of particular interest to Australians.

It arose essentially out of a report entitled *Trick or treaty? Power to make and implement treaties.* I must say that it involved consideration of a range of reform processes to allow for greater public consultation on issues of treaty making in this country. I think Senator Abetz is quite right: there is a perception in the community that there has been inadequate consultation on a range of matters relating to treaty making.

However, that is not necessarily a perception borne out by the facts. In fact, when consideration is given to the detail of treaties, it is quite often the case that there is an understanding of the importance of treaties to this country. That is particularly the case with global environmental issues and, as part of that global environment, this country has an important role to play in terms of protecting its people and advancing the interests of the people of this country in regard to those matters.

A number of the matters being discussed in this report do go to issues directly related to the environment. It is of interest that the reform process does involve a higher level of consultation in terms of the consideration of treaty business. I note in the report the reference to COAG and the understandings that have been entered into in regard to consultation with the states involving treaty matters, the possibility of information being provided and a long-term program to allow for forward consideration of these matters.

What has struck me as particularly interesting in this matter is that the demands by the states to be consulted only extend as far as the premiers' offices. When it comes to the question of whether or not the state parliaments should be considered in the process of consultation, the shutters go up. It is always very interesting, I find, in terms of states rights arguments, that the question of executive government only goes as far as the premier's office.

A great deal has been said about Senator Kemp's interest in these matters, and I do find the change that occurs as one crosses this chamber interesting. The commitment that Senator Kemp enjoined in the last parliament to international isolationism seems to be vanishing quite considerably. If I recall rightly, he indicated his opposition to the Basel convention on the disposal of hazardous wastes, the international convention on the combating of desertification, the World Heritage Convention, and the international climate and change convention. Of course, all those matters are now quite clearly being considered in a different light.

It strikes me that what this committee does provide is an opportunity for a much more careful examination of national interest perceptions and debates. I think the requirement of the national interest analysis for each of the treaties does assist members of parliamentary committee to assess the nature of proposed obligations and treaty actions. That is a very important role that parliament can fulfil, particularly given our constitutional responsibilities under section 51 (xxiv.).

In any event, it is an important function of this parliament to exercise the foreign affairs powers of the constitution in a way that actually does benefit the people of this country. I am concerned, nonetheless, that in that process there is a possibility that the treaty making process can be undermined by not providing for the tabling of urgent treaties or the use of the urgent treaty processes in such a way as to allow for exemptions beyond the 15-day period. There ought to be a firm commitment by the government and a maintenance of that commitment to the process of informing the parliament about any treaty arrangements that it is entering into.

It is important that the parliament does take its responsibilities very seriously and, of course, does not allow the government to circumvent its obligations by using the urgency mechanisms that have been provided within the new treaty making processes. It is important that departments of state understand their obligations to ensure that the accountability to parliament is not subverted by concluding treaties in a way which would allow for the circumvention of that parliamentary accountability by the use of the urgency mechanism.

The report that we are considering today considers some 25 treaties which were tabled between 21 May and 18 June. It is not a

particularly long report but I do think it covers the matters quite adequately and reflects the considerations of the committee quite properly. In terms of specific matters such as the Waigani convention, the committee found that the multinational regional convention on hazardous wastes was an opportunity for us to consider the most appropriate way for small countries of the South Pacific to deal with their hazardous wastes given their limited bureaucratic and other resources.

This report does highlight that small island states do have a legal and bureaucratic infrastructure that is able to meet their requirements within the terms of this particular treaty. Therefore, the option that has been provided under this treaty for a simpler approach is preferred. It does offer the advantage of being able to accommodate similar types of treaties and it is important for the South Pacific that they should be able to ratify them at a later date.

One of the particular matters that I would like to draw attention to, which I indicate that this report does cover, is the issue of the treaty with Indonesia. It was resolved by the committee that we should not take any action at this point but should perhaps look at the implementation of that treaty at a later date. I am particularly concerned about the reference to article II, which states:

> Under the terms of that treaty the parties undertake to consult each other in the case of adverse challenges either to either party or to their common security interests and, if appropriate, consider measures which might be taken either individually or jointly in accordance with the processes of each party.

It is stated quite explicitly in the advice to the committee that this is an agreement which is in the common interest of both countries to provide peace and stability to the region and which underlies their intention to develop cooperation to benefit their security and that of the region. It provides for activities in the security field which would result in these benefits, and for regular ministerial consultations.

The committee has been advised that there is no legal obligation from either party to actually commit military forces to matters that relate to internal security threats that might be posed within each country. Given the events in Indonesia in recent times, I think it is important that that advice be checked. I am not altogether convinced that that advice is in fact adequate.

Senator Abetz—What do you think it says?

Senator CARR—I am expressing a view and I am concerned about what the legal implications of the words 'adverse challenges' are in this context. I am not altogether satisfied, on the advice tendered to us, that that does not involve any obligation on the part of this country to protect the internal security of Indonesia in this regard, particularly given the events of recent times and the measures taken by the Indonesian government against its political opponents internally.

This agreement is not a defence pact or an alliance, we are told. It does not commit either country automatically to support the other in the event of an attack. It obliges us only to consult in the event of threats to our security environment. It is not an assertion that Australia and Indonesia have common internal policies or philosophies or that Australia endorses Indonesia's domestic policies and action and vice versa. It does not involve Australia in the internal affairs of Indonesia or vice versa or compromise our approach on human rights in Indonesia. I trust that that advice is right. I expect that it is; you would not expect officials to be advising the parliament on the basis of advice that is incorrect. However, I will be seeking, when the time comes for an inquiry into this matter, to follow up those issues.

Senator ELLISON (Western Australia) (4.25 p.m.)—This is indeed an historic day with the tabling of the first report of the Joint Standing Committee on Treaties. As Senator Abetz mentioned earlier, the committee has its origins in the recommendations of a committee of this Senate which recommended that such a committee be set up. That was a unanimous recommendation, I might add.

Senator Harradine—What year?

Senator ELLISON—Last year. The Senate Legal and Constitutional References Committee gave a unanimous report in 1995. One of

its many recommendations was that this committee be set up. I compliment the government on adopting the majority of those recommendations.

We have here a report which details the joint committee's work and the recommendations it makes. One of those recommendations relates to the national interest analysis, which will be tabled with each treaty. That analysis will include the discussion of economic, environmental, social and cultural effects of the treaty where relevant, the obligations imposed, its direct financial cost to Australia, and how it will be implemented domestically. The Joint Standing Committee on Treaties recommends that the national interest analyses also include a discussion of the legal effects and potential areas of conflict with state and territory laws, which I think is a thoroughly sound recommendation.

The committee also has outlined its approach to dealing with treaties. It states that it intends to advise the minister as early as practicable after each tabling whether it proposes to comment on the specific treaties within the group which has been tabled, whether it expects to table a report commenting on a treaty or other treaties in that group on a particular date and, most importantly, whether it is not possible to report within the 15 sitting day period that Senator Abetz mentioned. I think it most appropriate that Senator Abetz tabled this report as he was on that Senate legal and constitutional committee, which I mentioned, and also sits on the joint committee.

I also note Senator Kemp's presence in the chamber. He has had a longstanding interest in the Commonwealth's exercise of its power pursuant to section 51(xxix) of the constitution, which deals with external affairs. I would take issue with Senator Carr that it is a perceived concern. I would say that it is a substantial concern that exists in the community, across the wider community, as to how the Commonwealth, by executive action, has increased its powers pursuant to that section of the constitution.

I believe it was a concern of the Senate committee, which was expressed unanimously, that there should be more scrutiny. Indeed, the government's acceptance of most of the recommendations—such as the setting up of a treaties council, the setting up of this committee, wider dissemination of treaty information, more consultation with community groups and also the requirement that treaties be tabled at least 15 days prior to ratification—answers a good many of those concerns. Hitherto, the practice has been that treaties were tabled twice a year. In fact, I recall one occasion last year when over 100 international instruments were tabled in the Senate with little or no time for debate. That, indeed, was an unacceptable state of affairs.

It is an historic day in the Senate with the tabling of this report. This report mentions a number of treaties which Senator Abetz has touched on and I will not go into. Senator Abetz has mentioned other hearings which the committee plans to hold in relation to a number of treaties dealing with a variety of issues.

I compliment the Joint Standing Committee on Treaties on its first report, especially in relation to the two recommendations it makes and also on the work it has done to date. I also note Senator Harradine's presence here. He has also had a longstanding interest in the way Australia has bound itself to international treaties and instruments. I think this report will no doubt be greeted by Senator Harradine, although I will not speak for him, as a positive measure in parliamentary scrutiny and the result of positive work by yet another Senate committee.

Senator HARRADINE (Tasmania) (4.30 p.m.)—This certainly is a very historic day. I am pleased to see the work done on this over many years has at last come to fruition. Of course the work done by the Senate committee and its report *Trick or Treaty?* gave the proximate stimulus to the establishment of this committee.

I am very pleased to see what has happened. It is historic—people have taken it on when I had given it up. Let me remind the Senate that 13 years ago last month, on 23 August 1983, I gave a notice of motion to move:

(1)(a) That a Standing Committee of the Senate, to be known as the Standing Committee on Treaties,

be appointed to consider all treaties laid before the Senate, and any other treaties to which the Committee may have access, and to report in respect of each such treaty—

(i) whether Australia should undertake to be bound by that treaty if that treaty is not already binding upon Australia; and

(ii) the effect which Australia's being bound by that treaty has or would have upon the legislative powers and responsibilities of the Australian States.

(b) That, for the purposes of this Resolution—

It then goes through a whole range of explanatory matters.

Senator Abetz—It has paid off.

Senator HARRADINE—Yes. A lot of work was done by a lot of people, not least of whom was Professor Colin Howard, who had a great interest in this. I would like to quote what he said in an *IPA Review* of August-October 1988. The article was entitled 'The explosive implications of the external affairs power'. Professor Howard said:

Since international obligations are easily characterised as a national responsibility, they provide a perfect excuse for assuming responsibility for domestic issues which would otherwise be beyond central constitutional power.

. . . . . .

It has been turned into an instrument of domestic political coercion manifestly contrary to both the word and the spirit of the very Constitution in which it appears.Then later on he said:

. . . the only effective constraint on a wholesale invasion of areas of State legislative power which have hitherto been regarded as properly within their competence is political, not legal.

I have had slight differences of opinion with Colin Howard on the issue. Nevertheless, in this particular historic debate his contribution, which I found very useful, was quite influential.

There is a draft treaties bill which I had prepared in 1983. Congratulations! It is very heartening to see that these things have come to fruition. I thank, particularly, Denis Strangman, who was a former officer of mine, for his perceptiveness and discernment in this particular area over a long period of time.

The World Trade Organisation agreements and the treaty bases for those sorts of agreements have to be considered at some particular stage not least for their affect on the intellectual property laws of various countries and how they may in fact discriminate against countries such as Australia. I just mark that for the information of the committee.

Also, there is developing a very important debate on patents law and what is being patented. For example, what is happening in the human genome mapping area is something that ought to be—

Senator Ellison—Bioethics.

Senator HARRADINE—The question of ethics and so on. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Finance and Public Administration Legislation Committee

Additional Information

Senator CALVERT (Tasmania)—On behalf of Senator Ian Macdonald, I present additional information received by the Finance and Public Administration Legislation Committee in response to the 1995-96 budget estimates hearings.

DOCUMENTS

Bounties

Senator COOK (Western Australia) (4.37 p.m.)—by leave—I move:

That the Senate take note of the document.

There are a number of documents on this list which cover returns on bounties: the Bounty (Bed Sheeting) Act, the Bounty (Books) Act, the Bounty (Computers) Act, the Bounty (Fuel Ethanol) Act, the Bounty (Machine Tools and Robots) Act, the Bounty (Printed Fabrics) Act, the Bounty (Ships) Act and the Bounty (Textiles Yarns) Act. All of these bounties serve a vital and important role in Australian industry.

A bounty is the cashing out of a tariff; that is, rather than impose a tariff, causing importers to pay the Commonwealth whatever the tariff level is on top of the cost of their product, to put it in money terms, it is paying the Australian produce company a bounty for each product. Thus it encourages Australian companies to replace imports, and it encour-

ages Australian companies to grow their exports as well.

The world marketplace is by and large corrupt—not corrupt in the sense of criminal activity but corrupt in the economic sense. It is not that the market is not clean, but there are bounties and protections, both visible and invisible, provided by other countries on their products. For Australian companies trading on the international market, it means that they do not trade on a flat or clean playing field. They trade on a playing field in which other nations support their companies against Australian companies, which are internationally competitive.

Thus it is that all of us for a long time have seen a bipartisan role in a corrupted marketplace of that nature to ensure that the playing field is at least in nominal terms a little more level than it otherwise would be. Bounties are one way of encouraging Australian companies to meet foreign competition which is aided by their governments and to win in the international marketplace.

All of the bounties referred to here are documents setting down properly for public scrutiny what the Australian government has paid to particular companies as bounties in the interests of helping them become more internationally competitive. It is properly before the Senate on the basis that it is taxpayers' money and that Australians are entitled to know what happens to that money.

The document that I would in particular like to refer to today is the Bounty (Ships) Act 1989 relating to payments made during the financial year 1 July to 30 June 1996. This document shows that the Australian taxpayer met payments of $23,728,663.32 to 12 ship construction companies in four states of Australia. Those states do not include New South Wales and Victoria. They are what you normally might call the outlying states.

When you look down the list, you will find that these are the best companies that the Australian manufacturing industry can boast. These companies are world renowned. These companies have the market dominance in the niche of manufacturing fast aluminium catamaran ferries in the world.

These companies include Flagship and Incat Tasmania, as well as a number of companies in my own state of Western Australia, the most important being Austal Ships, International Ship Yards and Oceanfast. All of them manufacture in this market area.

This market area is the only area in which Australia's complex, sophisticated and high-tech manufactures have a world lead. In other areas of the Australian manufacturing sector we have derived technology, we add some of our own and we are in the middle of the market. But in this area we lead the market. It is this industry which is quite critical in giving Australia a worldwide reputation for engineering and innovative excellence, for leading because of its technology and because of its research and development.

You would think that in the case of this sort of industry the government would be eager to ensure that the playing field was even and flat and that this industry had a fair chance in the international marketplace to continue its winning way. It is sad to say that this government chooses not to take that view.

In the budget brought down just last month, this government is prematurely ending the bounty for this industry's sector, thus putting these companies—Incat, Austal Ships and Oceanfast, all 12 companies on this list—at a competitive disadvantage in, to use the economic term, a world 'corrupted' marketplace. That is not intelligent support for Australian industry.

Senator Calvert—When was your government going to phase it out?

Senator COOK—Our government was going to allow the Bounty (Ships) Act to run its full term, Senator, and not to prematurely end it. Our government—and I was the minister at the time—was of a mind to extend the bounty.

Senator Calvert—Oh, were they?

Senator COOK—Yes, it was.

Senator Calvert—Where, up here?

Senator COOK—No. Mr Acting Deputy President, I am being interjected upon, but this is a critical point. It was not a secret understanding that the government had at the

back of its mind. It was a declared position because of the importance of this industry.

The contrast between the parties—brought out by the interjection from Senator Calvert of Tasmania; and I wonder why he did interject—is that the government of this day is wanting to prematurely end a piece of legislation that aids Australia's international competitiveness. Whereas we, when we were in government, and I, when I was minister, wanted to extend the right of this industry's sector—and all others, for that matter—to be internationally competitive, to compete on a level playing field, to win export credits for Australia as well as to address the problems of the current account deficit. That is the issue that is at stake here.

The other point that I need to make in this debate is that last year—the year under review in which these documents have been tabled—there was a payment, as I have said, of $23.7 million to the 12 companies. That ought to be contrasted to a recent decision that this government made. This government recently decided—in my view rightly, because it had contracts entered into on the basis of the existing legislation—to not do as it intended to do and prematurely end the Ships (Capital Grants) Act.

Senator Bob Collins—As they got beaten into it.

Senator COOK—The National Party claimed they did that in causing the government to cave in. I do not think that that is the full story, but let us not worry about the full story.

A number of companies—the Shell oil company, BHP and the Mackay sugar refinery—had undertaken the construction of ships. The government was going to terminate the ships capital grants scheme, which upon completion of construction would have paid them a major sum to encourage those ships to be built so those companies would use Australian owned vessels in Australian waters for their own needs. As I recall, the contrast here was the amount the Commonwealth government would pay those three companies, all major companies in their own right—that is, $27 million—but the important point is the ships were being built in Holland or in the Republic of Korea.

Here we have an industry which is overwhelmingly Australian owned that has the world market leadership in its market niche. There is a small payment to make the playing field even to end the corruption, in the economic sense of that word, of that playing field, and this government wants to pull the rug from under the industry and chop it out. I think that is an absolute and total disgrace. It goes against employment opportunity. It goes against high skill, high technology and innovation in Australia. It goes against our reputation in the world marketplace to hold our head up as a developed, sophisticated economy able to produce goods of this complexity and sophistication.

When we come to the time this measure by the government is debated in the Senate—and I can mark the spot now—this opposition will be strenuously opposing that measure. We do stand for the interests of Australian industry. We do stand for the interests of making the playing field level and for enabling those who are competitive—and this industry is—realise the gains they are rightfully entitled to. *(Time expired)*

Question resolved in the affirmative.

Export Market Development Grants

Senator COOK (Western Australia) (4.47 p.m.)—by leave—I move:

That the Senate take note of the document.

The export market development grants scheme is an important scheme. It has been in existence for a long time. It started under the Whitlam government. I cannot recall in which of the three years of that government's office it was started, but it was, nonetheless, a scheme to encourage medium to small Australian companies to export their goods.

With the current government declaring that the major economic problem for Australia is the current account deficit—one of the occasions in which they identified what their economic policy is supposed to be aimed at—one would have thought that measures to encourage Australian companies to export and earn export income would be important. Indeed, the previous Labor government put a

great deal of store in the export market development grants scheme. But, and it has to be said, in the determination to cut down public expenditure, this current government has neutered the scheme and cut out of it huge amounts of support that would otherwise have been there.

In fact, they have slashed $426 million out of the export market development grants scheme for the next four years. That means that the scheme, through which small and medium sized companies in this country would receive what would be a very moderate grant to enable them to send some of their hard-pressed partners, executives or, indeed, workmen in small companies where very few people are involved into a foreign market to find ways and means in which they can sell their good in that market—that is, to visit their potential customers and to get some refund on their air fare for doing that—has now been reduced and made largely ineffective.

That is a major pity. It is a major pity because, first of all, it undermines this government's credentials when it speaks on small business. Cutting back this scheme undermines small business directly. It is a pity when this government speaks about its need to reduce the current account deficit because cutting back on this scheme undercuts the ability of hard-pressed small companies to find the necessary finance to go to a foreign market and meet their customers in order to make a sale. Thus, it reduces the ability of Australian companies to export.

It is a pity that there is only one conclusion one can draw. Whilst almost every other country in the world that has a sophisticated manufacturing sector like Australia provides these schemes and offers this assistance—and some have an even more sophisticated market—the Australian government chooses to reduce that assistance and narrow the level of opportunity for those companies.

It is a pity too because this is a scheme which has been refereed by an independent authority over many years to see how effective it is. The universal conclusion of all the single opportunities that have been exercised to referee this scheme to see if it works is that, yes, it does. It works to this extent: for every $1 of taxpayers' money spent under this scheme, $25 of foreign exports are generated.

If one needed to ask oneself where to put a bit of public investment to generate export, on a one to 25 return on investment, one would choose a scheme like this. If any of us as private individuals had an opportunity to put $1 down and get $25 back, we would snap it up. But this government, taking a public policy position, chooses not to go down that route and to reduce the effectiveness of the scheme.

The document before the Senate is one that is for disallowance. The opposition will consider what it will do about this document after it has fully studied it and all of its ramifications. It was tabled today. We have not had an opportunity to look at it until just now. We have 15 days to make up our mind, but we will make up our mind in that time.

Without prejudicing what the conclusion will be from an opposition point of view, can I say, though, that, in the recent Senate Foreign Affairs, Defence and Trade References Committee inquiry into the export market development scheme, considerable concern was expressed by the business community about the purpose of this document and the regulations it now introduces. It is important to place on the record what were the concerns of Australian business when it looked at the new regulations this government was introducing for export market development grants applications.

The first reservation was that this government had gone to the election, flags flying, promising to reduce the amount of red tape and compliance costs to business, and here they were dramatically increasing it. They were, in fact, flying in the face of one of the solemn vows that the Prime Minister (Mr Howard) made to the small business constituency on election day; that is, he would reduce red tape. What has to be said, irrespective of the merit of the proposal, is that on the plain face of it this massively increases red tape. It does that on small business, who can ill afford the time that it takes to fill out all the forms necessary to get an entitlement to

improve the Australian economy and their export performance. That was the first point.

The second point that business made is that there are two ways that governments can go about limiting outlays on a program like this. As we have seen in the budget—and they were only too accurate in their foreboding about what would occur—the first way is to reduce the amount of funds available to the scheme, which the budget did. It cut $426 million out of the scheme. The second way is to impose hurdles that make entry and access to the scheme very difficult, if not impossible, so that companies that would normally expect to achieve recognition under the scheme, and thus take advantage of the subsidies, would not be able to get to the scheme at all. Their concern was that, no matter what type of regulations are structured, it will have that effect.

One of the key reasons the government was introducing this test was not only to make firms export-ready—and I might say that, if it were the only issue here, would be a laudable thing—but also to impose extra and unnecessary regulation in order to prevent firms getting into the scheme at all. Thus the gnomes and bean counters over at Treasury who are concerned about expenditure at all, irrespective of whether it is in a good or a bad cause, would be happy.

I have had a quick look at it in the few minutes available to me. This is not a considered or mature view, but off the top of my head it seems to me that the professionals over at Austrade have again done what one expects to be a professional job. They have consulted exhaustively with industry over the regulations they are now bound by the government, not by their own decision, to introduce on business, and they have seemingly transcribed their brief in a sensitive and responsible way.

The third consideration that industry raised at the Senate hearings is applicable on this point. It is a point that those who have imposed on them the task of drafting regulations always have a problem in interpreting. So it is not a criticism of Austrade to say this. The first point is that, ultimately, any series of regulations like this is intrusive. They want to know all of the ins and outs of a company before they would consider making a grant. Some of the things that they ask questions about, you could ask yourself: is that really necessary, and why do they want to know that type of complex detail about a company's books when really the thrust of this should be about export market opportunity?

The second point about it is that at the final point Austrade themselves will be making decisions based on the information provided by the forms that small- and medium-sized business will now have to fill out. What is the knowledge base and market understanding and commercial acumen of a body like Austrade in making business decisions? To use what business said to me, is this an example of putting bureaucrats in charge of riding a shotgun on business about businesses' decision making for commercial purposes? One would have to say that it certainly bears a resemblance to that. Are those bureaucrats, therefore, fit to make those decisions? Business would say no, and I think they have a fair argument.

Without prejudicing what we will finally decide, I think it is important to put those facts down on the *Hansard* now, because this set of regulations, if it is finally approved, will be what governs the access for first time exporters to the export market development grants scheme. I repeat: one would have thought a government that has identified the current account deficit as the major economic problem for the country would be a government committed to trying to encourage exporters. In net, this scheme works to discourage exporters. *(Time expired)*

Question resolved in the affirmative.

TAXATION LAWS AMENDMENT (INTERNATIONAL TAX AGREEMENTS) BILL 1996

SALES TAX LAWS AMENDMENT BILL (No. 1) 1996

TAXATION LAWS AMENDMENT BILL (No. 2) 1996

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (No. 1) 1996

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Parliamentary Secretary to the Minister for Social Security)—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 KEMP (Victoria—Parliamentary Secretary to the Minister for Social Security) (4.58 p.m.)—I table a revised explanatory memorandum relating to the Veterans' Affairs Legislation Amendment Bill (No. 1) 1996 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAXATION LAWS AMENDMENT (INTERNATIONAL TAX AGREEMENTS) BILL 1996

I move that the bill be now read a second time.

The bill will provide legislative authority for the entry into effect of an agreement negotiated between the Australian Commerce and Industry Office (ACIO) and the Taipei Economic and Cultural Office (TECO) which was signed on 29 May 1996.

The bill will insert the text of the agreement into the International Tax Agreements Act 1953. The bill will also make consequential amendments to that act, the Income Tax Assessment Act 1936 and the Taxation (Interest on Overpayments and Early Payments) Act 1983. The consequential amendments to the International Tax Agreements Act 1953 will provide for certain source rules necessary in Australia for the operation of the agreement and for the amendment of previous assessments as a consequence of provisions of the agreement having, or being capable of having, retrospective effect.

The consequential amendments to the Income Tax Assessment Act 1936 and the Taxation (Interest on Overpayments and Early Payments) Act 1983 reflect the fact that the agreement is between trade offices and that, as such, the agreement would not fall within some of the current definitions of "agreement" and "double tax agreement" in those acts.

The Australian Government has decided to give effect to the undertakings made by the ACIO in the agreement and does so on the understanding that the TECO has received assurances from appropriate authorities of reciprocal tax treatment in Taiwan.

The agreement paves the way for greater business dealings between Australia and Taiwan. It will significantly enhance the development of our commercial relationship with Taiwan by providing more favourable tax conditions for Australian business operating in Taiwan and by freeing up prospects for investment in both directions.

Australia has a flourishing economic relationship with Taiwan. The Government is committed to encouraging this relationship to grow still stronger in the future. Taiwan is now our ninth largest trading partner and sixth largest export market. Over the five years to 1994/95, merchandise exports grew by 10.5 per cent per annum. Two-way trade totalled A$5.9 billion in 1995.

The effect of the undertakings in the agreement are that:

. income flows between Australia and Taiwan will not be subject to double taxation;

. taxing rights over various categories of income flows will be clarified; and

. co-operation between the respective tax administrations will operate to prevent tax evasion.

The agreement will have effect in Australia and Taiwan from dates specified in the agreement.

Shipping and aircraft profits will be taxable solely in the territory in which the operator of the ships or aircraft is resident for tax purposes. This treatment will apply from 1 January 1991 being the date on which approaches were first made on taxing shipping and aircraft operations solely on a residence basis. Income of certain organisations promoting trade, investment and cultural exchanges between Australia and Taiwan will also be taxed solely in the territory whose interests the organisation promotes and this may be from a date earlier than the date of entry into effect of the agreement.

Interest at source will generally be taxed at 10 per cent. Royalties will generally be taxed at source at 12.5 per cent. Taxation of dividends at source will be effectively limited in Australia to 15 per cent on unfranked dividends (with Australia's domestic law

dividend withholding tax exemption continuing for franked dividends). In Taiwan its tax will be limited to 10 per cent where the Australian company receiving the dividends holds at least 25 per cent of the capital of the company resident in Taiwan, and to 15 per cent in other cases.

However, as is customary in agreements of this type, the agreement does not require that the nominated limits apply to dividends, interest or royalties that are effectively connected with a permanent establishment or fixed base.

Capital gains are to be taxed in accordance with the domestic law of each territory but there will be special rules for gains made on the alienation of real property; assets used by permanent establishments; ships; aircraft and shares in companies used principally to hold real estate.

Business profits derived from one territory by an enterprise of the other territory will be subject to tax to the extent that they are attributable to a "permanent establishment" that the enterprise has in the territory in which the profits are sourced.

Other income that will be subject to full taxation at source will include income from employment (except in relation to visits of short duration) and income derived by entertainers and athletes.

Shipping and aircraft profits derived from international operations; pensions and annuities; and most independent services income will be taxable only in the territory in which the recipient is resident.

Income which under the agreement remains taxable in both territories will continue to be eligible for tax relief under the general foreign tax systems of the respective territories.

Under the terms of the agreement the competent authority for the exchange of information under the agreement and the institution of mutual agreement procedures in Australia is the Commissioner of Taxation, or an authorised representative of the Commissioner. In Taiwan the competent authority is the Director-General of the Department of Taxation, or an authorised representative.

The Government recognises that the Government of the People's Republic of China is the sole legal Government of China and acknowledges the position of the People's Republic of China that Taiwan is a province of China. The Government of Australia thus declares that its decision to implement the agreement providing for the Commissioner of Taxation to be the competent authority does not constitute, and should not be interpreted as constituting, an implied or express decision to recognise Taiwan. The Government further declares that any contact necessary between the competent authorities for the implementation of the terms of the agreement is considered functional in nature and hence does not constitute, and should not be interpreted as constituting, an implied or express decision to conduct official contacts with Taiwan.

I should also note that it is the longstanding practice of the Australian Taxation Office that references in Australia's taxation laws to 'country' and 'foreign country' have been interpreted as applying to the territory in which the taxation laws administered by the taxation authorities, Taipei apply. The implementation of this agreement will not alter this interpretation.

I present the explanatory memorandum and commend the bill to the Senate.

SALES TAX LAWS AMENDMENT BILL (No. 1) 1996

The bill gives effect to the Government's decision, announced in the context of the June Premiers conference, to remove the wholesale sales tax exemption currently enjoyed by all levels of government in relation to motor vehicles, and parts for those vehicles, provided wholly or partly for private use as part of remuneration.

Affected governments and government bodies will no longer be able to acquire sales tax free cars that are to be used, or made available for use, for private purposes by employees with little or no restriction. For example, cars that are typically made available by Governments to Senior Executive Service officers, which those officers are free to use more or less as they please outside working hours, will no longer be able to be acquired free of sales tax by the Government employer. This will be the case whether or not those cars are formally provided as part of a salary package.

On the other hand, cars that are to be used for private purposes infrequently and irregularly, or where the private use is to be restricted to travel between home and the workplace or other travel incidental to the employee's duties, will still be able to be acquired sales tax free. This will cover, for example, most 'pool' and government-plated cars, where the private uses of the cars are restricted in the ways I have outlined.

The institutions affected by these changes include Commonwealth and State Governments and authorities, State/Territory bodies, local governments, public transport authorities, ATSIC, the Reserve Bank and State libraries, museums and art galleries established in the capital city of a State. Schools, universities, public hospitals and public benevolent institutions will not be affected by these changes. Vehicles that will be affected include motor cars, station wagons, panel vans, utilities and 4WDs, provided they are designed to carry a load of less than one tonne, and motor cycles.

The changes apply to dealings with cars after 3.15 p.m. Australian Eastern Standard Time on 11 June 1996, and are expected to raise additional revenue

of between $50 million and $100 million in 1996-97.

I present the explanatory memorandum and commend the bill to the Senate.

TAXATION LAWS AMENDMENT BILL (No. 2) 1996

The bill amends the taxation and superannuation laws in a number of significant respects. These include giving effect to an election promise by the Government in respect of fringe benefits tax. It will also relieve uncertainty in the business and taxpaying community regarding several measures outstanding from the previous Government.

Forgiveness of commercial debt

The bill will introduce new taxation rules relating to the forgiveness of commercial debt. The new measures are based on provisions introduced by the previous Government into the Parliament which lapsed when the Parliament was prorogued prior to the election.

The measures I am introducing today depart in several important respects however from those lapsed provisions to take account of public concerns that have been expressed about certain aspects of the lapsed provisions.

The proposed amendments will apply to commercial debts forgiven after 27 June 1996, and not from 9 May 1995 which was the proposed commencement date announced by the former Government. Under revised transitional arrangements, if forgiveness occurs after 27 June 1996 pursuant to an agreement or arrangement entered into on or before 27 June the forgiveness will not be affected by the amendments.

The commercial debt forgiveness provisions will not affect the creditor's taxation entitlements. However, the total amount of debt forgiven in a year of income will be applied to reduce the debtor's entitlement to accumulated deductible losses and other amounts that would otherwise be taken into account in the future in calculating the debtor's taxable income. In certain circumstances, the net forgiven amount of a debtor which is a company will be apportioned among a group of companies related to the debtor company. The measures incorporate rules relating to the forgiveness of debts by a company forming part of a company group. Such provisions, which are anti-avoidance in nature, were foreshadowed but not introduced by the former Government.

The forgiveness of commercial debt measures will correct a structural weakness in the present law which does not properly tax the economic benefit to a taxpayer from being forgiven a debt. The present law creates scope for duplication of deductions in circumstances where the creditor would be entitled to tax relief for a loss on a debt that is forgiven or otherwise settled for less than full value.

Notwithstanding that the act of forgiveness relieves the debtor of the economic loss represented by the debt, tax losses that accumulated before the debt was terminated generally remain available to shield future income from taxation. On occasions, accumulated losses of a corporate debtor have been used to absorb future income after being acquired by new shareholders under arrangements that include the forgiveness of pre-existing debts.

The estimated gain to revenue from the proposed amendments is $20 million in 1997-98, $40 million in 1998-99 rising to $130 million by 2003-04.

Extended use of tax file numbers for superannuation purposes

The bill expands the use of tax file numbers (TFNs) for superannuation purposes. The greater use of TFNs will:

- help beneficiaries by:
  - ensuring that their entitlements do not become lost;
  - allowing for the amalgamation of accounts and transfer of the TFN with the entitlements when the beneficiary leaves the fund;
  - facilitating more efficient use of TFNs to avoid the top rate of tax automatically applying to beneficiaries on the ground that they quoted their TFN for a superannuation purpose but not a taxation purpose;
- enable the administration of the superannuation system to be streamlined;
- enable superannuation funds to locate and identify amounts for beneficiaries including when transferring amounts between funds;
- allow funds to amalgamate multiple contributions on behalf of the same individual;
- allow the Commissioner of the Insurance and Superannuation Commission (ISC) to collect and use superannuation entity TFNs as part of the Commissioner's supervision of the superannuation industry; and
- allow the Commissioner of the ISC to supply these TFNs to the Australian Taxation Office for data matching purposes so as to ensure that superannuation entities pay the correct amount of tax.

The bill also contains a number of safeguards to meet concerns about the privacy of individuals. The proposed means for TFNs to enter into the superannuation system is by the beneficiary voluntarily quoting the TFN to either the trustee of a fund or the employer who passes it to the fund.

The amendments will generally apply from the 60th day after Royal Assent.

These amendments are not expected to impact on the revenue.

Fringe benefits tax: exemption for minor benefits with a value less than $100

The bill will give effect to the Coalition's election commitment to double the FBT minor benefits exemption.

The amendments will ensure that fringe benefits of less than $100 (provided they meet the other conditions under the law) can qualify for exemption from fringe benefits tax.

This amendment will help to reduce compliance costs for employers who provide minor benefits to employees and will ensure that employers who only provide irregular minor benefits of less than $100 avoid paying FBT altogether.

The amendment will apply from the day the bill receives Royal Assent.

Offshore banking units

The bill will allow offshore banking units that provide funds management activities for non-residents to invest in Australian assets. A 10 per cent limit (by value) will be set on the Australian asset component of each investment portfolio. The Government considers that this will be appropriate to meet the requirements of most global fund managers by enabling them to offer more balanced global portfolios with a small component of Australian assets.

These amendments have the potential to bring about a large increase in the level of offshore funds managed by Australian banks and enhance the development of Australia as a financial centre in the Asia Pacific region.

The amendments will apply from the commencement of the OBU's 1996-97 year of income.

These amendments are expected to have a negligible direct effect on revenue.

Repeal of section 261

The Government has decided to repeal section 261 of the Income Tax Assessment Act 1936. Section 261 effectively increases the costs involved in negotiating secured offshore lending agreements and hinders the development of Australia as a major financial centre in the Asia Pacific region.

The repeal applies to mortgages entered into after today.

The revenue impact of the amendment will be negligible.

Pooled superannuation trusts

The bill will allow complying superannuation funds and complying approved deposit funds (ADFs) to claim deductions for expenses relating to investments in pooled superannuation trusts and life insurance policies issued by life assurance companies or registered organisations.

Since 1 July 1988, when the income of superannuation funds and ADFs became taxable, a complying superannuation entity is unable to claim a deduction for expenses that relate to an investment in a pooled superannuation trust, life insurance company or registered organisation. The entity's ability to claim a deduction for expenses incurred as a result of investing in a PST or life policy is limited by the fact that any amount received upon redemption of units in a PST or surrender of a life policy is treated as tax exempt income. By contrast if a superannuation entity had made a direct investment in a product which was taxable in its hands, then it would be allowed a full deduction for its general management expenses.

This treatment is anomalous. Accordingly the measure will apply from 1 July 1988.

As a result of the amendments there will be a small but unquantifiable cost to the revenue.

Deductions for gifts

The bill will amend the gift provisions of the income tax law to allow deductions for gifts of $2 or more to The Central Synagogue Restoration Fund and The Borneo Memorials Trust Fund.

The bill also makes a number of other less significant and largely technical amendments to the superannuation and income tax laws.

I commend the bill to the Senate. I also commend to the Senate the explanatory memorandum, which describes the measures in the bill in considerably greater detail.

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (No. 1) 1996

This bill proposes amendments to veterans' affairs legislation designed to safeguard the interests of veterans and their families and to minimise the action needed to grant certain claims for pensions.

The first of the proposed amendments is to the Defence Service Homes Act 1918 and ties in with the start of the uniform Consumer Credit Code which all States and Territories are to implement later in the year. This code will apply to credit provided wholly or chiefly for personal, domestic or household purposes by banks and certain other lenders.

When the code comes into force, people eligible for housing assistance under the Defence Service Homes Scheme will gain consumer rights comparable to those of other borrowers. The amendments in this bill will ensure that they also retain the scheme's benefits.

Westpac Banking Corporation provides subsidised Defence Service Home loans to veterans and other eligible people under an agreement with the Commonwealth.

This bill identifies elements of the code that Westpac should not apply to loans provided under the scheme so as to preserve the scheme's benefits. For example, a veteran's age may affect the chance of obtaining a loan elsewhere.

Under the scheme's agreement, the Bank cannot take this into account when deciding whether to provide the veteran with a Defence Service Home loan. The concurrent operation of the Consumer Credit Code will not be limited except for matters set out in the bill.

One important aspect of the Consumer Credit Code addressed by the bill is the payment of the loan interest subsidy to Westpac. The Commonwealth now pays this subsidy in advance. In adopting the approach of the Consumer Credit Code, the calculation of interest charged on loans will be linked to unpaid daily balances instead of unpaid monthly balances.

This new method of calculating interest will be more favourable to borrowers who repay on or before the due dates. It will result in the Commonwealth paying the subsidy to Westpac in arrears. This changeover will result in a one-off saving of over four million dollars.

The second of the proposed measures is an amendment to the Veterans' Entitlements Act 1986. It will mean that a dependant of a veteran, who has died from a disability already accepted as being war-caused, will be eligible for a pension without the relationship between the veteran's death and war service having to be re-established.

This is an important change and is consistent with the coalition's undertaking before the election to make the system for claiming pension as simple as possible.

Any claim for pension for a dependant, made since 1 June 1994, is determined according to Statements of Principles, prepared by the Repatriation Medical Authority, for the kind of death met by the veteran. In many cases this will require additional investigation into the background of the fatal disability to enable the criteria in the Statements of Principles to be addressed.

This retracing of the war service link is time consuming and often quite complicated, even where the disability had previously been related to the veteran's war service. Sometimes, the war service relationship cannot be re-established. This could happen because advances in disease research have changed our understanding of the causes of the disability. It could also occur because of changes in legislation made since the disability was determined to be war related. As a result, a veteran's death from a war disability is now no guarantee that his or her dependants will have access to repatriation benefits. This uncertainty is unacceptable.

This bill will do away with these uncertainties, and also the time consuming investigation process. The change will reassure veterans and their families that financial support will continue to be available should the veteran die from a previously accepted war-caused disability.

In conclusion, Mr President, this is a bill that will preserve the interests of veterans and their families and streamline access to certain benefits.

I commend the bill to the Senate.

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

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:

Health and Other Services (Compensation) Amendment Bill 1996

ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported informing the Senate that His Excellency had, in the name of Her Majesty, assented to the following laws:

Health and Other Services (Compensation) Amendment Bill 1996

National Firearms Program Implementation Bill 1996

TELSTRA (DILUTION OF PUBLIC OWNERSHIP) BILL 1996

Report of Environment, Recreation, Communications and the Arts References Committee

Senator LEES (South Australia—Deputy Leader of the Australian Democrats) (5.01 p.m.)—I present the report of the Environment, Recreation, Communications and the Arts References Committee on the Telstra (Dilution of Public Ownership) Bill 1996, together with submissions and the transcript of evidence.

Ordered that the report be printed.

Senator LEES—by leave—I move:

That the Senate take note of the report.

I wish to make just a few remarks in the 10 minutes that I have available today. I will begin by thanking the committee. The committee was put under enormous pressure because of the very short time that we had to get this report completed and presented to this chamber so that we did not hold up the government's legislative process. Therefore, I thank the committee and all the extra people who were called upon to assist us. I also thank the Democrats' staff—in particular, Victor Franco, who worked with the committee long and hard into the evenings, night after night, weekend after weekend, to make sure we had this report before us and on time today.

I will briefly outline three of the main recommendations and then go on to discuss some of the issues that came to light during this inquiry. The first recommendation was that Telstra should remain in full public ownership. After looking through the 650 submissions and listening to the more than 130 witnesses who appeared before the inquiry, it became very clear that the government's decision to sell a third of Telstra was driven more by economic fashion than by any economic fact.

The second recommendation was that we should split the Telstra (Dilution of Public Ownership) Bill into two bills. This follows on from something Senator Harradine did in 1995, when he asked for the Human Services and Health Legislation Bill to be split into its two component parts—one dealing with therapeutic goods and the other dealing with health. The committee argues that this bill should be split into two—one dealing with the sale and the other dealing with customer service, consumer obligations and a range of other issues that relate to service quality.

Another important recommendation concerns the fact that environment programs are too important to be funded from the sale of anything or linked to any other issue. Environment programs should be funded from recurrent expenditure or a percentage of Telstra's profits, rather than relying on the passage of this legislation.

I will now move on and look at some of the issues that were highlighted in the process of putting together this report—and the first is privatisation. This is nothing new but, certainly, the degree of angst in the community about the privatisation of this particular asset was something that came to the fore during the hearings. On the question of the worth of Telstra, we also had a range of different views put to us, and we found that the government's value was very much at the bottom of the scale. We heard evidence from Professor John Quiggin, from James Cook University, who said the figure was closer to $54 billion, rather than the $24 billion that the government was looking to make.

Furthermore, the committee found that arguments for privatisation hinged upon dubious international studies which had little, if any, relevance to Australia's social, economic or geographic conditions. Here, initially, I want to highlight the World Bank study, which was much cited by those who supported the sale. Basically, it did not relate to any major telecommunications company anywhere in the world. I think some 7,000 cases were looked at in the study, and 6,100 of those occurred in Eastern Europe, Latin America and the Caribbean.

The committee came to agree with the Communications Law Centre, which said of the World Bank study that some caution would seem advisable in applying its conditions to the Telstra case. This was highlighted by the particular organisations cited by the study as examples of the benefits accruing from privatisation. These included a near moribund textile company in Niger, a finance company in Swaziland and an agroindustrial enterprise in Mozambique.

Also cited frequently by those supporting the sale was an example of a successful private telco—US West. But, again, when we looked at the evidence we found that you really cannot compare US West with Telstra, thanks to a range of issues. These include contracting out, the fact that there are a lot of other small companies involved in that part of America and, in particular, the success or otherwise of US West in its provision of services. Time does not permit me to go

through and quote anything but a very brief example from a media report in the States, which said:

> US West will have to wait until Monday to learn whether a judge will stop the state from ordering the company to lower phone rates and reduce revenues by $91.5 million.

I find it amazing that so many of the submissions supporting the sale actually cited this particular company, which employs practices which are far removed from what we would consider to be anything like best practice.

Another issue highlighted was the whole area of downsizing—although I do note that the original instigator of downsizing recently decided that it was not such a good idea. In looking at what is planned for Telstra and project Mercury, it seems that those who are really going to suffer are the some 24,000 employees who are now identified as expendable in this company's push to become more attractive to those who might be tempted to buy in.

Obviously, some job losses are expected. New technology will mean that there is a natural process of reduction in the number of people who are required and the different service practices available. Indeed, once the roll-out ends, we will also be looking at some job losses. But the scale of the job losses and the reasons for them are highlighted in this report as being a major concern.

Research and development was another area that was highlighted. Our concern is that privatisation, rather than increasing funding to research, will foster a reduction in research expenditure. Before the ink has even dried on our final copies of this report, we have yet another announcement that Telstra is already looking at significantly reducing its commitment to research and development.

I believe that cutting down the TRL from 530 people to 380 by the end of the year is an enormous cut—the committee was astounded at the size of this cut. It will mean that Telstra's stated aim of being 'the leading provider of electronic communications and information services in Australia and the Asia-Pacific region and a significant global provider' is a highly questionable aspiration. The cuts are likely to undermine TRL's ability to perform long-term strategic research in the national interest; there will be a much reduced research capacity which, if we look at overseas examples, will probably be largely devoted to short-term, commercially focused research.

Raised in many of the submissions from consumers, consumer groups and individual members of the public is a range of issues relating to actual provision of adequate services. As I stated before, one of our major findings is that these issues should be dealt with separately from the sale itself.

We need to look at what exactly is a 'local call'. There is no definition anywhere. We have already seen suggestions that perhaps we are looking at reduced sizes of the call zones. While the government may be able to talk about continuing free local calls, we still have no-one saying precisely what is meant by that. Do we, for example, include faxes; and what do we do with Internet services? Consumers are concerned about a range of these issues.

Another major consumer area, of course, is the one of cabling. I find it amazing that the government can stand up in this place and say, 'The cabling issue has nothing to do with the sale.' Obviously, that is simply not correct. If we let the telcos go ahead, as they are, stringing cables from tree to tree, pole to pole and putting a major blight on our landscape, that is a lot cheaper than doing what they should be doing, which is going underground.

Telcos, including Telstra, can be required to go underground, although that will reduce their profits as it is far more expensive to go underground. Therefore, the sale price will be affected, as people will not be able to see the green light for higher and higher profits if they are actually looking at what really are proper planning regulations. I would suggest that the government, by trying to push the area of cabling off the agenda, is really trading off appropriate planning in pursuit of a higher sale price.

The final area that I just have one minute to deal with quickly is the fact that the government should not even be talking about privatisation at this time. Even most of the submissions from business organisations which talked about supporting privatisation

questioned why they are doing it now with some six other pieces of legislation before this chamber. The reason given for each of those pieces of legislation having to be dealt with this session is that they have to be through before any shares in Telstra are offered for sale.

At the moment the regime is so uncertain that the government should not even be considering privatisation for at least 18 months from the time of those new regulations coming into place and the new regime being understood. That will be in July of next year. So we are looking right through into 1998 before the government should even be discussing any possibility of selling Telstra.

Senator SCHACHT (South Australia) (5.11 p.m.)—I also rise to take note of the report of the Senate Environment, Recreation, Communications and the Arts References Committee entitled *Telstra: to sell or not to sell*. On behalf of the opposition, I join with Senator Lees in supporting the majority recommendation in this report that Telstra be maintained in full public ownership.

Firstly, in doing so, I would thank the staff of the secretariat for the work they did, whilst under a lot of pressure, in putting together the report and in servicing the committee members—and they had to service both those committee members who put in the majority report as well as those who put in a minority report based on a dissenting view.

In particular, I thank my parliamentary Labor colleagues—Senator Carr, Senator Reynolds and Senator Lundy—and our staff for the hard work they put in and the resources that we had available to us compared with the resources that the government members had available to them, either informally or formally, with information being provided by government departments. In particular, I want it thank my own staff member Jenny Fox, Matthew Cossey who works for Senator Lundy and Steve Herbert who works for Senator Carr for the very hard work they did in putting together this report.

All throughout the two-month period of this inquiry, I waited for the government to come forward with overwhelming empirical evidence to justify the privatisation of Telstra—one-third or full privatisation. It did not come through the hearings. I even waited for the handing down of minority report that is now with us—because as majority members, under standing orders, we did not get access to the minority report until it was tabled today, whereas the minority members do have access to the draft majority report which they comment upon. I again waited, thinking that there may have been something sensational appearing in the minority report to justify the privatisation of Telstra which had not been apparent to those of us in the opposition during all these hearings.

I have to say that there has been nothing startling, nothing new, nothing of an empirical basis to justify the privatisation of Telstra. In fact, in the minority report of the government members, they consistently justify their position by quoting either Telstra, the department of communications or the Department of Finance. What they do not point out, of course—and we accept this—is that all of those are arms of executive government that directed by policy to provide support for the government's view.

It would be an astonishing position if the secretary to the department of communications were to turn up at a hearing and say, 'I disagree with the minister; I do not believe in the privatisation.' He then would have to do the honourable thing and resign. The same applies to Telstra. It is government owned; the shareholder is the government. I would be astonished if Frank Blount and Telstra's senior executives had turned up and said, 'We don't favour the privatisation of Telstra.'

Of course, if government changes, I would expect those government departments and Telstra to fully support the policy of the elected government of the day—and that is the way it should be. To have the minority report of the government members overwhelmingly relying on their own government departments for justification is no independent evidence at all.

What was astonishing was the fact that all these government departments—and, therefore, the government—relied on a World Bank report and one other report to justify the privatisation of Telstra. The majority report

points out the stupidity of relying on such a report. Mr Acting Deputy President, you would be interested to hear that the World Bank report quotes 6,000 examples of privatisation. They did not tell us initially that, of the 6,000 examples of privatisation, 4,000 were from the old East Germany when they were privatising corner stores that were going broke and 2,000 were from companies going broke in the Third World. Out of the 6,000, only 180 came from the First World or the OECD and, of those 180, only one was a telco, that is, British Telecom when it was privatised.

When we examined the privatisation of British Telecom we found that the private sector made quite a killing but, on balance, it is probable that local domestic consumers took a loss—prices went up. In fact, in some cases there had to be re-regulation so as to ensure that standards of service were maintained.

Even those in favour of one-third or full privatisation said the biggest improvement in customer service and efficiency in Australia has come from competition, a model we have had working since 1992. I emphasise, competition has been the overwhelming driving force for benefits in consumer service and lowering prices in Australia, not privatisation. Companies which are in favour of privatisation, like BZW, point out that the privatisation may add a little bit more but competition is the main driving force for improvement.

We asked the government to provide us with examples, once competition is separated out, of what privatisation provides. To our astonishment, the Department of Communications and the Arts went away and came back some weeks later saying they had found two examples: two electricity companies in Chile in the early 1980s at the height of the Pinochet regime—

Senator Tierney—Not Pinochet again!

Senator SCHACHT—Yes, Pinochet, a right-wing dictatorship.

Senator Tierney—You must be desperate, relying on that.

Senator SCHACHT—No, you were relying on it. That was the only case you could give us, Senator Tierney: Pinochet in Chile and two electricity companies which were loosing money and being privatised. Of course, at the height of the Pinochet regime its abuse of workers and ordinary citizens is well known. Read any Amnesty International report about the abuse of human rights in Chile under Pinochet. That was the only example they could give. It is speculated that, in the next couple of weeks, the publicly declared profit for Telstra will be the biggest profit in Australia's history for a publicly owned company. All the examples in the World Bank report are of companies that were going broke and having to be propped up and subsidised by taxpayers. Telstra is making a substantial profit. It does not have to be propped up and subsidised by the Australian taxpayer. The economic justification is just not there.

These reports quote a Polish lime and cement company and a Mozambique agro-company. Of all the reports which Telstra listed, the one that I found most astonishing quoted Haiti as an example of what we should be taking account of. I know Haiti is the home of the voodoo followers of the world, but it really is getting a bit much for the government to quote privatisation in Haiti as an example for privatisation of Telstra.

The committee report also has a major chapter on employment. I am sure my colleague Senator Carr will speak on this at some length. We found that, after the government changed, Telstra commissioned project Mercury to look at getting rid of jobs in Telstra. How many jobs? Over the next three years, 24,000 to 26,000. One-third of the jobs in Telstra would go to make the company ready for privatisation and more profitable and advantageous for the private sector. As we found in the report, those jobs will overwhelmingly go from rural and regional Australia.

One thing is certain: if you privatise Telstra, Australia will not get equal access to a broadband telecommunications system serving all Australians in urban and regional Australia. Telstra, Optus and other carriers will not put

the money into places such as rural Queensland, rural South Australia or Tasmania because they are not profitable. If people want an up-to-date, 21st century telecommunications system, Telstra must be publicly owned so that it can be directed by the government to provide an equal and open system for all Australians, not just for those who are rich enough to pay for it or who live in certain suburbs of Sydney and Melbourne. That is the real issue here.

Senator TIERNEY (New South Wales) (5.21 p.m.)—The government senators who participated in this inquiry strongly recommend that the Telstra (Dilution of Public Ownership) Bill 1996 be passed by the Senate in its present form. We reject the key recommendations that have just been outlined by the combined opposition parties that Telstra remain in full public ownership, that the bill be split and that the $1 billion environment package be funded from other sources. The government members of the committee concluded, on the evidence given at the hearings, that the passage of this bill for the sale of one-third of Telstra to the public is absolutely in the best interests of all Australians.

The integrity of this inquiry into the part-privatisation of Telstra has been compromised severely by the ALP and the Australian Democrats right from the beginning. They sent the matter to the references committee, not to the legislation committee, so that the opposition could have the majority. The Leader of the Opposition in the Senate announced on day one that the Labor Party would vote against the Telstra bill anyway, so what was the point of having an inquiry?

The inquiry was also compromised by the throwing together of a grab bag of unrelated issues in its terms of reference. Sixty per cent of the submissions, for example, actually dealt with overhead cabling, not with the core matter of the inquiry, which was really the Telstra bill, which should have gone to the government committee. The game is given away by the title of the report that was tabled—*Telstra: to sell or not to sell*. That is what the inquiry was really all about and that is why it should have gone to a government committee.

This inquiry was held at a time when there is an international revolution going on in telecommunications. Telecommunications is undergoing dramatic change worldwide. To successfully adapt to what is happening, Telstra must undergo many changes. Markets that have previously been dominated by government monopolies are being opened up worldwide to full competition. Government owned telcos are being privatised, including those in Albania and Cuba—the old bastions of communism. The new open telecommunications market is deriving enormous benefits to consumers in these other countries with a fall in prices and a sharp improvement in services. There are measurable improvements in overseas examples that we saw in the range and quality of services.

The full public ownership of Telstra is like tying one hand behind our main telco's back in the race to adapt to this new open marketplace. Partial privatisation can only provide the framework for Telstra to operate successfully in the new competitive market. The partial sale can be conducted to protect taxpayers' interests, to preserve and enhance consumer protection and, in particular, the universal service obligation, and advance Australia's overall economic and social prospects.

Let me canvass the basic case for partial privatisation of Telstra, as set out in the government's report. Firstly, it will make Telstra more efficient. Greater efficiencies will improve the equality and reduce the costs of telecommunications services to all Australians. Telstra admitted in the hearings on a number of occasions that it was 25 per cent below world benchmark practice. It acknowledges that it can actually improve its performance, given the benefit of privatisation, by at least 40 per cent. Just say that the efficiency gain was 30 per cent, it would realise savings to Australians of $1.6 billion.

Secondly, the part-privatisation of Telstra would boost economic activity and employment levels in rural and regional Australia by reducing the cost of telecommunications in country areas. As the costs reduce, the scope for job creation increases. We have seen many cases of overseas countries taking

advantage of this new regime in country areas by setting up things such as inquiry centres for banks and company service centres and catalogue sales. Tele-industries for bookings in hotels, airlines, reservations, insurance and car rental firms are always assisted in the overseas examples by the part-privatisation, leading to greater efficiency and lower costs.

This sort of change will have a very positive impact on employment in the telecommunications industry and the other user supplier groups. This will more than offset—I think this is a very crucial point—the claimed job cuts in Telstra. Employment changes in Telstra that have taken place between 1986 and 1996 have largely been driven by changes in technology, not by any move to part-privatisation. Mr McLean, the Branch Secretary of the Queensland Communications Division of the CEPU, admitted as much in his evidence. Allan Horsley, from the Australian Telecommunications Users Group, ATUG, gave evidence that members of his industry group face a desperate shortage of suitably qualified employees. With job shortages and staff redeployment from Telstra because of technological change, they will have no trouble finding another job in the telecommunications industry, particularly as the industry is now growing at 18 per cent per annum.

Despite various wild charges, the government is delivering on putting in place world-class consumer protection in this partly privatised arrangement. The USOs and consumer service guarantees are firmly entrenched in the Telecommunications Act. They are not diminished or affected in any way by this bill. Telstra's obligations to consumers are not diluted by part-privatisation. Ownership of Telstra has no bearing on the government's commitment to universal service obligations.

The bill also provides new benefits to business with a guarantee of no timed local calls. This was not previously provided under the old legislation. Public ownership is not necessary to guarantee Australians adequate access to telecommunications services.

This bill in no way affects the existing legislation and other protections to things such as directory assistance, untimed local calls and the provision of public telephones across the country.

Let me now finally turn to the quality of the opposition parties' majority report. We are very surprised—in fact, we are not so surprised; we are probably more disappointed—about the very poor quality of this document. It simply does not reflect the weight of evidence given in the inquiry, which clearly favoured the part-privatisation of Telstra. It is intellectually dishonest. The majority report ignores the evidence to produce a predetermined majority recommendation that the part-privatisation of Telstra be opposed. Nobody in Australia has been sweating on the delivery of this report. The result was well known before we started the inquiry process.

This inquiry has been a total waste of taxpayers' dollars. In reality, the inquiry discovered that there was no significant community concern about the core issues raised by the partial sale of Telstra. The number of hearing dates was cut by 50 per cent when substantial submissions failed to arrive at the secretariat. There was only one regional hearing, which was in Townsville, and that only concerned two people, who were university academics. They were the only ones who came out in the whole of northern Queensland to speak to us and to give us some evidence, which was later discredited. That was $25,000 wasted on that day's hearing. It went for two hours, so that hearing cost $12,500 an hour.

The other disappointing thing about the submissions was their length. Some were often just one page. A lot of them were poorly presented and were based on hearsay, not on facts. But a substantial number of submissions expressed support for the part privatisation of Telstra, including a number from rural and regional Australia. The NFF survey found that 64.4 per cent of people in the country areas answered yes to the question: 'Do you think the part privatisation of Telstra is a good idea?'

Finally, the majority report is flawed in a number of other ways. It relies on fear and misinformation. It makes continued reference to full privatisation when the bill is only for

part privatisation. The majority report is a document of lamentably low quality. The outline of it and its findings, we believe, should be rejected by the Senate, particularly in light of the very expert witnesses whom we had from Communications and the Arts, Finance and Telstra—all of whom commend the benefits of the part privatisation of Telstra.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Order! The time allocated from this debate has expired.

Senator HARRADINE (Tasmania) (5.32 p.m.)—by leave—I thank the Senate. I have only had this report in my hands for some 30 minutes and my remarks will be preliminary only. Naturally they will relate to the issues I have publicly stated are of concern to me in respect of this matter. It is clear that the government intends that it will issue shares to the public for the sale of a third of Telstra. What also has emerged from today is that it intends to do this to ensure that there will be an amount of $1.5 billion for the Natural Heritage Trust. The residue, which is assumed to be about $7 billion, will be used to pay off debt.

I have had to take those matters into consideration and to consider the various statements made by the government on their face value. Areas of great interest to me are whether state-of-the art communications technologies can be guaranteed to regional Australia, including to my state of Tasmania, either by revised universal service obligations or in some other way and whether Tasmania's natural heritage pre-eminence would be recognised in the disbursement of funds from the Natural Heritage Trust.

In respect of the latter matter I notice that the report says that funding of the Natural Heritage Trust should be made out of consolidated revenue or in some other way, including the use of some of Telstra's profits. I have heard the arguments put forward by the Democrats in respect of the latter matter but you would not immediately get the sums of money in that way that you would need to sustain the Natural Heritage Trust Fund.

The second matter is state-of-the-art technology for regional and rural Australia. That matter is partly dealt with in this document. It concerns me considerably that, because there is considerable cross-subsidisation, this may, certainly under full sale but also under partial sale of Telstra, cause a decline in services to rural and regional Australia.

My concern is that this is already happening to a certain extent. The intention of Telstra prior to the decision of the then opposition taken to the people of Australia at the election, as I understand it, was that it would not roll out broad cables to provide top quality broadband services to my state. That is a matter of great concern. That is a matter we ought to be looking at. I will certainly be looking at the matter that has been raised in the report as to whether we can tighten up the legislation, whether or not the third sale goes ahead, to ensure that top quality state-of-the-art technology is provided to regional and rural Australia.

The obligation should fall not only on Telstra but also on the other communications companies. It seems to me that ever since the competition policy was pushed through the Labor Party's federal conference in 1990 or 1991—I think it was 1990—there has been unfair treatment of Telstra to the benefit of the so-called competitor. That is something that we have got to be very concerned with. What has happened, of course, is that a situation has developed in Australia whereby there has been a duplication of cables from Cairns to Perth with something like $8 billion of wasted money. That is a matter of some concern. Even Professor Bob Officer at the National Press Club had something to say about that today. As you know, he is the Chairman of the National Commission of Audit and he expressed his concern about that.

This report does advert to that and I am glad that it does, because it is something that we should be looking at: it is something that the government should be looking at and it is something that we in the parliament should be looking at. If there is this tremendous waste of money in this area then we should be looking at it. Furthermore, let me say this: the previous government—as members of the previous government would know—has been

reaping millions of dollars out of Telstra in a number of ways, and that is by the recall of debt and by the enormous dividends that it has received from Telstra. This has been going on and perhaps it may have affected the decision of Telstra not to extend the laying of cables which would give further access in Australia to state-of-the-art broadband technology.

One thing that I did not see in this report—I must say that I have only had it very briefly—was the issue that I in fact raised with Senator Alston, that is, the disadvantage that Telstra has in respect of its structure. I will quote what I said to Senator Alston:

> What has been overlooked in the public debate over corporatisation of so-called business enterprises at Treasury level is that the playing field is essentially not level. Government-owned companies such as Telstra are subject to company tax but do not have shareholders who can make use of the dividend franking tax credits in respect of the company tax they pay.

Telstra is disadvantaged. One argument that the government members could have used is that, presumably, if there is an issue of shares—in my view, they should be looking at this question of the issue of redeemable preference shares—in that particular case you would be able to take advantage of the tax system and there would be less advantage to Telstra's competitor. What does concern me is that that particular issue does not seem to have been looked at by the committee, and I believe that it should be looked at. I will study this document further and I hope that I can enter into the debate more fully informed later on.

BANKRUPTCY LEGISLATION AMENDMENT BILL 1996

Report of Legal and Constitutional Legislation Committee

Senator CALVERT (Tasmania)—On behalf of Senator Ellison I present the report of the Legal and Constitutional Legislation Committee on the Bankruptcy Legislation Amendment Bill 1996, together with submissions.

Ordered that the report be printed.

Senator CALVERT—I wish to advise the Senate that unfortunately there are only a limited number of photocopies of the report available at present. Printed copies of the report are expected to be available tomorrow.

AIRPORTS BILL 1996

AIRPORTS (TRANSITIONAL) BILL 1996

In Committee

Consideration resumed from 22 August.

The CHAIRMAN—Order! The committee is considering the Airports Bill 1996 and seven proposed amendments to the bill moved by Senator Margetts. These are her amendments two to eight.

Senator MARGETTS (Western Australia) (5.44 p.m.)—There are three major areas of regulation over the impact of airports contained in this bill. The first area is the master plan—a 20-year plan for airport development, renewed every five years. The second area is the development plans which are specific to each major development, and the requirements relating to these are found in part 5, divisions 3 and 4 respectively. The third area of regulation is found in part 6 which specifies requirements for an environment strategy to cover a five-year period to be broken into 12-month chunks for management plans.

My amendments are intended to strengthen or clarify these areas. These amendments are to include a requirement in the master plan that the lessee should not only note the problems their plan creates in relation to noise and to environmental impact, but should also say what, if anything, they propose to do about the problems.

We believe that it is appropriate that these things be included in the document when the document goes before the minister for approval. Both the master plan and the environmental strategy are submitted for periods of five years, yet there is not a requirement for the timing to be the same. There are requirements to make replacement plans but, in the absence of approvals, the old plan simply remains in force. This could lead to alterations and

impacts to be permitted without a synchronicity about how to manage such impacts.

The environment plan, by limiting impacts to the airport site itself, may also not be as broad as the requirements for the master plan are clearly designed to be. There is also some compliance requirement regarding the master plan in section 76 which requires notification of the minister if the achievement of elements in the master plan fall into doubt. But there is no requirement or penalty for non-compliance with the environmental strategy and no requirement for notification if achievement of elements of this plan are in doubt.

Inclusion of a requirement to state how the noted impacts will be managed will at least result in notification of the minister if the lessee is likely to fail to manage them. It is not much good saying, 'We have a problem,' if we have no requirement that the lessee be required to fix them. It seems that, at the very least, when a minister is considering a master plan containing notice of an environmental impact, including off-site impacts, there should be an environmental management plan and it should be considered an integral part of the plan since approval of the plan should be contingent on proper environmental management.

The noise issue is currently not very straightforward. There is a requirement to include forecasts of noise impacts, but there are not any real specifications about what noise impacts are significant or regarding the management of noise impacts. There is not really even a firm definition of what is meant by forecasts. This may simply be a general average level of noise unless lessees are required to do more detailed profiles of how different areas will be affected: the likely noise exposure and the timing of such exposure, whether there is a variation expected with weather or wind pattern and what such variation is likely to be.

Given that prevailing wind patterns and traffic patterns change annually, as well as diurnally, a detailed profile would really be needed if a prediction of likely objectionable or serious noise impacts is to be derived. There is some potential, within the scope of regulations, for requirements of forecasts to be specified under 61(4). There is no certainty they will be. It remains optional and I do not think this is satisfactory.

By requiring the lessee to specify which areas would experience what noise levels and what, if anything, they would do about noise levels of over 20 ANEF—or over 25 ANEF or 30 ANEF if the Senate will not support the lower noise thresholds from my next amendments—the lessee is obliged to give some detail of areas of exposure to level of noise and to provide profiles. A sound of 80 decibels corresponds to the maximum acceptable figure provided as an external sound level from aircraft for the vicinity of dwellings within Australian Standard 2021 in table F1. This is a level slightly lower than the national industrial health standard for harmful noise, set at 85 decibels. If sound is close to the level at which a worker in a machine shop would be required to use hearing protection, it is certainly worth noting what, if anything, will be done when we are exposing householders and their children to these noise levels on anything but an infrequent basis.

According to the National Occupational Health and Safety Commission, 85 decibels is sufficient to cause unacceptable levels of hearing damage. In New South Wales, occupational health authorities noted 6,000 cases of industrial deafness in 1986, and this is not acceptable. Aside from the effect on the quality of life, it also imposed a financial cost on the community of about $70 million in that year.

We need to realise that the people most likely to be affected are children playing in yards and that the personal impact of so-called industrial impact is likely to be life long. Let me give you some idea of this. One of my staff is affected by industrial deafness. His hearing is damaged in certain ranges of sound, so he cannot hear the normal range of voice. In a quiet room, he can make out conversation but, in a group or a conference or anywhere there is background noise, conversational speech becomes difficult or impossible to follow. A hearing aid which amplifies some frequencies selectively helps but will always tend to amplify background noise along with the desired sound.

This means that if children playing in their yards are affected, they will not be able to properly hear their teachers in an average classroom. They will always be at a disadvantage in a group, at a lecture, at a party. They will be unable to hear a loved one whispering something sweet into their ears. It is children perhaps more than adults who will be affected by this noise and they will pay for the outcomes through their entire lives. It will impose indirect costs due to lost productivity and reduced educational potential and a personal cost due to lack of social function and aspects of intimacy.

A noise level of 80 decibels occurring two or three times a day should not necessarily trigger a building insulation program. This is why the ANEF figures are used. ANEF noise levels relate to both the intensity and the frequency of aircraft noise, as well as factoring in things like time of day. ANEF levels are the standard means of measuring aircraft noise impacts. AS2021 standards set land use planning guidelines down to 20 ANEF levels. I think this is an appropriate level, but I have specified that remediation should take place where significant ANEF levels occur.

In the next amendments I will put later, I will ask the Senate what it accepts as a definition of this term. In the meantime, it is enough to establish that something must be done when a significant level is reached. What my amendment here says is that, where there is such a cost likely to be imposed on a community, its people and children, note should be taken and some explanation of what will or will not be done should be provided.

I specifically requested that, in addressing the noise problem, explicit attention be paid to how the internal sound level is to be kept to the AS2021 standard for noise insulation in relation to aircraft noise. This standard states that the noise levels from aircraft flights should not rise above 60 decibels in residences. I understand that the same standard specifies that the maximum noise level for a bedroom during a plane flyover is 50 decibels.

If the Australian standards mean anything, then there is a substantial requirement for noise insulation in many residences. How this will be met deserves consideration when a lessee puts forward their plans. Basically, what we are saying is that there needs to be a clear understanding of what level of noise needs to be taken into consideration and given attention. There are standards that are clearly set out and it is time we were prepared to admit to those standards. If that increases the cost of airports, then that in fact is the cost of airports and that is the cost to the community. We all gain from the benefits of airports in some way, and the community must therefore be part of that solution.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (5.53 p.m.)—I am sorry, I came in just a little late to that debate. Can I get some clarification? I gathered that Senator Margetts, in some of her comments, was actually talking about some issues relating to the next package of amendments she is going to be putting. Can I just get your advice that we are currently considering amendments 2 to 8 together, Mr Chairman?

The CHAIRMAN—That is what we are doing.

Senator TAMBLING—The government does not oppose these amendments, but I note that in amendment 8 the subclause numbers should in fact be 8 and 9 instead of 10 and 11. I think it is just a typographical error.

Senator BOB COLLINS (Northern Territory) (6.54 p.m.)—I rise briefly to indicate that the opposition will be supporting amendments 2 to 8.

Amendments agreed to.

Senator MARGETTS (Western Australia) (5.56 p.m.)—I move:

(1) Clause 5, page 9 (after line 18), insert

significant ANEF levels means a noise above 20 ANEF levels.

(1A) (1A and 1B are alternatives to (1)) Clause 5, page 9 (after line 18), insert

significant ANEF levels means a noise above 25 ANEF levels.

(1B) Clause 5, page 9 (after line 18), insert

significant ANEF levels means a noise above 30 ANEF levels.

This amendment sets out the definition for 'significant ANEF levels' in our other amendments. I have asked in this amendment for any projected noise exposure over 20 ANEF levels to be addressed. I further point out that often the noise level from overhead planes is significantly greater than this. I understand that within two kilometres of the runway the noise level of a jumbo jet is likely to exceed 100 decibels, roughly equivalent to putting your ear next to a jackhammer. Of course, that is something not many people would volunteer to do.

In the mornings particularly, planes may pass overhead every two or three minutes. We are talking about significant noise exposure in many cases. The National Acoustic Laboratories did testing on the noise impacts of various ANEF levels. Starting at 15 ANEF, the NAL found that about one-third, or 33 per cent, of residents were moderately affected by this noise while half were moderately affected by 20 ANEF. It is worth reading now how ANL defined moderately affected. I quote:

> A majority of those described as moderately affected cited three activities disturbed by aircraft noise and most rated their neighbourhoods as bad for noise and report that the noise causes their houses to vibrate or shake.

As I mentioned, this situation applies for a third of the people in the 15 ANEF profile and about half of those in the 20 ANEF profile in the general study. In the Sydney area, however, the third runway draft EIS stated at figure 22.1 that over half the people in the 15 ANEF profile for this would be moderately affected. Their houses would shake, activities would be disturbed and aircraft noise would be their most significant neighbourhood problem. I think it is impossible to claim that the noise impact for such people is negligible. If it is not negligible, something needs to be done and this is what we are proposing.

My amendment would set 20 ANEF as a significant ANEF level, but there are strong arguments for it to be even lower, perhaps to 15 ANEF. I strongly suggest that the 20 ANEF level, if supported, be seen as an interim measure and that the fairly compelling argument for dropping that even further, to 15 ANEF, should be examined as a matter of urgency.

As I noted previously, the AS2021 standard set land use planning guidelines for noise exposure down to the 20 ANEF level. Currently, the government takes some action in insulating houses where the noise exposure exceeds 30 ANEF levels, yet there are many houses where residents experience what they consider significant impacts who do not live in a 30 ANEF profile. Areas near the flight path and directly under the incoming flight paths may be in the 20 to 25 ANEF profiles but they are having planes fly overhead or a bit to the side every few minutes during the prime breakfast time, after 7.30 a.m. This continues until about 9 a.m., then slackens off.

In the evening there is an evening rush with fly-bys and flyovers every few minutes from 6.30 p.m., so through dinner and the late evening, to 9 p.m. or later. This is exposure of 22 or 23 ANEF. The noise of the planes is sufficient to interrupt phone conversation in the house. It interrupts dinner conversation. It interrupts television or radio news and it occurs every few minutes during the prime period when working people and children are at home.

It is true: it does not continue at that level through the midday period. It is true: it does not continue at that level all night. It has a significant impact however on people's lives. The distance between the 30 ANEF profile, the 25 ANEF profile and the 20 ANEF profile in an area like Leichhardt can be only a few blocks. We are not talking about the whole of metropolitan Sydney. An extension of management programs to houses in the 20 ANEF level would triple the current Sydney program, according to advice from the minister's office. But the current program is not considered adequate by the people who live near the flight path.

While remediation is a great difficulty, we are concerned that new developments, both urban developments and airport developments, should occur in a context in which the projected noise situation is clear as far into the future as possible. Building codes and standards can be set for new dwellings requiring

noise insulation from the outset. Airport developments in many cities allow take-off and landing to be directed over water minimising noise impact. But for forward planning purposes, it is crucial that plans and projections be made clear and well in advance.

We believe that based on the Sydney experience a 20 ANEF level causes a significant human impact. It does affect people now. It is likely to cause physical harm over time. At such noise level the activities of children playing in a yard or someone gardening all become high risk activities in terms of permanent hearing damage to say nothing of the general impact on health or such levels of stress.

Basically, by setting a level of 20 ANEF you actually provide a means by which there is, if you like, a graduated means of dealing with that. There are some people for whom this is obviously a very high noise level and there are other people who might be just above that level. There is a means of dealing with that that relates to the actual noise and harm caused by that level of disturbance. I commend this amendment to the chamber and ask the chamber to support 20 ANEF as a significant level.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (6.02 p.m.)—I would like to comment on this amendment as proposed by Senator Margetts, which would impose a very significant ANEF noise level if the measurement is taken at the 20 ANEF level. The government will certainly be opposing this proposed amendment.

When taken with other amendments to be moved by Senator Margetts, this amendment would create expectations of potential acoustic insulation treatment of buildings over an unreasonably wide area. I heard Senator Margetts refer to the area around Leichhardt where she obviously wanted to move the areas just by several streets, but let me point out and illustrate that the number of people living within the current 20 ANEF zone around Sydney airport is estimated to be between 75,000 and 100,000. If all the residences and public buildings were to receive acoustic insulation the cost would be likely to run to between $1 billion and $2 billion, which would need to be passed on to the travelling public.

The Labor Party established, and we agree with the policy, that it is not the airport operator that pays for noise but the airline. We need to avoid placing a burden on a party that cannot control it. I am sure that Senator Newman, who is sitting here with me this evening, would be horrified to learn of this figure of $1 billion to $2 billion that would be required for the insulation material at a time when the needs of both public housing and the wider community just cannot be met.

A general policy of acoustic insulation of buildings to the 20 ANEF contour has no precedence at major airports elsewhere in the world. The overall level of aircraft noise experienced by the population and the 20 ANEF contour is not out of line with the levels of noise which the population at large experiences from other sources. For example, OECD figures suggest that 46 per cent of the Australian population are exposed to road transport noise equivalent to the 20 ANEF measure. For that reason, I think it is important that this amendment be not supported.

Senator MARGETTS (Western Australia) (6.05 p.m.)—There has been a really interesting study which the media has been talking about in recent times and which I have recently read but has not yet been tabled in this chamber, although I understand why. It talks about the levels of subsidies for extraction industries. It talks about subsidy levels of something like $5.7 billion per year as a fiscal subsidy and something like $8.7 billion per year as an environmental subsidy. What that means is that the community is giving an environmental subsidy to a certain industry in order for them to make money. There are obviously considered to be some community benefits but that should be recognised as a subsidy.

What the minister is saying is that we are currently expecting those 75,000 to 100,000 people to pay an environmental subsidy of between $1 billion to $2 billion—that is the estimate of the amount of damage. If you do agree that 20 ANEF causes significant harm

to people, then what you are requiring the community to do is pay you the equivalent of $1 billion to $2 billion by means of social amenity and their health. I wonder whether it is not, in fact, the wider community and the industry that should be being asked to pay that amount of environmental subsidy rather than people's health.

Senator BOB COLLINS (Northern Territory) (6.06 p.m.)—The opposition will be supporting this amendment.

Question put:

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

The committee divided. [6.10 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	35
Noes	34
Majority	1

AYES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Carr, K.
Childs, B. K.	Collins, J. M. A.
Collins, R. L.	Conroy, S.
Cooney, B.	Crowley, R. A.
Denman, K. J.	Evans, C. V.
Foreman, D. J. *	Forshaw, M. G.
Gibbs, B.	Harradine, B.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K. A.
Mackay, S. M.	Margetts, D. E.
McKiernan, J. P.	Murphy, S. M.
Murray, A. J. M.	Neal, B. J.
O'Brien, K. W. K.	Ray, R. F.
Schacht, C. C.	Sherry, N.
Stott Despoja, N.	West, S. M.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Baume, M. E.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H. *
Campbell, I. G.	Chapman, H. G. P.
Colston, M. A.	Coonan, H.
Crane, W.	Ellison, C.
Ferris, J	Gibson, B. F.
Herron, J.	Hill, R. M.
Kemp, R.	Knowles, S. C.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	McGauran, J. J. J.
Newman, J. M.	Panizza, J. H.
Parer, W. R.	Patterson, K. C. L.
Reid, M. E.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	Woods, R. L.

PAIRS

Cook, P. F. S.	Ferguson, A. B.
Reynolds, M.	Minchin, N. H.
Faulkner, J. P.	Eggleston, A.

*** denotes teller**

Question so resolved in the affirmative.

Senator Tambling—Mr President, I rise on a point of order. I would like to just draw your attention to the fact that there appears to have been an irregularity in the voting on this particular occasion. I would like to ask for a reconsideration of the issue.

Senator BROWN (Tasmania)—by leave—The vote has been taken. It is quite a long process for the vote to be rescinded, if that is what the government wants. They will have to undertake that process if they want to rescind a very clear vote by the Senate on the amendment.

Senator BOB COLLINS (Northern Territory)—by leave—With the greatest respect to the government, I must say that, on the basis of the scant advice that Senator Tambling has placed before the chamber, it would be absurd for the chamber even to attempt to take a position on this. Senator Tambling has not provided us, nor has he attempted to provide us, with the slightest information as to why the vote was erroneous.

Senator O'CHEE (Queensland)—by leave—I understand that a division has just been held. I have just come from the press gallery where the bells did not ring. I have just been in the Reuters office. If a division was called and the bells did not ring in the press gallery, it was not possible for me to be down here. I would respectfully suggest, with the Senate's indulgence, that it might be appropriate to recommit that vote.

Senator HILL (South Australia—Minister for the Environment)—by leave—Fortunately, this does not happen all that often, but I understand that practice has been that, when a senator has missed a division through circumstances beyond his or her control, the Senate has normally been prepared to take the vote again. Senators within this building have

a right to expect the bells to ring and the colours to show, otherwise we would all have to sit in the chamber all day. Obviously, that is not desirable.

The press gallery is obviously part of the building. If for some technical reason the bells were not ringing, I would respectfully suggest to other parties that they might allow the vote to be retaken.

The CHAIRMAN—The only standing order that I can find which is near to what happened is standing order 104, which says:

> In case of confusion or error concerning the numbers reported, unless it can be otherwise corrected, the Senate shall proceed to another division.

That is not quite the current situation, but I understand that leave would be required to recommit the division or the question.

Senator BOB COLLINS (Northern Territory)—by leave—Even though I have been in the press gallery, which is in the precincts of the building, in terms of the explanation Senator O'Chee has given, I assumed that the division signals—bells, lights and all the rest of it—operated just as effectively in the press gallery as they do anywhere else in the building. That is why I am at a loss to understand, on the face of it, the explanation that has just been given. To the best of my knowledge they do ring up there.

Senator O'CHEE (Queensland)—by leave—Senator Collins, to the best of knowledge they do as well. They just did not on this particular occasion. That was the situation. Can I just draw your attention to the fact that, during the life of the previous parliament, when in fact I was whip on the other side, there was a vote taken which one of the then government senators missed. By agreement between the whips, we recommitted that vote later on that evening. I think Senator Ray was the government minister on duty that night.

Senator BOB COLLINS (Northern Territory)—by leave—I am very familiar with that courtesy, which is the reason I am pursuing this issue. If I were not familiar with that courtesy, I inform Senator O'Chee, through you, Mr Chairman, that I would not be bothering. I would simply indicate that we go the hard way through this, which I might add I can also recall being forced to do by the then opposition. Senator Hill would recall spending most of the afternoon doing it on one occasion.

I am not inclined to do that, but I think I am entitled, in light of the explanation given, to at least pursue the explanation. I was at a loss to understand why the bells, division signals and so on that do operate in the press gallery apparently did not exclusively do so on this occasion. I simply wanted that clarified.

Senator PANIZZA (Western Australia)—by leave—Mr Chairman, you have heard the explanation from Senator O'Chee and I have no reason to doubt that that is what happened. I can also take you back to the previous government—and Senator Ray was involved at the time—when there was a similar misadventure. Senator Ray was quite happy at the time—and we were—for the matter to be recommitted; I do not know what the result was on either side. I believe that is the correct procedure to take now.

Senator CARR (Victoria)—by leave—I would like to say something on this matter. A press conference was held to consider the report on the Telstra bill. I was at that press conference with Senator O'Chee; I had no trouble making the division. I heard the bells. The press conference ended and Senator O'Chee and I walked down. There were only a few minutes between the ringing of the bells and the ending of that press conference. I find it odd that we have a difference in explanations. I was in the same room at the conclusion of that press conference, the bells rang a few minutes after the conclusion of that press conference, and I had no difficulty making it to the chamber.

Senator HARRADINE (Tasmania)—by leave—What Senator Carr has said adds confusion: he is really asking us to judge the veracity of what has been stated by Senator O'Chee. Once we go down that path, we get into problems when it comes to a personal issue like this. I thought the way Senator Collins was handling it was the right way. He was quite justifiably entitled to an explanation, as we all are. Senator O'Chee has given

that explanation. For my part, I am happy to accept the word of any honourable senator in respect of those particular matters. If we do not, we are in considerable trouble indeed. If any of us feel doubtful about giving leave for the matter to be recommitted, we might be regretful on a future occasion when we might find ourselves in a similar position.

The CHAIRMAN—Before I call Senator Ray, I indicate that we should bring this matter to a conclusion fairly rapidly.

Senator ROBERT RAY (Victoria)—by leave—I have had reason to speak on these issues on three previous occasions. The first occasion was when six coalition members missed a division. I think it was on an education bill. It was 8.30 at night and people were still in the dining room. On that occasion, the six senators gave an explanation as to why they missed the division. They did not explain why I started 30 yards behind them and finished 50 yards in front of them. Nevertheless, we took the attitude then that this chamber should represent the will of the people, if you like, and misadventure in a division should not change legislation, even if the misadventure was due to stupidity or lack of organisation et cetera.

I was given great reason to regret that decision when, a few months later, through poor organisation and stupidity, the then Labor government failed on a clause—a crucial clause, as I understand it—in the industrial relations legislation. We sought to have the matter recommitted. We sought to cite the previous example when we recommitted, and we were extended no courtesy at all. From my memory, it took us two hours and 12 divisions.

Let me record, for the first time, why we in fact won those 12 divisions. We won them because the opposition whip, Senator Reid, on a matter of principle—and I do not think with reference to party leadership or anything else—paired this Senate to a point where we could win those 12 divisions. I do not know whether that has ever been recorded. It was her view, long before she became President, that the will of the Senate should prevail and not misadventure. Having gone through all of that, I remember saying at the time, 'Well I hope this doesn't come up again.'

Senator Bob Collins—Well, it has, Senator Ray.

Senator ROBERT RAY—Well, it did. Senator Teague missed a critical division. We must be mugs. Again, we said 'No, we won't force you into 12 divisions. We will, in fact, recommit it.' This place does operate on convention. If I am just getting up to say, 'I told you so', well, I am. Therefore, it should be understood that, if the opposition says that this should be recommitted because the will of the Senate was not properly there, it should be a courtesy extended just as a general principle, retaining of course that little bit of embarrassment for the senator who misses—they have to come in and explain why they missed. That is part of the price you pay for missing a division.

My leader may have other things to add to it, but I just make that point. If it does become an established convention that people miss a division through misadventure, then in fact, there would be a courtesy granted to all sides. We went through terrible times with those 12 divisions. I could be wrong but I am sure it took us about 12 divisions with contingent notices of motion coming out of our ears to actually get it through. Again, I say, had we actually voted strictly on who was here at that time, we would have lost those 12 divisions. I think Senator Reid granted up to eight pairs before we could get over the top and actually win the 12 divisions, much to her credit.

That is my experience as a previous Manager of Government Business. This place does not just operate on standing orders. It does not always operate on courtesy and there is no greater transgressor in this chamber than me. This place does operate on convention and, if we are establishing that convention tonight by saying, 'Yes, you can recommit the clause', then indeed it should apply to everyone in future, Mr Chairman.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development)—by leave—I thank Senator Robert Ray for his generosity in the comments he has made in

this regard. I feel I must address an issue that has arisen a couple of times by way of interjection, particularly from Senator Collins just a moment ago. He implied that Senator O'Chee and another senator were at the same place at the same time when the division was called. I think that point was clearly made by previous speakers. There was a period of time that elapsed and different rooms and different circumstances applied. I feel that the issues that have now been addressed should be very properly put.

Senator BROWN (Tasmania)—by leave—I feel a considerable empathy for Senator O'Chee because of the way this debate is going. There is one other important matter that arises which you, Mr Chairman, may be able to help settle the Senate's mind on—that is, the apparent failure of the bells in that part of Parliament House. Unless we know that that has been corrected, we are all going to be frightened from attending the press gallery, and goodness knows what will be the result of that.

Mr Chairman, I suggest, if I humbly may, that you ask for an immediate look at the bells in that part of the building to see whether they are working. Then you should assure the Senate at the earliest possible time that they are working or that they are back in order so that we know we can go into that area of the building without fear of this embarrassing event recurring.

The CHAIRMAN—All I can do—and I do undertake to do this—is ask Black Rod to have a look at the matter immediately to see whether there are any difficulties there. I am not sure whether I can ask Black Rod to check whether the bells were working at the particular time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)—by leave—I might say that, for this particular division, I was paired, so I was not in the chamber at the time. I am recorded as being paired on the division lists.

Let me say that I think there are a number of principles involved in this matter. The first, and I think the most important, is really proper process in the Senate. I think it is possible that throughout the life of this parliament—given the nature of the balance in this chamber and given that we are all aware that a number of votes will be tight and close, whatever they may be in relation to—this may not be the only time we will have to deal with an issue such as this.

What ought to be said of course is that, in terms of this particular parliament, we are about to establish a precedent as to how this issue is dealt with. As I understand it, Senator O'Chee is indicating to the Senate that he missed this division inadvertently. The Senate has two choices. It can either accept that explanation from Senator O'Chee—that is, accept his word on this matter—or reject it.

It is my view that, when a senator makes that sort of declaration and explanation to the Senate, the Senate ought to accept the word of the senator. We can establish at a later stage—through perhaps the process that you have indicated, Mr Chairman, or through some other process—whether or not the bells rang in the press gallery. We have a situation where a senator has come into this chamber and indicated that, inadvertently, he missed a division.

I must say that my mind quickly goes back to a long debate we had in this chamber in the first sitting week of this session in relation to the granting of pairs in the ballots for the positions of President and Deputy President. There was much talk about proper process. I indicated at that time what the view of the Labor Party was and always had been. I would refer interested senators to a notice of motion I gave today which outlined one of the very clear precedents in relation to that matter.

That is why the Labor opposition takes the view in these matters that proper process and the will of the Senate is fundamental. We do not believe that there is a necessity for us to assist Senator O'Chee, even though we have been forced because of a number of experiences in recent parliaments, into a longwinded process and basically an enormous waste of time to establish what would have been the will of the majority of the Senate.

But, in saying that, I believe the proper course of action here is for Senator Hill, on behalf of the government, to ask for this

particular vote to be recommitted. I want to say to you, Senator Hill, that, if you do that properly—

Senator Hill—Ha!

Senator FAULKNER—I would not laugh if I were you, Senator Hill.

Senator Hill—I am just smiling. Why did you say 'properly'?

Senator FAULKNER—If you do that using the proper course of action in this circumstance, the opposition will grant leave and the vote will be recommitted. But let me say this: we will be reminding the Senate of this circumstance. I would expect all senators in this chamber, and particularly government senators, to adopt a similar view if the circumstances were that an opposition senator or perhaps a minor party or independent senator was unable to make a division. What comes around goes around in this place.

I believe that, in these sorts of issues, you have always seen a sensible and constructive approach from the Labor Party, whether it be in government or in opposition. You are going to see that on this particular occasion, and it may or may not fundamentally change a decision of the Senate. That will depend on the result of the division in this particular—

Senator Robert Ray—Let's work on a few more votes.

Senator FAULKNER—Yes, it would depend on the resultant division. I have learnt over the years in this place never to take the Senate in any of these votes for granted. But I believe that is a proper course of action, and I hope that you would see fit, Senator Hill, in these circumstances to follow that course of action. I have indicated to you that the opposition will give leave for this particular vote to be recommitted.

But I also want this Senate to understand the spirit with which I say this—and it is a very different spirit to the one we saw demonstrated at the commencement of these sittings in relation to pairing for the ballot for Deputy President, and it is a different spirit to the one we have seen exercised and demonstrated on some occasions in the past. Let us hope that this more sensible approach not only becomes a precedent that opposition, minor party and independent senators can embrace, but also becomes something that the government can embrace with good grace.

The CHAIRMAN—Before I call Senator Bourne; I tried to find a standing order earlier and I quoted one, but it did not seem to quite fit, and I do not think there is a standing order. Nevertheless, I have examined the Australian *Senate Practice* and, on page 244, it says words to the effect that I think Senator Faulkner has just used. It says:

> Divisions are taken again by leave when it is discovered that senators have been accidentally absent or some similar accident has caused a division to miscarry, on the principle that decisions of the Senate should not be made by misadventure . . .

I do not quote that in any way to sway the chamber one way or another, but I quote it for completeness of the explanation I gave earlier.

Senator BOURNE (New South Wales) (6.40 p.m.)—by leave—The Australian Democrats are be prepared to give leave also in these circumstances—but, of course, agreeing with what Senator Faulkner said about expecting the same courtesy to be extended if this should ever happen to us. I would recommend to the National Party Whip that he carry his pager with him when he is in the building. It is a very useful device to have when you are in the building.

Senator MARGETTS (Western Australia) (6.40 p.m.)—by leave—I rise to say, on behalf of the Greens (WA) and Senator Brown, that we will also be granting leave, should leave be requested in such a manner.

Senator HILL (South Australia—Minister for the Environment)—by leave—It seems that it has been just a touch unclear as to whether we have sought leave. So I will formally seek leave to have the vote recommitted. In advance, in the light of what honourable senators representing other parties have said and including the Independent, I thank all for their consideration and courtesy in these circumstances. I take the point made by Senator Faulkner and I agree that, if someone misses a vote due to inadvertent circumstances, leave should be granted.

The CHAIRMAN—Is leave granted for the vote to be recommitted? Leave is granted.

Question put:

That the amendment (**Senator Margetts's**) be agreed to:

The committee divided. [6.46 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	34
Noes	34
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.	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.
Harradine, B.	Hogg, J.
Kernot, C.	Lees, M. H.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	O'Brien, K. W. K.
Ray, R. F.	Schacht, C. C.
Sherry, N.	Stott Despoja, N.
West, S. M.	Woodley, J.

NOES

Abetz, E.	Alston, R. K. R.
Baume, M. E.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H. *
Campbell, I. G.	Chapman, H. G. P.
Colston, M. A.	Coonan, H.
Crane, W.	Ellison, C.
Ferris, J	Gibson, B. F.
Herron, J.	Hill, R. M.
Kemp, R.	Knowles, S. C.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	McGauran, J. J. J.
Newman, J. M.	O'Chee, W. G.
Panizza, J. H.	Parer, W. R.
Patterson, K. C. L.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	Woods, R. L.

PAIRS

Denman, K. J.	Minchin, N. H.
Lundy, K.	Ferguson, A. B.
Neal, B. J.	Reid, M. E.
Reynolds, M.	Eggleston, A.

*** denotes teller**

Question so resolved in the negative.

Senator MARGETTS (Western Australia) (6.50 p.m.)—That was all very exciting, but disappointing, unfortunately. I move:

(1A) (1A and 1B are alternatives to (1)) Clause 5, page 9 (after line 18), insert

significant ANEF levels means a noise above 25 ANEF levels.

Since the majority of the chamber would not or could not support a 20 ANEF level as a significant noise level at which action should be taken, I now ask that it support a level of 25 ANEF. Anyone who believes this is not a significant level of noise should spend some time in the areas of Sydney which are experiencing this level of aircraft noise and frequency. The current programs are set at 30 ANEF and the Greens do not believe this to be adequate. We do not believe that the noise in Leichhardt and other council areas, which is in the 25 to 30 ANEF profile, is insignificant in any sense. We ask the government and Labor Party to accept the fact that the people who are living with the 25 to 30 ANEF profile are suffering. We also ask the government and the Labor Party to accept this amendment which would require something to be done.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (6.51 p.m.)—This is also an important amendment. I appreciate the debates that have been advanced and the comments that Senator Margetts made earlier, but we need to understand that this particular amendment would lift the significant ANEF levels to a noise level above 25 ANEF. The government will also oppose this amendment. Whilst this amendment is not as far reaching as the previous one, it still creates an expectation of airport lessee companies extending insulation treatment over an unreasonably wide area.

The current ANEF zone around Sydney airport would include up to 16,000 residences, as well as a considerable number of public buildings. For Sydney, this would double the cost of the existing housing insulation program commitment. That needs to be stressed. That increased cost would be passed on to the travelling public. The concept of insulating

residences out to the 25 ANEF contour exceeds the standard practice adopted at virtually all major airports overseas.

Senator MARGETTS (Western Australia) (6.52 p.m.)—Could the minister please clarify the dollar figure that would be increased as a result of this amendment.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (6.52 p.m.)—I am advised that it will roughly double the housing insulation program commitment. I am also advised that that figure would be in the order of $700 million.

Senator MARGETTS (Western Australia) (6.53 p.m.)—Perhaps the minister might be able to assist us by giving us an idea of the number of people using Sydney airport. It is obviously a lot. If those costs were all passed on to the travellers using Sydney airport, is there any indication of what the additional cost per user of Sydney airport might be?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (6.54 p.m.)—Again, I am advised that the current cost is approximately $3.60 per passenger. I would have to check any finetuning of the details in this, but it could well be in the order of double that figure.

Senator MARGETTS (Western Australia) (6.54 p.m.)—I thank the minister. Perhaps the minister could assist us by finding out whether any surveys have taken place of passengers using Sydney airport asking whether they would be willing to consider contributing to the cost of the inconvenience of their using Sydney airport to the social and environmental standards of the people living around the airport which they are using.

Senator Tambling—The short answer to the senator's question is no.

Question put:

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

The committee divided. [6.59 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	33
Noes	34
Majority	1

AYES

Allison, L.	Bishop, M.
Bourne, V.	Brown, B.
Carr, K.	Childs, B. K.
Collins, J. M. A.	Collins, R. L.
Conroy, S.	Cook, P. F. S.
Cooney, B.	Crowley, R. A.
Denman, K. J.	Evans, C. V. *
Faulkner, J. P.	Forshaw, M. G.
Gibbs, B.	Hogg, J.
Kernot, C.	Lees, M. H.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	Neal, B. J.
O'Brien, K. W. K.	Ray, R. F.
Schacht, C. C.	Sherry, N.
Stott Despoja, N.	West, S. M.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Baume, M. E.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H. *
Campbell, I. G.	Chapman, H. G. P.
Colston, M. A.	Coonan, H.
Crane, W.	Ellison, C.
Ferris, J	Gibson, B. F.
Herron, J.	Hill, R. M.
Kemp, R.	Knowles, S. C.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	McGauran, J. J. J.
Newman, J. M.	O'Chee, W. G.
Panizza, J. H.	Parer, W. R.
Patterson, K. C. L.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	Woods, R. L.

PAIRS

Bolkus, N.	Eggleston, A.
Foreman, D. J.	Ferguson, A. B.
Lundy, K.	Minchin, N. H.
Reynolds, M.	Reid, M. E.

*** denotes teller**

Question so resolved in the negative.

Senator MARGETTS (Western Australia) (7.04 p.m.)—It is a pity that the government does not think that $3.60 per passenger is reasonable to expect. As it has admitted, by that means the mechanism could have been self-funded. It would not have affected the government's fiscal program. That could have

been the fairest way to do it—on a polluter or user-pays basis.

Noise pollution is important. I have explained its importance. When we talk about polluter-pays, the industry gains the benefits from the subsidy that the community otherwise has to pay. In this case we realised that it was only a partial repayment of the subsidy. As was admitted, there would be people receiving an reasonable amount of noise who would be uncompensated under that measure because it was only a part way measure. Even so, it was considered not to be reasonable to ask for a users-pays or a polluter-pays principle, which is an important principle for ecologically and socially sustainable economics. I move:

(1B) Clause 5, page 9 (after line 18), insert

> ***significant ANEF levels*** means a noise above 30 ANEF levels.

This amendment must go through, since it asks no more than the current government noise plan offers. 30 ANEF is a very high level of noise. I find it very difficult to believe that any senator could refuse to recognise this level of aircraft noise as significant.

I commended the previous amendments to the committee, which unfortunately did not gain the majority of the committee's approval. I now put this amendment as a last resort, asking that what is provided is some sort of clear guideline and guarantee that there is a remedy in legislation available to those people suffering from unreasonable levels of noise.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (7.05 p.m.)—The amendment proposed by Senator Margetts inserts 'a noise above 30 ANEF levels'. This amendment broadly reflects world practice in relation to the insulation of buildings affected by aircraft noise. The government is, therefore, prepared to accept the amendment.

Senator BOB COLLINS (Northern Territory) (7.05 p.m.)—The opposition will be supporting this amendment. On the basis of the advice that I have just heard from Senator Tambling, clearly the old aphorism 'If at first you don't succeed—try, try again' is correct.

Amendment agreed to.

Senator MARGETTS (Western Australia) (7.07 p.m.)—I move:

(1) Clause 14, page 16 (after line 15), after paragraph (g), insert:

> (h) if the airport is Sydney West Airport—an inquiry under Section 11 of the Environmental Protection (Impact of Proposals) Act 1974 has been conducted in respect of all the environmental aspects of the site-selection and proposed operation of Sydney West Airport; and
>
> (i) if the airport is any other new or proposed Commonwealth airport—an inquiry under Section 11 of the Environmental Protection (Impact of Proposals) Act 1974 has been conducted in respect of all the environmental aspects of the site-selection and proposed operation of the airport.

I apologise for the lateness of this amendment, but with a lot of work and few staff it is difficult to operate at the same speed as a full party would. This change was requested by a number of members of the community who felt that we must not deal in this bill only with the current Federal Airports Corporation airports that exist, but that we also need to refer to those airports which may exist in the future. Therefore, we have asked to be inserted into clause 14 a provision that, if the airport is Sydney West Airport, an inquiry under section 11 of the Environmental Protection (Impact of Proposals) Act 1944 be conducted in respect of all of the environmental aspects of the site selection and proposed operation of Sydney West Airport.

In recognition of the fact that there are other states where future Commonwealth airports not only may be considered but also may be under consideration now, we also included 'if the airport is any other new or proposed Commonwealth airport'. This triggers a full environmental assessment of the site selection and proposed operation of new airports so that the community can be assured that this process is automatic and will not somehow be blurred underneath the whole process of the privatisation issue of Federal Airports Corporation airports.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Transport and Regional Development) (7.09 p.m.)—I note that Senator Margetts has moved this amendment with late advice. It is an additional point that has been brought forward and it relates to the environmental aspects of the site selection and proposed operation of Sydney West Airport. The government will be opposing this amendment.

An EIS provides adequate opportunity for all stakeholders to participate in the environmental assessment process and to consider the safeguards which need to be applied. The government is committed to a thorough, objective and transparent EIS process with extensive consistent consultation with the recommendations of the Senate Select Committee on Aircraft Noise. To require what is, in effect, a royal commission would delay for an indefinite period commencement of work in constructing a second major airport for Sydney. This will only serve to place additional pressure on Sydney airport which will need to carry the full brunt of continuing increases in traffic demand. While the government is committed to a cap of 80 movements per hour at Sydney airport, it should be recognised that indefinitely delaying the opening of a second Sydney airport—

The CHAIRMAN—Senator Margetts, are you taking a point of order?

Senator Margetts—I have been trying to. Perhaps it is the aircraft noise—I am not sure. On a point of order, I am wondering whether the minister has got the right amendment because this is not about a royal commission; it is just about requiring an EIS for new proposals.

Senator TAMBLING—In talking to the point of order, the amendment as proposed under paragraph (h) is:

> if the airport is Sydney West Airport—an inquiry under Section 11 of the Environmental Protection (Impact of Proposals) Act 1974 . . .

This has been referred to and has the effect of bringing in a review and an inquiry.

The CHAIRMAN—I ask Senator Tambling to continue.

Senator TAMBLING—I was referring to the movements of aircraft and recognising that the delay in the opening of a second Sydney airport will inevitably lead to air travel demands being unable to be satisfied. The government sees the early development of a second Sydney airport as the only realistic means of dealing with the growing demand for air travel to and from the Sydney basin and easing the environmental pressures on Sydney airport. This amendment will frustrate these intentions and, therefore, is opposed.

Senator BOB COLLINS (Northern Territory) (7.12 p.m.)—The opposition will be strongly opposing this amendment. I must say that we are in the same position as the government on this in terms of the late advice that we have had on it. I believe that Senator Margetts will acknowledge the cooperation we have extended in respect of a whole raft of other amendments that she has moved and which we have supported, but we certainly will be parting company on this one. The major reason, I might add, is that, should the amendment be carried, it will have the effect of significantly delaying the construction of the much needed airport in the Sydney basin. It has to be built. I might add that there is also a noise factor associated with this matter and, in respect of the people currently using the existing airport, the sheer capacity problems of the airport are going to be interfered with. It would be irresponsible—I have to say I do not think on this occasion the word is misused—for senators to support this amendment, because there is, as Senator Margetts is well aware as a frequent user of the airport, a noise problem as well in terms of Sydney airport.

The question of capacity also eventually impacts on the question of safety. There is a real safety problem in delaying for any undue length of time any process that would get a second airport built to cater for the needs of Australia. That is what we are talking about: it is a fact that that airport is the major gateway into this country. It is an airport the operations of which interact with every other major airport in this country. It is an Australian national benefit that will come from constructing the second airport: it will not

simply be a benefit for the residents of Sydney or, indeed, even for the residents of New South Wales. We are rapidly running out of time in terms of delaying the construction any longer.

Senator Margetts might be in a position to clarify this, but my understanding is that this proposal has, in fact, emanated from people who are concerned about Holsworthy. I do not know if that is correct or not, but the reason I raise that point is to make it absolutely crystal clear that the firm position of the opposition is that Badgerys Creek should be the site of the airport; Sydney West is where the airport should go. With the problems that we know exist, any suggestion that the airport should go to Holsworthy would, in our view, simply have the effect at the end of the day of being ruled out at the end of such an examination. It would potentially again delay the process by which this major undertaking has to be completed—and major undertaking it is. I am indicating that we are strongly opposing this amendment.

Senator MARGETTS (Western Australia) (7.15 p.m.)—I thank Senator Collins for his clarification of the opposition's position. There is, obviously, concern among the community, whichever part of Sydney people live in—and I must say in other states as well, because the proposals for new airports are not confined to New South Wales. There are proposals in all states and potential problems, even in Western Australia. I am sure this is the case in all states where new airports are being proposed.

The problems that I have heard from the people under the flight path of the current Sydney airport relate to what they believe were poor planning processes. I understand the nature of the pressure that Senator Collins referred to in relation to getting a quick decision, but it seems to me that he expressed a preference for one airport over another. That is fine except that the community has the right to make sure that those decisions are made not on any political basis but on proper, sound decision making.

All we are asking for is that a proper inquiry take place so the community can feel that all the aspects have been opened out to them and that the decisions that were made were not simply political decisions but decisions made on the best advice, environmentally and socially, and that all of the processes have been followed correctly. If that is a terrible thing, you have to refer back to the fact that we have had an amendment knocked out—the previous amendment which said 25 ANEF was an unreasonable amount.

It seems to me that, if the argument was that 25 ANEF was an unreasonably low amount and that 20 ANEF was out of the question, we have a situation where the dollar is ruling and that decisions are not being made for necessarily environmental reasons. They are being made on the basis of prospective costs. More than that, the conflict of interest involved is one of prospective sale price for the airport.

It is quite clear that, if you require substantial public input, we have a delay—a delay which perhaps could be dealt with slightly if we increased the cost to passengers for using Sydney. If it is going to be a severe inconvenience for Sydney passengers to pay an extra $3.60 per passenger, perhaps they will do what I and some other senators do—that is, try to avoid flying through Sydney.

On two occasions in the recent past I have used the train from Sydney to Canberra when I had the time to do that. On other occasions I have tried my best to fly through Adelaide or Melbourne so I would not put that extra pressure on Sydney. It is only when I have to go to a meeting in Sydney that I cannot avoid putting extra pressure on the Sydney community. I wonder whether other people think the same. Would it have been too much of an expense? Would people's travel have been changed? If not, that was not an unreasonable thing to say.

It seems to be somewhat hypocritical if, having refused an extra cost impost of $3.60 per passenger, we now say that it is absolutely imperative—as Senator Collins said—because of this increasing demand for Sydney airport that we make an immediate and fast decision as to where the next airport will be. It seems that nothing has been learnt. If what we are saying is that a fast planning process is a good planning process, nothing out of all

of this argument in relation to Sydney airport has been learnt. All of the assurances about the best environmental processes are worth nothing if we have no assurances that any future site selection will be subject to the highest level of scrutiny and public input.

Senator BOB COLLINS (Northern Territory) (7.19 p.m.)—I was astonished to hear Senator Margetts talk about the location of the second Sydney airport as if this was something that we were considering now from a standing start. The cold, hard facts are that an extremely detailed examination was conducted to choose that site from a number of options and that investigation took years.

Question put:

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

The committee divided. [7.25 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	8
Noes	46
Majority	38

AYES

Allison, L.	Bourne, V. *
Brown, B.	Kernot, C.
Margetts, D.	Murray, A.
Stott Despoja, N.	Woodley, J.

NOES

Abetz, E.	Alston, R. K. R.
Bishop, M.	Boswell, R. L. D.
Calvert, P. H.	Campbell, I. G.
Carr, K.	Childs, B. K.
Collins, J. M. A.	Collins, R. L.
Colston, M. A.	Conroy, S. *
Cook, P. F. S.	Coonan, H.
Cooney, B.	Crane, W.
Crowley, R. A.	Denman, K. J.
Ellison, C.	Evans, C. V.
Ferris, J	Forshaw, M. G.
Gibbs, B.	Gibson, B. F.
Herron, J.	Hill, R. M.
Hogg, J.	Kemp, R.
Knowles, S. C.	Macdonald, I.
Mackay, S.	McGauran, J. J. J.
Murphy, S. M.	Neal, B. J.
O'Brien, K. W. K	O'Chee, W. G.
Panizza, J. H.	Parer, W. R.
Patterson, K. C. L.	Reid, M. E.
Schacht, C. C.	Tambling, G. E. J.
Vanstone, A. E.	Watson, J. O. W.
West, S. M.	Woods, R. L.

*** denotes teller**

Question so resolved in the negative.

Progress reported.

ADJOURNMENT

The PRESIDENT—Order! It being past 7.20 p.m., I propose the question:

That the Senate do now adjourn.

City of Wanneroo

Senator ELLISON (Western Australia) (7.29 p.m.)—Tonight I rise to address the Senate on a matter which has been of long-standing interest and involves the royal commission in Western Australia which is currently investigating a variety of matters surrounding the City of Wanneroo. On Tuesday, 3 September of this year, that royal commission released its first interim report.

I say at the outset that that report cleared the names of the Hon. Cheryl Edwardes, the Minister for Family Services in Western Australia, and her husband, Colin Edwardes. The findings of Royal Commissioner Davis show the allegations levelled at Mr and Mrs Edwardes to be totally unsubstantiated. The Leader of the Opposition, Jim McGinty, and the member for Peel, Norm Marlborough, based their claims against Mrs Edwardes and her husband on information passed to them by, among others, justice ministry employee Mr Barry Corse.

It is worth while to note that in the course of its findings the commission referred to a meeting which was organised at the Armadale lockup by Ms Diane Rowe, a trade union official and ALP state executive member in July 1994, between Mr Corse and a former Wanneroo city councillor and convicted informant David King. In the interim report Commissioner Davis found that Ms Rowe was described by Mr Corse as 'Jim McGinty's lieutenant'. Commissioner Davis said in his report:

> The verifiable facts surrounding Ms Rowe's participation in the Corse interview strongly point to a deliberate exercise planned by a politically committed person to embarrass those of the opposite political persuasion from herself.

Jim McGinty, the Leader of the Opposition in Western Australia, seized upon his 'lieutenant's' information and thought he could make political mileage out of it. It just shows how desperate the opposition in Western Australia has become if it chooses to attack a minister of the state with little more than lies, innuendo and gossip. The allegations by Mr McGinty and Mr Marlborough in relation to Cheryl Edwardes and her husband are without fact. There was no evidence to support any of their allegations.

The commissioner has been justifiably critical of those who have been guilty of peddling those unsubstantiated rumours. Firstly, there was Labor's suggestion that an audio tape existed on which Mrs Edwardes's voice could be heard discussing the exchange of money or a bribe. Despite 21 officers of the internal affairs unit having been questioned, there is no evidence of such a conversation. Then there are the allegations made by David King. His evidence to the commission shows there were no facts to support his allegations.

On 28 May 1996, under examination, Mr King was forced to admit he had raised allegations dealing with potential corruption without evidence. He admitted so in relation to the allegations which concern Mr and Mrs Edwardes in their home extensions, the death of former Wanneroo councillor Mr Robert Baddock, and a trip by the Wanneroo City Council to Italy. Mr King repeatedly told the committee he had no evidence. Cheryl and Colin Edwardes were the victims of these unfounded allegations, based on no factual evidence, which were seized upon by the Leader of the Opposition in Western Australia for his own political gain.

I noted recently in an article in the *West Australian*, which was dated 5 September 1996, that a Dr Sandra Egger, apparently a criminal law expert, accused Royal Commissioner Roger David of 'shooting the messenger'. Dr Egger wants an independent review of the process and conclusions of the royal commission. I question whether she was present during the hearings and had the benefit of testing the demeanour of the witnesses. I also question whether in fact she has read the total transcript of the hearings. She says, however, that the commission's interim report was seriously flawed and its findings based on a selective interpretation of the evidence. If one looks at the evidence, the transcript and the findings by Royal Commissioner Davis, one can see that there was no selective interpretation at all.

I note that the Leader of the Opposition in Western Australia, Mr McGinty, has accepted the commission's findings but it is unfortunate that Mr Marlborough, the member for Peel, has not. The royal commission, I would submit to this Senate, has returned the only finding open to it and it is time that those who spread the rumours admitted that they were wrong and that they were purely working on a political agenda. Once again, I say to the Senate that it is unfortunate that Mr and Mrs Edwardes had their reputations smeared in this way, but it is gratifying that a properly constituted royal commission has cleared them both. It stands as a searing indictment on the opposition in Western Australia.

Radio Triple J

Senator STOTT DESPOJA (South Australia) (7.34 p.m.)—I rise tonight to express my concerns about the budget impact on ABC's youth national broadcaster Triple J. As Senator Ellison has talked about the smearing of reputations of one sort, I thought I might talk about how young people in this country are having their culture cracked down upon and the fact that the reputation of Triple J itself has been smeared somewhat by comments of other politicians in this place.

I think it is worth noting that on the weekend in Adelaide, my home city, thousands of members of the public rallied to show their support for the ABC. Many were concerned that their favourite programs would be downgraded or indeed axed. I think the most pressing or disheartening vox pops that I heard were those from young Australians, especially young people in remote and regional areas who expressed that Triple J, Australia's only national youth broadcaster, was in fact their lifeline—it was the lifeblood for many young people.

I should point out to the Senate that a book has been published *Save the ABC* compiled by Morag Fraser and Joseph O'Reilly, who should be commended for getting together a group of media commentators, political commentators and other ABC program hosts. I am honoured to be involved in that publication, submitting a chapter, as I did, on Triple J. Since *Save the ABC* book was published, we have seen the budget come down and we have seen various programs within Triple J being cut. First of all, we will see the cessation of the Triple J net site. We will also see the cessation of the Triple J expansion program and also the cessation of the Triple J unearthed music competition.

This year Triple J turns 21. It should be thrown a party, not thrown out. I am appalled by some of the comments made about this national broadcaster. In particular, I have to refer to those comments of Mr John Bradford, a National Party MP from Queensland, who has stated:

> To allow swearing and disgusting topics to be discussed on a regular basis would potentially influence the ethical standards of most demographic groups. But Triple J is targeted at youth—the most vulnerable of all groups. Some segments boast they broadcast the music parents hate and politically correct toilet humour.

More disturbing, however, was when Mr Bradford received some impassioned pleas from young people, from one young girl in particular in his state, as I understand, and he went public with that young woman's letter not only releasing it to her parents but making it so that she was subject to ridicule in the nation's press for her somewhat colourful language at times as well as her spelling errors.

I have to say that calling for the axing of Triple J entirely, as Mr Bradford has done, raises wider concerns and broader issues: first of all, how we treat young people in this country today. Why is it that the answer to everything, both in the budget process and I think generally, is about cracking down on young people's expressions, cracking down on young people's outlets for expression and clamping down on youth culture? I think that is a sad reaction.

Also, why do we seek to limit freedom of expression and speech in this way? Comments by people such as Mr Bradford overlook the fundamental role that Triple J has played in not only introducing politics to a new and younger generation but discussing previously taboo subjects, like issues to do with sex, drugs and rock and roll—issues that other commercial networks have not necessarily been brave enough to tackle, whether it is in a talkback form or in other ways.

As for politics, there are a few people in this place—in fact, in both chambers—who took advantage of Triple J's excellent political election coverage. Whether it was the Deputy Prime Minister (Mr Tim Fischer), the Leader of the Opposition (Mr Beazley), the member for Hotham (Mr Crean), or the Prime Minister (Mr Howard), many of them were taking advantage of the election coverage and were involved in the Hottest 100 competition on Triple J. I do not see all of them being quick to stand in support of Triple J now that its reputation and longevity is threatened.

Every time the Deputy Prime Minister opened his mouth, 'Smashing Pumpkins' or 'silverchair' seemed to tumble out. So I call on these politicians to start defending young Australians instead of clamping down on their outlets of expression.

The budget is a sinister example of this. Young people are being attacked not only through Triple J cuts but through labour market programs, changes to social security, and higher education, et cetera.

What will happen when we lose Triple J's unearthed competition? What other commercial or non-commercial station will pick up the responsibility of unearthing raw, real Australian young talent? What other broadcaster is going to ensure that young people who have few opportunities and few outlets of expression—certainly in regional and remote communities—will be given the opportunity to express themselves now that the expansion of the Triple J program is to be ceased?

I urge all people in this place to do what Triple J advocates; that is, 'beat the drum'—not simply for Triple J but for young people. I have yet to hear any meaningful discussion

on how we treat, celebrate or reward young Australians in this country. The past two weeks have seen a litany of attempts to clamp down on young Australians, from regressive juvenile justice laws in various states right through to the regressive budget cuts that target young people more particularly than any other group in this society.

In the same way that I ended my chapter in the book, I say to politicians like Mr Bradford, et al.: if you do not like what is being said, do not turn off. Listen harder and you might actually learn something.

Senate adjourned at 7.40 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Commission Act—Regional Council Election Rules (Amendment) (No. 1) 1996.

Australian Bureau of Statistics Act—Proposal for the collection of information—Proposal No. 11 of 1996.

Bounty (Bed Sheeting) Act—Return for 1995-96.

Bounty (Books) Act—Return for 1995-96.

Bounty (Computers) Act—Return for 1995-96.

Bounty (Fuel Ethanol) Act—Return for 1995-96.

Bounty (Machine Tools and Robots) Act—Return for 1995-96.

Bounty (Printed Fabrics) Act—Return for 1995-96.

Bounty (Ships) Act—Return for 1995-96.

Bounty (Textile Yarns) Act—Return for 1995-96.

Child Support Determination CSD 96/2.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Directive—Part—

105, dated 7, 15[4], 19 and 23[2] August 1996.

106, dated 21 August 1996.

107, dated 15 August 1996.

Exemption—

169/FRS/181/1996, 170/FRS/182/1996 and 171/FRS/183/1996.

CASA 14/1996.

Instrument—CASA 957/96.

Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Orders (Amendment)—Export Control Orders No. 2 of 1996.

Export Market Development Grants Act—Determination under section 13K—Grants entry test, dated 26 July 1996.

Public Service Act—

Public Service Determinations 1996/119, 1996/130-1996/153, 1996/155-1996/157.

Locally Engaged Staff Determinations 1996/19, 1996/20, 1996/22 and 1996/23.

Quarantine Act—Quarantine Determination No. 2 of 1996.

Remuneration Tribunal Act—Determination Nos 9 and 10 of 1996.

Sales Tax Determination STD 96/9.

Taxation Determination TD 96/36.

Therapeutic Goods Act—

Determination under section 19A, dated 13 August 1996.

Therapeutic Goods (Manufacturing Principles)—Determination No. 1 of 1996—MP 1/1996.

World Heritage Properties Conservation Act—Notice of consent under sections 9 and 10, dated 27 August 1996.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Irian Jaya

(Question No. 25)

Senator Chris Evans asked the Minister representing the Minister for Foreign Affairs, upon notice, on 23 April 1996:

With reference to the death in a Jakarta gaol of Dr Thomas Wapai Wainggai, a leader of the West Papuan Independence Movement, and the Minister's meetings in Indonesia with President Suharto and Foreign Affairs Minister, Mr Ali Alatas:

(1) Was the question of Dr Wainggai's death and human rights violations in West Papua raised by the Minister with President Suharto and/or Mr Alatas; if so, what was the Indonesian Government's response.

(2) Did the Minister, on behalf of the Australian people, register concern over reports of increased violence by the armed forces against the West Papuan people.

(3) Has the Indonesian Government given any undertakings to implement recommendations made in 1995 by the Indonesian National Human Rights Commission following earlier violence in West Papua.

Senator Hill - The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) During my visit to Jakarta in April this year, I had wide-ranging discussions with President Soeharto, the Minister of Foreign Affairs, Mr Alatas, and several other Cabinet Ministers. I was frank and upfront with my interlocutors about the concerns of many Australians about the human rights situation in Indonesia. In this context, I specifically raised Irian Jaya with Mr Alatas. I did not raise the death of Dr Wainggai during the visit given that an International Committee of the Red Cross (ICRC) doctor was present at a post mortem which confirmed that Dr Wainggai died of natural causes.

(2) I discussed the security situation in Irian Jaya and the role of the Indonesian military in the province with Mr Alatas.

(3) The Government has been encouraged by the attention being paid to Irian Jaya by the Indonesian National Human Rights Commission, including through its report on human rights abuses in the province which was issued in September 1995. While the Indonesian Government has not formally responded to recommendations in the report, there have been some recent developments:

Following the release of the report, the Indonesian Armed Forces (ABRI) conducted further investigations into the allegations of human rights abuses and determined that six procedural violations had occurred. Three soldiers and one junior officer were arrested in connection with these violations. In February 1996, after a court martial investigation, the four were sentenced to terms of imprisonment of between one and three years.

The directive on human rights issued by the Jayapura-based Military Region VIII Commander, Major-General Dunidja, earlier this year for use by officers and soldiers under his command has been a positive step in ABRI's approach to the province.

I note efforts by the Indonesian Government, at both the national and provincial levels, to work with the mining company, PT Freeport Indonesia, to address the concerns of the local people in the Freeport mine area, including through the establishment of the Integrated Timika Development Fund.

Assistant Commissioner Colin Winchester

(Question No. 71)

Senator Margetts asked the Minister representing the Minister for Justice, upon notice, on 22 May 1996:

With reference to the inquest and investigation subsequent to the death of Australian Federal Police (AFP) Assistant Commissioner Colin Winchester:

(1) In connection with the coronial inquest, did the Coroner receive from Mr John Doohan of Willagee, Western Australia, on 19 April 1990, an affidavit sworn by Mr Doohan, attesting to be relevant to the inquest.

(2) Was Mr Doohan's affidavit refused inclusion as evidence at the inquest as a result of a permanent suppression order by the Coroner; if so, was the Coroner's suppression order influenced by AFP or other official advice that Mr Doohan is alleged to be mentally unstable; if not, what was the basis on which the Coroner decided to issue the suppression order.

(3) Was Mr Doohan's affidavit made available to Mr David Harold Eastman and/or his legal counsel by the Coroner or his staff.

(4) Did the Coroner receive, on 9 April 1996, a further affidavit from Mr Doohan, dated 25 March 1996: (a) attesting to the truth of Mr Doohan's affidavit of April 1990; and (b) denying allegations of mental instability or history of mental instability.

(5) Did the Coroner receive, on 9 April 1996, a letter from Mr Doohan requesting the Coroner to advise him if Mr Doohan's affidavit of April 1990: (a) had been rejected as unworthy of coronial public examination; or (b) was the subject of a suppression notice; if so, for which reason or reasons.

(6) Has the Coroner responded to Mr Doohan on any of the above matters.

(7) Did the Coroner receive from the AFP a copy of, or advice of, Senator Jenkins' Senate question of June 1990 (Senate question on notice No. 72, notice given 1 June 1990) relating to the murder of Assistant Commissioner Colin Winchester.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator's question:

The relevant agencies within my portfolio have provided the following advice:

(1) On 21 November 1990 at a sitting of the inquiry open to the public, Counsel assisting the Coroner tendered an affidavit declared by Mr John William Daniel Doohan of Willagee on 17 April 1990. In his affidavit Mr Doohan reported statements made to him by a Mr Noel Sharp. The matters raised in the affidavit relevant to the death of Assistant Commissioner Winchester were investigated by the AFP. The affidavit, together with a number of other documents produced in the course of the investigation, were tendered to the Coroner. For the purposes of the inquiry, a member of the AFP reviewed the investigation. His statement was also tendered.

(2) The affidavit of Mr Doohan was received in evidence by the Coroner as exhibit 471K. The Coroner ordered the suppression from publication of names mentioned in the affidavit and other documents or any material that might tend to identify people so mentioned. The suppression order did not extend to names mentioned in the statement of the AFP member reviewing the investigation. Before making the suppression order, the Coroner heard submissions from Counsel assisting the Coroner and had the benefit of the views expressed in the statement of the reviewing AFP member. It was not put in those submissions or in that statement that Mr Doohan was mentally unstable but, rather, that the statements made by Mr Sharp were not to be believed. The Coroner accepted that submission and also expressed the view that there were reasons for disbelieving the statements made by the two persons, one of whom was Mr Doohan, which were said to corroborate the statements of Mr Sharp.

(3) When the affidavit was tendered Mr David Eastman did not appear at the inquiry either in person or by a legal representative. In about January 1991, a copy of materials tendered to the inquiry up to that time was provided to the then legal representatives of Mr Eastman. It is believed that a copy of Mr Doohan's affidavit was probably included in that material. A copy of the transcript of the proceedings from 3 July 1990 to 4 December 1990 was provided to Mr Eastman's legal representatives on 21 January 1991. This transcript included the proceedings in which the affidavit by Mr Doohan was tendered.

(4) to (6) At the time Mr Doohan's affidavit of 17 April 1990 was tendered, Counsel assisting the Coroner appeared on behalf of the Commonwealth Director of Public Prosecutions pursuant to section 6 of the Director of Public Prosecutions Act 1983. However, as the function of assisting the Coroner was taken over by the Director of Public Prosecutions for the ACT prior to 1996, questions about what the Coroner received in 1996 concerning the inquiry are matters for the Attorney-General in the ACT Government.

(7) The AFP has no record of providing the Coroner with a copy of, or advice of, Senate question No. 72, notice of 1 June 1990, asked by Senator Jenkins of the then Minister for Transport and Communications and which related to the monitoring of telephone calls.

Employment, Education, Training and Youth Affairs: Voluntary Redundancies

(Question No. 80)

Senator Margetts asked the Minister representing the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 28 May 1996:

(1) Did the department recently ask for expressions of interest from staff for voluntary redundancies with a view to cutting 1200 staff; but instead receive in excess of 3000 expressions of interest; if these figures are not correct: (a) how many staff are expected to be cut; and (b) how many expressions of interest were received.

Could job insecurity, increasing workloads and low morale account for so many people expressing an interest in leaving the department, if not: (a) why do so many staff appear so keen to take up the offer of voluntary redundancies; and (b) how does the Minister view the suggestion that many of the

best performing and most employable staff will be amongst those taking the redundancy offer.

Senator Vanstone—The answer to the honourable senator's question is as follows:

(1) The Department advised staff on 24 April 1996 of the need to reduce its permanent staff by 1285 by the end of July 1996. Around 3300 expressions of interest were received from staff of which about 600 were subsequently withdrawn.

(2) Interest in voluntary redundancies can be attributed to:

no conditions being placed on expressing an interest in voluntary redundancy;

staff aware of the need to downsize recognising the voluntary redundancy program as providing an opportunity for a career change;

uncertainty among staff due to media coverage about purported major changes to the portfolio post Budget.

As at 19 July 1996, formal offers of voluntary redundancy under the Department's national program had been made to around 2350 staff with a further 110 staff likely to be made an offer in the near future.

Expressions of interest were assessed against the following criteria based on the general principle that staff will be made an offer except where they are ineligible because:

they will be on leave without pay or not working in the Department (ie on temporary transfer to another agency) when offers are made;

they are on sick or compensation leave and do not meet the eligibility requirements for staff who are not fit for and not at work;

they are on graduated return to work due to illness;

they have specialist skills or perform a key function that could not reasonably be expected to be filled by another suitable officer in the Department;

they have expertise or are in a position that is essential to complete a current finite task. In this case a deferred retirement date may be considered; or

an ongoing work unit would be unable to perform its essential functions at an acceptable level in the event of a large take up of voluntary redundancies.

Staff performing at a range of levels within the Department will be voluntarily retrenched.

Students: Dependent Spouse Allowance

(Question No. 99)

Senator Margetts asked the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 14 June 1996:

(1) How many students collected the Dependent Spouse Allowance (DSA) in addition to their AUSTUDY or ABSTUDY payments in 1995.

(2) After the regulation change in December 1995:

(a) what are the comparative figures of people receiving DSA in 1995 and Home Child Care Allowance (HCCA) in 1996 while also collecting AUSTUDY or ABSTUDY; and

(b) how are the changes in these figures accounted for.

(3) How many students who would have been eligible to collect the DSA would not have been able to collect the new HCCA payment and missed out on a payment of this kind in addition to the AUSTUDY or ABSTUDY payment.

(4) What were the net savings to the department and the Department of Social Security (DSS) by abolishing the DSA and replacing it with the HCCA payment.

(5)(a) Does DSS have a stricter means test than the department;

(b) does this mean some recipients may not be able to transfer onto HCCA; and

(c) what were the reasons for some students not being able to transfer onto the HCCA.

(6) Can those previous recipients of the DSA who could not claim the HCCA claim the DSA back through their tax; if so, how; if not, why not.

Senator Vanstone—The answer to the honourable senator's question is as follows:

(1) In 1995, a total of 10,575 recipients of AUSTUDY and ABSTUDY benefits received the Dependent Spouse Allowance (DSA).

(2)(a) There were no recipients of Home Child Care Allowance (HCCA) in 1996 because from 1 July 1995, the HCCA was subsumed into Parenting Allowance, a Government assistance for low income families with dependents, in particular, where one of the partners has little or no personal income. The Parenting Allowance has two parts, one of which, known as the Basic Parenting Allowance, is the equivalent of the old HCCA.

The student or the partner may individually be entitled to receive AUSTUDY or ABSTUDY or the Parenting Allowance. Each individual cannot receive concurrently assistance from more than one of the three schemes.

For efficiency of administration and privacy concerns, the Department does not collect information on student's spouse who receive the Parenting Allowance. Conversely, the Department of Social Security has no information about the number of people who receive Parenting Allowance and who have partners in receipt of AUSTUDY or ABSTUDY.

(b) As indicated in my answer to Question (2)(a), there are no data available to answer this question.

(3) From 1 January 1996, the AUSTUDY DSA was abolished and most of its clients transferred to the Parenting Allowance. As I pointed out in replying to Question (2)(a), DSS has no information about people receiving existing Parenting Allowance whose partners are also in receipt of AUSTUDY or ABSTUDY. There is also no information about students whose partners are not eligible for Parenting Allowance and who would have been eligible for DSA had it continued in 1996.

(4) Projected savings for the Employment, Education, Training and Youth Affairs portfolio as a result of abolishing DSA and replacing it with Parenting Allowance were $23.1 million in 1995-96, $46.3 million in 1996-97 and $47.5 million in 1997-98. There were no savings projected for the Social Security portfolio.

(5)(a) The former AUSTUDY DSA was reduced by 50 cents for every dollar of the spouse's income above $60 a fortnight. The Parenting Allowance income test has a 50 per cent withdrawal rate on each dollar of the allowee's income between $60 and $140 a fortnight with a 70 per cent withdrawal rate for each dollar of income above this level. While the AUSTUDY student income test did not affect the level of DSA, Parenting Allowance is reduced by 70 cents for every dollar of partner's income above $484 a fortnight.

(b) The DSA was abolished and replaced by Parenting Allowance—not by HCCA. This change removed the anomaly whereby basic Parenting Allowance could be paid to persons attracting payment of the DSA, when the two Allowances had a similar purpose. The change is consistent with moves to provide an independent payment to partners and to direct family assistance to the principal carer of children in any family group. Most clients were not affected by the change as they merely transferred from the then Department of Employment, Education and Training payment to a DSS payment at the same maximum rate.

(c) Several groups have been affected, namely families:

where the partner of the AUSTUDY or ABSTUDY recipient is not an Australian resident or does not have a qualifying residence exemption for Parenting Allowance;

who travel outside Australia for longer than 13 weeks; and

those affected because of the differences in the income test for Parenting Allowance and AUSTUDY.

A small number of people were also affected by the change because they were already receiving basic Parenting Allowance in 1995 (at the same time that their spouse was receiving DSA) and had this subsumed into their overall rate of Parenting Allowance in 1996.

(6) Students receiving the DSA in 1995, whose partners are not receiving Parenting Allowance, may be able to claim the 'with-child' Dependent Spouse Rebate on a pro rata basis when completing their 1995-96 taxation returns, subject to the level of their partner's separate net income.

Lihir Gold Ltd

(Question No. 100)

Senator Margetts asked the Minister representing the Minister for Industry, Science and Tourism, upon notice, on 14 June 1996:

With reference to the Freedom of Information (FOI) request made of the Department by the Mineral Policy Institute in August 1995 regarding documents used by the Minister for the Environment in making an assessment of the environmental impacts of the Lihir Gold Ltd project:

(1) Have significant environmental impact or social impact documents used by the Minister for the Environment been transferred back to the Export Finance Insurance Corporation (EFIC) without being released.

(2) (a) What has been the extent and nature of the communications between Blake, Dawson and Waldron, the legal firm acting for Lihir Gold Ltd, and the various Australian Government departments and agencies in respect to this FOI request; (b) what is the exact nature of the submissions made by Blake, Dawson and Waldron to the Australian Government; and (c) have these submissions contributed to the refusal to release the documents.

(3) With reference to a meeting on 18 October 1995 in Washington DC between non-government organisation (NGO) representatives, International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency management and staff, at which Mr Harvey Van Veldhuizen of the IFC claimed that an environmental impact assessment report had been announced, released and made publicly available in Papua New Guinea and that all NGOs could make their input if they wished to do so: (a) given this assurance, why has this report not been available; and (b) why has the Government refused to respect the principles of transparency of decision-making and accountable government

which underpin the Freedom of Information Act, especially given assurances by Lihir Gold Ltd that such documents would be made available.

Senator Parer—The Minister for Industry, Science and Tourism has provided the following answer to the honourable senator's question:

It should be noted that as this Freedom of Information (FOI) request was made to the Department of Environment Sport and Territories, I am not able to provide complete answers to the questions.

(1) Some of the environmental impact and social impact documents used by the Minister for the Environment in reaching his decision originated from the Export Finance and Insurance Corporation (EFIC). In accordance with section 16(3) of the FOI Act 1982 responsibility for responding to the FOI request for release of these documents was therefore transferred from the Department of Environment, Sport and Territories to EFIC. EFIC considered each of these documents and determined that they are exempt from the operation of the FOI Act under section 7(2) of that Act.

(2) (a) Neither EFIC nor my Department is aware of the extent and nature of communications generally between the legal advisers to Lihir Gold Ltd, Blake Dawson Waldron, and Australian Government agencies. The communications between EFIC and Blake Dawson Waldron were limited and included an exchange of submissions in respect of the FOI request made to the Department of Environment Sport and Territories; and providing a copy of EFIC's reply to the Mineral Policy Institute in relation to documents transferred to EFIC under the FOI Act.

(b) & (c) As the FOI request was made of the Department of Environment Sport and Territories, I am unable to answer these questions.

(3) (a) Neither EFIC nor my Department is aware of the meeting of 18 October 1995.

(b) In all of its dealings regarding the Lihir gold project the Government has observed the principles of the FOI Act.

Lihir Gold Ltd

(Question No. 101)

Senator Margetts asked the Minister representing the Minister for Industry, Science and Tourism, upon notice, on 14 June 1996:

(1) (a) Was an agreement signed in London on 18 August 1995 by Lihir Gold Ltd and its financiers and insurers for a loan of $300 million; (b) was this loan syndicated by the Union Bank of Switzerland, ABN AMRO, Citibank, Dresdner Bank and the Government Authority AIDC Ltd; and (c) was the loan insured by EFIC, MIGA and the Canadian Agency EDC.

(2) As AIDC and EFIC were both party to this agreement on behalf of the Australian Government: (a) what are the terms of this agreement; (b) and can a copy of this agreement be provided.

(3) Can it be confirmed that one of the specific conditions is that the syndicated loan would only be disbursed after Lihir Gold Ltd has spent at least $400 million of its own funds on the project; (b) is it a fact that this expenditure was not due to occur until September/October 1996; and (c) can the Government guarantee that Lihir Gold Ltd has not spent any of the syndicated loan funds at this date.

(4) Is the Australian Government, EFIC or AIDC aware that United States (US) Government insurers Overseas Private Insurance Corporation (OPIC) refused to insure the Lihir Gold Ltd project on environmental grounds; if so, does this indicate that the Australian Government is prepared to accept lower environmental standards than the US Government.

(5) (a) Has Lihir Gold Ltd met the conditions set out in the loan agreement which pertain to environmental and social impacts of the project; (b) what is the nature of these conditions and what are the mechanisms for assessing and for reporting; (c) will the Minister publicly report on the adherence by Lihir Gold Ltd to the conditions; if not, why not; and (d) what action will be taken with regard to any breaches of conditions which may have occurred.

(6) (a) Since making the decision to insure the US$250 million in loans for the Lihir Gold Ltd project; (i) what investigations have AIDC, EFIC or the Australian Government undertaken to ensure that Lihir Gold Ltd is fulfilling the conditions of the loan agreement, and (ii) what have been the outcomes of these investigations; and (b) has Lihir Gold Ltd met all the conditions of the loan agreement.

(7) With reference to Cabinet's decision on 30 July 1995 to direct EFIC to insure loans to the value of US$250 million, and reports which indicated the Government would consider insuring a further US$500 million loan for the mining contract: (a) has the Australian Government, AIDC or EFIC been approached by any of the parties involved in the Lihir Gold Ltd project since making the initial decision, to insure or finance further components of the project; and (b) has the Australian Government, AIDC or EFIC made any decision or in-principle decision to further finance or insure loans pertaining to the project.

(8) (a) What loans and loan agreements have been made, or are in the process of being made, by EFIC or AIDC relating to international mining

projects; and (b) what are the details as to the countries and purposes to which they relate.

Senator Parer—The Minister for Industry, Science and Tourism has provided the following answer to the honourable senator's question:

(1) (a) & (b) Lihir Gold Limited entered into a loan agreement dated 18 August 1995 with Union Bank of Switzerland, ABN AMRO Bank NV, AIDC Ltd, Citibank NA and Dresdner Australia Limited for a loan of up to US$300 million.

(c) Yes.

(2) (a) & (b) AIDC is not a party to any agreements in respect of Lihir Gold Ltd. Pursuant to section 9 of the AIDC Act 1970, as amended, AIDC is not subject to direction by or on behalf of the Commonwealth Government. AIDC Ltd, a subsidiary of the Australian Industry Development Corporation (AIDC), is not a Government Authority; it is a public company, 99.98% of the shares of which are held by AIDC. The terms of its agreement with Lihir Gold Ltd are classed as commercial in confidence. The Export Finance and Insurance Corporation (EFIC) is not a party to the loan agreement.

(3) As mentioned in (2) above the terms of the agreement between Lihir Gold Ltd and AIDC Ltd are classed as commercial in confidence. EFIC is not a party to the loan agreement.

(4) The Overseas Private Investment Corporation (OPIC) has not made public the grounds on which it chose not to proceed with consideration of insurance relating to the potential supply of US equipment to the Lihir project. These would normally be matters between the US Government's insurer and the project sponsors. As the then Minister, Senator Cook, advised in his reply to Senator Margetts on 28 November 1995, the Australian Government is not in a position to comment on the extent to which environmental or other grounds were relevant to the decisions of an agency of another government.

(5) (a) See (3) above.

(b), (c) & (d) The nature of the conditions set out in the loan agreement are classed as commercial in confidence and are a matter for the parties to the loan agreement.

(6) (a) (i) and (ii) & (b) The loan agreement is administered by the financiers who are parties to it. EFIC is not a party to the agreement. The financiers are required to advise EFIC of any event of default under the loan agreement, including any that might arise from non-compliance with loan conditions. EFIC has received no such advice. As mentioned in (3) above the terms of the loan agreement between Lihir Gold Ltd and AIDC Ltd are classed as commercial in confidence.

(7) (a) & (b) When giving approval to provide political risk insurance to the banking syndicate, Cabinet also approved the provision of up to US$110m of additional political risk insurance to support Australian companies bidding to provide contract mining services to Lihir. Within the terms of this approval, EFIC has issued policies totalling US$8.5m and anticipates being approached to issue further policies later this year.

In addition, EFIC has issued several export credit insurance policies (currently relating to exports of under A$100,000 in value) in the normal course of its business, covering the relevant Australian exporters for certain losses should they not be paid for goods and services which they sell to the project.

The issues of further approaches to AIDC Ltd for funding and the decisions (or in-principle decisions) relating to any such approaches are classed as commercial in confidence.

(8) (a) & (b) In the period since its establishment under the EFIC Act 1991, in respect of loans or loan agreements relating to international mining projects, EFIC has:

approved (1991) and made a loan in relation to a coal washery in Vietnam; and

approved (1996) a loan guarantee for conveyor equipment for a coal mine in Thailand. The loan has not yet been drawn down.

In addition to these loans, in 1995, EFIC provided political risk insurance to a company establishing a new gold mine at Tolukuma in Papua New Guinea.

EFIC is unable, for commercial in confidence reasons, to release details relating to loans and loan agreements which are in the process of being made.

Information regarding loans and loan agreements made by EFIC's predecessor organisations is set out in the annual reports of those organisations.

The issues of loans and loan agreements by AIDC Ltd relating to international mining projects, the countries and purposes are classed as commercial in confidence.

East Timorese Refugees

(Question No. 126)

Senator Woodley asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 9 July 1996:

(1) Are there any figures available on the number of East Timorese refugees who are attempting to arrive in Australia by boat.

(2) Are the applications from East Timorese refugees who arrive in Australia by boat treated differently to (a) those from other countries who

also arrive by boat; and (b) refugees who do not arrive by boat.

(3) Does the Federal Government advise the Indonesian Government when East Timorese people apply for refugee status in Australia.

Senator Short—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator's question:

(1) There is no information available on how many East Timorese attempt to arrive in Australia illegally by boat. However, over the period May 1995 to date, 18 East Timorese have arrived in Australia by boat, without authorisation.

(2) All applications for asylum are assessed on a case by case basis under the terms of the UN Convention and Protocol relating to the Status of Refugees. Australia's determination procedures ensure that decision making is consistent and undertaken in a fair and open manner. This applies to all asylum seekers irrespective of their country of origin or their mode of arrival in Australia.

(3) Like other Government departments, the Department of Immigration and Multicultural Affairs is governed by the Privacy Act in its management of personal information. All information contained on an application for a Protection Visa is treated as private and confidential. No such information, including the fact that an application has been made, is passed to the applicant's country of origin.

Air Safety

(Question No. 128)

Senator Bob Collins asked the Minister representing the Minister for Transport and Regional Development, upon notice, on 10 July 1996:

With reference to an aircraft registered VH-SHW, owned by Dick Smith Adventure Pty Ltd:

(1) On 7 September 1995 when the aircraft took off from Moorabin airport; (a) did it infringe airspace; (b) was a poor standard of airmanship displayed; (c) who was the pilot of the plane; (d) was there a Bureau of Air Safety Investigation (BASI) into the incident; and (e) if so, what were the conclusions of the investigation.

(2) On 21 March 1996; (a) did the aircraft fail to respond to communication checks while flying over Coffs Harbour on route from Maroochydore to Bankstown; (b) who was the pilot of the plane; (c) was there a BASI investigation into the incident; and (d) if so, what were the conclusions of the investigation.

Senator Alston—The Minister for Transport and Regional Development has provided the following answer to the honourable senator's question:

(1)(a) The aircraft was reported by Moorabin ATS to have infringed airspace shortly after take-off. The incident was initially reported to BASI as an online electronic safety incident report on 14 September 1995.

(b) During a subsequent follow up phone conversation between a BASI investigator and Airservices ATS officers, it was reported to BASI that the pilot of VH-SHW had displayed poor airmanship.

(c) The pilot of the aircraft was not identified to BASI by Moorabin ATS. BASI investigators felt no requirement to contact the pilot to finalise the investigation of the incident. Subsequent inquiries have identified the pilot as Mr Frank Young.

(d) The incident was the subject of a 'Category 5' investigation by BASI. A category 5 investigation is the lowest level of investigative response (apart from not investigating an occurrence at all).

Occurrences subject to a category 5 investigation only, are considered by BASI to have posed no real individual threat to aviation safety and consequently are subject to minimum investigative effort.

A category 5 investigation usually involves little more than making one or two phone call inquiries and recording the factual information in a brief data base record. The data base records are then used in aggregate to monitor long term incident patterns.

(e) The investigation record identifies communications and incorrect circuit procedures as factors in the occurrence.

(2)(a) On 21 March 1996 Coffs Harbour ATS submitted an electronic safety incident report to BASI. The report indicated that aircraft VH-SHW which was required to report to ATS overhead Coffs Harbour had failed to report by the expected time. After failing to establish communication with the aircraft ATS declared a Search and Rescue (SAR) 'uncertainty phase'. The aircraft was subsequently contacted and the SAR phase cancelled.

(b) BASI did not contact the pilot of the aircraft but subsequent inquiries have identified the pilot as Mr Frank Young.

(c) As BASI did not believe the incident posed any real individual threat to air safety it was subject to a category 5 investigation only.

(d) The BASI investigation record indicates the aircraft penetrated controlled airspace. The pilot failed to obtain a required ATS clearance and did not maintain air to ground communication.

Australian Country Information Service Centres

(Question No. 133)

Senator Bob Collins asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 16 July 1996:

With reference to the Australian Country Information Service centres

(1) How many centres operated, by State, in the 1994-95 and 1995-96 financial years.

(2) How many people were employed to deliver these services, by State.

(3) What was the cost of providing these services in the 1994-95 and 1995-96 financial years.

(4) On a State by State basis, how many people did these services assist in the 1994-95 and 1995-96 financial years.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) The following numbers of Australian Country Information Service centres operated, by State, in the 1994-95 and 1995-96:

State	1994-95	1995-96
NSW	4	4
Victoria	2	1
Queensland	6	6
South australia	2	2
Western Australia	5	4
Tasmania	2	2

(2) The number of people employed to deliver these services, by State:

State	1994-95	1995-96
NSW	4	4
Victoria	2	1
Queensland	6	6
South Australia	2	2
Western Australia	5	4
Tasmania	2	2

(3) The cost of providing these services was $581,864 in 1994-95 and $563,307 in 1995-96.

(4) On a State by State basis the records show services assisted the following numbers of people:

State	People Assisted 1994-95	People Assisted 1995-96
NSW	14141	17761
Victoria	1802	978
Queensland	14069	17491
South Australia	1789	1827
Western Australia	8613	4782
Tasmania	763	903

Employment, Education, Training and Youth Affairs: Voluntary Redundancies

(Question No. 153)

Senator Bolkus asked the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 22 July 1996:

With reference to recent circulars from the Secretary of the department seeking expressions of interest in voluntary redundancies from employees of the department, can a guarantee be given to Parliament that these redundancies will only occur on a voluntary basis.

Senator Vanstone—The answer to the honourable senator's question is as follows:

On 24 April 1996 the Secretary informed staff that voluntarism was the key approach to the downsizing necessary for the Department of

Employment, Education, Training and Youth Affairs to manage within budget. Staff were informed that staffing reductions would be managed within the agreed industrial framework for the Australian Public Service. Staff who have expressed interest in voluntary redundancy have been informed of the excess staff provisions and advised that they can withdraw their expression of interest in voluntary redundancy until the time they are made a formal offer of voluntary retrenchment. While no guarantee can be given that involuntary processes will not be used, the Secretary informed staff on 31 May 1996 that it is not the Department's aim or desire to use those provisions.

Export of Live Sheep

(Question No. 159)

Senator Bob Collins asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 24 July 1996:

(1) How are the codes of practice relating to the export of live sheep from Australia being monitored and what penalties are in place for failing to meet the standards.

(2) How are the mortality rates determined and by whom.

(3) What initiatives is the government taking to expand the frozen sheep export trade.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) Prior to issuing an export permit, an authorised officer must be satisfied that the live animals have been prepared in accordance with the relevant model codes and the requirements of the importing country. This is determined by the veterinary officer responsible for issuing the health certificate covering the consignment which is only issued after a thorough inspection of the livestock and the pre-export preparation/isolation facilities within 48 hours of export. Consequent upon this action, export permits and health certification can be withheld for part or all of the consignment.

(2) Mortality rates are determined by examination of reports submitted to the Australian Maritime Safety Authority (AMSA) by ships' Masters.

(3) The Australian Meat and Live-stock Corporation (AMLC) maintains a regular promotional program to encourage increased consumption of sheepmeat. Through its overseas offices in key markets the AMLC promotes the trade through a comprehensive program of consumer and trade advertising and sales promotion backed up by a technical support service. The advertising strategy focuses on newspapers and magazines portraying Australian sheepmeat as high quality and produced by a professional industry. General merchandising and point-of-sale material is also provided to stores carrying Australian sheepmeat to differentiate the product from competitors. The AMLC technical officers advise retailers and consumers on the characteristics and specifications of Australian meat and conducts butcher training programs on handling, preparation and presentation. The AMLC's efforts to promote sheepmeat consumption also extend to regularly contacting government officials, importers and agents to maintain Australia's reputation as a supplier of high quality and safe product and reassure them, where appropriate, of the integrity of our export certification system.

Uranium Mining

(Question No 161)

Senator Lees asked the Minister for the Environment, upon notice, on 26 July 1996:

(1) Is the head of the Australian Nature Conservation Agency (ANCA), Dr Peter Bridgewater, quoted in the *Sydney Morning Herald* (SMH) of 16 or 17 July 1996, in an item by Craig Skehan, as expressing 'conditional support' for the Jabiluka uranium project.

(2) Did the SMH item referred to quote Dr Bridgewater as stating, 'I think that one needs to look at the longer term, and these mining projects are relatively short term operations'.

(3) Do Dr Bridgewater's statements represent government policy or ANCA policy on these matters.

(4) Why, according to reports from Friends of the Earth and the Environment Centre Northern Territory, does Dr Bridgewater now claim to have been misrepresented in this matter by the SMH; and, if he was indeed misrepresented, what did he actually say.

(5) Is the whole of Kakadu National Park currently Aboriginal land.

(6)(a) Is it the case, that according to Aboriginal law, only recognised traditional owners can speak for the land; (b) is Dr Bridgewater such a person; and (c) if not, did he at least consult the traditional owners on the Kakadu board of management before making these statements.

(7) Is it a fact that the main radioactive components of uranium tailings are thorium-230, with a half-life of 76 000 years, and radium-226, with a half-life of 1 600 years.

(8) Is it a fact that engineers of tailings dams normally assume they can guarantee the integrity of the tailings dam structure for 200 to 1 000 years at most.

(9) Does the Government or Dr Bridgewater consider a radiological impact of 150 000 to 750 000 to be 'short term'.

Senator Hill—The answer to the honourable senator's question is as follows:

(1) No. This view was attributed to Dr Bridgewater in the article but I am advised that the quotations from Dr Bridgewater do not reflect such a view.

(2) Yes.

(3) I understand that the statements made by Dr Bridgewater were part of an hour long interview which ranged widely over the activities undertaken by the Australian Nature Conservation Agency.

(4) I understand that neither the headline to the *Sydney Morning Herald* article nor some of the commentary within it reflect the full context of the statements made by Dr Bridgewater. I am advised that Dr Bridgewater told the *Sydney Morning Herald* that whether or not uranium mining on existing leases near Kakadu National Park proceeded would depend not on the Australian Nature Conservation Agency but on the views of the traditional Aboriginal owners and the outcome of the environmental impact assessment process determined by the Government. I am also advised that Dr Bridgewater said that, if the traditional owners support the proposal and the environmental impact assessment proves that environmental and other hurdles can be overcome, he would be confident that, with the help of the Board of Management and its Aboriginal majority, the Australian Nature Conservation Agency could continue to manage Kakadu National Park in accordance with its World Heritage status and values.

(5) No.

(6)(a) Yes.

(b) No.

(c) No. I am advised that Dr Bridgewater did not consult the traditional owners because, as noted in (4) above, he was not speaking on behalf of the traditional owners or their land.

(7) Yes.

(8) Yes.

(9) No.

Employment and Training Field Officer Project

(Question No. 162)

Senator Bolkus asked the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 26 July 1996:

What level of financial assistance did the Department provide to the Australian Chamber of Commerce and Industry for the Employment and Training Field Officer project in the 1995-96 financial year.

Senator Vanstone—The answer to the honourable senator's question is as follows:

The Department of Employment, Education, Training and Youth Affairs provided a grant of $3,458,324 to the Australian Chamber of Commerce and Industry for the Employment and Training Field Officer project in the 1995-96 financial year.

AQIS: Meat Inspection Fees

(Question No. 167)

Senator Bob Collins asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 2 August 1996:

(1) Have the standards set under the Australian Quarantine and Inspection Service (AQIS) Technical Review Process been strengthened; if so, when did this occur and what was the basis of the change.

(2) (a) How many meatworks have been reviewed in 1996, to date; (b) which works were reviewed; (c) when were the reviews undertaken; and (d) what were the results.

(3) What was the value of meat inspection fees collected by AQIS in the 1995-96 financial year.

(4) What is the value of fees which are 30 days, 60 days and 90 days overdue.

(5) (a) What action is being taken to recover overdue fees; and (b) have any special arrangements with particular meatworks been entered into to provide some relief from outstanding fees.

(6) What was the value of inspection fees written off in the 1995-96 financial year.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) The Technical Review Process employed by AQIS to measure compliance with minimum standards for export meat has recently been strengthened for the purposes of ensuring uninterrupted access to international markets and protection of Australia's reputation as one of the world's premier suppliers of fresh meat. This is reflected in a Scheme for Corrective Action and Sustained Operational Compliance which was introduced on 13 May 1996 following extensive consultation and agreement with the meat industry.

(2) Export meatworks generally are reviewed at least monthly in keeping with equivalency provisions of key overseas countries that provide the basis for market access. Additionally, 31 meatworks in all States and the Northern Territory have triggered the operation of the Scheme for Corrective Action and Sustained Operational Compliance from its commencement on 13 May 1996 to 12 August 1996. The primary output from the Scheme is the systematic application of appropriate remedial action by meatworks, where considered necessary, to ensure export requirements are consistently and uniformly met.

(3) $60,162,651.

(4) 29-56 days—$171,828; 57-84 days—$185,299; 84+ days—$813,377

(5) AQIS vigorously pursues outstanding fees (and levies) along well established commercial operating lines which includes forwarding of statements of account, direct telephone contacts, letters of demand, withdrawal of inspection services, deregistration and legal action through the Australian Government Solicitor.

Yes. One repayment arrangement, which is no longer in effect, was entered into this year.

(6) $384,910 was written off in the meat program.