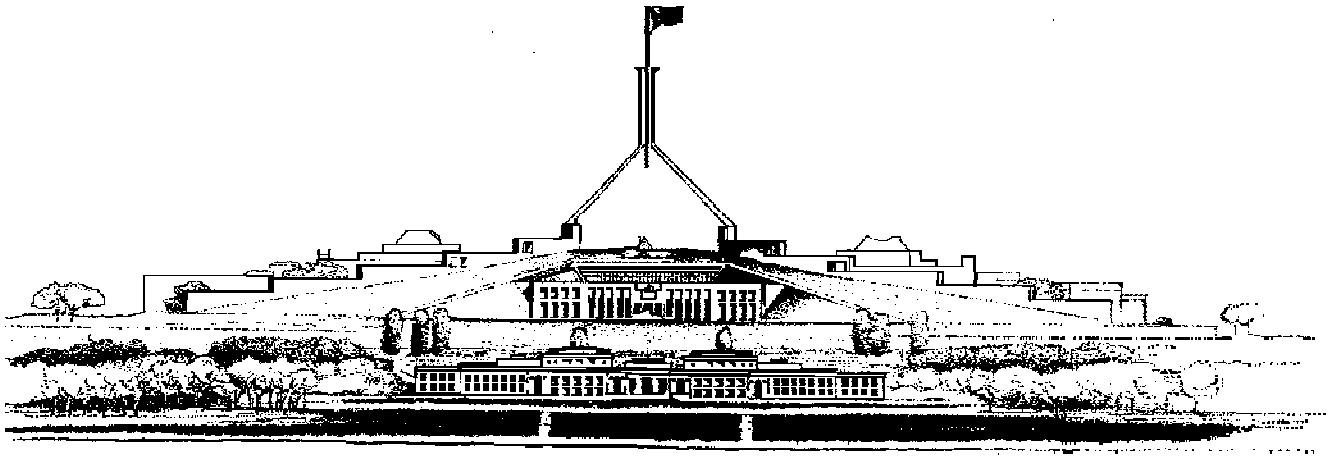
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

WEDNESDAY, 11 DECEMBER 1996

THIRTY-EIGHTH PARLIAMENT
FIRST SESSION—SECOND PERIOD

BY AUTHORITY OF THE SENATE
CANBERRA

CONTENTS

WEDNESDAY, 11 DECEMBER

CONTENTS—*continued*

Wednesday, 11 December 1996

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

PETITIONS

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

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 Faulkner** (from nine citizens).

Australian Broadcasting Corporation

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

This petition of certain citizens of Australia draws to the attention of the Senate your petitioners' appreciation of the vital role the ABC plays in the development of Australian culture and in the provision of quality news and information services, including in regional Australia.

Proposed alterations to the ABC charter and cuts to its funding and staff levels will have an extremely adverse effect on the ABC's performance of these roles.

Your petitioners express their grave concern that the Government proposes to break its unequivocal election promise to maintain current levels of ABC funding and proposes to redefine the ABC's role so that it has a narrower focus and is more politically acceptable to the Howard Government.

Your petitioners request that the Senate ensures the current ABC charter, funding and staffing levels are maintained so that the ABC retains its independence and viability as an effective national broadcaster.

by **Senator Schacht** (from 29 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 Woodley** (from 22 citizens).

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 Schacht** (from 951 citizens).

Rural Cutbacks

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

The petition of the undersigned strongly oppose the reduction of government services in rural and regional Australia.

These cuts will cause extreme hardship in areas that have not yet recovered from drought, high interest rates and the negative effects of subsidised overseas trade.

Your petitioners ask that the government reverse these cutbacks.

by **Senator Woodley** (from 21 citizens).

Point Lillias

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

The petition of the undersigned citizens of Australia in Geelong requests that the Senate examine the proposal to set aside land currently protected under the Ramsar Treaty in order to provide for a chemical storage facility at Pt Lillias. Further, we request the Senate to examine whether the proposal to set aside an area alternate to the one now nominated by the Ramsar Treaty is in accordance with the requirement of that Treaty.

by **Senator Cooney** (from 1,886 citizens).

Point Lillias

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

The petition of the undersigned Aboriginal people of Australia requests that the Senate examine the proposal to set aside land currently protected under the Ramsar Treaty in order to provide for a chemical storage facility at Point Lillias. Further, we request the Senate to examine whether the proposal to set aside an alternate to the one now nominated by the Ramsar Treaty is in accordance with the requirement of the Treaty and the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights, and the Declaration Of The Principles of International Cultural Co-operation, UNESCO, 1966, and the Convention for the Protection of the World Cultural and Natural Heritage.

by **Senator Cooney** (from 61 citizens).

Airport: Holsworthy

To the Honourable Members of the Senate and the House of Representatives assembled in Parliament:

The petition of certain citizens of Australia draws to the attention of the House the proposal to use the Holsworthy military range as a possible site for the construction of Sydney's 24 hour second international airport.

We believe that the site is unsuitable due to:

its proximity to large and rapidly growing residential areas;

the great stress and concern it is causing the many residents living in surrounding suburbs;

the presence of unexploded ammunition on the site and the great cost of removing them;

the expense and inconvenience involved to provide landfill to make the site suitable for development and the resultant destruction of landform and pristine natural environment in the process;

the existent noise pollution in the area already suffered by residents which would increase;

the presence of rare and endangered species of flora and fauna, and significant examples of Aboriginal and early European cultural heritage that would be threatened or destroyed to accommodate the airport;

the area's importance in maintaining high quality air and water supplies for South Western Sydney;

the danger to air quality of all residents of the Sydney basin if an airport is situated so close to the city;

the danger of damaging or destroying any aspect of the ecological balance of the National Parks surrounding the site or under the flight paths

the danger posed by bushfires, or the clearing and destruction of valuable bushland to prevent them.

Your petitioners therefore request that you oppose the consideration and construction of an airport in Holsworthy by immediately withdrawing the proposal and ensuring that the land in question be given over as national heritage (national park) immediately the defence force withdraw from the area.

by **Senator Forshaw** (from 1,232 citizens).

Airport: Holsworthy

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

The Petitioners respectfully draw the attention of the Senate to the fact that the quality of life of the citizens of the Sutherland Shire will be severely and adversely affected by the construction of an airport at Holsworthy. The petitioners therefore call on the Senate to urge the Prime Minister and Government to prevent the construction of any airport at Holsworthy.

by **Senator Forshaw** (from 2,033 citizens).

Veterans Entitlement Legislation

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

The Petition of the undersigned shows that only one group have been excluded from eligibility for repatriation benefits in the Veterans Entitlements Act 1986 (the Act) where such group has performed honourable overseas 'active service'. That group being, members of the Royal Australian Navy who served in Malaya between 1955 and 1960 which were excluded under 'Operational Service' at Section 6.(1)(e)(ii) of the Act.

The various claims made in Statements to the House and the Senate and the contents of correspondence from various Ministers to maintain the exclusion are answered as follows, the answers are from documents obtained under FIO and from public record:

(i) 'They were never allotted for operational service', (contained in a letter from The Hon. Con Sciacca Minister for Defence Science and Personnel 1995). A letter from the Secretary Department of the Navy to Treasury dated 11 November 1955 stated, 'the date that the Navy were allotted for operational service was '1 July 1955'.

(ii) 'Members of the RAN were only doing the duty for which they had enlisted', (October 1956 The Hon. Dr Cameron representing the Minister for Repatriation in the Senate). This applies to all Service personnel everywhere.

(iii) 'They were in no danger', (November 1956 The Hon. Dr Cameron representing the Minister for Repatriation in the Senate). They shared the same danger as all other Australian Service personnel serving in Malaya at the time.

(iv) 'They were not on Special Overseas Service', (in a letter from the office of The Hon. Bronwyn Bishop Minister for Defence Industry Science and Personnel to Mrs Williams of Adelaide dated October 1996). Requirement for Special Overseas Service was introduced in 1962 without retrospective conditions, therefore has no relevance to events of 1960.

(v) 'They were not on Active Service', (in a letter from the office of The Hon. Bronwyn Bishop Minister for Defence Industry Science and Personnel dated October 1996). It is now, as it was then, that Service Personnel had to comply with one of three requirements for Active Service, this group complied with two, or twice as many as is needed. The one that they did not comply with was, 'is in military occupation of a foreign country'.

Your petitioners therefore request that the Senate should remove the discriminatory exclusion in the Act, thereby giving the Australian sailors involved comparative recognition with the Army and RAAF personnel that served at the same time, and all other Australians who have served their country on active service overseas.

by **Senator MacGibbon** (from two citizens).

Humanitarian Migration Program

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

This humble petition of citizens of Victoria draws to the attention of the Senate that the abolition the Cambodian Special Assistnce Category of the Humanitarian Migration Program and alterations to the Preferential Family Migration category will result in considerable pain and suffering to citizens relying on these schemes.

Your petitioners therefore pray that the Senate restore the Cambodian Special Assistance Category of the Humanitarian Migration Program and reject alterations to the Preferential Family Migration category.

by **Senator Jacinta Collins** (from 248 citizens).

Petitions received.

NOTICES OF MOTION

Introduction of Legislation

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

That the following bill be introduced: A Bill for an Act to reform employment services, and for related purposes. **Reform of Employment Services Bill 1996**.

Introduction of Legislation

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

That the following bill be introduced: A Bill for an Act to deal with consequential matters arising from the enactment of the Reform of Employment Services Act 1996, and for related purposes. **Reform of Employment Services (Consequential Provisions) Bill 1996**.

Introduction of Legislation

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

That the following bill be introduced: A Bill for an Act to amend the law relating to fisheries, and for related purposes. **Fisheries Legislation Amendment Bill 1996**.

Introduction of Legislation

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

That the following bill be introduced: A Bill for an Act to amend legislation relating to the environment, sport and Territories, and for related purposes. **Environment, Sport and Territories Legislation Amendment Bill 1996**.

ORDER OF BUSINESS

Overseas Travel by Senior Officials

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

That general business notice of motion No. 343 standing in the name of Senator Lees for today, proposing an order for the production of documents by the Minister representing the Minister for Foreign Affairs (Senator Hill), be postponed till the next day of sitting.

US Defence Force Personnel in Australia

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

That general business notice of motion No. 355 standing in the name of Senator Margetts for today, proposing an order for the production of a document by the Minister representing the Minister for Defence (Senator Newman) be postponed till the next day of sitting.

Corporations and Securities Committee

Senator MURPHY (Tasmania) (9.35 a.m.)—I move:

That general business notice of motion No. 405 standing in the name of Senator Murphy for today, relating to the reference of a matter to the Joint Committee on Corporations and Securities, be postponed till the first day of sitting in 1997.

I move this motion on the basis that I have an agreement from the parliamentary secretary that, upon the Treasurer receiving a report relating to this matter, some time thereafter he will provide a report to this chamber.

Question resolved in the affirmative.

Government Business

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

That government business notice of motion No. 1 standing in the name of Senator Campbell for today, relating to the consideration of the Hindmarsh Island Bridge Bill 1996, be postponed till the next day of sitting.

Tibet

Human Rights

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

That general business notices of motion Nos 365 and 407 standing in the name of Senator Bourne for today, each relating to human rights, be postponed till the next day of sitting.

Austudy Regulations

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

That notices of motion Nos 1 and 2 standing in the name of Senator Bolkus for today, relating to the disallowance of regulations made under the Student and Youth Assistance Act 1973, be postponed till the next day of sitting.

COMMITTEES

Finance and Public Administration References Committee

Reference

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

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 28 February 1997: The discussion paper entitled *Towards a Best Practice Australian Public Service*, issued by the Minister for Industrial Relations (Mr Reith).

IMMIGRATION

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

That the Senate calls on the Government to allay the anxiety of the 4 000 or so Chinese students who were not granted permanent residency in Australia under the decision of 1 November 1993 by resolving the issue as a matter of priority.

COMMITTEES

Economics References Committee

Reference

Motion (by **Senator Jacinta Collins**) agreed to:

(1) That the following matters relating to Promoting Australian Industry be referred to the Economics References Committee:

(a) the necessary elements of efficient and effective industry policies in Australia, particularly:

(i) the effectiveness of existing industry policy in the key sectoral industries of pharmaceuticals, automobiles and automobile components, and how such policies can be improved,

(ii) the apparent success of some industry sectors, with particular reference to the Australian wine industry, and an examination of the factors which have contributed to that success, and

(iii) the desirability of further developing industry policies in the food processing and information technology industries and those industries which define themselves as environment industries;

(b) initiatives and measures which might encourage, and barriers and impediments to, the design, implementation and evaluation of specific industry policies, having regard to market and non-market influences, with particular reference to:

(i) the degree of firm, sector or industry support for the development of industry policy in select industries or sectors,

(ii) the role of tax policies, export credit schemes and access to finance and capital markets in industry policy,

(iii) the nature and structure of the institutional framework required to give effect to and implement industry policy, and

(iv) the features and uses of industry policies of major Asian trading nations, with particular regard to Singapore; and

(c) the appropriate criteria for review and evaluation of industry policy, including any specific research and measurement systems.

(2) That the committee report on paragraphs (a)(i) and (a)(ii) by 26 June 1997.

NATIONAL CAPITAL PLANNING AUTHORITY

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

That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposals by the National Capital Planning Authority:

(a) to improve the National Gallery of Australia and the High Court of Australia precinct; and

(b) to conduct stage 4 of the refurbishments to Old Parliament House.

NUCLEAR WEAPONS

Motion (by **Senator Margetts**) put:

That the Senate—

(a) notes:

(i) the Abolition 2000 Campaign in Australia, which is a global network of groups calling for negotiations for a nuclear weapons abolition convention within a time-bound framework, and

(ii) the resolution submitted by Malaysia and 32 co-sponsors, in the week beginning 8 December 1996, to the plenary session of the United Nations General Assembly, calling for negotiations leading to a nuclear weapons convention; and

(b) calls on the Government:

(i) to join with the Abolition 2000 Campaign to call for the initiation of a nuclear weapons abolition convention that requires the phased elimination of all nuclear weapons within a time-bound framework, with provisions for verification and enforcement, and

(ii) to support initiatives, such as the Malaysian resolution, which work towards the agreement of a nuclear weapons convention as soon as possible.

The Senate divided. [9.43 a.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes	9
Noes	59
Majority	50

AYES

Allison, L.	Bourne, V. *
Brown, B.	Kernot, C.

AYES

Lees, M. H.	Margetts, D.
Murray, A.	Stott Despoja, N.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Bishop, M.	Bolkus, N.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Carr, K.	Chapman, H. G. P.
Childs, B. K.	Collins, J. M. A.
Collins, R. L.	Colston, M. A.
Conroy, S.	Cook, P. F. S.
Coonan, H.	Cooney, B.
Denman, K. J.	Eggleston, A.
Ellison, C.	Evans, C. V. *
Faulkner, J. P.	Ferguson, A. B.
Ferris, J	Foreman, D. J.
Forshaw, M. G.	Gibbs, B.
Gibson, B. F.	Harradine, B.
Heffernan, W.	Herron, J.
Hill, R. M.	Hogg, J.
Kemp, R.	Lundy, K.
Macdonald, I.	Macdonald, S.
McGauran, J. J. J.	McKiernan, J. P.
Minchin, N. H.	Murphy, S. M.
Neal, B. J.	Newman, J. M.
O'Brien, K. W. K.	Panizza, J. H.
Parer, W. R.	Reid, M. E.
Reynolds, M.	Schacht, C. C.
Sherry, N.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	West, S. M.
Woods, R. L.	

*** denotes teller**

Question so resolved in the negative.

NOBEL PEACE PRIZE COMMITTEE

Motion (by **Senator Brown**) put:

That the Senate—

(a) notes that the Nobel Peace Prize Committee has decided to hold an exhibition of photographs showing human rights abuses in East Timor, on 10 December 1996, in Oslo, to coincide with the ceremony to award the Nobel Peace Prize to Bishop Belo and Jose Ramos Horta;

(b) congratulates the Nobel Peace Prize Committee on its decision; and

(c) calls on the Presiding Officers of the Australian Parliament to reconsider their decision not to allow a similar exhibition to be held in Parliament House, Canberra.

The Senate divided. [9.52 a.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes	10
Noes	53
Majority	43

AYES

Allison, L.	Bourne, V. *
Brown, B.	Harradine, B.
Kernot, C.	Lees, M. H.
Margetts, D.	Murray, A.
Stott Despoja, N.	Woodley, J.

NOES

Abetz, E.	Alston, R. K. R.
Bishop, M.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H.
Campbell, I. G.	Carr, K.
Chapman, H. G. P.	Childs, B. K.
Collins, J. M. A.	Collins, R. L.
Colston, M. A.	Conroy, S.
Cook, P. F. S.	Cooney, B.
Crowley, R. A.	Denman, K. J.
Eggleston, A.	Ellison, C.
Evans, C. V. *	Faulkner, J. P.
Ferguson, A. B.	Ferris, J
Foreman, D. J.	Forshaw, M. G.
Gibbs, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Hogg, J.	Kemp, R.
Lundy, K.	Macdonald, I.
Macdonald, S.	McGauran, J. J. J.
McKiernan, J. P.	Minchin, N. H.
Murphy, S. M.	Neal, B. J.
Newman, J. M.	O'Brien, K. W. K.
Panizza, J. H.	Reid, M. E.
Reynolds, M.	Schacht, C. C.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Vanstone, A. E.
Watson, J. O. W.	West, S. M.
Woods, R. L.	

*** denotes teller**

Question so resolved in the negative.

BUDGET 1996-97

Consideration of Appropriation Bills by Legislation Committees

Additional Information

Senator PANIZZA (Western Australia)—On behalf of the respective chairs, I present additional information received by the following legislation committees in response to the 1996-97 budget estimate hearings:

Community Affairs

Employment, Education and Training

Finance and Public Administration

Rural and Regional Affairs

Transport

REGISTRATION OF SENATORS' INTERESTS

Senator CHRIS EVANS (Western Australia)—At the request of Senator Denman, in accordance with the resolution on the registration of senators' interests, I table new declarations of interests and alterations to declarations made between 4 October and 6 December 1996.

WORKPLACE RELATIONS AND OTHER LEGISLATION AMENDMENT BILL (NO. 2) 1996

Report of the Economics Legislation Committee

Senator FOREMAN (South Australia) (9.56 a.m.)—I present the report of the Economics Legislation Committee on the provisions of the Workplace Relations and Other Legislation Amendment Bill (No. 2) 1996, together with submissions received by the committee and the *Hansard* record of proceedings.

Ordered that the report be printed.

TELSTRA (DILUTION OF PUBLIC OWNERSHIP) BILL 1996

In Committee

Consideration resumed from 10 December.

The CHAIRMAN—Order! The committee is considering Schedule 1, item 25 of the Telstra (Dilution of Public Ownership) Bill 1996. The question is that item 25 stand as printed.

Senator SCHACHT (South Australia) (9.57 a.m.)—This is my amendment to restore the power of the Minister for Communications and the Arts (Senator Alston) to direct the board. We had a lengthy discussion for over an hour yesterday in the chamber in this committee stage. The minister made a number of comments that this was unnecessary, that this had never been used since 1991 and therefore it was no longer needed to be maintained in the bill.

The opposition rejects the minister's view about this. First of all, I do not think it is any defence at all to say that since 1991-92 this power has never been used, therefore it can be eliminated. Between 1991 and the present time Telstra has been under the full ownership of the Australian government and has operated as a government business enterprise within those arrangements. It has operated as a commercial entity. That is certainly true. But, as the sole shareholder on behalf of the Australian people, the then government back in 1991 believed that it was only reasonable that that power to direct be there, even though neither the present minister nor previous ministers have sought to invoke that power. Of course, if they did invoke that power the direction will have to be tabled, be publicly available and available for public debate. That is a transparency that nobody could disagree with.

The minister says that in a commercial operation this would be an inhibition to the operation of Telstra. If you were probably selling the whole of Telstra, minister, you may have a different argument. The Australian people, through their elected government, own 66⅔ per cent as the shareholders of Telstra. It is your policy to maintain it at that level until a subsequent election where you would put that issue if you wanted to go to full privatisation.

In that scenario, I think most Australian people would say,'The government on our behalf should be able to have a direct say in the national interest in what is good for the Australian people.' You are not dealing here with a normal company; you are dealing with a company which Senator Harradine describes—quite rightly—as a natural monopoly, and it will be a natural monopoly for the foreseeable future.

Even if it does drop 10 or 15 per cent of its market share, that share still will be 70 per cent plus for the foreseeable future. Under any definition that is a natural monopoly. In the Australian marketplace if you were merging two companies that were going to have anything over 50 per cent of that

marketplace the ACCC would say, 'No, you are not going to merge and create a company that has that much control in the marketplace, that much dominance.' Telstra has nothing like just over 50 per cent: for the foreseeable future it will be over 80 per cent. It is the natural, dominating, monopoly—even if it is partly privatised. Therefore, it has obligations in providing to its Australian consumers. But above all else, an obligation to provide the basic telecommunications system to Australia.

Although we have not seen the details of its new business plan, the announcement that it will expend, over the next three years, some $12 billion on infrastructure in Australia is an issue of considerable national importance. I think most Australian people would say it is not unreasonable for the minister to have a direct influence if we believe that expenditure is not in the national interest. It would be extraordinary to say, 'This board will make decisions from time to time and if the minister wants to do it the only way will be for him to say, "Ah well, then we will subsequently amend the Telstra Act or the Telecommunications Act in a catch-up mode."'

That is really shutting the door after the horse has bolted in many cases; the minister knows that. He deals with the Telstra board, the Telstra chief executive, regularly through informal discussion. I accept that is the proper way that it should happen at the moment. You will still be representing the two thirds shareholder. In normal corporations a shareholder with a two thirds ownership would expect to have some reasonably effective say in how that company was managing itself and what it was doing. Yet the minister says to us that despite Telstra being the most important company in Australia, the biggest company in Australia, in which the people will be the two thirds shareholder, we should walk away from having any say at all; allow the minority under company law when it chooses to under the AIDC example—that Senator Cook so adequately explained yesterday—to dominate the majority; dominate the minister.

The minister would then have to come back in here and move some specific amendments of a retrospective nature to try to overcome the problem. That is not a sensible way to manage and run the national telecommunications system in Australia which is this natural monopoly.

So the answers the minister gave yesterday in response to some of the queries raised in this debate on this amendment are still not getting to the nub of accepting that Telstra one-third privatised is a natural monopoly two-thirds owned by the Australian people and has a national interest. The minister has just said, 'What is the national interest? It can never be described.'

Of course the national interest will be raised from time to time as people in the community say, 'We want Telstra to do this; we want the telecommunications system to be something else or amended accordingly.' The national interest debate will take place from time to time and people will argue the merits of the national debate. Minister, you would be part of that debate. You might well argue that issues raised by some people are not really in the national interest and, therefore, you as a minister would not exercise your powers. That is fine, but at least there would be a debate in this place and in the community at large about what you would do or not do.

That is a transparency that ought to be available to the Australian people so we get some idea of what is going on, and where Telstra is going, because the decisions it makes in management will have profound effect on the lives of ordinary Australians if we want to make sure in the next century when the access to telecommunications and to data information is going to be a major issue of whether people are information poor or information rich. Telstra, providing 80 per cent of that to Australians, will be at the forefront. If it makes from time to time so-called commercial decisions that affect and worsen the situation vis-a-vis the information rich/information poor issue that is a national interest that ought to be debated.

The minister ought to be willing to direct Telstra if he believes they are not acting in the national interest. The minister has not convinced the opposition in any way that having this power is in any way going to affect the good running of Telstra for all the Australian people and in particular remember-

ing, Minister, you represent the two-thirds shareholders even if this bill goes through to privatise one third. You ought to have this power for the Australian people.

Senator ALLISON (Victoria) (10.06 a.m.)—As with other senators here, I think we have not seen any convincing arguments by the government to this point about removing the power of the minister to direct Telstra. If the only reason is to increase the sale price of Telstra, could the minister indicate what that means in terms of dollars. If that is not the reason for removing this power, can the minister outline what the government sees as being the important arguments for this clause.

Senator COLSTON (Queensland) (10.07 a.m.)—When I first looked at this issue, my immediate reaction was to believe that the minister should not have a power to direct. It seemed to me that the marketplace might indicate that it is less willing to pay the level of funds that we would expect to come from the partial sale of Telstra. On the other hand, after having looked at the matter for some time, I believe that the power should be there.

Honourable senators will remember that some time earlier this week—I think it might have been Monday or Tuesday; I am not sure because the days seem to have merged this week—I indicated that I had been able to obtain a concession for certain centres in Queensland where operators are working and that those centres would remain open. That had quite a significant effect on some rural cities and towns in Queensland. I had that assurance. I also had an assurance about the number of operators who would be working in those centres up to June 1999. Those assurances came from both the Minister for Communications and the Arts (Senator Alston) and Mr Blount in writing. I indicated when I was speaking about them that I accepted those assurances, because if one has negotiations like that and assurances are not fulfilled, one does not enter into any further negotiations on other issues.

I said then that I believed all senators in Queensland and all members of the House of Representatives from electorates with a centre where operators worked should monitor employment in those areas. That is something that my good colleague Senator Schacht did not acknowledge the other day. He just mentioned that I was asking the unions to fulfil that role.

Senator Schacht—That is true. I did mention the union matter only.

Senator COLSTON—Yes. Not only did I mention the unions, which will have a significant role in the area, but also the members of the House of Representatives who will be affected and the senators for Queensland.

On the other hand, I looked at the power of the minister to direct. I will support Senator Schacht's amendment even though I believe that if that power is there, I do not think it will have to be used. If the power is there, it will be much more likely that I will not have to rely on assurances. I am indicating that, without that power to direct, I believe I could rely on them, but it will make it ever so much more definite that those assurances will be fulfilled. It is for that reason that I will be supporting Senator Schacht's amendment.

Senator HARRADINE (Tasmania) (10.11 a.m.)—I have listened carefully to what has been said in this debate, as I hope I always do. I have listened to what Senator Schacht has said. I was also interested in what Senator Cook said. Senator Margetts made a contribution on this matter, as have a number of other people. I can understand what is being said about the fiduciary duties of directors of companies. The duty of directors of companies, be they under the Corporations Law or fully or partially owned by public shareholders, is clear. It is to act in the best interests of the company.

One would assume in this current instance, where 66⅔ per cent of the directors are appointed by the representatives of the people, which is the electorate, that they would follow the interests of those people; namely, the public interest. One would have expected that. There are some arguments about that, and I have listened to them. At this stage, I am convinced by those arguments. My overall position in respect of this matter is that, had we not agreed with the one-third sale of Telstra, the government would have accepted

that as an invitation to commence cocking the trigger for a double dissolution. At that double dissolution, they would undoubtedly have taken the view to the people that there should be a total sale of Telstra, and that would have been the end of it. The only way they could get a total sale of Telstra through the parliament is to get it through the Senate. As the Senate is currently constituted, that would be impossible.

The parliament has accepted the partial sale of Telstra. If at the end of this day—I hope this is the last day; this debate cannot carry on forever—the parliament has accepted the partial sale of Telstra, presumably one-third of the directors will come from private shareholders, be they ordinary or preference shareholders. I reiterate what I said before. The one-third sale can be so structured as to enable the appointment of directors nominated by preferential shareholders.

The corollary is 66⅔ per cent—I do not know how you would get the two-thirds, but roughly 66 per cent—of the shareholders will be as shareholders representing the people and appointed by Order in Council, I should imagine. Certain questions have been raised and I think the government is taking it a little bit far to insist at this point of time that the Senate agree to excising section 9 of the act. That section, of course, contains the power of the minister to direct. I know that there will be arguments adduced. One of those, which came to mind yesterday, was that the rules of the ASX or the New York Stock Exchange may not enable the float to take place under those circumstances.

Senator Schacht—They would say that at the time, wouldn't they? You would expect them to say that, Senator.

Senator HARRADINE—But that was something that I was not told by them; I was advised by one of my own advisers that maybe that is the sort of thing that might be put forward. It might be put forward, but the whole point is that I believe there are a large number of investors who are eager, are hungry for the sort of security and prosperity that this float will give them, particularly as the power has never previously been exercised by either the previous government or by this government, and account should be taken of that. So, like my colleague Senator Colston, at this stage, depending on what the minister may have to say, I will be supporting the opposition amendment.

Senator BROWN (Tasmania) (10.18 a.m.)—I agree with much of what has just been said. The move by the government to do away with the power of the minister to direct what will happen to Telstra after one-third has been privatised may well upset the stock exchange, but Senator Harradine being able to say that just shows the direction that his vote and the vote for the sale of Telstra has taken the whole institution. It means that we will see the stock exchange basically having control over the direction of Telstra and telecommunications in this country and not the minister.

The other thing that Senator Harradine said that is very pertinent here is that, although this power has been there for the minister in the past to direct Telstra, or before that Telecom, in the interests of Australian consumers, it has never been used. It is rather a symbolic gesture to that majority of people in the electorate who do not want the sale of Telstra that we are engaged in here. It is a fairly hollow gesture. I guess it is all that is left to cling to for those of us who are so vehemently against the loss of Telstra from the public domain into the hands of private shareholders.

Senator Harradine, by the way, has argued very strongly that the government had a mandate on this occasion to sell one-third of Telstra and he felt compelled by that argument to side with the government to have Telstra sold. But then he totally contradicts himself in the next sentence by saying that he will not allow one per cent more of Telstra to be sold as far as he is concerned. Presumably the government is going to go for another mandate to sell the rest of Telstra at the next election. But if Senator Harradine is in here, he is going to vote against the government mandate next time round: vote for it this time, vote against it next time. It makes the argument about mandate specious.

The other argument that is used is the one on double disillusion. I was interested to hear

Senator Kernot appealing across the way to Senator Harradine in particular to think again when last week he indicated that he was going to give his pivotal vote to the loss of one-third of Telstra out of the public domain. The reality is that, just a week or two before, the Democrats had been using the same argument about a double disillusion to justify backing the government's legislation, effectively prohibiting secondary boycotts and work-to-rules campaigns in the workplace and ignoring appeals then to reconsider because of the enormous impact against the interests of the average working Australian and against many community organisations that that legislation is going to have after its proclamation on 1 January. Again, they are specious arguments. They do not hold water. They are not consistent.

I can give many other examples where governments might claim mandates, where there is majority support—on issues like abortion, rights for gay and lesbian people, the Franklin River issue, the protection of forests in Australia—and where there is an enormous preponderance of public feeling for these issues, but Senator Harradine consistently votes against them.

The reality is that we are not seeing a vote here on the basis of what the government might or might not do, and we are not seeing a vote on the basis of the government getting a mandate or not getting a mandate. It is a considered vote on the basis of the ability to do a deal, which, whatever one might argue, has been done behind closed doors over a number of months using the power of a pivotal vote. That is what it is about. That is what the outcome is.

I would submit that, in the end, Tasmania is going to be a loser from this deal, that while there is a temporary benefit flowing in the direction of Tasmania there is no long-term protection at all for Tasmanian consumers once Telstra has gone into the private domain, once it is under the clear direction of the Stock Exchange—and it will be. Senator Harradine knows as well as I do and as well as everybody else does that the sale of one-third of Telstra will be converted to the sale of 100 per cent of Telstra a little further down the line.

Senator Calvert—How many jobs have you saved in Tasmania?

Senator BROWN—Senator Calvert opposite says, 'How many jobs have we saved in Tasmania?' I am not going to be diverted by an interjection and stray very far from the topic. But he might begin by looking at the local employment initiatives which the Greens established after the fall of the Gray government, which left a record debt in Tasmania and record unemployment in 1989. Those local employment initiatives, run on a shoestring budget in Tasmania and designed by the Greens, have led to the establishment of hundreds of jobs and hundreds of small businesses in the most depressed areas of Tasmania. There is an example of what better we might be doing with public funding if we had it instead of handing it across to the private domain, as will occur with Telstra.

I finally want to say—because this is germane—again that I support Senator Schacht's amendment, but it is largely symbolic; it is largely a conscience saver for the Independents in particular over the loss of one-third of Telstra and the consequent loss of $1 billion per annum to the public purse from the income of Telstra, which will come out of that, because, as I said, this is stage one of a very deliberate government campaign to sell the whole of Telstra into private hands in the coming few years.

As far as I am concerned, it is a pretty sad set of affairs. It is an enormous loss to public ownership and public control of a wonderful and basic utility which gives benefit to the lives of every Australian. This move will see the losses going on for decades and lifetimes. There is some money being arranged to benefit sections of the community—and, ostensibly, the Tasmanian community—up front and temporarily. But we are going to be the long-term losers out of this in terms of money and jobs.

There it is. It is nice to be able to vote for this amendment of Senator Schacht, but it does not in any way ameliorate the long-term damage and loss to the Australian community as a whole, which has been occasioned by

this government legislation and the critical vote of Senator Harradine and Senator Colston in allowing Telstra to be dismantled and, as a consequence, lose its public excellence and its public control.

We are now dealing with stage one. We have stage two to come where Telstra will go onto the Stock Exchange, where it is going to basically advantage those people at the big and rich end of town, to the long-term disbenefit of poor people, rural people, people in regional areas, despite the biscuit that has been handed out temporarily, the immediate advantage. In the long term, those are the folk who are going to particularly suffer from the loss of Telstra through the passage of this legislation, which we must presume is going to occur a bit later today.

Senator HARRADINE (Tasmania) (10.28 a.m.)—I will be very brief. Through you, Mr Temporary Chairman, to Senator Brown, I would like to ask him to not continue to reflect on the motivations of his senatorial colleagues. He appears to impute improper or even dishonest motives to his fellow senators.

Senator Brown—Well, you're hearing it that way. I am just saying what I am saying.

Senator HARRADINE—I heard it not only so far as I was concerned but also so far as Senator Kernot was concerned. That is why I am raising it now.

Senator Brown—If you read the *Hansard* you will see what I said is correct.

Senator HARRADINE—All I am asking you then, if that is the case, is to listen to what we have to say. You would then realise that you have based your statements on a misunderstanding or—

Senator Brown—But now you are impugning me.

Senator HARRADINE—I am not impugning you. I am just saying that you are basing your conclusions on a misunderstanding. I am trying to say it in the kindest way possible. I am not voting for this legislation purely on the basis of a mandate. My view of a mandate I have expressed in this chamber time and time again. My view of a mandate is that this Senate does have an obligation not to simply obstruct legislation that comes from the other place pursuant to a government's mandate.

In respect of that legislation and in respect of our obligations to review and scrutinise that legislation, we should then apply certain principles—principles that we may variously have and principles that people know we stand upon. One of those principles in respect of this matter—I have repeated it time and time again—is that natural monopolies should overwhelmingly be in public hands. That was the principle that was applying to this legislation. Upon that principle I was then able to reluctantly agree with this legislation because it satisfied that principle and because at the end of this day Telstra will overwhelmingly be in the hands of the public. I wish to make that point to the committee.

Subject to what the minister may have to say as to the utility of this bill, if this amendment is adopted, I will be supporting the opposition's amendment, depending on what may further be said in the committee stage.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (10.32 a.m.)—I want to make a few brief comments. I have to say in passing that I do share Senator Harradine's concerns about the constant and repetitive nature of the ad hominem attacks that have been made on him by Senator Brown.

The only matter that Senator Brown raised that is relevant to this particular debate is the argument that somehow rural users will be disadvantaged unless you have a power of direction. The government accepts that the board of Telstra is charged with the responsibility of directing the operations of the company in as competitive and commercial a manner as possible. To the extent that it is then necessary to protect rural users, we have a universal service fund, which is part of the USO arrangements, which is deliberately designed to ensure that rural users do benefit in a very tangible and practical way by having access to the standard telephone service at affordable prices.

If the parliament wants to go beyond that, as it has chosen to do in a number of ways, and if it wishes, as a result of this bill passing, to see a fund established that will provide

$250 million worth of benefits to rural users, it is quite clear that the parliament has an ongoing capacity to ensure that we do not have rural have-nots and second-class citizens. In fact, the prime motivation for our commitment to establish the fund is that for too long the governments of this country have been prepared to sit back and basically accept a situation where residents of capital cities do very nicely, thank you, in terms of up-to-date technologies but those in the bush lag far behind. We do not accept that that is an acceptable situation, and that is why the fund is directed at doing something about it. It is simply another practical example of how you can address those issues without needing a power of direction.

I understand Senator Colston's concerns. I make it crystal clear that the commitment that I have given is one on behalf of the government, not simply the minister of the day, and that Mr Blount's assurances should be viewed in a similar manner. I understand the concern that he has and Senator Harradine has to at least have a reserve power.

Senator Schacht very carefully avoided the nub of this issue—that is, what constitutes the national interest and in what circumstances you should use it or threaten to use it. If you think that that therefore gives you carte blanche to say, 'We don't like the way the company's operating; it ought to act uncommercially and get out there and deliver services in a whole range of areas', I simply say to you that your government did not use that power for the same very good reason—it did not want to interfere with the commercial practices of the company. But to the extent that you do want to redirect in various ways, you do that by legislation. It is transparent and it is structurally separate.

I understand the majority view of the committee, but I simply want to put it on the record that we are concerned that the use of this power in the way that has been described would simply be an invitation for governments to be second-guessing the operations of the company in a very—

Senator Schacht—But publicly done.

Senator ALSTON—It might be done publicly but it is a bit like Senator Kernot's proposition that you come in here and have a debate about whether Telstra should be reducing its work force by 100.

Senator Schacht—Isn't that a reasonable debate in the public interest?

Senator ALSTON—I am not quarrelling with your right to have the debate. I am simply saying that it is virtually impossible to arrive at anything other than a non-commercial decision. You will be trying to understand why Telstra's board is thinking in a particular way. You will be telling it to act in a quite uncommercial way.

Senator ALLISON (Victoria) (10.36 a.m.)—I did put some specific questions to the minister. I just wondered whether he could answer those.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (10.36 a.m.)—As I recall, you put one question to me—that was whether the only reason for not wanting a power of direction was to increase the sale price. The answer to that is that that is not the reason. But you should bear in mind that those ordinary Australians who subscribe to the issue in good faith and are shareholders down the track would understandably have concerns at the prospect of another government taking the view that it should give very significant directions to Telstra to act in an uncommercial manner which would then adversely affect the value of that corporation—in other words, it would be asked to accept social obligations for which there would be no parliamentary recompense.

That is an entirely different matter to saying, 'The parliament wants to see a number of things done. The parliament wants to ensure that rural users get particular services and the parliament is prepared to pay for them.' But if you say that ordinary shareholders of Telstra ought to accept that financial burden, then you are diminishing the value of their shares. It is not simply a matter of reducing the sale price; it is a matter of political interference in the running—

Senator Margetts—You have just proved everything we have been saying. Everything we have been saying you have just proved.

Senator ALSTON—Would you keep quiet. I am addressing Senator Allison's question.

The TEMPORARY CHAIRMAN (Senator Murphy)—Order! It would be more appropriate if we conducted this debate in accordance with the standing orders.

Senator ALSTON—I simply say that we are concerned to ensure that there is not that sort of political interference and that the board is able to operate in a proper manner. To the extent that the parliament wants to go beyond that, it has always got the capacity to do so.

Senator ALLISON (Victoria) (10.38 a.m.)—If I could just press this point. I am interested in the value that the government places on this removal of the power to direct. I think it is a crucial point. If the government does not place a value on this, perhaps the minister should say so. I wonder if the government has arrived at any kind of value in terms of the sale price of removing this.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (10.38 a.m.)—Yet again you show not the vaguest understanding of commercial realities. To think that somehow you can feed concerns into a computer, press a button and come out with a number, just beggars imagination.

Senator Margetts—I bet prospective buyers have. I bet you they have.

Senator ALSTON—They may well have and they may well take a negative view, but to think that there is only one right number that you pluck out of the air which represents a diminution in value, again is simply a commercial nonsense.

All we can say is that subscribers to the share issue, investors and institutions generally will be apprehensive about the prospect of a government intervening in a non-commercial fashion. Beyond that, the market may well make a judgment in due course. But to think that the government could pick out a single number and say, 'The value of Telstra is therefore reduced by X,' is preposterous nonsense.

We cannot say what the value of Telstra is right now any more than you are able to. I do not know what the value of Telstra is. You do not know what the value of Telstra is and you will not know until it goes onto the market.

Senator ALLISON (Victoria) (10.39 a.m.)—The reason behind my question is I am trying to understand what motivates the government to go in this direction. As I said earlier in the first of my questions, I do not think we have been given any convincing arguments, apart from the fact that this would no longer be a commercial operation if the minister still had the power to direct. It seemed to me that the only other reason could be this increase in the sale price of Telstra. I think this does go to the crux of the issue. I ask the minister again to answer the question.

Senator BROWN (Tasmania) (10.40 a.m.)—The minister obviously cannot answer that question. I appreciate your attempt there, Senator Allison. The minister has more or less summed up one of the great apprehensions that people must have about what the government is doing when he said, 'I do not know what the value of Telstra is.'

Senator Alston—Do you know what the value is?

Senator BROWN—Yes, I know its value is in staying in public control. I know that you are going to sell one-third of Telstra to the market below its value. The market is going to make hundreds of millions of dollars, if not a couple of billion dollars, out of this sale because it will be sold below its value. That was the fate of CSL and that has been the fate of almost all other major public enterprises sold onto the market. The market gets the best of it and the scalpers in the middle, the middle people, will have their hundreds of millions of dollars taken out of it as well. I do know at least a bit about the value, while you say you know nothing. That is why the majority of the public in this country is so apprehensive about what you are doing.

The other thing is the minister's ability to direct, which will ostensibly be kept if this amendment were to prevail. The reality is that that power will not be used. As Senator Margetts interjected earlier, Senator Alston has confirmed that the government would not dare interfere in the operations of Telstra in

the interests of consumers, even though just one-third of it was sold into public hands, because the market will say it cannot do that.

The government is not going to worry about its regional and its poorer consumers and their interests when it is going to have the big money sitting at business lunches with it saying, 'You can't do that.' They will also get legal advice saying the government cannot do that.

Again this amendment is a fairly hollow salving of the conscience for those of us who will be voting for it. But it will not have any material effect in the interests of the consumers, who are losing out through the sale of Telstra, if that is how the chamber votes later in the day, as it appears it will.

Question put:

That item 25 stand as printed.

The committee divided. [10.48 a.m.]

(The Chairman—Senator M.A. Colston)

Ayes	33
Noes	35
Majority	2

AYES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H. *	Campbell, I. G.
Chapman, H. G. P.	Coonan, H.
Eggleston, A.	Ellison, C.
Ferguson, A. B.	Ferris, J
Gibson, B. F.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H.
Parer, W. R.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Vanstone, A. E.	Watson, J. O. W.
Woods, R. L.	

NOES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Carr, K.
Collins, J. M. A.	Colston, M. A.
Conroy, S.	Cook, P. F. S.
Cooney, B.	Crowley, R. A.
Denman, K. J.	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.
Murphy, S. M.	Murray, A.
Neal, B. J.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Sherry, N.
Stott Despoja, N.	West, S. M.
Woodley, J.	

PAIRS

Crane, W.	McKiernan, J. P.
Knowles, S. C.	Lundy, K.
O'Chee, W. G.	Childs, B. K.
Patterson, K. C. L.	Collins, R. L.

*** denotes teller**

Question so resolved in the negative.

Senator SCHACHT (South Australia) (10.51 a.m.)—I just want to make it absolutely clear that, from the result of the division, it is clear that the power of the minister to direct, which is in the original act, has now been restored and does not need a further resolution of the Senate. It has now been automatically restored to the bill. Is that correct?

The CHAIRMAN—It stays in.

Senator SCHACHT—It stays in? It does not need another vote?

The CHAIRMAN—No. There has been some suggestion made that there might be an escalation of some of the amendments, but if that is not the case, I think we should go back to amendment No. 3.

Senator ALLISON (Victoria) (10.52 a.m.)—by leave—I move:

(2) Schedule 1, item 11, page 4 (after line 15), after the definition of ***damages***, insert:

service provider, means a person, other than a carrier, who supplies an eligible service.

Note: For ***eligible service*** see section 18 of the Telecommunications Act.

(3) Schedule 1, item 11, page 4 (line 21), after "carriers", insert "and service providers".

(4) Schedule 1, item 11, page 4 (line 25), after "carriers", insert "or service providers".

(5) Schedule 1, item 11, page 5 (line 1), after "carriers", insert "and service providers".

(7) Schedule 1, item 11, page 5 (lines 13 to 18), after "carrier" (twice occurring), insert "or service provider".

(9) Schedule 1, item 11, page 5 (line 33) to page 6 (line 5), after "carrier" (twice occurring), insert "or service provider".

(10) Schedule 1, item 11, page 6 (line 10), after "carrier", insert "or service provider".

(11) Schedule 1, item 11, page 6 (lines 11 to 15), after "carrier" (twice occurring), insert "or service provider".

(15) Schedule 1, item 11, page 7 (line 11), after "carrier", insert "or service provider".

(22) Schedule 1, item 12, page 10 (line 11), after "carrier", insert "or service provider".

(23) Schedule 1, item 13, page 10 (line 15), after "carriers", insert "or service providers".

(24) Schedule 1, item 14, page 10 (line 20), after "carriers", insert "or service providers".

These amendments extend coverage of the consumer service guarantee to carriage service providers—that is, in addition to the telecommunications carriers, which are currently Telstra, Optus and Vodafone. The effectiveness of the customer service guarantee is dependent on the extent to which it has coverage of the industry. The service provider sector is, as senators would be aware, the fastest growing part of the retail sector in the provision of telecommunications services, in terms of both revenue growth and customer numbers. Service providers are rapidly penetrating both small business and residential customer markets, particularly in the area of mobile telephony.

This is the sector of the industry which is attracting ever increasing consumer complaints. For example, on 5 December, just a few days ago, The ACCC put out a press release stating that they had acted to resolve a deluge of complaints by consumers against a particular telephony service provider—that was ACW Services. Professor Fels said they received so many complaints that it was impossible for the ACCC to individually respond to them all. According to the ACCC, ACW customers—many of whom are small business operators who rely heavily on telephone services—may have had their telephone lines disconnected, even though they had paid their bills or had legitimate grievances with their bills from the ACW. This is an example of the difficulties that are being faced by consumers. If the customer service guarantee is to effectively alter corporate behaviour on a sufficiently wide basis, then inclusion of carriage service providers is very necessary.

Furthermore, in a submission to the Senate committee inquiry on the bill, the telecommunications industry ombudsman noted that he had been advised that the customer service guarantee was intended to apply to service providers from 1 July. But we do not see any reason why it should not apply now. I commend these amendments to the Senate.

Senator SCHACHT (South Australia) (10.55 a.m.)—The opposition supports these amendments. The time is moving on. Senator Allison has adequately explained the reasons for these amendments being moved. We support them.

Senator MARGETTS (Western Australia) (10.55 a.m.)—This series of amendments allows regulation of service providers, not just carriers. It allows regulation of what those carriers do. We are talking about Internet. I know Senator Harradine has expressed concern over time in relation to the broadcast act, and that he has been interested in amendments to the broadcast act. But these amendments, to my understanding, will allow regulation of carriers as well as service providers.

It has always been my contention that this bill, in general, largely deals with telecommunications as it is, rather than telecommunications as it may be in the future. Therefore, it is really necessary that we allow that ability to make regulations for other service providers. For instance, there is the practice of spamming. I am not an expert in surfing the Internet, but spamming means that people can create inappropriate displays in public access conferences. There are many reasons why it may be inappropriate for such spamming to take place. If we leave wide open the ability to make regulations for what could be offensive or inappropriate access to public confer-

ences, then we may have a problem in the future.

It will be great for people to be able to regulate access. But it is important that there is the ability not only to regulate service providers but also to recognise that telecommunications is well beyond just the provision of telephone services. We have to at least be ready in this bill—I do not think we are anything like ready—to recognise that, if we have the ability to regulate carriers, we should also have the ability to regulate service providers. Carriers are the telecommunications carriers; service providers go well beyond that realm. Heaven knows what it might include in the future. I think we ought to at least be cognisant of what the range is now and be prepared to have the ability to make regulations in other areas.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (10.58 a.m.)—The first thing to be said is that the Australian Democrats are seeking to tack onto a Telstra bill provisions that ought properly be tacked onto, if necessary, the post-1997 legislation. In other words, there will be every opportunity to have that debate then, and properly define the regime that we want to see applying from 1 July next year. If you are to bring that forward now and apply these rules not just to carriers but to all service providers, then you are extending it very significantly in a way that it was never intended the current regime ought to operate up until 1 July.

Senator Schacht—Your bill won't be proclaimed until May, so it isn't as though it is going to happen tomorrow.

Senator ALSTON—I know, but the whole thing is a bit of a nonsense, really. What you are talking about—

Senator Schacht—The issue of service providers isn't a nonsense. There is an ever-growing number of service providers.

Senator ALSTON—No, I am not saying it is. I am saying that the idea of putting this into the Telstra bill, when you quite rightly say it will not come into effect until 1 May, really just highlights the fact that it ought to be in the legislation.

Senator Schacht—That means we could put it in now, because we will be dealing with your bill in March. So either way, it doesn't matter.

Senator ALSTON—I will just address the merits of the issue. You have something in the order of 100 or more service providers at the present time. If you include Internet service providers, you have over 200 and they will be within the TIO scheme, at least on a voluntary basis, from now. Therefore, any complaints in relation to their conduct can be dealt with. But service providers are providing a level of service that is optional; in other words, if people do not like what a service provider has to offer, they go elsewhere or they decline the service altogether, whereas carriers are providing basic services, in other words services, that people need and cannot really go elsewhere for.

The whole concept of the customer service guarantee was to ensure that, where people are on the one hand entitled to a basic level of service, the standard telephone service, they should not be effectively disadvantaged by the fact that the carrier does not bother to turn up on time or does not install or maintain the phone except after a lapse of, in some instances, many months. That is the situation we are trying to address. We want to ensure that carriers who are providing essential services are required to do so within strict time limits and that penalties ought to apply if they do not.

But we are talking about extending that to service providers where you are talking about non-basic services, where those services are entirely optional—in other words, if someone wants to offer you a service, it is a matter for you whether you take it or not; it is a matter for you on what terms you take it. If you do not like the price, the quality of the service, the after-sale service, you do not take it. You have that choice. But you do not have that choice with basic services. This is designed to impose those obligations on the carriers who are providing those basic services.

Senator SCHACHT (South Australia) (11.02 a.m.)—I am not denying that the minister does raise some reasonable points. But the point is what service providers are

and where they are going to be in the years ahead in the regime of telecommunications in Australia. There is no doubt that some commercial organisations who are essentially going to try and be carriers, in some form or another, will call themselves service providers to escape the obligations that carriers have.

With the merging of technologies, this is an issue that is not going to go away. It is an important issue. I have no doubt the ordinary consumer will not tell much difference between a carrier and a service provider. Because of the merging of technologies and what they are offering, in many cases, for a normal consumer—whether in small business or at the domestic level—they will not differentiate between a carrier and what the service provider is doing. When a customer has got a service provision from a service provider and it goes wrong, they will automatically ring Telecom, Optus or Vodafone—a carrier—and say, 'We've got your phone in here, something's gone wrong.' They will ring the carrier first rather than the service provider.

The carriers will complain that they are going to get a lot of complaints that will be directed at them when it is in fact a fault of the service provider. Unless there is some new understanding that service providers cannot escape their commitment to good standards, et cetera, the carriers will be the ones bedevilled by it. I think both have an obligation. What the Democrats have raised here in this amendment is therefore worthy of support.

It now looks like it will be sometime in March—because the committee inquiring into the post-1997 deregulatory regime will not report till 25 February, by agreement between all parties—when the 600-page legislation on the post-1 July 1997 deregulatory model hits the Senate for debate, that this issue of the definition of the service provider will be debated. But as this bill will not be proclaimed—if it goes through according to Senator Harradine's amendment accepted by the government—till 1 May, that debate of course can take place. In my view, if it is amended here, we can revisit in March and April.

It is an issue that is going to have to be debated, because, the way service providers are proliferating, what they are offering to the community will actually confuse the consumer into believing that they are dealing with a carrier when in fact they are not dealing with a carrier. The carrier will be the one receiving the complaints and the telephone calls and the carrier will be the one expected to fix it. If they do not, someone will claim that, under the rules, they will be able to and the service provider will escape having to provide remedy for it.

Unless you put the standard in now, or certainly by next year, we are going to have, in my view, an impossible imbalance between what carriers provide and their obligations and those of service providers. If you do not put this in, a lot of people who are going to be considered as carriers will try to declare themselves as service providers to escape the provisions of this bill. The way not to let them escape it is to amend it the way the Democrats have proposed.

Consideration interrupted.

DISTINGUISHED VISITORS

The CHAIRMAN—Before I call Senator Margetts, I acknowledge the presence in the gallery of a former distinguished senator, Mr Michael Townley.

TELSTRA (DILUTION OF PUBLIC OWNERSHIP) BILL 1996

In Committee

Consideration resumed.

Senator MARGETTS (Western Australia) (11.06 a.m.)—It seems that there is going to be a lot of onus put on the telecommunications industry ombudsperson in this case. I am not sure—perhaps the Minister for Communications and the Arts could let us know how much resource there is with the telecommunication industry ombudsperson.

Senator Schacht—Not very much.

Senator MARGETTS—Senator Schacht interjects, 'Not very much.' If that is the sole means by which you can deal with complaints in relation to service providers, it does seem extraordinary. Usually an ombudsman or an

ombudsperson has the ability to find or seek remedies based on a set of principles. All we are saying is that, if there is a set of principles by which carriers will operate and if you are to put so much emphasis on a telecommunications ombudsperson, you should enable them to have some basis.

This does not require government to do anything, but it does retain the power for government to make regulations if such regulations are seen to be necessary. Otherwise, having a case-by-case remedy in each instance of complaint in relation to service providers will not be very satisfactory. It seems to me that we will get some sort of commercial anarchy and that there will be a number of people profiting, with a whole lot of people being unhappy or feeling that their rights have been removed. That really would be unsatisfactory. If we are going to even pretend to have a level playing field, it just seems ridiculous that you are not at least retaining or giving the ability to make regulations as required.

I do not think there is anybody here who can tell us what the basis will be in terms of future telecommunications. Certainly there is no real indication that the government understands it. But the very least they should do, if they are putting a huge reliance on an ombudsperson, is make sure that there is some basis upon which that ombudsperson can find remedies or give advice. Otherwise, this will be totally ridiculous.

Senator ALLISON (Victoria) (11.09 a.m.)—I would just like to respond to the minister's remark that this amendment is inappropriate because we have the post-1 July legislation coming up. I would just remind the government that it was the government who tacked the customer service guarantee onto the Telstra sale bill in the first place. It did this for obvious political reasons. It wanted assurances that there were those guarantees in place. It wanted to say to the people of Australia, 'Well, we're selling Telstra but we're putting these safeguards in place.'

At the time we said that we should not do this, that the two matters were quite separate, and we attempted, as the minister might remember, to divide the bill. But, Minister, the government would not allow that to happen. So we now have a bill for the sale of Telstra which includes customer service guarantees. All this amendment does is make some good sense of that customer service guarantee by embracing all of those other service providers in that guarantee.

I would just make a point that Senator Margetts raised about Internet: yes, indeed, service providers would include the Internet service providers, so-called. These are the people to whom you pay quite a lot of money to buy various packages. So there is good reason, as we see the emergence of more and more of these Internet service providers, to back this amendment.

Senator SCHACHT (South Australia) (11.11 a.m.)—I just want to ask one question of the minister. He mentioned, quite rightly, that this could also be dealt with in the post-1997 regulatory bill that will probably be coming on for debate in March next year. Minister, I wonder whether you could indicate this: in your draft legislation, which was tabled in the parliament last week and has now gone to the committee, have you made any provision to add service providers to this section that this amendment is proposing?

Senator Alston—The answer is yes.

Senator SCHACHT—You say the answer is yes. In exactly the same terms?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.12 a.m.)—I cannot tell you the terms precisely. But the principle is that from 1 July you will have a regime where the customer service guarantee does apply to all service providers. The point I simply made earlier was that the 1991 act, which is supposed to drive us up until 1 July, only provides for certain standards to apply to the standard telephone service. In putting the customer service guarantee in place, what we did was to put enforcement powers there. Rather than the carriers having an obligation to provide service in the bush but not actually delivering it, we are saying, 'Well, for those basic services, they ought to be obligated under penalty.' But to go beyond that is something that should apply from 1 July—and that is the point we make.

Senator SCHACHT (South Australia) (11.12 a.m.)—You are saying that post-July, in your draft legislation, penalty will apply for service providers?

Senator Alston—Yes. 'Carriage service providers' is the new definition.

Senator SCHACHT—Carriage service providers?

Senator Alston—Yes.

Senator SCHACHT—But 'carriage service providers' is not the same definition as 'service providers', as in this amendment moved by Senator Allison. Is there a difference in the definition?

Senator Alston—The short answer is that there is no practical difference. It is just that there is a new regime.

Senator SCHACHT—I am sure we will revisit this in a big way. I just have to say that, whether or not the technical description by Senator Allison is correct, the view of the opposition would be that there has to be penalty on the service providers if they do not meet the obligation from 1 July next year. Otherwise, you will end up with the carriers getting belted around the countryside, and you will have a lot of people who really want to be carriers claiming that they are service providers to escape this obligation.

Senator Alston—Yes.

Senator ALLISON (Victoria) (11.14 a.m.)—It might help if I quote from a submission from the ombudsman where it states:

> The TIO has been advised that such parts of the customer service guarantee as might be relevant are intended to apply to service providers from 1 July . . . As noted earlier, the service provider sector is one of the fastest growing sectors in the industry and it is important that there be a clear statement as to the method by which service providers would be made subject to the guarantee.

I would argue that what we are putting forward here would be one such clear statement and that that is the reason why we propose this amendment.

Senator MARGETTS (Western Australia) (11.14 a.m.)—One of the issues that I do not think are properly covered in the proposals for customer service guarantees is about regulating to require service providers to provide information about their costs and charges so that people do not find out later, after they have somehow linked into a service, what they are going to be slugged for that service. I am not sure whether that comes under the customer service guarantees, but it is just a tiny example of the kinds of unforeseen issues which could come up and which, if there is not the ability in the future to make regulations about them, will not be totally covered under a fairly narrow customer service guarantee in future legislation.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.15 a.m.)—As far as customers are concerned, they obviously ought to be showing an interest in the terms and conditions on which they subscribe to a service. In other words, they would know what the price of the service was. If there are any subsequent disputes about billing, then those matters are dealt with by the TIO. Beyond that, you always have your general remedies if you have been misled or if, in some way, the carriers have acted in breach of contract or dishonestly. But the customer service guarantee simply relates to those areas that I have mentioned before, and that is to ensure that installation and maintenance occur within very strict time limits, rather than people simply saying, 'We need this service,' and not being given it.

Senator Margetts—Exactly. So this doesn't really cover things like providing proper information or changing information halfway through.

Senator ALSTON—What sort of information are you talking about?

Senator Margetts—About the basis on which people are going to be charged. It is fairly basic stuff that if it is not in your legislation it is not likely to be covered in your customer service guarantees. You cannot possibly cover every contingency; you just have to have the ability to do that at some stage.

Senator ALSTON—Again, post-1997 there will be codes of practice that make it clear what is expected of the industry. If you are saying that people will be signing up for services without having the vaguest idea what the price of those services are, then I think

that is pretty unlikely. They should certainly be ensuring that they know the details. If they have been misled or if the bills are inaccurate, then of course they have those remedies. But the industry codes of practice will go a very substantial way towards ensuring that service providers do make as much information available as customers would reasonably expect.

Senator MARGETTS (Western Australia) (11.18 a.m.)—I do not really want to labour the point; but Pegasus, I am advised, just recently changed one of their types of charging and that increased the charge for a particular service by 100 per cent. I do not think in any way you have answered our concerns, Minister, and you ought to rethink your support for this measure.

Senator HARRADINE (Tasmania) (11.18 a.m.)—First of all, I thought these matters would be most appropriately dealt with during debate in the chamber and outside the chamber in committees which will be dealing with the post-deregulatory regime. I want to ask the Minister for Communications and the Arts (Senator Alston) a couple of questions. Firstly, if there are complaints about a service provider who has failed—for example, in the case given by Senator Margetts—to properly advise potential customers of pricing arrangements or other sorts of customer guarantees, what action can the carrier take under existing legislation and under these provisions before us?

Secondly, has he given consideration to any of the items in this legislation which should perhaps be commenced on a date before 1 May or would more properly commence on a date before 1 May? The reason I put forward the date of 1 May was to deal specifically with the issue of the part-privatisation of Telstra, the one-third sale of Telstra. It was linked with a motion that I will be moving shortly to establish a committee to consider the issue of redeemable preference shares.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.20 a.m.)—I think the answer in relation to Senator Harradine's question about complaints regarding service providers is that the customer's agreement is with that service provider. To the extent that the contract allows the service provider to increase the charges, then by definition the carrier is allowed to do that. It may well be in some circumstances that customers would say, 'I wasn't aware of that. I simply assumed that, when I signed up, the going rate would continue.' It becomes, I suppose, a difference between what people would reasonably expect and what the legal entitlements are.

It would be very surprising if any supplier of a service gave a guarantee that prices would never rise. It is then the extent to which they rise and the extent to which customers are prepared to continue dealing with that service provider that becomes relevant. So, at the end of the day, I think you would have to say that the dispute would remain one between the customer and the service provider.

You would normally expect that the customer could walk away if faced with a 100 per cent increase. But, again, if it is off a very low base and everyone else in the industry has raised prices to that extent, it may well be that that increase is reasonable in the circumstances. All I am saying is that customers need to be aware of what contract they are entering into.

After 1 July the codes of practice will go a long way towards ensuring that service providers, dealers and retailers are obliged to make that sort of information available, but at the end of the day it is not the responsibility of the carrier to keep a retailer honest. The customer's dealing is with the retailer, and the customer ought to be aware of that fact when entering into agreements.

As far as the start-up date is concerned, the view we have taken is that all of these improvements to customer benefits are ones that ought to apply to the new regime, in other words, from 1 July onwards. Certainly as far as the customer service guarantee on carriers is concerned, because there have been a lot of problems in the past about installation, maintenance and the like, we took the view that it was appropriate that they come into effect as soon as possible.

Beyond that, it is reasonable to argue that we should have a new regime which includes

a new consumer regime starting from 1 July. That is the debate we can have when the package comes back in February and March. If people want to argue that those ought to be brought forward, then that is the time to do it. Again, bear in mind that we are talking about a new regime. We are not talking about what ought to be applying as of now, unless you are simply putting aside the whole notion of the package.

It seems to me that that is the appropriate time to have that debate and we should not be simply imposing new obligations in an ad hoc manner on carriers and others who would reasonably have expected that the rules or the game would not change fundamentally until the middle of next year.

Senator ALLISON (Victoria) (11.24 a.m.)—I again say to the minister that it is the government which has decided that this customer service guarantee is appropriate at this time. It is the government that put this guarantee into this sale of Telstra bill. Why it has now become appropriate only after 1 July, I am not altogether sure.

We are talking about looking at the adequacy of those provisions. The Democrats are saying that they are not adequate because they do not just deal with Telstra, which would be one reason for saying that they are not appropriate in a sale bill, but nevertheless we have them there. They also deal with Vodafone and Optus. The point of this amendment is to simply make those provisions cover the very important and growing sector which is emerging.

I would ask the minister to explain whether there are any practical or financial reasons why we cannot extend this or bring it forward. If the minister says it is not appropriate to look at it now, why is this the case? The government found it appropriate to put it in the bill in the first place, so are there any practical or financial reasons for not doing so?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.25 a.m.)—I thought I had said this several times. What we put into the bill were provisions in relation to existing carriers, because we took the view that in many instances people do not have any choice but to rely on the carriers for the provision of the standard telephone service. If people cannot get a basic telephone line connected or maintained within a reasonable period, we take the view that that is not acceptable, and in many respects that probably should have been dealt with a long time ago.

To extend that notion to all service providers is putting a very different regime in place. It is putting a whole new set of customer obligations on a whole new set of players. The concept is fundamentally different. Those are optional services. They are not mandatory or essential services as are those provided by carriers.

I gather from Senator Allison's facial contortions that she does not understand that distinction. The fact is that what we put into the bill was to strictly apply to carriers, to those who provide basic services. We did not put into the bill provisions that would cover the rest of the industry—all service providers—because we took the view that that is more properly something that ought to apply from 1 July onwards.

You asked me about the financial implications of that. The answer is that all of those players in the game assumed that the post-1997 package would put in place new and potentially more onerous obligations on retailers and providers of services. You are saying that they ought now be told that these obligations are going to be brought forward by a period of months. I simply say that that would therefore impose additional financial obligations on them in principle which they would pass on to customers. It really boils down to why you would want to put in place a new consumer regime prematurely when we have not even had the debate about what rules ought to apply post-1997.

Senator HARRADINE (Tasmania) (11.28 a.m.)—I refer to the schedule 1 amendments on pages 3 through to 12. I refer the minister to one matter and I would be interested in his comment. Clause 5 of schedule 1 states that the following provision be added at the end of section 38 of the Telecommunications Act:

> (4) The matters referred to in subparagraph 2(b)(iv) include (but are not limited to):

(a) the timeliness and comprehensibility of bills; and

(b) the procedures to be followed by carriers to generate standard billing reports in order to assist in the investigation of consumer complaints about bills; and

(c) any other matter relating to customer billing.

That has been put in there deliberately by the government, presumably to extend the general functions of Austel.

Senator Schacht—What page and line in the bill?

Senator HARRADINE—It is page 3 of the bill, line 15. That is an amendment to section 38 of the Telecommunications Act, which spells out the general functions of Austel and the protection of public interest and the interest of consumers. Obviously the government wanted to get this on the deck as soon as possible. What I am simply asking the government is: should we perhaps revisit the commencement date? We do not have to have a response right here and now because there are further amendments to be discussed. It may well be that the government wanted those amendments to commence at an earlier date than 1 May.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.30 a.m.)—In answer to Senator Harradine, the amendment referred to requires Austel to develop indicative performance standards. In other words, it ought to be working right now on setting targets but not imposing binding obligations. In other words, you would look at what came out of those standards, you would measure the performance against them and, in due course, if you wanted to impose tighter regulation, you would do that. But it is quite a different concept from immediately putting in place binding obligations in terms of customer service guarantees that would apply before 1 July. What we have been aiming to do with the amendment you referred to in section 38 is to have Austel working on indicative performance standards as of now, in the lead-up to 1 July, so that, from 1 July onwards, you are in a position to determine what binding obligations you would want to have in place. There will always be a role for Austel in terms of performance standards but they can be mandatory standards.

Senator Schacht—If this bill is proclaimed on 1 May, with what you have amended, shouldn't they operate from then?

Senator ALSTON—Yes.

Senator Schacht—What are you talking about, Austel having indicative arrangements that operate from 1 July?

Senator ALSTON—I do not know whether I said that. Let me be clear. The amendment to which Senator Harradine referred—

Senator Schacht—Yes, which is yours.

Senator ALSTON—Yes, would require Austel to develop indicative performance standards ahead of 1 July.

Senator Harradine—What I am saying is that they may not be able to commence that task until after 1 July and it may not give them time to have everything in place. This is an amendment which does refer, as the minister has said, to those developing indicative performance standards. As he indicated, they need to do that so that everything is in place by 1 July 1997, but they will not be able to commence doing that until after 1 May. What I am suggesting is that we might have to revisit that other matter in due course.

Senator ALSTON—I think we can deal with that subsequently.

Senator SCHACHT (South Australia) (11.33 a.m.)—When you say that Austel has to prepare, you are amending the present act. To section 38 on page 22 of the Telecommunications Act you have added 38(2)(b)(iv) and, as a result, at the end of section 38, you add (4)(a),(b) and (c). As Austel is already operating under the Telecommunications Act, I cannot see in section 38 any indication that Austel first of all has to prepare a plan before it comes into operation. As I read it, when the bill is proclaimed, these things automatically happen and Austel has an obligation to perform.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.34 a.m.)—Yes, that is right, but I think Senator Harradine's point is that, if the whole of this

bill that we are now debating in committee does not come into effect until 1 May, Austel would not have that additional obligation to develop those indicative performance standards and there is no good reason why Austel could not be required to do that as soon as possible. That is what I understand his point to be and, therefore, we can address that by having a separate starting date for that provision.

Senator SCHACHT (South Australia) (11.34 a.m.)—Don't you have power yourself as minister to direct Austel to do certain things to get them under way now so that, by the time the bill is proclaimed on 1 May, they would be ready in anticipation? If the bill is carried, even though the proclamation date is not until 1 May, good management would be able to work out that on 1 May it will operate. Can't you, as minister, give an instruction to Austel to tell them to get on with the preparation to take effect from 1 May?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.35 a.m.)—I cannot tell you on the run the extent of the ministerial power of direction to Austel. On general principles, if it is so wide that you can tell them to do anything, it would seem to me at first glance that it is not necessary to even have section 38. Presumably, the concept is to at least identify the areas of potential power that it would have, and then the minister comes in and says that we will actually do that. Therefore, I think it is desirable to put it in, to have it operate as quickly as possible and that avoids the necessity for a separate ministerial direction. If what you are saying is that, if we did not have this for some reason, we would probably all agree that Austel ought to get on with it unofficially, well, I think that is true too, but it is much more desirable to have it done officially.

Senator SCHACHT (South Australia) (11.36 a.m.)—Taking Senator Harradine's suggestion, you were looking at a further amendment to this bill to have a separate proclamation date for this particular provision. We are actually starting to split the bill as we first proposed six months ago. You have achieved what the rest of us could not, Senator Harradine!

There is one other thing that I want to raise from section 38. On page 3 of the bill, clause 5 at the end of section 38, it says there that these are the further matters:

(a) the timeliness and comprehensibility of bills;

I think we would all agree that this is long overdue. It continues:

(b) the procedures to be followed by carriers to generate standard billing reports in order to assist in the investigation of consumer complaints about bills;

(c) any other matter relating to consumer billing.

I am not sure that I have all the details correct. One of the complaints starting to emerge about having a service provider is that sometimes the charge for the service provider is mixed in with the carrier's bill. I have heard that when a service provider reaches an agreement with the carrier, the carrier may say, as part of the agreement, that the billing arrangement should be in the same document from the carrier. But when it goes wrong, the carrier is left with the problem. If the service provider has gone broke, the carrier is left with sorting out the mess of any obligations that that service provider had under the contract they signed with the consumer. The consumer, who signed in good faith and was not expecting them to go broke, says, 'Listen Telstra. You had them under your arrangements. You ought to meet the obligation to provide the service.'

That is why we raised this issue of the service provider before. It is getting to the very nub of some of these issues regarding the service providers. You can say that this will be dealt with adequately in the post-1997 bill. However, in the meantime, you are putting in here the carrier. If you proclaim this separately, the carriers could have a bigger obligation for a period—it may not be many months—and be tangled up with problems of service providers. Because service providers are excluded under these amendments, the carrier may well have to carry the obligation. You might say that that is bad luck for six months to Telstra, Optus and Vodafone, but I am not sure they would say that.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.39 a.m.)—The answer is that the customer service guarantee does not deal with billing; it deals with strict time limits on installation and maintenance. When we are talking about billing problems, section 38 and that amendment, you would have to say that if a carrier enters into an agreement with a retailer or service provider whereby the carrier does the billing, the carrier wears it. If something goes wrong, it is the carrier's fault, and the customer is entitled to look to that carrier. If the carrier feels that it has been left holding the baby, it ought to think twice next time before it enters into such an arrangement.

This amendment to section 38 is designed to require Austel to get on with the business of drawing up indicative performance standards, which would presumably then be reflected in industry codes. So you are starting to develop a system. It may well provide for that situation. Where the carrier agrees with the service provider to do all of the billing, the carrier accepts certain obligations. In some countries, such as New Zealand, where there is a dispute, it is treated as being in the customer's favour. You do not have to pay the bill until it is sorted out. You could have some sort of variation on that theme and say that the carrier has this responsibility. If the carrier wants to take third party proceedings against a service provider, so be it, but it is not the concern of the customer. What we are trying to do in beefing up section 38 is to get Austel working on indicative performance standards, which can then be translated into a new industry approach. Presumably, that would then be part and parcel of the post-1997 regime.

Senator ALLISON (Victoria) (11.41 a.m.)—The government needs to be reminded that the Telstra inquiry dealt with this matter. It is not something the Australian Democrats have dreamt up over the last couple of days. It was raised by all the key consumer organisations at that time. It was part of the report that came back. It is not that this debate has not been aired or that we have not thought about it and worked through these recommendations. That is the reason we have come up with this amendment, not because we have just suddenly thought of a way to delay the passage of the bill.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.42 a.m.)—I simply say that I did not make up any of those allegations or criticisms. You have dreamt them all up yourself.

Senator Allison—You used the words 'ad hoc'.

Senator ALSTON—No-one has suggested that this is something you have not given thought to. The mere fact that a group of consumers raises it with a Senate committee does not give it religious validity. We are debating whether these arrangements ought to apply now or from 1 July. That is the issue. I am simply saying to you that the whole scheme of the post-1997 legislation is to have a new customer protection regime in place other than in relation to customer service guarantee obligations imposed on carriers as opposed to service providers.

Senator MARGETTS (Western Australia) (11.42 a.m.)—I will try to be brief. The minister is always talking about certainty. It would be a lot better if the industry knew with some certainty that they would be under the scope of a regulatory framework. We could be talking about financial services or the outsourcing of repairs from a carrier. Any range of issues will fall under this definition of service providers.

It seems very short-sighted to consider that somehow or other we can deal with them in a post-regulatory environment. It will be on your head. We will certainly be back here in time to come pointing that out to you. You may well stand there in a year saying that you cannot do anything because there are now legal expectations that people have assumed about what they will required to do or not do or about the kind of regulatory environment. It could involve very major financial services. It could be any range of things.

In a year, you may be arguing that the commercial environment will not allow this type of regulatory environment to be in force. We will be bagging you then as we are bagging you now in terms of short-sighted-

ness. All that people are asking is not for you to do anything but to maintain the ability to do that. People need certainty and assurance that governments are aware that that is what telecommunications is. That is the kind of thing you are selling now, not just in the future, in relation to the privatisation of Telstra. That linking in is part of people's expectations in the marketplace. You should be very careful to make sure that they understand the implications of what we and the community are saying and that you are at least preparing to address those issues.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.44 a.m.)—To be clear, we are not talking about commercial obligations being deferred for 12 months. We are simply talking about whether or not the customer service guarantee should be extended to service providers ahead of 1 July. That is really what it is all about. When we debate the post-1997 package, probably in March—

Senator Margetts—It is not just the customer service guarantee; it is simply saying the ability to make regulations. That's all its saying, for heaven's sake.

Senator ALSTON—We must be looking at different amendments. I thought these amendments were designed to extend the customer service guarantee to all service providers.

Senator Margetts—Yes, but basically it is not requiring you to do anything; it is just giving you the ability.

Senator ALSTON—You are asking the parliament to impose—

Senator Margetts—Not impose, just giving the ability, the potential. We are not requiring you to actually do anything except allow that potential to include service providers when you do decide to do something.

Senator ALSTON—I think we are at cross-purposes. I confess I do not understand what you think we are debating. You may have a valid point in relation to some other clause, but my understanding of these amendments is that we currently propose that the customer service guarantee apply to the three carriers in relation to installation and maintenance of basic services.

Senator Margetts—That is just giving Austel the ability to make regulations. It is not doing anything, just giving them an ability.

Senator ALSTON—It has nothing to do with giving Austel an ability to do anything. It is simply imposing the obligation. In other words, as from the time that this part of the bill comes into operation, there would be an obligation on all service providers who would be capable of being sued, who would have to pay either damages or rebates on bills. We are saying that the post-1997 package provides for the extension of the customer service guarantee regime to extend to all service providers after 1 July. These amendments are designed to have them apply ahead of that date.

Senator ALLISON (Victoria) (11.47 a.m.)—I think what we are hearing now is the minister admitting that the government should not have put the customer service guarantee into the sale bill in the first place. I again remind the government that we attempted to divide those two issues off at the time and that was not agreed to. Perhaps the minister would like to tell us that he now would prefer not to see that customer service guarantee in the sale bill at all.

Senator HARRADINE (Tasmania) (11. 47 a.m.)—I think Senator Schacht made the point that there was an attempt to divide the bill previously and maybe that is the way we ought to have gone, but we are faced with this bill at this point in time and it does include the customer service obligations. Could I just give you an example of what Senator Margetts was saying? If we have at the schedule of amendments moved by Senator Allison, amendment 3 refers to schedule 1, item 11, page 4 (line 21). Section 87E Performance standards says:

(1) AUSTEL may, by written instrument, make standards to be complied with by carriers in relation to:

(a) the making of arrangements with customers about the period taken to comply with requests to connect customers to specified kinds of telecommunications services;

As I understand it, all this amendment is doing is adding 'service providers' to that. It has the definition of 'service providers', which links up with the Telecommunications Act definition of 'eligible services'. Senator Schacht brought to the attention of the committee the concern that a number of what would otherwise be properly classed as carriers are trying to get away with operating as service providers.

I would like to hear from the minister as to how this is going to bog things down. I agree that we are going to revisit all of this in the legislation, the draft of which we have, and that will be done presumably in March. I see no hassle at the present moment, unless the minister has some very substantial argument against this matter, in agreeing. It is giving an indication, I would have thought, to service providers that they do have to treat this matter very carefully.

It will, I would have thought, give them an indication that the parliament, whilst it has bipartisan support for a deregulatory environment post-1997, is nevertheless interested in consumer obligations being carried out and enforceable on service providers, not just by carriers which would be a post factum situation. I think the minister said the carrier would not in future carry the services provided by the service provider if the service provider was found to have been dudding the consumers. I think that certainly is the back of the axe approach and probably very effective.

Senator Schacht—They might have done a fair bit of damage in the first place though.

Senator HARRADINE—That is right. That is possibly the point that is being made around the chamber.

Senator MARGETTS (Western Australia) (11.52 a.m.)—I thank Senator Harradine for that. I said—and it was by way of interjection—that it is not requiring anything to be done; it says that it 'may be done'. Senator Harradine quite rightly points out that 87E, performance standards, simply says:

AUSTEL may, by written instrument, make standards . . .

I am happy to accept the minister's apology for saying that I was in the wrong section, that he was talking about requirements for the community service obligations. There is no requirement there. It says 'Austel may', and 'may' is a very important word, as Senator Alston would know, in legal terms. It does not have a requirement; it gives the ability. Simply extending the ability is not putting an onus on it to do anything; it is simply saying it is in the bailiwick where it may be done in the future.

I am happy to accept the minister's apology for saying that I was in the wrong section. That is exactly what I was talking about. As we all know, what is going to happen if we wait till next year is that Austel will not exist after 1 July and its various functions will be divvied up between the ACCC and other bodies. It is all right to say, 'Let's wait till next year,' but if we do not clarify this now and wait till next year this body will not exist in its current form. Let us see what we will do then.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.53 a.m.)—Can I truncate the debate by saying that I think, on balance, the difference between having these things operate now and having them operate from 1 July is not sufficient to justify the sort of elongated debate that we have been having on these matters. What Senator Margetts says is correct in relation to clauses 9 to 11. What I was talking about was amendments 9 to 11 in relation to amendments 2 to 5. I accept that amendments 9 to 11 would have the effect of simply giving Austel the power to pursue indicative performance standards in relation to service providers. In the circumstances, the government will not oppose this batch of amendments.

Amendments agreed to.

Senator ALLISON (Victoria) (11.54 a.m.)—I seek leave to move amendments Nos 6 and 8 together.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.54 a.m.)—I would prefer not. I just indicate that we do not have a problem with amendment 6, but amendment 8 is a separate matter.

Leave not granted.

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

(6) Schedule 1, item 11, page 5 (after line 12), at the end of subsection (1), add:

; and (f) any other matter in relation to which AUSTEL thinks it appropriate to develop standards.

Senator ALLISON (Victoria) (11.55 a.m.)—I move:

(8) Schedule 1, item 11, page 5 (lines 19 and 20), omit subsection (3).

This amendment enables Austel to develop standards of its own accord. We think this is important because it may prevent a situation arising where the regulator can arbitrarily be constrained.

The government has argued in the explanatory memorandum to the bill that Austel should be prevented from making a standard unless directed to do so by the minister. This is because it may not be appropriate for all telecommunications services, such as services used only by large corporate customers, to be subject to performance standards. The government has, therefore, proposed that the minister have the power to direct Austel to impose standards in relation to services where regulatory attention is required.

We agree that the minister should have the power to direct Austel in this matter. We also agree that it may not be appropriate for all telecommunications services to be subject to performance standards. However, we do not believe that this is best achieved by preventing Austel from acting without ministerial direction. There are other ways of ensuring that inappropriate services are not regulated without unnecessarily constraining the regulatory review.

The problem with the government's proposal is that it may unnecessarily constrain the regulator from being proactive and from acting in the best interests of customers in cases where the minister, for whatever reason, chooses not to do so. The regulator will often be better placed than the minister to determine which services require regulatory attention. For this reason, we see no reason for preventing the regulator from being proactive and from developing appropriate performance standards.

Having to wait for ministerial direction could be problematic if the minister were disinterested, did not have the information or whatever. But the concern that inappropriate telecommunications services might be made subject to performance standards we think is misguided. Section 87E(6) of schedule 1 requires that every such standard be subject to parliamentary disallowance. In other words, if the parliament is satisfied that any standard is inappropriate, they can simply disallow it.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (11.58 a.m.)—I noted with interest that Senator Allison said that the Australian Democrats agree that it may not be appropriate for all services to be subject to performance standards. I think that really goes to the heart of the issue here. It is really a question of whether Austel should be allowed to do its own thing in a whole range of areas or whether it should take direction from the government.

Given the intense degree of interest that all parties in the Senate have in matters that Austel might address itself to, it is pretty unlikely that Austel would ignore the wishes of even a substantial body of public concern, let alone a resolution of the parliament and let alone again an indication from the minister. I would not have thought there would be much problem about Austel ignoring valid concerns.

But what you propose is to allow Austel to go off and develop performance standards where there may not be community concern and where we in this parliament might be more concerned that the actual costs of developing those standards in areas might be at the expense of other work that we think Austel ought to be doing. In other words, without being too uncharitable, it would not be the first time that a regulator might like to extend its influence to build up a body of work and then come to government and say, 'But there are other things you want done. We don't have enough money to do them; please give us more.'

I am simply saying that that is not an inconceivable situation. It is probably why you say that you agree that there may be areas where it would not be appropriate to

have performance standards develop. I think we are the appropriate ones to determine that. We are always going to err on the side of the consumer in that regard.

Senator Margetts—Oh, yes!

Senator Schacht—You wouldn't bet on it.

Senator ALSTON—You will also take into account other factors, but I do not think the notion that Austel will simply blithely ignore the concerns of the parliament has been borne out to date, and I do not think that is the major problem. The problem with what you propose is that Austel will simply do its own thing and maybe get into the very areas that you say may not be appropriate. Why would we want that to happen? Our concern ought to be to make sure that it gets into the areas that we think are important, and we can make sure that happens.

Senator Margetts—Who's we?

Senator ALSTON—The parliament can and the minister can. There is that capacity to address issues of concern. What you do by extending it to that extent is effectively allow Austel to be autonomous, irrespective of what the parliament might regard as the priorities or irrespective of the cost of undertaking that work. It is not hard to imagine that any bureaucrat might say, 'Well, I would like to spread the net as widely as possible to develop performance standards in every area that might conceivably cause problems, and in that way I will do too much rather than too little.' Then, of course, you always have the problem of scarce resources. Then you have complaints about why Austel is not doing other things or people saying that it needs more resources.

Senator Schacht—Mr Fels would say that when you put Austel over into the—

Senator ALSTON—I do not know. All I am saying is that this system has worked well to date. I do not think there has been any difficulty about it. Senator Allison has not got up here and said that there are areas where Austel has been wanting to do things but the minister will not let it and that there have been any problems with the way this regime operates. If you simply cut it loose and allow it to develop performance standards wherever it chooses, it may go too far. If that becomes a problem, you can address it later, but I cannot imagine it being a problem.

Senator SCHACHT (South Australia) (12.02 p.m.)—Once Austel make a standard, they are not a disallowable instrument, are they? So all the standards are disallowable instruments. Therefore, if we gave the power to Austel separately to make a standard and it was against the wishes of the parliament, we could disallow it. Is that correct?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (12.03 p.m.)—I think that is the logic of the argument, but you would not necessarily want to get to that stage. To develop the performance standard involves an allocation of resources and work that we might think from the outset is unnecessary. That is really what you would want to avoid, I would have thought. It is a fairly blunt instrument at the end of the day to say, 'You've done all this work; we don't think it was justified.' Why wouldn't you turn it around and say, 'Wherever we think there is a need to do the work, we want you to do it'?

Senator SCHACHT (South Australia) (12.03 p.m.)—The opposition would have had some concern about giving any regulatory authority unfettered power to make regulation with no final decision being left to the parliament. It is clear on the minister's advice that any standard set by Austel is a disallowable instrument. Whether the minister directs them to put it together or if this amendment is carried and they themselves choose to go off and make a standard, it is then a disallowable instrument. Either way, this parliament has the final say. That is the impact of the advice that the minister has given me. I do not think he is disagreeing with the way I have summed that up. On that basis, the opposition is willing to support this amendment about giving the power to Austel.

One of the things that is going to occur in the deregulatory environment post-1 July next year and with the proliferation of communications, mergings of technology, et cetera, is, I suspect, ongoing demand from the community—almost incessant—for standards and so on. Though we might call it deregulation, we will end up with a lot more regulation than

people have ever had before in telecommunications. It will run to thousands of pages. We both know that. That is the irony of when we talk about deregulation.

We are not reducing paperwork; let us make this quite clear. The only way you had no paperwork was when Telstra was one monopoly operating on its own on behalf of the government; and then you did not worry about regulation on competition policy, access rules, et cetera—you just went ahead and did it—or even worry about consumer protection. We are now going to have a very complicated arrangement. Therefore, if the other legislation goes through, the regulatory functions will go to the ACCC.

Senator Margetts—Which have got almost no ability for us to have any say in it.

Senator SCHACHT—We will have to catch it in March next year. The telecommunications section of the ACCC—this is the regulatory function from Austel coming across—will have this power. I have not checked the bill yet; I will have to make sure that all the standards of ACCC are still disallowable instruments. That goes without saying; we must insist on that. Otherwise, with all due respect to my good friend Allan Fels, we should ask if we should let him loose to decide regulation and so on in this area. Though I think he is a very good regulator, he is not elected to parliament.

Senator Margetts—He is only one person.

Senator SCHACHT—And he is only one person.

Senator Harradine—What are his priorities?

Senator SCHACHT—The next thing is the priority. I say in reply to Senator Harradine's interjection that when we get to this other bill in March next year, I think we will have to look at the priority we set for the telecommunications section as the regulator with the ACCC. It has to be proactive and it has to have enough resources. That is the part of that debate to handle this issue of setting the standards. But I do think it is not unreasonable, even allowing for the ACCC, for it to have this power of its own initiative, remembering that we can disallow it.

Even Allan Fels will have to make a judgment as to whether he wants to fight with the Senate, the House of Representatives, the minister or the government if he is going to go on a wild goose chase because he thinks it is good but it is not good for anybody else. He will make that judgment. He will have informal discussions with people.

But I do not think it is an unreasonable power to have. I would not support this if it were not a disallowable instrument. I would then support it only if it were at the direction of the minister. In this case, on the advice received, this is not an unreasonable provision to allow Austel to develop standards.

I suspect Austel is going to be swamped with demands for standards as the service providers proliferate in the ever-growing range of telecommunications merging with such services as broadcasting, et cetera. I think a proactive regulator, which is what we need, should have this power so long as it is a disallowable instrument subject to the parliament's say.

Senator HARRADINE (Tasmania) (12.08 p.m.)—The Minister for Communications and the Arts (Senator Alston) has made some points to this chamber which, to some extent, would influence me to vote against this proposition. Senator Schacht has raised the question of the communications division of the ACCC.

My concern with a lot of this is that the question will ultimately come down to how competition is operating. For example, in the area of standards, in relation to the material offered to service providers through carriers—whether or not it is indecent or obscene—it unfortunately appears to be going the way where the question will be determined on whether or not it meets competition requirements.

My view is that you do not let the ACCC go on its merry way to do all of its studies and forget the priorities in these areas. Those priorities are more likely to reflect the community views if they are determined by the minister. It is the minister who tells the regulator—Austel, in this case—the areas it should be considering. That, in my view, will

be taken away from the minister if this amendment is carried.

We will get to the argument about the ACCC if we get to that debate in March or April. I make the simple point—and I agree with what the minister has said—that it has operated quite well thus far. There are limited amounts of finance around the place. You may have a body such as Austel making standards, having inquiries, running loose and diverting money to its priorities rather than to the priorities of the people.

I acknowledge what Senator Schacht has said. These standards are disallowable by either house of parliament, but that does not get to the point that has been raised by the minister. In my view, it does not get to the point that I am raising now—the question of priorities. Those priorities are more likely to be those of the people if they are expressed by the minister, because he or she is answerable to the parliament and, ultimately, to the people. Whilst it is not a big deal, I certainly will not be voting for this amendment.

Senator COONEY (Victoria) (12.12 p.m.)—I want to clarify something apropos of what Senator Harradine has said. If things stay as they are—87E remains as it is—it would seem to me that the only person who can bring any performance standard forward is the minister. Austel, in effect, will become a draftsperson who just drafts whatever the minister requires. If that is the position, it is difficult to see why the section does not simply read, 'The minister may make performance standards.'

Senator Harradine—Because it has got obligations under the Telecommunications Act.

Senator COONEY—I understand what you are saying, but it seems to be a fairly elaborate clause to get Austel to write what it is directed to by the minister. It seems a very clumsy way of going about consumer protection.

Senator HARRADINE (Tasmania) (12.13 p.m.)—I thank Senator Cooney, but I refer him to the obligations of Austel under the act.

Senator COONEY (Victoria) (12.13 p.m.)—I do not want to persist, but I make the point. If you read 87E(3), you wonder why it is there at all, because Austel can make a standard only if directed by the minister. If you look at 87E(1) which says that 'Austel may', 87E(1) and 87E(3) seem to be in contradiction.

Senator ALLISON (Victoria) (12.14 p.m.)—I do not think we are talking here about taking away the power of the minister to direct. That is not the intention of this amendment at all.

What if the parliament and the government decided not to direct Austel at all? What if the government decided to ignore consumer concerns? What if it decided not to direct Austel to save money, for instance? There are a number of scenarios that you could raise here.

I think it is quite ironic that the minister talks about this leading to a possible blow-out and that questions of resources for Austel have come up in the same week that a new draft telecommunications national code has been released. The code asks Austel to do a whole range of things in relation to monitoring cable roll-out and intervening—or at least being involved—in disputes between carriers, which would oblige Austel to use a great deal of resources. Apparently the government has not taken any steps to increase those resources for Austel. So it is somewhat ironic to be talking about the concern over this amendment being about money and about blow-outs and about lack of resources when the government is making those demands on Austel at the same time.

So we are not talking about taking away the power of the minister to direct. That is very clearly still part of the legislation and the act. What we are talking about here is what happens if the government chooses not to do that. Does Austel have some ability to develop its own standards or, at least, its own reasons for raising the matter of standards?

Question put:

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

The committee divided. [12.20 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	33
Noes	35
Majority	2

AYES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Carr, K.
Childs, B. K.	Collins, J. M. A.
Conroy, S.	Cooney, B.
Crowley, R. A.	Faulkner, J. P.
Foreman, D. J. *	Forshaw, M. G.
Gibbs, B.	Hogg, J.
Kernot, C.	Lees, M. H.
Lundy, K.	Mackay, S.
Margetts, D.	McKiernan, J. P.
Murphy, S. M.	Murray, A.
Neal, B. J.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Sherry, N.
Stott Despoja, N.	West, S. M.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H. *	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H.
Parer, W. R.	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

Collins, R. L.	Knowles, S. C.
Cook, P. F. S.	Crane, W.
Denman, K. J.	Patterson, K. C. L.
Evans, C. V.	O'Chee, W. G.

*** denotes teller**

Question so resolved in the negative.

The CHAIRMAN—Senator Allison, before I call you, if you are going to move the amendments in group 5—that is, 12 to 14—together, could I suggest you move 12 and 13, because there is an opposition amendment to your amendment No. 14. Would that be satisfactory?

Senator SCHACHT (South Australia) (12.24 p.m.)—My amendment is a very simple one. The Democrats might be willing to accept it. My amendment is to change the penalty to $25,000. Their amendment is for $5,000. If $25,000 is an acceptable amount to the Democrats, we could cut down the amendments and have only one—the Senate's versus the government's.

The CHAIRMAN—I will call Senator Allison and see what we find out.

Senator ALLISON (Victoria) (12.25 p.m.)—The Democrats would be willing to change that figure from $5,000 to $25,000, and to make that our amendment.

The CHAIRMAN—So you will move an amended amendment?

Senator ALLISON (Victoria) (12.26 p.m.)—by leave—Yes. I move:

(12) Schedule 1, item 11, page 6 (after line 29), after subsection 87G(2), insert:

(2A) AUSTEL must review the scale after the period of four years starting on 1 January 1997 and each following period of four years and must adjust the scale in accordance with any overall percentage increase in the All Groups Consumer Price Index number for the weighted average of the 8 capital cities published by the Statistician in respect of all years within the period of review.

(13) Schedule 1, item 11, page 6 (line 30), omit "A dollar", substitute "Subject to subsection (2A), a dollar".

(14) Schedule 1, item 11, page 6 (line 31), omit "$3,000", substitute "$25,000".

These amendments increase the maximum amount of damages payable for contraventions covered by each of the performance standards from the proposed $3,000 to now $25,000. They also ensure that the penalty is upgraded at least once every four years in line with the consumer price index. In our view, a maximum penalty of $3,000 is insufficient if the purpose of the customer service guarantee is to actually affect corporate behaviour by making firms more customer focused and responsive.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (12.27 p.m.)—I will deal with them in two groups, as I gather we will be when we vote on them. On the indexation of damages, I would not die in the ditch on this one. Austel could be expected to review the scale of damages as a matter of course, so it follows from that that there is no need for a four-yearly indexation in amendment 12. The indexation requirement does not make sense in a situation where new requirements are going to be progressively added to a standard over time in any event. My advice is that amendment 13 would not be legally effective to provide indexation of the statutory cap because the wording is insufficient to achieve that outcome. I think those two amendments are simply superfluous. By all means, if you nonetheless want to argue that there should be a four-year review rather than anything else, say that that is the way it goes. It just seems to me that you are much better to have, in effect, a standing review rather than indexation on some sort of arbitrary four-year basis.

As far as damages are concerned, the maximum provision that we have included of $3,000 is a balance you strike when you are trying to ensure that, essentially, residential and small business customers get the services they ought to get. In other words, it is not really a matter of collecting penalties. You would hope that the penalty provisions do not come into operation because the carriers will deliver the goods; in other words, that they will get out there and install and connect and keep appointments. But, once you get beyond something like $3,000—and now, as I understand it, the Democrats have accepted a $25,000 figure for every breach—you are potentially talking about very substantial windfalls. It is quite disproportionate to the nature of the offence.

Senator Schacht—Is it?

Senator ALSTON—Yes, think about it. If they happen to be one day late, they will not be able to be heard to say, 'Well, sorry, it was an act of God. We couldn't make it.' You are saying—

Senator Schacht—But it is a maximum penalty. You are saying it must not exceed $3,000. We are saying it must not exceed $25,000. You cannot have a minimum penalty. It is a maximum penalty of $25,000. I agree with you that there will be some offences where $100 is more appropriate.

Senator ALSTON—Yes. As you would probably be aware, the courts fix the penalty by reference to the maximum. In other words, if the maximum is $500, they will say, 'In the overall scheme of things, parliament doesn't regard this as terribly serious. It's a first offence. You'll probably be fined half of that.'

If you say $10 million for a breach of the telecommunications code, the court knows that the parliament regards this as a very serious offence. It will be much more likely, therefore, to impose a pretty substantial penalty. If you fix a figure of $25,000, not only are you saying it is serious but also you are potentially providing significant windfall to residential consumers who, at the end of the day, should have got the installation or the service on time. Right?

That is what we are all aiming to achieve. We want them to get the service, so we do not want any money to change hands. But, to the extent that there is a breach of that, what you do not then want is something that is quite disproportionate in terms of compensation, where you are effectively giving them a very substantial sum of money. All I am arguing is that you ought to set the penalty proportionate to the issue that is of concern. Here, the concern is to install and maintain. We are not talking about criminal offences. We are talking about—

Senator Schacht—But this is not the minimum amount; this is the maximum.

Senator ALSTON—I appreciate that. I have just said that the maximum amount sets the framework in which penalties will be applied. If it is $3,000 and it is a breach of one or two days, they may well award something of the order of $1,000 or $2,000 which, in the scheme of things, is not bad compensation. You did not get your phone connected straightaway; you had to wait a couple of days. Because you did not get that you got $1,000 or $2,000. But if you say to the courts, 'Well, the maximum isn't $3,000; the

maximum is eight times that,' you are really inviting the courts to say, 'Well, if they're one or two days late, we'll give you a cheque for $10,000.'

It seems to me that that is quite disproportionate to the harm that has been caused to the consumer. By all means, and as I stressed, we do not want money changing hands here. It is only a last resort arrangement. But, to the extent that it does result in a fine being imposed, it ought not be such a significant penalty that you are effectively putting a burden that will ultimately be transferred through to consumers anyway. To the extent that there are significant problems in this area, presumably the costs that are borne by the carriers are passed on to consumers.

It does not seem right to me that a consumer who misses out by only a day or two could be getting a windfall profit to that extent. You have to make a judgment about what is reasonable. It seems to us that $3,000 is reasonable. If you had said $5,000, I probably could have accepted that, but $25,000 just seems to me to be quite out of line. If you want to go back to $5,000, I could wear that, I think, but I could not accept $25,000.

The CHAIRMAN—I will just mention to the committee that we are dealing with amendments 12, 13 and 14. They will be put together because 14 has been amended to replace $5,000 with $25,000.

Senator SCHACHT (South Australia) (12.32 p.m.)—The Minister for Communications and the Arts is suggesting a bargaining position here, I think.

Senator Alston—No. I think I was actually indicating that we should take amendments 12 and 13 together and then deal with 14.

Senator SCHACHT—I think the Chairman is saying that we have already agreed to deal with 12, 13 and 14 together. I think, by leave, we can deal with 14 separately, if that is okay with the others.

The CHAIRMAN—I think the Chairman can do it.

Senator SCHACHT—Thank you very much. While we have gone, from the opposition's point of view, up to $25,000—that is a maximum—I think the public complain, in general, that the courts or the judicial bodies, or whatever, usually never go anywhere near imposing maximum penalties. That has often caused complaints from the community.

I just want to get one thing clear. Is the penalty here imposed by Austel? I do not think it can be, constitutionally. It is by the court, isn't it? It is a proper court? So it is not Austel, because that would be a breach of the constitution, as I understand it, if the regulator were imposing the penalty.

I understand that Austel would set the scale to a maximum—if this was carried—of $25,000. Is that right? They would set the scale so that, if a telephone connection had gone bad or was missed by a day, that might be worth, in your case, $500 or $50. If it was one of those dreadful CoT cases, where people got done badly for a long period of time over a service provision—

Senator Margetts—And ended up bankrupt.

Senator SCHACHT—And actually in many cases went bankrupt, I have to say that $25,000 would still be a very small amount given the CoT cases that I have heard and the people that have had come to see me. I know this was an old regime of Telstra or Telecom or PMG, going back many years where they had a feeling that they were above any service to consumers, but there is no doubt, Minister, that there are cases in those CoT case groups for which $25,000 would be a very, very modest penalty. Telstra would be delighted to get away with paying only $25,000.

I know of a case from Yorke Peninsula, in South Australia, where a constituent is claiming that, over a period of 10 years, the lack of quality in the telephone system in the local exchange cost him business. He is claiming losses, over a 10-year period, of over $1 million in lost business opportunity. He was running a motel-hotel. When people rang to make bookings they would hear the phone ringing, but it would not ring at the hotel. This went on for a decade. This is one of the CoT cases. He consistently complained to Telstra—or Telecom as it then was.

He is now pursuing a civil suit and perhaps will get a settlement. As he has worked it out, he believes that it has cost him at least $1 million worth of business in lost bookings. He says that you can trace the drop-off in bookings. Then, when you chase up Telstra, there is some mumbling answer and perhaps something further a month or so later. A $25,000 penalty on that sort of lack of service and the inability to deal with it is a very modest amount. I have to say that, if it were not for the CoT cases of which I have heard, I probably would have accepted your argument on $3,000 to $5,000.

But even with $25,000 being the only penalty that Telstra, Optus or Vodafone as carriers can suffer whilst getting away with this type of service—and, all right, you might say they can still sue for civil damages, and so on—that is cheap. Telstra has very deep pockets, as all the CoT case people know. You go to the civil court to get remedy and Telstra, because it has deep pockets running into billions, of course, can hang you out to dry and delay the court hearing for years and years so that your legal expenses as a small business person run up and up. In the end, you go bankrupt before you get remedy. If Telstra have to pay $25,000, in many cases they would say, 'Gee, this is a cheap price to pay if it clears the issue.'

Senator Margetts interjecting—

Senator SCHACHT—Also, a penalty of this size, as Senator Margetts quite rightly interjects, may make them become a little more interested in dealing with these complaints properly and quickly, and accepting that there is a problem. We have seen in all of these CoT cases with which the ombudsman has dealt that the bureaucracy of Telstra has gone out of its way to delay. I have to say that in the end the bureaucracy of Telstra, Optus and Vodafone, as the three carriers, and other carriers to come will all be the same. You will not get officials and middle level management automatically conceding that they have made a mistake. They will try to hang it out. They will try to tell senior management, 'No, no, there's no problem,' and try to starve the complainant out in one form or another.

In view of the CoT case examples, I think the $25,000 is a very modest amount—and it is the maximum. In many of the cases that the minister raises about being three days or one day late with connection, and so on, a small penalty might be a $50 fine; that is reasonable.

But, Minister, take for example the publication of the Yellow Pages with a business name and telephone number having accidentally been left out, with there being no reprint for 12 months. Any small business will tell you that the most effective form of advertising they have in Australia is having their name and a small ad in the Yellow Pages. If you miss out with a mistake having been made, though you have paid your money and lodged the ad, and so on, $500 would not be enough. If your name were to be omitted from the Yellow Pages in those circumstances, perhaps a $20,000 fine or penalty would be the equivalent of the resultant loss of business. But of course, the court would take account of the scale and the penalty would be imposed according to the seriousness of the breach.

We are not asking for $25,000 for everyone; we are asking for 'from between $1 and $25,000'. Minister, I have to say that, if it were not for the CoT cases, I would be willing to accept $3,000 or $5,000. But the CoT cases have convinced me that, unless you put some penalty on these big carriers, they will do in the small business people and the domestic service people. Now with the provision of Internet and interactive services, and so on, where more and more people will be doing business from home, you only have to get this wrong for two or three days and someone will go out of business and go bankrupt.

You might say that is still a pretty harsh penalty to impose on the carriers, but that is the business they are in. They ought to accept that this is what we expect if we want an efficient, effective economy, equitably treating people, whether domestic or business, big or small. I could be criticised, I think, by some of the CoT case people for the figure of $25,000 being still too small. However, I think it is a reasonable figure in the history

that we have had over the last decade with the CoT cases.

Senator COONEY (Victoria) (12.42 p.m.)—There is a point I want to make about this which Senator Margetts drew to my attention. Minister, you have been speaking of 87E as if it is a fine or civil penalty. But it is not. It is a claim for damages which, Minister, you would know more about than most. That is made clear by the interpretations section, 87D, which says that damages include punitive damages.

It is a strange sort of a concept in that you would put a cap on damages in 87G, but you would put no cap on any other proceedings that you might take—and this is made quite clear by 87K. The whole argument seems to be out of kilter when you talk about penalties and fines, and what have you. This is a claim for damages, and the court has to be satisfied that the damages are proved. I would have thought that section is completely inconsistent with the application of a cap.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (12.43 p.m.)—In response to Senator Schacht, I can understand his outrage in relation to CoT cases because, I think, on all sides of the parliament we have consistently said that it was a disgraceful period in Telstra's history. But to then go to the point of saying 'Well, okay, payback time—we'll put this in place to punish you for other sins' is a bit of a leap of logic.

All I would say to you is that, if people are disadvantaged to the extent that some of those CoT cases appear to have been, they are not really candidates for any of this regime at all. They are in a very different league. Some of them are claiming millions of dollars. You say $1 million; I know of claims of many millions. This regime simply does not apply to those sorts of people. This is to pick up on people who do not get installation and maintenance on time. CoT cases were people who had problems over many years where the phones simply were not working. I simply say to you that I think $25,000 is pretty high.

Senator COONEY (Victoria) (12.44 p.m.)—Can you answer this question: isn't this a civil proceeding, a claim for damages? Why do you have any cap at all? Aren't the courts capable of working out their own damages? It is not a penalty; it is a claim for damages. You have misconceived the issue, I think.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (12.44 p.m.)—I think the point is that in order to obtain an award of damages you normally have to demonstrate that there has been a tort committed. In this instance, we are looking to compensate people who may not be able to demonstrate any inadequacy on the part of the carrier other than simply a failure to comply with a time line; therefore, you could simply put a figure there to compensate people who might otherwise not get anything. *(Time expired)*

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Compulsory Voting

Senator EGGLESTON (Western Australia) (12.45 p.m.)—Australia's system of compulsory voting has become an issue for discussion and I would like to put my thoughts about this matter on record in the Senate today. I am a classical Liberal. I believe in the individual, in the right of the individual to conduct their affairs without undue interference from the heavy hand of government and in freedom of choice. I can see that the Australian laws which make voting in state and federal elections compulsory and impose penalties for non-compliance could be regarded as coercive. Nevertheless, I support the Australian system of compulsory voting for state and federal elections.

In view of my preamble, one may ask why I hold this view, given that it appears to be inconsistent with my basic political philosophy. I support compulsory voting because I believe the case for compulsory voting is so compelling as to override the philosophical considerations which would otherwise predetermine my views. In my view, there are four strong arguments in favour of the reten-

tion of our present system of compulsory voting. I would like to deal with them each in turn.

Firstly, there is what might be called the 'democracy is a fragile flower' argument. If one casts one's eyes around the world, and more particularly around our own region, one will see that there are very few genuinely democratic nations, as we in Australia understand the meaning of political democracy to be. Given this, it is fair to describe democracy as a very fragile flower. The fragile flower of democracy has been able to survive in only a few nations because thoughtful people have understood its fragility and have been careful to protect and nurture that fragile flower that we know as democracy so as to ensure that it does not wither and die.

The democratic freedoms we enjoy in Australia today have not occurred, as some people appear to imagine, because Australia is some uniquely fair and egalitarian utopia where it has been seen as natural to respect the rule of law and the rights of others and where democratic processes of government are as naturally a part of the Australian ethos as our unique native flora, like the kangaroo paw or the gumtree. No; the truth of the matter is that democracy—the democracy which we in Australia have so easily inherited—is the legacy of hard battles fought over centuries to establish the rule of law and respect for human rights and to give the common man political rights over kings and, in this century, various kinds of dictators.

The democracy we enjoy is the end result of a great struggle by persons who have shown exceptional courage and even given their lives in the pursuit of the freedoms which we enjoy today. The struggle for democratic rights goes back to the Magna Carta, the American Declaration of Independence, the French Revolution and those who fought for universal franchise, and includes the great struggles in this century against fascism and communism.

Given all of this, it is surely not too much to ask that the Australian people, as the inheritors of the benefits of these struggles for democracy, should be required to focus on the rights they enjoy once every three or four years by being required by law to go to a polling place and cast a vote. If one wanted to take a little poetic licence, one could say that the Australian law requiring compulsory voting is in fact a compulsory act of homage to the memory of all of those who struggled, suffered and gave their lives so that we could decide who should control the vast power and resources of the state by the simple act of ordinary citizens marking a ballot paper in the privacy of a polling booth.

Secondly, compulsory voting means that Australians not only get the government they deserve but also get the government they want. The uniquely Australian combination of compulsory voting and preferential voting means that an Australian election is a more complete assessment of the political mood of the citizens than occurs in almost any other country. This is an important point. In effect, the combination of compulsory and preferential voting means that general elections in Australia are a unique poll of the political mood of the Australian people in which almost all of the Australian citizenry participate and which furthermore measures through the preferential voting system all the shades of grey in political opinion in this country.

Thirdly, there is the matter of Australian apathy. I spent eight years in local government in WA, where voting in local government elections is optional. The voter turnout for local government elections in Western Australia varies from around 13 per cent to 18 per cent of those on the common electoral roll, which covers local, state and federal elections.

I do not think it is too much to say that the percentage of voter turnout for local government elections can be regarded as an indicator of the percentage of people who would vote in state and federal elections, were voting optional. Low voter turnouts of this level could mean that political groups representing non-mainstream interests could achieve a sufficient percentage of the poll to have members elected to parliament. I know there are those who would say that the Greens have already done this in this parliament. But the Greens achieved their quota only with the preferences of a major party. What I am

talking about is an extreme minority group achieving a quota in their own right.

As an example, a few years ago there was a racist group in Western Australia led by a Mr Van Tongeren who went around painting anti-Asian graffiti on bus stops in metropolitan Perth and, more seriously, burning down Chinese restaurants. Van Tongeren was eventually convicted of ordering the murder of one of his erstwhile followers who had disagreed with him and he is now in gaol in Perth. All in all, these were very unsavoury people whose activities were frightening, to say the least, because they demonstrated a total lack of respect for the values of our society and the rule of law.

Of relevance to this discussion, Van Tongeren had planned to stand candidates in the WA state elections and it is feasible that, with a voter turnout in the region of 15 per cent and a well organised system of getting their supporters to polling places, Van Tongeren could have been successful in winning seats in the state parliament. Similarly, in the Senate, low voter turnout could mean that well organised minority groups who would normally have no hope of election could be successful in obtaining the necessary quota to elect a senator or senators who would otherwise never be elected by the Australian people.

Fourthly, there is the impact that non-compulsory voting would have on political campaigning. Two weeks before this year's presidential elections in the United States, I watched a television report on President Clinton out campaigning. Interestingly, the President was not talking about issues. He was instead pleading for his supporters to go to the polling place and actually vote. Similarly in the United Kingdom, the political parties spend an enormous amount of time and effort in election campaigns attempting to get their supporters to the polling places to vote.

All of this effort comes at a cost. Cars have to be provided, telephone calls have to be made and in general a great deal of additional expense is incurred in just getting the voters to attend polling booths, whereas by contrast under our present system of compulsory voting, electors in Australia simply know that they have to go and vote as a matter of course. A corollary of this is the question of the potential for corruption in the offering of inducements to people to go and vote for particular candidates. Under the present system, such corruption is not an issue that needs to be dealt with, and I for one prefer to see it kept that way.

Most importantly, all of this means that there is less focus on issues in countries where voting is not compulsory, just as I observed in the US presidential elections at the end of the campaign; President Clinton was not focusing on issues but was pleading for his supporters to vote. This is surely not what we want to see in Australia. I thought it would be interesting to see what happens in other countries. The argument is sometimes put that the Australian voting system is a bizarre aberration, not followed anywhere else in the world. For the record there are some 20 countries in the world which have compulsory voting for all or part of the population.

According to the Australian Electoral Commission report of August 1996, countries with compulsory voting include the following; Argentina, Austria, Belgium, Bolivia, Brazil, Cyprus, the Dominican Republic, Egypt, Greece, Guatemala, Honduras, Liechtenstein, Luxembourg, Panama, the Philippines, Singapore, Switzerland, Uruguay and Venezuela. So Australia has some notable companions in having compulsory voting, in particular Austria, Belgium and Switzerland.

In conclusion, I believe that compulsory voting has many things in its favour and that not least of these is that compulsory voting means that the act of voting is in effect a statement of respect for the democratic processes which we enjoy in Australia. Furthermore, the combination of compulsory and preferential voting means that the end result of a poll in Australia is that a uniquely accurate measurement has been made of the political mood of the Australian people, allowing for all shades of grey and variations of view. One can truly say that the Australian people not only get the government they deserve, but also the government that most represents a consensus of their views—in short, the government they want. I see no

reason to change our present system and I hope that the merits of compulsory preferential voting will be understood both by the people of Australia and our political leaders so that our system of voting will be retained.

Just to summarise my reasons for this in the minute or so that I have left, my position in support of compulsory voting is based on, firstly, the idea that democracy is a very fragile flower and that it is not too much to ask the Australian people to focus on their democratic heritage by requiring them to vote in general elections. Secondly, the Australian system of compulsory and preferential voting is unique and means that the Australian people not only get the government they deserve, but also the government they want. Thirdly, there is the question of Australian apathy. Voter turnout for local government elections in WA is 13 per cent to 18 per cent. Were this the case in state and federal elections, it would mean—or could mean—that undesirable minority parties could gain representation. Finally, there is the effect on political campaigns. Non-compulsory voting would mean less focus on issues and an undue emphasis on getting voters to the polling booths. Therefore, it would increase the cost of campaigns, in terms of both getting people to the polls and perhaps offering inducements, which carries with it the attendant risk of corruption.

Victorian Casino

Senator CARR (Victoria) (12.58 p.m.)—The way in which the Victorian casino licence was issued by the Kennett government represents a travesty of justice. The conduct and the findings of the Senate select committee inquiry into the Victorian casino do not diminish my belief that that was the case—in fact, they confirm it.

The obstacles faced by this Senate committee confirm what the people of Victoria already know. More and more Victorians now understand that to get on in that state you need to have good connections with the Liberal Party machine. If you have criticisms of the government, you will need to keep those criticisms to yourself and not to criticise or even question. In fact, the stench of corruption hangs right over that state.

The Victorian Liberal Party machine—its office holders, its business associates and allies—has geared into action to create an overt and covert climate of fear and intimidation, and the unanswered questions about the casino licence are only part of that scenario. It is my view that only a royal commission or judicial inquiry can clear up the substantive and very serious allegations that surround the Crown Casino affair. Only a royal commission or judicial inquiry can restore the confidence that the Australian people should have in their public institutions and public office bearers in the state of Victoria.

Australians expect to be able to trust their politicians. I am afraid that the casino licence affair, in so far as the granting of a significant and highly profitable licence is concerned, is a flagrant abuse of that trust that Australians could rightly expect to have. It was probably one of the most profitable contracts ever granted to the private sector by a Victorian government. There are unresolved and substantive issues concerning public confidence in the probity of the Australian tendering process. They remain unresolved while there are outstanding claims concerning the granting of the Victorian casino licence.

While the Senate select committee inquiry into the casino took the correct decision in view of the legal ambiguity surrounding the calling of particular witnesses and the asking of particular questions, the fundamental issues that led to the establishment of that inquiry remain. While potential witnesses to that inquiry have been intimidated into silence by fear of prosecution or persecution by the Victorian government, the issues still remain. The Victorian Premier told the Senate inquiry that the state of Victoria would assert its executive privilege against the actions of the Commonwealth which threaten its autonomy or curtail its capacity to function effectively.

Why is the Victorian government so anxious to silence its critics? Why is there such a keen interest to prevent public examination of the claims that have been made concerning the serious lack of probity within the tendering process within Victoria? Why is it that Mr Kennett was so anxious to avoid public accountability for what has now become one

of the most lucrative contracts ever awarded by the state government?

I think we all understand that these issues remain highly controversial. I do not think there can be any doubt about that whatsoever. That was demonstrated in a recent visit to the Victorian shadow minister for gaming, Mr Rob Hulls, by officials of ITT Sheraton, Mr Jim Gallagher and Mr Mark Thomas, who is the Vice-President and Director of Corporate Development for ITT. They told the shadow minister that ITT Sheraton would be reluctant to be involved in further tenders for any government contract anywhere in Australia.

That came, of course, as a direct result of their experience with the tendering process for the Victorian casino licence. They confirmed that they believed that the tender process was corrupted. They also confirmed that ITT did not bid for the Sydney casino licence because of the unfair advantage that Crown Casino received in the Melbourne bidding process. That international business confidence in the Australian tendering process has been shaken by the actions of the Victorian government should, in itself, be sufficient to concern the Commonwealth government.

Why is it so difficult to get witnesses to give evidence to the Senate inquiry? Why is it that public servants in Victoria fear crossing the Premier? This could be understood when one looks at the treatment dished out to anyone who dares to take an independent position, even where that independent position is required by their statutory responsibilities. We can look at the case of judges, equal opportunity commissioners, public prosecutors or auditors-general.

The Auditor-General in his report this year noted that the Victorian government provided a gift of $174 million to the casino through its approval by the Treasurer of the expansion of the gaming facilities at that casino. The Victorian government's response has been to seek to clip the wings of the Auditor-General by the appointment of board of review. Is it not amazing that two of the three persons involved in that review are persons who have been under review by the Auditor-General? One of those persons—surprise, surprise—was a director of Crown Casino.

The Victorian police have voiced grave reservations concerning the level of probity undertaken by the VCCA, and have made these concerns public only to find that they have been targeted for an attack by a vindictive premier. On 30 May 1996, I was contacted directly by senior police and advised of concerns within the Victorian police. It was asserted that these concerns were fobbed off by the VCCA.

Police have confirmed to me that the concerns expressed by the then Assistant Commissioner for Crime, Neil O'Loughlin, in the *Age* of 18 May 1994 were held widely throughout the police force. Specifically, police have confirmed to me the claim that, due to tight timelines, the VCCA probity checks on staff at the casino were inadequate, resulting in reduced security standards.

These claims were supported by Mr David Jones, the head trustee of Tattersall's, who said that there were double standards operating for Tattersall's and the casino in relation to security standards imposed by the VCCA. Mr Jones has stated:

> Rules appeared to be changed overnight for the casino and the casino seemed to have more political clout than Tattersall's.

That is a quote that appeared in the *Sunday Age* on 18 February 1994.

Police sources have alleged that 43 casino employees failed Victorian police probity checks and that the casino management overruled police recommendations not to employ these people. Two cases put to me specifically were of a croupier who was employed at the casino despite being charged with kidnapping, armed robbery and drug trafficking, and the employment of a former employee of a US gaming company operating on the Florida gaming boats who had a criminal record for theft.

The Victoria Police gaming and vice squads were responsible for assisting the VCCA with probity checks on the bidding consortia. The police were called and given only one hour to check the VCCA probity reports at the time of the granting of the original licence. Police sources have stated to me that 20 probity related questions were raised with the VCCA

about the Crown Casino bid, but they were rejected. An *Age* report said:

> Police were told that the matters did not concern them and that no further investigation would be required. Police say their inquiries may not have negated the granting of the licence, but they needed to be done.

Among those matters were the dealings of Mr Lloyd Williams who, as managing director of Dominion Properties, was fined for paying secret commissions to the former secretary of the Builders Labourers Federation—a clear breach of section 175 of the Crimes Act.

A number of police officers were involved in both the probity checks of the bidding consortia and later of Crown employees. Recent advice from gaming squad sources indicates that considerable pressure has been exerted by the Victoria Police Internal Affairs Branch upon staff involved with the VCCA probity investigations to ensure that information on the processes is not made public. I am advised that correspondence has been circulated stating that officers will be charged for any disclosure of information on the probity processes and that senior officers will also be liable for disciplinary action if their subordinates are party to disclosure.

It is also alleged that officers' telephone logs are being monitored by Internal Affairs to stop police speaking to the media or to members of parliament. Police have stated that their concern is with proper police ethics—and that is the basis on which I have been contacted—and with proper procedures, not with party political advantage.

I was invited to speak to an officer—a senior sergeant in the homicide squad—who had formerly been involved in the probity checks at the casino. On 3 June I rang the said officer. He was very helpful and indicated that he had been directly involved in the probity checks with the Casino Control Authority. Within a few days—that is, on 5 June—the Premier, Mr Kennett, referred in the Legislative Assembly to my conversation with the member of the Victorian police force.

I find it interesting that a conversation between an officer of the Victorian police and the Manager of Opposition Business in the Senate which concerned my public duties should be referred to by the Premier in the Legislative Assembly. I would ask a simple question: why is it that such a matter attracts the personal attention of the Premier? What is the mechanism by which the alleged details of my conversation were transmitted from an officer to the Premier? How common is it for discussions of this type to be raised in parliament? What is the impact on other persons who have a potential to assist an inquiry such as that undertaken by the Senate?

Is it also not remarkable that unsuccessful bidders to the casino licence who have raised concerns about the tendering process were awarded substantial contracts and subsequently have not pursued their complaints concerning the tendering process? I will put the two things together. On the one hand, those that seek to publicly criticise this government are pilloried and quite serious threats are made to them by very senior officials of the government. On the other hand, there are inducements made to critics in terms of government contracts. Overall, it is not surprising that you will not find a lot of information concerning these contracts put on the public record.

What sort of message is the premier seeking to send to those that are critical of his government? We could take the example of the planning firm, Phillips, Cox and Anderson. It has been advised through the various networks that if it wishes to attract government contracts, particularly those associated with the agenda 21 program in Victoria, it should cease its criticisms of the planning processes undertaken for the Crown Casino development.

The public record suggests that the tendering process was contaminated in Victoria. The SBC Barry Domingues report highlights the fact that grounds for the granting of the Crown licence were matters other than financial. How did Hudson Conway know to lift its bid at a strategically critical moment to secure the contract on grounds—as I say, on the basis of SBC Barry Domingues' findings—that were other than financial? Why was it that, within three months of the casino licensing documents being signed with Crown, the

planning department received details of the massive expansion of the permanent casino site, details of which were not contained in the prospectus? And such details were publicly welcomed by the senior officials within the government but they were not contained within the prospectus for the issue of shares? In fact, this happened within two weeks of their announcement, and nine days after the application list closed for Crown shares, and seven days after the application list closed for the Crown notes.

It is little wonder that Mr Rand Arashog, National President and Chief Executive Officer of ITT Sheraton, wrote to the chairman of the Victorian Casino Authority highly critical of the variation clause contained within the management agreement with Crown Casino. Naturally, he took offence at the suggestion that no matter how extensive or fundamental the changes were within the planning arrangements for the casino, the winning applicant was able to secure those changes and rival bidders were not given the opportunity to pursue their claims. Why were different planning mechanisms undertaken for Crown and the other bidders for the casino?

Of course, ITT Sheraton remains prepared to provide evidence to a properly constituted judicial inquiry, or royal commission, and I suggest that that is the appropriate vehicle by which this parliament should now be pursuing these actions. The state government's subcommittee on the casino, headed by the Premier, did, according to the available public evidence, engage in a regular two-way contact between the government and the gaming authority. And despite public denials that no such arrangements were made, this was confirmed by the memorandum from Mr David Shand to Mr Alan Stockdale on 12 May 1993, summarising the financial details of the bidders.

This, in itself, raises serious questions about the extent to which the Premier and other ministers have met with principals of Hudson Conway during the bidding process, despite their public denials to the contrary. The allegations can be summarised as follows: the state government subcommittee, headed by the Premier, did receive details regarding the various financial bids of the casino; there was regular contact between senior members of the government and the authority leading up to the announcement of the Crown group's successful securing of that bid, and there has not been sufficient confidentiality in the bidding process. These are serious allegations that are required to be put to rest. Business confidence in this country's tendering process requires nothing less.

Whistleblowers

Senator WOODLEY (Queensland) (1.13 p.m.)—I wish today to speak about a matter which I have referred to on a number of occasion previously but want to raise again because of new evidence which is available. I speak about the shredding of the Heiner inquiry documents in Queensland. I am sure, Mr Acting Deputy President, that you would be interested in this. It is a topic I have not visited for some time, primarily out of consideration for the fact that it has been before the Privileges Committee and I certainly did not want to interfere with their deliberations. Also, I have not spoken because I have been waiting for a report to be tabled in the Queensland parliament. That report has now been tabled—or, at least, parts of it have.

On 5 December 1995, the Senate Committee of Privileges tabled its 63rd report, which concerned the possible false and misleading evidence before the Select Committee on Unresolved Whistleblower Cases, of which I was a member in 1995. It was alleged by witnesses, Messrs Kevin Lindeberg and Peter Coyne, that the Queensland Criminal Justice Commission gave such evidence. The Committee of Privileges came to the view that the CJC had not deliberately misled the Murphy committee by withholding importance evidence, because the CJC admitted in writing to the Committee of Privileges that it had never before—and I underline 'before'—seen or accessed the material which caused Mr Lindeberg and Mr Coyne to lodge their complaint.

I am not going to debate the view taken by the Committee of Privileges. Obviously, it was quite proper. In any case, it is a very serious matter deliberately to mislead a Senate committee; and, obviously, that was the

position taken by the Committee of Privileges. However, I do want to inform the Senate of what an extraordinary admission by the CJC means to the Heiner case, and to link that with the findings of the Morris-Howard report tabled in the Queensland parliament on 10 October this year by the Queensland Premier, Mr Borbidge.

Let me explain to honourable senators what the Morris-Howard report is. It is a report of two independent barristers appointed by the Borbidge government in May 1996 to investigate two unresolved whistleblower cases, one of which was the Lindeberg allegations about the shredding of the Heiner inquiry documents and the payment of public moneys to the sum of $27,190 to a public servant, Mr Peter Coyne. It was he who was seeking statutory access to the Heiner documents and the original complaints in early 1990.

Messrs Tony Morris QC and Edward Howard were commissioned to look at departmental and criminal justice material, to ascertain the legality of the shredding and the payment, and to recommend whether a commission of inquiry was necessary. I might add that they did recommend a commission of inquiry. Their report was some three months over time for various reasons, but their findings in respect of the longstanding Lindeberg allegations were quite astounding. They found that it was open to conclude that serious criminal offences had been committed over the Heiner document shredding, the disposal of the original complaints back to the union, and the shredding of copies of the original complaints—because it was indeed known that the documents were required as evidence in foreshadowed judicial proceedings.

I remind the Senate that the Heiner inquiry document shredding was ordered by the Goss cabinet on 5 March 1990. The current leader of the Queensland Labor Party, Mr Peter Beattie, refused the barristers access to the cabinet documents, as such access would breach cabinet confidentiality and the Westminster traditions. The barristers could neither clear nor open up potential criminal charges, because Mr Beattie refused to open the vault.

Mr Beattie had stated on many occasions that the case has been investigated inside out and upside down, and he described the Morris-Howard investigation as a political stunt. I do disagree with Mr Beattie on this occasion. Because the documents were not available, the barristers recommended a commission of inquiry to get to the truth. They indicated that it was open to conclude that serious offences involving destruction of evidence, attempting to obstruct justice, perverting the course of justice, and so on, were far more serious than the matters in the Carruthers inquiry established by the CJC.

The Senate will be interested to know that the CJC was quite sure in 1995 that, when the decision to shred was taken, the Goss cabinet knew that Mr Coyne required the documents, and that it was after he had served notice on the Crown. This was further confirmed in fresh documents to the Committee of Privileges as recently as 3 December this year. But here we are, nearly two months later, and the Borbidge government is still deciding what to do—which I must say the Democrats find quite remarkable and also inexcusable.

The barristers were rightly concerned at how such serious conduct could have been contained in post-Fitzgerald Queensland for six years. They describe the Criminal Justice Commission's investigation as being 'inexhaustive', thus contradicting the statement made so many times that it had been investigated upside down and inside out. For my part, I can still hear the words of then CJC Chairman, Mr Rob O'Regan QC, ringing in my ears telling our committee in Brisbane that this case had been investigated to the nth degree, and that he had personally checked the file and found nothing in it.

We now find that on 16 August 1996 a senior Queensland QC, in a letter to Senator Ray on behalf of the Criminal Justice Commission, made the outstanding admission:

> The documents in question have never been seen by the commission, have never been in the possession of the commission, are not now in the possession of the commission and the commission has been unaware of their existence until their existence was revealed by the contents of your letter under reply.

That is the letter to the Chairman of the Committee of Privileges from the CJC. Not

prepared to have a conversion on the road to Damascus, the QC on behalf of the CJC says:

> It is not now possible to say what course the commission might have taken had it been aware of the existence of those documents.

In other words, the CJC has made a finding of fact on the Lindeberg allegations based on, admitted, incomplete evidence and it is not going to do anything about it. What a remarkable state of affairs. The QC further stated that the CJC 'has an obligation to be impartial.'

The same incriminating documents, which, I remind the Senate, Mr Lindeberg always said were hidden in the system, could have been obtained by the CJC. These same documents, examined by barristers Morris and Howard for the first time in six years, led them to make gravely serious charges. These documents were withheld from our committee in l995 and yet this case is supposed to have been investigated to the nth degree.

But it does not stop there, and this greatly concerns the Democrats because of our commitment to open and accountable government. The Morris and Howard report found a mystery involving the Queensland Crown Solicitor concerning a final piece of legal advice he gave to the department. Today, I want to tell the Senate that this so-called mystery can be solved. The document exists. It is one that has not been shredded. It is dated 18 May 1990, and the Democrats call on the Queensland government to immediately release it to interested parties but especially to Lindeberg and Coyne.

The significance of this last piece of crown law advice is not lost on the Australian Democrats. We are looking at the possibility of the Crown Solicitor in Queensland actively engaging in the commission of a serious offence to obstruct justice. It is advice which contradicts previous lawful advice he gave on 18 April 1990. I suggest that it is intolerable for this to remain unresolved. The people of Queensland must have confidence in the integrity of the crown law office.

Finally, let me remind the Senate that many thinking people are very concerned at how such prime facie criminal and official misconduct behaviour and injustices could have remained contained in Queensland's public administration for six years. I believe the CJC must explain its role, including the issue surrounding the tampering with evidence and the findings of stipendiary magistrate Noel Nunan in 1993. The police commissioner should explain his role, as must the information commissioner, the auditor-general and others. This affair is too vast for the present Connolly and Ryan inquiry to investigate thoroughly.

The Democrats have heard that the Borbidge government is reneging on its commitment to get to the truth of this sordid affair—only achievable through a commission of inquiry—because it would cost too much. Such an excuse is nonsense and contrary to the principles of responsible government in a democracy. This affair, unless addressed properly and thoroughly by the Borbidge government, may engulf it too, because the integrity of the crown and the state is at stake. These principles are no respecter of political parties or members of parliament. They say today, 'The Borbidge government must stop the delay. Six years of a concerted cover-up is long enough. Six years of injustice for those plainly affected by this affair is long enough for them and their families.'

I believe that Shreddergate, as somebody has called it, is an issue that demands resolution, and I call on the Queensland government to establish the commission of inquiry which it has promised, and to do so forthwith.

Tasmania

Senator ABETZ (Tasmania) (1.26 p.m.)—Today marks the nine months anniversary of the swearing in of the Howard government. That government was sworn in after having received the overwhelming endorsement of the Australian people on 2 March.

Senator Forshaw—Is this your state of the nation address?

Senator ABETZ—Mr Acting Deputy President, my friend Senator Forshaw interjects and asks, 'Is this your state of the nation address?' No, it is not; but what it is, Senator Forshaw, is the state of the state of Tasmania address. When I go through that with you, you will see that we, as the Liberal Party,

made significant promises to the people of Tasmania before the 2 March election and we have delivered on them in full.

When we came into government we had a huge task in front of us. Most Australians now fully accept that the budget situation was not a surplus, as promised by the then Minister for Finance, the now Leader of the Opposition (Mr Beazley). In fact, it was a $10 billion deficit. The railways were moribund; the industrial relations system needed overhauling; there were a lot of areas of government endeavour that needed to be addressed. Despite all those difficulties, the federal government saw fit to deliver on the Tasmanian package. The Tasmanian package was a special package in recognition of the needs of my home state of Tasmania.

Mr Acting Deputy President, I am pleased to say that my Liberal colleagues and I were involved in the drafting of the initiatives that we took to the people of Tasmania. The promises that were made are worthy of consideration. Let us look at what we have done in relation to them.

The first—and, I suppose, the most significant—promise was the Bass Strait passenger vehicle equalisation scheme, which we introduced as of 1 September 1996. So, within six months of being elected, we delivered on it and provided a rebate of $150, ranging up to $300 for a return trip. It is interesting to see what benefit that has been. In fact, we realise that, of the bookings over Bass Strait, 70 per cent are now emanating from the mainland. In other words, the people who are benefiting from this equalisation scheme are mainlanders visiting my home state of Tasmania. The flow-on benefit to all those small businesses and tourist enterprises within regional Tasmania, which allows them to grow and prosper, is clear.

Because of the increased bookings, the Tasmanian line has been required to put on eight new booking clerks. There have been substantial increases in the bookings and, for the current financial year, bookings on the *Spirit of Tasmania* are up by more than 30 per cent to 166,563 passengers. That is a boost to the Tasmanian economy in anybody's terms. I am very pleased to see that, despite the very difficult financial circumstances in which it found itself, the government delivered on that promise in full. The people of Tasmania and, indeed, the mainland are now benefiting from that policy initiative.

Linked very closely with the Bass Strait passenger vehicle equalisation scheme is our ongoing commitment to the Tasmanian freight equalisation scheme, which I remind honourable senators was introduced by a former Liberal government. The Labor government let it keep going, but there were no initiatives in relation to it. Then the Liberal Party gets into government again and we provide the Bass Strait passenger vehicle equalisation scheme. It has been a history of Liberal Party support for Tasmania in recognising the real disadvantage that is occasioned by Bass Strait separating Tasmania from the other parts of Australia.

In the past, the Tasmanian freight equalisation scheme was funded on an annual basis. We have now committed ourselves to a five-year funding plan. That provides certainty—and if there is anything that business needs in times of difficulty, it is certainty in relation to government policy. We have delivered that to the businesses of Tasmania to assist them in their enterprises, not only because we want to assist business, but because we are concerned about the jobs these businesses provide to Tasmanians.

There were a number of other initiatives, including the independent review of Tasmanian industry and employment. That has now been announced and I am pleased to say that the Hon. Peter Nixon will be undertaking that task. I note that it was a previous Liberal government that commissioned the Callaghan report into Tasmania's economy. It is vitally important for all Tasmanians to recall that these initiatives are building on the initiatives implemented by the previous Liberal government. It is unfortunate that Tasmania had to go through a 13-year period of a federal Labor government which did not allow for the continuation of our initiatives and far-sighted policies for the benefit of my home state. But I am sure Mr Nixon will do a magnificent job in assisting government, business and com-

munity organisations to come to grips with Tasmanian industry and employment issues, and assist us in providing better opportunities for all Tasmanians.

We committed ourselves to a $7 million funding, over the next three years, of the Inveresk redevelopment project. Those funds have now been committed and they will be used to clean up the old railway site, restore heritage buildings, improve water quality and redevelop the Elphin showgrounds for a mix of residential and cultural activities.

As a Liberal party we are also concerned about environmental issues—but, might I add, the real environmental issues; not the ones that you might get yourself onto the night TV news about because you are standing in front of a tree or a bulldozer, but those that are really important, such as water quality. I am pleased that the government has maintained its commitment to providing $7.8 million over three years to enhance the water quality and social amenity of the state's key waterways, including the Derwent, Tamar and Huon rivers, and the ongoing rehabilitation of the King and Queen rivers and Macquarie Harbour on the west coast. Given the recent discussions in this chamber on the Telstra legislation and the natural heritage bill, I look forward to the further benefits that my home state will gain from those important initiatives which are going to assist the people of Tasmania.

In the area of land care, as well—another important environmental area—there has been a commitment to providing funding of $2.5 million to assist the community Landcare groups. It is vitally important that we recognise the importance of landcare and water quality for our ongoing environmental security.

There were grants to Tasmanian scientists from the international science and technology program, and those grants will allow Tasmanian scientists to travel overseas to work with world leaders in the areas of science, engineering and technology. A major industry in my home state of Tasmania is the forest industry, and the wood and paper industry strategy will promote growth and investment in that important industry, including greater downstream processing, value adding, plantation development and farm forestry. To that, we have provided an extra $1.07 million.

One of the first major initiatives that we announced was the change in the woodchip regulations. It is a matter of grave concern to me that all Labor senators from Tasmania voted against those regulations and tried to scuttle them on motions moved by Green senator, Bob Brown. We have known for a long time that members of the Labor Party were in a dilemma in determining whether they would try to support the Green constituency, or the workers in the timber industries in all the regional areas around Australia and—given my comments today—in the regional areas of Tasmania. They sat on the fence and suffered the consequences on 2 March.

Since 2 March they have jumped off the fence firmly on side with the extreme Greens. As a result, they have put themselves on record—not only once, but twice—on motions moved by Senator Brown that they wish to repeal the new woodchip regulations which have provided so much hope to the forest workers and the communities that rely on the timber industry in my home state.

An interesting question to consider is how the honourable member for Lyons (Mr Adams) and, indeed, how the honourable member for Franklin (Mr Quick) would have voted on this attempt to scuttle the woodchip regulations had they been in the Senate, as opposed to being in the House of Representatives. I think that we may well have seen two very embarrassed Labor members of the House of Representatives.

For those of us who do travel around the state a lot as I do—

Senator Murphy—Ha, ha! You travel around the block in Hobart, do you?

Senator ABETZ—I see a lot of communities as I travel around the state, places such as Triabunna—where I was only a fortnight ago—or, indeed, Circular Head where I attended the show last weekend. Might I add, Senator Murphy, that I did not see any of your parliamentary colleagues, state or federal, at that show. That community relies on

the timber industry to a large extent and the people of that community were absolutely delighted with the initiatives that we had taken to support their livelihood and their regional towns. And they were absolutely outraged that Labor senators who had been going around before the election on 2 March saying, 'Vote for us. We will secure your jobs,' had combined with a Green senator on a motion—not once, but twice—to try to scuttle these regulations which have allowed—

Senator Murphy—Because they are flawed, that's why.

Senator ABETZ—They have allowed not only the maintenance of jobs, but the growth of jobs, as you ought to be aware, Senator Murphy. For example, Gunns are now going to be investing an extra $25 million in my home state, and other enterprises are being able to put on extra personnel.

Unfortunately, there is a lot more material that I would like to get through but I simply cannot, because of the lack of time. The situation is very clear. The people of Tasmania have had delivered to them promises which we made and which are providing very real benefits to all Tasmanians, right around the state of Tasmania. I look forward to further progress reports which will show the very real benefits that the Howard government is delivering to the people of my home state of Tasmania.

Republic

Senator FORSHAW (New South Wales) (1.40 p.m.)—As the sittings of this parliament draw to a close for the year, I wish to make some comments on a matter of great public interest: the issue of the republic. I have just heard Senator Abetz talking about progress reports and claiming that his government has honoured promises made. One of the promises that this government is running away from is its promise to allow the people a say in determining the important issue of whether an Australian should be our head of state. As with many other promises that were made before the election and have since been broken, one that the government certainly appears not too keen to keep is the promise to hold, on this important issue, a convention and an indicative plebiscite of the people.

I am advised that, not too many moments ago, the Prime Minister (Mr Howard) delivered his state of the nation address, and that not once did he refer to the issue of whether an Australian should be our head of state. One would have thought that he would at least have given some passing mention to the issue, notwithstanding his strong and avowed monarchist views.

There is no doubt that, increasingly, the public in Australia believe that, as we enter the new millennium in the year 2000, an Australian should be our head of state. Just as we entered this century moving to independent nationhood, we should also be at the end of this century considering this very important issue. Just as the conventions that were held in the 1890s were about Australia becoming an independent nation with its own constitution, we should now equally be focusing upon the issue which really will deliver full independence, that we should have an Australian as our head of state. I would like to make a few observations and also deal with some of the misinformation, smokescreens, obfuscation and chicanery indulged in by the government to divert attention from the real issue.

As I said at the outset, the real issue here is whether the monarch of another country—the United Kingdom—should continue to be the head of state of Australia. I believe that we are in the rather absurd position of being one of the few countries in the world that accept a foreign head of state as our own. In the Commonwealth of Nations—which used to be called the British Commonwealth, but no longer; at least that change has been brought about—there are some 51 nations who are members of the Commonwealth. Of that number, only 21 are monarchies; the remaining 30 are republics. Of the 21 monarchies, 16 have the British monarch as their head of state—and Australia, of course, is one of them.

A vast majority of the members of the Commonwealth of Nations are independent countries with their own head of state, some with a monarch, such as Malaysia, but most

of them with a president as the head of state. Nevertheless, all of those countries are full members of the Commonwealth of Nations. If we were to move to have an Australian as our head of state, we will be no less so. In fact, I believe we will be a more free and independent member of the Commonwealth of Nations.

Let us go wider and look at the situation in the rest of the world. We will see that, outside of the Commonwealth of Nations, except for two cases, no other country in the world has a foreigner as its head of state. Which two countries outside of the Commonwealth of Nations have a foreigner as their head of state? First, there is Andorra. Andorra is in the unique situation that it has two heads of state; one being the President of France and the other being the Spanish Bishop of Urgel. I am sure all honourable senators have it stored away in their collective memory that Andorra, like Australia, has a foreigner as a head of state but, unlike Australia, it is even more bizarre and has two.

The other country is, of course, the Vatican. The Vatican is in the unique position in that the head of state of the Vatican may be a citizen of another country. But upon attaining the papacy the head of state of the Vatican becomes a citizen of the Vatican. When we put aside those two examples, because of their particular peculiarity in how their head of state is appointed, we will not find a country anywhere else in the world, outside of the Commonwealth of Nations, that is like Australia and has a foreigner as the head of state.

People on the government side and those who support the retention of the British monarchy as our head of state would say, 'So what? Why should Australia be like the rest of the world?' This is the old, 'If it ain't broke, don't fix it' argument. I would have been a bit more attracted to that sort of argument if it had been put forward for Telstra. I mean, there we have a thriving, efficient, great public enterprise that the government says we should change and sell off. When we ask: 'Why should we sell it off?' We are told that that is what they are doing in Cuba, Albania and Poland—that the rest of the world is having privatised telecoms and that Australia should follow the lead and be like the rest of the world.

But, when it comes to the republic and the issue of having an Australian citizen as our head of state, it is different—the rest of the world is an aberration and Australia has got it right! That argument is further advanced by the proposition that, 'If you become a republic, you will end up like Iraq or Iran. Our democratic system of government will fall to pieces. The country will collapse. Our traditions of fair play and freedom and democracy will all disappear. These republics are really terrible places.'

Of course, that is an absurd argument, but it is one that is put. Only a few days ago, I heard a member of the government putting forward those sorts of arguments. Maybe it was being done in jest. Nevertheless, it is this spurious line that is put out, supposedly to defend an archaic institution for Australia; namely, having the British monarch as our head of state.

Let us recall that in 1966 we changed our currency from that which applied in the United Kingdom—the system of pounds, shillings and pence—to decimal currency. That had a far greater impact upon this country and its economy than anything emerging from changing our head of state could have, but we did it. We did it under a Liberal government. Former Prime Minister Menzies actually changed our system of currency to one which was no longer the same as that in the United Kingdom; but today they cannot bring themselves to accept that we can have an Australian as our head of state, which will not have anything like the ramifications for our way of life that those changes had.

Let us consider a few of these other arguments. For instance, the argument is put that Australia's great democratic history all derives from having a constitutional monarchy. Frankly, I think that is an absurd proposition. It just happens that Australia is one of the luckiest countries in the world, as we know, and has enjoyed freedom, peace and stability, by and large, for its entire period of white settlement. The Aborigines, quite rightly, would have a different view; but, in the last 200 years, we have been free from such

things as large-scale civil unrest and foreign invasion.

The government would want to argue that that is all because we have had the Queen of England and, prior to her, the King of England as our head of state, forgetting that their accession to the throne came about as a result, initially, of the execution of the King of England—Charles I—in 1649 and the removal of a later monarch of England in 1688. So, there is an interesting history there, which no doubt on another occasion I will have a chance to go over to demonstrate that a lot of this supposedly peaceful society that we have has nothing at all to do with the English monarchy.

What it does have to do with is the fact that Australia, geographically, has never had to share a border with any other country. Therefore, we have been in the unique position—compared to a lot of other places, such as Europe particularly and the Middle East—where we have not had the same tensions, whether they be racial tensions, nationalist movements or whatever, that have characterised a range of other countries. I do not believe that that peace and stability will change if we happen to change our head of state.

In the remaining minute or two, let me very quickly indicate why I believe we should have an Australian as head of state. The first thing is that it is an absurdity today to have a foreigner as our head of state. The question is: we are Australia, so why should we have a British citizen as our head of state? When the world focuses on our country in the year 2000, when we host the Olympics, it should be an Australian head of state who opens those Olympics, not the head of state of the United Kingdom, whether it be Queen Elizabeth, the Queen of England at the moment, or her successor, something that we have no control over. It should be somebody who will actually be in the stand barracking for Australian athletes, not somebody who was actually supporting Manchester, which was our rival when the City of Sydney was selected to host the games.

I believe that as we enter the new millennium, the year 2000, it is time we finally grew up and had an Australian as our head of state. And it is about time the Prime Minister (Mr Howard) understood that, notwithstanding his personal views on this matter, this is important for the nation. He should move forthwith to allow the people to have a say, and honour those promises he gave at the last election on this very important issue.

Logging and Woodchipping

Senator MURPHY (Tasmania) (1.55 p.m.)—I rise to speak on a matter of public interest which is also one of public importance. It is probably one of the most disgraceful situations that exists in the forest industries of this country—in Tasmania, and maybe in other states. I have a very firm view that the officers of the Tasmanian forestry commission are corrupt. I believe they may well be receiving financial payments for the actions that they have taken in colluding with certain other players in the industry in that state.

In the short period of time I have available I will endeavour to prove that statement, which I do not make lightly. The circumstances in the forest industry, not only in Tasmania but maybe in other states of Australia, are so bad that they will put into the shadows the circumstances in Papua New Guinea that led to the Barnett inquiry. We have a situation in this country where we import in excess of $2 billion worth of forest products. Yet, in Tasmania, anyone who is not in the club, not already in an existing industry, cannot get a look-in. Indeed, the forestry commission will go so far as to take legal action to stop developers who are proposing to bring about new processing facilities which are totally export orientated.

I believe the officers are corrupt, although when I started to read a transcript of when the commission was before the House of Assembly in something like an estimates process on Thursday 5 December, I really began to wonder. Mr Bacon, who is the shadow minister for forests, asked this question:

> Just going back to my previous question, would it be possible for you to give us volumes of category 1 and category 2 logs that have been produced?

Mr Rolley, who is the chief commissioner, replied 'Yes'. Mr Bacon then asked:

Produced, as opposed to sold?

That is a very important point. Mr Beswick, the minister, said:

What is the difference?

Well, what a clown he is—that just gives you an idea. The minister does not even know the difference between sawlogs that can be produced from a forest versus sawlogs that actually get sold. Of course, the chief commissioner knows and what Mr Rolley went on to say was very interesting. He said:

Every single cat. 1 that is produced is sold; cat. 2 sawlogs, as I was saying to you before, the specifications will vary depending on the market.

What a load of rubbish. That is a complete and utter lie to start with, because the specifications for category 2 sawlogs are clearly set down in legislation. This bloke is a liar, he is corrupt, and if something is not done about it then I do not know what we are going to do in terms of the forestry operations in Tasmania. It will be a sad day if we can never get to a point where we can really benefit from the forest resources we have in this country.

I raised the question about the regulations that are currently in place here as they relate to export woodchips. Senator Parer, you might be interested that your regulations do have a problem. They are deficient with regard to the requirements they place on sourcing of material for export woodchips. The licences are deficient, and even your minister does not know that. He put out a press statement making claims that he was going to investigate certain issues raised with him in the House of Representatives. As I understand it, he wrote to the shadow minister indicating that he was seeking the basis of those claims.

Let me tell you, Senator Parer, the minister was well aware of those claims. Indeed, a number of Liberal members received letters from the CFMEU's forest division with respect to that, yet there has been no response at all. And you still have the likes of Harris Daishowa refusing to take sawmill residues as a source material for export woodchips. This is a very important issue and Senators from all states ought to be aware of it.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! The time for matters of public interest has expired.

QUESTIONS WITHOUT NOTICE

Private Health Insurance

Senator NEAL—My question is addressed to the Minister representing the Minister for Health and Family Services. Roy Morgan Research has revealed that only 10 per cent of lapsed private health insurance members will be tempted back by the rebates and only 30 per cent of present members will be encouraged to remain members as a result of this government's rebates. In light of this and of the Government Employees Health Fund further eroding the value of the rebates by announcing premium increases of nine per cent, will the government admit that the rebates have been a complete failure?

Senator NEWMAN—Both the minister and I are aware of the latest survey but the advice which I have received from the minister is that one should treat the figures in the survey with some scepticism. At one point, for example, it suggests that 48 per cent of Australians have some form of health insurance. The real number is in fact around 40 per cent, so there is a 20 per cent error margin on the findings.

Secondly, there is strong evidence of agreement bias in the survey: 56 per cent of respondents agreed with the proposition that the Medicare levy should be paid by everyone whether or not they have health insurance; and 67 per cent agreed with the directly contradictory proposition that there should be a choice between paying the Medicare levy and private health insurance; that you should not have to pay both.

Against that sort of background, it is questionable as to how reliable or how useful the survey is in gauging public opinion. There is no use commenting on the fact that the survey claims that 72 per cent of people support the inquiry or that 51 per cent of people support changes to Medicare, given the obvious unreliability of the figures contained in the report. What we do know is that, if action is not taken to stem the flood of people leaving private health insurance, Medicare is in crisis.

Senator NEAL—I have a supplementary question. Bearing in mind that the rebates have not been effective in stemming the flow, wouldn't the $600 million that you have spent—

Senator Hill—This is one of the problems in picking up questions from others.

Senator NEAL—I will wait until the Leader of the Government in the Senate has stopped interjecting.

The PRESIDENT—Order! Senator Newman is entitled to hear the question being put to her.

Senator NEAL—Does the minister accept that the $600 million that has been spent on private health insurance rebates—and this figure was confirmed by the Secretary to the Department of Health and Family Services in the recent estimates—would have been better spent on providing further funds to public hospitals rather than being wasted in this way?

Senator NEWMAN—Clearly, Senator Neal is operating under a misconception. Those funds have not been spent. They are to be spent. It is not coming into operation until the middle of next year, which does tend to influence, I would have thought, the views of people who were surveyed when they did not yet have the money in their pockets. Senator, I do not think that your assumption is very reliable when you do not even know that it has not yet been introduced. If we did continue simply to put that money into the public sector and did not, at the same time, make sure that the private sector flourishes, as I said earlier—and this was recognised by the founders of Medicare when it was introduced originally—Medicare would be doomed.

Interest Rates: Family Tax Initiative

Senator McGAURAN—My question is to the Assistant Treasurer. Minister, this morning the Reserve Bank announced a further cut in official interest rates, the third since the election of the coalition government. The family tax initiative also starts on 1 January, as you would be aware. How much will the reduction in interest rates and the family tax initiative help families?

Senator KEMP—This is a very good question from Senator McGauran. He is absolutely right. This morning, the Reserve Bank cut official interest rates from 6.5 per cent to six per cent. This is unquestionably—

Senator Conroy—Interest rates are going backwards!

Senator KEMP—Senator Conroy said that interest rates are going backwards. Well, they are; they are going down. That is exactly what is happening to interest rates. This is good news. This is good news for Australian families who own homes; it is good news for small business. It is great news for everyone but the opposition. Senator McGauran, I am pleased to report that the banks and non-bank home lenders are already announcing that they will further cut their home loan rates in response to the official cut in interest rates—and in full. Aussie Home Loans has cut its variable home loan rate to 7.49 per cent and AMP has cut its priority one loan to 7.47 per cent. St George has cut its owner occupied home loan rate to 8.25 per cent.

Senator Murphy—What about the banks?

Senator KEMP—'What about the banks,' says Senator Murphy?

Senator Murphy—Yes, what about them?

Senator KEMP—Okay, this is 'what about the banks'?, Senator Murphy: the Commonwealth Bank has cut its variable home rate to 8.25 per cent, the first of the major banks to do so. Thank you, Senator Murphy, for the question; it is much appreciated. Standard variable home loan rates have not been so low in almost two decades. Labor could not achieve loan rates this low in its 13 years of office. Senator Conroy, you are fairly new to this place but you may remember that, under the Labor Party, under these heroes on the front bench of the Labor Party, under Senator Faulkner, home loan interest rates peaked at 17 per cent under the Keating government. What an absolutely appalling record!

For a family with an average $100,000 mortgage, the benefit of the latest 0.5 per cent cut by the banks is worth around $40 per month and brings the total benefit to a 2.25 per cent cut since the election. That is equivalent to almost $188 per month. The reduction

in interest rates is a reward for the Australian people. It is a reward for wage restraint and for supporting the government in its efforts to tackle the budget deficit.

The benefits to families do not stop with lower interest rates. Families are getting a great Christmas present in the form of lower interest rates. They will also be receiving a magnificent New Year gift. The family tax initiative will be delivered from 1 January and is worth $1 billion per year to Australian families. For eligible families, this is worth $200 per child per year. Single income families with at least one child under five will receive a further $5,000 bonus. For example, a single income family with two children, one of which is under five, will receive a benefit in the order of $900 per month. Two million families will enjoy this benefit. If Senator McGauran wants to know what is happening to credit card interest rates and other matters, he might like to ask me a supplementary question.

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise in the chamber.

Senator McGAURAN—Madam President, I ask a supplementary question. I am interested in the credit card rates. I ask the minister to expand on that matter.

Senator KEMP—The Westpac Banking Corporation has announced a reduction—

Senator Robert Ray—Madam President, I raise a point of order. Senator McGauran simply said that he was interested in it. He did not actually ask a supplementary question.

The PRESIDENT—It is very difficult to know. I think that was Senator McGauran's way of asking a supplementary question.

Senator KEMP—It was a very good supplementary question. I thank Senator McGauran. It was very perspicacious. The Commonwealth Bank cut overdraft and loan reference rates for corporate borrowers to 9.25 per cent from 9.75 per cent. It cut its overdraft and loan index rate for commercial borrowers to 9.75 per cent from 10.25 per cent. It has also cut credit card rates on its mastercard, visa and bankcard with up to 55 days interest free to 15.60 per cent from 16.10 per cent.

What has happened today is exceedingly good news for Australians. It is exceedingly good news for Australian families. It is exceedingly good news for Australian companies. The only people who are moaning and groaning about it are, as one would predict, the Labor Party.

Taxation: Cooperatives

Senator HOGG—My question is addressed to the Assistant Treasurer. Are you aware of the bitter opposition by rural cooperatives to your unbelievably mean-spirited proposal to change the tax treatment for cooperatives of certain loan repayments? Have you consulted with representatives of the cooperatives movement on this measure? What will be the effect of this measure on cooperatives such as United Milk Tasmania, Macadamia Processing, Mypolonga, Mackay Sugar, Ardmona, Golden Circle and hundreds of other rural cooperatives and their thousands of small shareholders?

Senator KEMP—I have tried to cut through the contrived passion in that speech by Senator Hogg to get to the point he was seeking.

Opposition senators interjecting—

The PRESIDENT—Order! There is far too much noise on my left.

Senator KEMP—In the budget, the government announced that it was repealing paragraph 120(1)(c). The net effect of this paragraph is that a marketing cooperative can claim an effective 200 per cent tax deduction for capital expenditure, full depreciation for the cost of the asset and deductions for capital repayments if the assets and loan come from the government. It is widely regarded that that section in the act is an anomaly. It allows double deductions for capital expenditures. Double deductions can distort investment decisions by cooperatives as well as provide them with a competitive advantage in the marketplace. The government has consulted widely with cooperatives and interested members of parliament.

Senator Woodley—That is not what they told me.

Senator KEMP—People tell Senator Woodley a lot of very strange things. There has been wide consultation with cooperatives and their associations and members of parliament. We have indicated that, under the transitional arrangements, cooperatives must be contractually committed to acquiring an asset before 20 August 1996 and have a loan agreement facility in place before that date. Draw-downs of funds under the loan agreement after the budget date to acquire the asset are regarded as loans in existence as at 7.30 p.m. on 20 August.

Under the second transitional arrangements, the directors had approved a business plan which anticipated the acquisition of an asset before 20 August 1996. That approval is recorded in the minutes of the company to which the cooperative is contractually committed to a loan. In other words, it has entered a contract binding on both the cooperative and the vendor to purchase those assets by 31 December 1996. The government has listened to people. We have put in place transitional arrangements that we think are fair and equitable. We have consulted. What we now have in place is a sensible arrangement.

Senator HOGG—Madam President, I ask a supplementary question. I thank the minister. Is the minister aware of the intention of Senator Boswell and Senator O'Chee to cross the floor to join Labor in voting down this measure? Why should they not put the interests of their rural constituency in front of your ideologically motivated and mean-spirited measure?

Senator KEMP—No. I am not aware of that. I have to say—

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise on the left of the chamber.

Senator KEMP—Compared with the divisions on your side, which are extensive in the extreme, as you well know, it ill behoves you to raise such an issue.

Taxation: Family Benefit

Senator EGGLESTON—My question is addressed to the Minister for Social Security. On 1 January, two million eligible families will begin receiving the coalition government's family tax payments worth a total of $1 billion. Could the minister tell the Senate how this initiative has been received and who will benefit.

Senator NEWMAN—This is a pretty important question to an awful lot of Australians. The family tax initiative was one of the centrepieces of the coalition's election commitments to deliver a better deal for Australia's families who had been hurting so badly under the last 13 years of the Labor government. It is specifically designed to assist families with children and it recognises the cost of raising children. It recognises just how much children cost to feed, cloth and educate. It also promotes choice for two parent families in deciding whether either one or both parents will go out to work, particularly during the early years of a child's life.

The benefits of the package have been recognised by many independent observers. NATSEM analysed the initiative and found that less than one-third of all families with children will receive no benefit at all. In fact, my department's analysis is that 80 per cent of families with children will be eligible. The families who miss out are the rich who do not need this government assistance, as the Australian Family Association recognised.

The Australian Family Association said that they are pleased to see that the government's family tax package impacts favourably on all but the wealthiest families. Geoffrey Lehmann, writing in the *Australian*, also recognised that the package is very well targeted. He said:

> NATSEM found that 40% of the total gains will go to families in the bottom 30% of the eligible family population.

The biggest beneficiaries of all, I am glad to say, will be sole parents. This was confirmed by the Brotherhood of St Laurence who said:

> But there is no doubting the value of this payment to low-income families. It is the largest increase since the late 1980s . . . and will lift some basic incomes by around 5% of the poverty line.

For a sole parent pensioner with one child, the extra $700 p.a. far outweighs the $2 per week increase in the Guardians Allowance granted in the last budget.

To ensure that all Australians are aware of the benefits they can access from the package—its start date on 1 January—a major advertising campaign is already under way. Why, then, would the ALP be mounting a scare campaign which can only confuse families and make them think that they will not be eligible? It is pretty mean-spirited, especially close to Christmas, even for such a desperate and mean-spirited mob as we have opposite. It was interesting reading Alan Ramsey this morning. Maybe he gives us a bit of a clue. He said:

. . . it did more than simply confirm Labor's ultimate ineffectiveness in a Senate the Howard Government does not control in its own right. It emphasised the reality that Labor, for the time being, really doesn't count for a row of beans in the conduct of national political life.

The Opposition's reaction. . . . . has been to turn feral.

Have we seen that in the last few days in this chamber! So Alan Ramsey has his finger on the pulse. Gareth Evans has attempted to dampen an initiative that is so positive for Australian families and for Australian children, and that just shows how feral the ALP has become.

Taxation: Mining Prospectors

Senator BISHOP—My question is addressed to the Minister for Resources and Energy. Is it not true that prospectors generally spend years proving up mining leases for gold and other minerals to get them to a position where they can sell them to a mining company? Is it not also true that prospectors have incurred vast sums in this process, sure in the knowledge that when they can eventually sell such leases it will be without incurring income tax on the proceeds? Is it a fact that a vast proportion of Western Australia's major mining projects have first been discovered by such prospectors? In view of the importance of mining to the Western Australian economy, why shouldn't Western Australian Liberal senators put Western Australia first and vote against your outrageous proposal to retrospectively tax the sale of mining leases?

Senator PARER—This is really a question for the Minister representing the Treasurer. However, I will respond to it.

Senator Bob Collins—We thought we would get a better answer from you.

Senator PARER—Thank you, Senator Collins.

Senator Faulkner—We thought you would just stand there for 38 seconds, as you did last week, and say nothing.

Senator PARER—It would be more productive if I stood here and said nothing, rather than what Senator Faulkner says in this place.

Honourable senators interjecting—

The PRESIDENT—Order! There are far too many interjections.

Senator PARER—The question raised by Senator Bishop is one that, as I said, relates specifically to the Treasurer, but let me just put it into perspective. What the measure means is, where a prospector has gone out—and I think you talked about leases—and discovered a resource, there has been for quite a number of years, as I understand it, a situation where, when that prospector then onsold that particular lease, if it was a lease at that stage, they paid no capital gains tax. As a comparison with that, I might tell you I was never very supportive of the capital gains tax when it came in, particularly in regard to the mining industry.

Senator Robert Ray—You have never supported a tax in your life.

Senator PARER—You are right, Senator Ray. Neither have you, particularly when you pay them yourself. The point is that where a company in another aspect does have a lease or a prospecting area and goes into a farm-in position, it in fact pays capital gains tax on that farm-in, which I always thought it was somewhat inequitable because, in many cases, the farm-in arrangement did not involve cash. In fact, it involved spending certain amounts of money to gain an equity interest, whether it be 30 per cent or whatever that equity might be.

However, the view taken by the government was that this was an anomaly and that it had to be corrected. My understanding is—and I have not been brought up-to-date in recent times about this—that the date on which they will be supplied will be some time in the future. I have forgotten when that is, but I can find out.

Social Security: Charities

Senator KERNOT—My question is to the Minister for Social Security. Is it the case that the government has allocated an extra $24 million over four years to church and charity groups to cater for an anticipated increase in demand for emergency relief following your cuts to the social security safety net? How do you respond to comments by a spokesman for the Salvation Army, Mr John Dalziel, that charities such as the Salvos and St Vincent de Paul will simply not be able to cope with the extra demand you will cause, despite the additional emergency money? How does it feel to have your policies exposed and condemned by the Salvation Army? What sort of a government is it which has a deliberate policy of creating an emergency situation where increased numbers of people have to rely on charities to feed and clothe themselves? You talked about mean spirited. How is that for mean spirited?

Senator NEWMAN—I will not comment on the quality of the question because it does seem to be a typical bleeding hearts cry from the Australian Democrats. But what I will say is that it was a gross misrepresentation of why extra funding was being provided in this budget for the emergency relief of people in need. The government had a very clear recognition that the emergency relief funding that was provided by the previous government—and, after all, the poverty that we have inherited in Australia has been the result of 13 years of Labor rule—was not sufficient to help out those agencies which were providing the assistance. Consequently, those extra funds over four years were badly needed.

In addition, we have undertaken to review the formula on which they are based. That is something which for a long time the welfare groups have been asking to be done and which had not been done by the Labor Party. So that is needed. The extra money was not being provided because we were going to be somehow tough and unkind. The extra money was needed because the need was already there.

I believe that by making the penalties in the social security system fairer and more equitable more people will comply with departmental requirements. I say fairer and more equitable because, under the previous government, the penalties in the Department of Social Security could have ended up, for people who had been unemployed for a long time, being an indeterminate length—that is, an incredible length of time they would have been off all money altogether.

Under the reforms which we are proposing in this budget legislation, which is coming to the Senate shortly, I hope, people will not be on it for an indeterminate length; they will be on it for a finite period—six weeks for the first breach of the regulations and 13 weeks for the second or subsequent ones. That has made it more certain. It has made it more understandable for those who break the system. That is easily understood by allowees. Surely that is, therefore, fairer for people to know what it is likely to be. We are talking about situations where people refuse—

Opposition senators—Ronnie! Welcome!

Senator NEWMAN—Madam President, they do not seem to want to hear.

The PRESIDENT—Order! There is far too much noise on the left of the chamber.

Opposition senators—Good on you, Ronnie!

The PRESIDENT—Order!

Senator NEWMAN—We are talking about people who refuse a job or people who do not declare that they are already getting income. We are talking about people who do not turn up to job interviews that have been organised for them. These are the circumstances in which people can be taken off social security entitlements. That is because it is their neighbour or their taxpayer friends who are paying for these benefits. It is fair.

We are not out to put people off benefits. We want voluntary compliance; we want the

rules obeyed so that people can be supported when they need help. People try to muck around with the system which is long established. It is not something new that we have introduced; we are trying to reform a system that is already there. The emergency relief funds have been there for when people get into real difficulties. They are not there for people to go on to a long period of emergency income support.

What the Senate may be interested to know, as I was, is that my department has advised that 20 per cent of the people who are breached for these kinds of activity test failings, in fact, do not come back to the department at all afterwards for two reasons: firstly, because the pressure of having to find work means they actually do find a job; and, secondly, there is a group of them who already have a job and who are not declaring it.

Senator KERNOT—Madam President, I ask a supplementary question. You can blame Labor for a lot of things—and you are—but you cannot blame them for your decision to take $1.7 billion out of the pockets of the poor in this country, all of whom you call rorters. Every vulnerable person in this country is a rorter according to you. What do you say to the Salvation Army's comments:

> The government can't say on one hand we are going to take people off those benefits and on the other the Salvation Army can fix it up.

Is that a summary of your social security policy? Thank God for the Salvos!

Senator NEWMAN—This has all arisen out of a press report which inaccurately covered what I had been saying.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator West—Blame the media.

Senator NEWMAN—No, I am not blaming the media; I am saying it gave a misrepresentation of what I said. I was asked a question: what will people do in these circumstances? I said that they will do what they always have. I then went on to say that there is still emergency relief, as there has been in the past, and that we were increasing the amount of the emergency relief. I too thank God for the Salvos, St Vincent de Paul and all the myriad of other organisations around Australia that for a very long time have been giving emergency relief, which is provided by the Commonwealth, to people in need.

Senator Kernot—You are forcing these people onto welfare.

The PRESIDENT—Order! Senator Kernot!

Senator NEWMAN—I would hope that charity and community support will never end in Australia. But I do expect that when there are rules by which public taxation is dispensed to those in need the rules will be obeyed. I think most Australian taxpayers would believe the same thing. *(Time expired)*

Unemployment: Labour Market Assistance

Senator COOK—My question is addressed to the Minister for Employment, Education, Training and Youth Affairs. In answer to a question yesterday on the subject of labour market assistance and the review being conducted by your department, you stated:

> The groups consulted were very supportive of the government's policy direction.

You also referred to a submission from the Federation of Ethnic Communities Councils of Australia and quoted:

> FECCA welcomes the Government's aim of simplifying clients' access to Government services through the establishment of a one stop agency.

Minister, is it not true that your quotation was both selective and misleading? Is it not true that FECCA's view of your government's proposals is quite negative? Didn't FECCA also submit that they view 'with considerable concern that significantly fewer job seekers will receive assistance in 1996-97' and that they have 'significant concerns when the government's competitive framework is applied to market assistance'?

Senator VANSTONE—Of course when you produce some excerpts from a very extensive range of consultations, which the government indicated it was going to undertake and lived up to that commitment—it consulted very broadly around Australia and received hundreds of written submissions and held a number of consultations—and if you

pick out one sentence, two sentences or three sentences, you are being selective. As to being misleading, no, I am not being misleading, because the truth of what FECCA said is in the sentence that I quoted. They may have said other things as well but they certainly did not say anything that made the quote I used yesterday untrue with respect to what they were commenting on.

In other words, what you need to accept, Senator, is that there are people in the community who are prepared to come to a consultation and say, 'I agree with this aspect' and 'We give you wholehearted support on that.' They might go on and say, 'There are other aspects that I have concerns about but, within that framework, the way you are heading is an appropriate way to head.'

So my answer to you is yes, of course it is selective. Unless you give 100 per cent of what someone said, you are being selective. That follows, and I notice you are nodding and accepting that. Do I think it is misleading? No, I do not.

Nonetheless, Senator, since you raised the question of the consultations that we have had and what people have had to say, you might be interested in what Centacare Australia have had to say with respect to the labour market reforms that were announced yesterday as a consequence—the amendments to them anyway—of those consultations. I quote:

> Centacare Australia, the peak social services network for the Catholic church in Australia, praised the labour market assistance reforms announced by the government yesterday. They congratulated the government on a wide-ranging consultative process. They went on to say that the shift in emphasis by the government demonstrates a new sophistication with respect to highly disadvantaged job seekers.

They went on further to say:

> The reforms announced today are a significant step forward.

If you are not interested in what Centacare had to say, perhaps you would like to listen to what the Australian Catholic Social Welfare Commission had to say. It said:

> Mr Toby O'Connor, National Director of the Australian Catholic Social Welfare Commission, praised the reforms made to labour market assistance by the Howard government, which were announced today—

That is, yesterday. It continues:

> Senator Vanstone is to be congratulated for the extensive consultations she has initiated across Australia with key community representatives.

If you are not happy with that, perhaps you would be interested in this bit:

> The commission welcomes the way the community sector views have been taken seriously by the minister.

Or perhaps this bit:

> The extension of assistance to the most disadvantaged job seekers from 12 to 18 months, as well as a strong commitment to assist disadvantaged metropolitan and rural communities signify the government's resolve to tackle the unemployment crisis in a comprehensive manner.

Last, but not least:

> This initiative marks a new era in the government's inclusive approach to consult with relevant peak non-government church and community sector organisations.

In summary, I am very happy with the response to the consultations we have had. I am pleased that we have been able to make further amendments to satisfy concerns that people raised. I fully endorse a wide consultative process and I do not expect that everyone will agree 100 per cent with everything the government is doing. To get such broad endorsement of the reforms we have made from people such as the Australian Catholic Social Welfare Commission and Centacare Australia is a matter of great pride to this government, not something you were able to achieve.

Senator COOK—I wish to ask a supplementary question, Madam President. I thank the minister for admitting that she has selectively quoted from FECCA. I will check all of the other quotes in full to see that her record of selectively quoting is not applicable there as well. My question was about FECCA. You admit to the fabrication. Is it not true that FECCA also had further concerns—

Senator Vanstone—Madam President, at no time have I admitted to a fabrication in this respect.

The PRESIDENT—Order! It is not a point of order, Senator Vanstone.

Senator Vanstone—It is, because I take it as an offensive remark and he should withdraw it.

Senator Faulkner—On the point of order, Madam President, or non-point of order: Senator Vanstone rose from her seat and did not take a point of order. I do not believe you should have recognised—

Senator Hill—Why do you think she stood?

Senator Faulkner—I do not know why she stood and neither did anyone else. I do not believe you should have recognised her on that basis. Can I also say that, quite clearly, the point of order has no substance. Any number of attempted points of order have been ruled out on the basis that it is absolutely improper for a senator or minister to interrupt a supplementary question in the manner she did. I ask you to rule the point of order out of order. I also ask you not to recognise her in future when she flouts the standing orders in that way.

Senator Alston—On the point of order, Madam President: standing order 193(3) clearly does prohibit the imputation of an improper motive. For Senator Cook to simply assert baldly that Senator Vanstone had admitted to a fabrication is tantamount to alleging an improper motive.

Senator Bob Collins—Oh, God! Go back to the bar, Richard.

Senator Alston—I will explain it more clearly than that. It is saying that she made it up—that she is lying, and that she has admitted to lying. That is even worse. You cannot do that in a question or a supplementary question or in any other form of address in this parliament, Madam President. You ought to rule that out of order. If Senator Cook wants to take note and come to that conclusion, he can. But to assert it in a question in that form is putting Senator Vanstone in an invidious position. More importantly, it is simply saying up-front that she is guilty of an improper motive, and that is contrary to standing orders.

Senator COOK—Madam President, on the non-point of order—

Senator Vanstone—Don't you have any questions to ask?

Senator COOK—Yes, I have, but you took a point of order and I am replying to you because it is a fabrication. The point of order has no standing.

Senator Alston—You are not ruling on this.

Senator COOK—I am asserting to the chair in speaking on the point of order that the point of order has no standing, and I am doing that within standing orders, Senator Alston, unless you do not understand standing orders.

Senator Vanstone in answer to this question said that she admitted to selectively quoting from the FECCA press release and then went on to justify that she always does so. The FECCA press release was accurately quoted by me as to the qualifying points. Therefore, to select a favourable point from the press release and to ignore the non-favourable points is to fabricate the evidence. So the term 'fabrication' in these circumstances is a proper and accurate use. There is no point of order.

The PRESIDENT—As I understood what Senator Cook was saying initially, the use of the word 'fabrication' may be used, but to use it in a way that imputes a motive to Senator Vanstone is not an appropriate way of using the word in the circumstances. What has occurred subsequently is debating the issue and ought to be dealt with in taking note of answers.

Senator Cook, you can ask your question and allege that there may have been fabrication, but you cannot allege an improper motive in using the word.

Senator COOK—I accept your ruling and I will ask my question that way. I will go on. Is it not true that FECCA also had further concerns in relation to specialist services for migrants, the 'capacity to benefit' test, and the advisory and complaint mechanisms? Did not FECCA's submission assert in its opinion that your program has serious implications for people of a non-English speaking background and that this group will be significantly disadvantaged by the new arrangements?

Minister, will you now apologise to the Senate for misleading us?

Senator VANSTONE—I thank you for that question because you raise the 'capacity to benefit' test. I do not know whether you were here yesterday—perhaps you were just not listening. I did indicate that in the consultations there was some concern about that. That is exactly why we have introduced a community support program.

I imagine that FECCA, if it does not already know about the introduction of that program in response to concerns that were raised about it, would be very happy. I would be happy for FECCA to put out a press release welcoming the introduction of the community support program.

Senator Cook, you can rattle on all you like about people fabricating things. The bottom line is that I cannot come in here and give you any piece of information out of wide consultations without selecting a piece, otherwise I would have to give you 100 per cent of what everybody said. You might choose to focus on other aspects—as, of course, you have by coming in here today—but the truth of what FECCA said lies in the sentence that I quoted.

You must understand that the days have gone when the government had to be all on side or not on side. You are actually allowed to express a view that agrees with some bits but not with others—a new thing for you. *(Time expired)*

Senator Cook—I ask that Senator Vanstone table the documents from which she is selectively quoting.

Senator Vanstone—You can ask what you like.

Energy Resources

Senator MARGETTS—My question is directed to the Minister for Resources and Energy. I refer the minister to his response to a question from Senator Sandy Macdonald on 9 September 1996 following the inaugural meeting of the APEC energy ministers, particularly to his final comment that 'energy policy must take a long view and not be formulated with a short-term perspective'. Given his stated commitment to the long view, why is it that the minister's department is investing so little in energy conservation and renewable energy research, particularly when compared with our APEC competitors such as Japan, which is investing in excess of $600 million annually in these areas through the new sunshine program? Does the minister not agree that funding in this area has a dual benefit of assisting and reducing greenhouse emissions and of promoting industry opportunities in this growth sector?

Senator PARER—I thank Senator Margetts for that question. Let me say right from the outset that we would like to be spending more money on new energy type programs. Just to correct Senator Margetts with respect to the Japanese expenditure—and I think it puts it into perspective—the New Energy Development Organisation, which visited me some months ago from Japan, is spending $US3,000 million on a yearly basis.

To some degree that spending is controlled by the people who contribute into that fund. My understanding is that, for every litre of petroleum that is imported into Japan, a certain amount of it goes into this fund. That is the sort of money that they have available. We do not have that money available.

In regards to the sort of expenditure we are making, the ERDC, the Energy Research and Development Corporation, is spending this year in the order of $9 million. Much of it is directed to the sorts of things Senator Margetts is interested in. We are all interested in these things because there is a great potential demand for alternate forms of energy. We currently produce in this country about $250 million worth of solar energy resources, whether they be photovoltaic or solar heating operations, and $100 million of that is exported. It is a growing market.

I might point out that these are not the sorts of energy sources that will at this stage replace the traditional forms of energy such as coal, gas, uranium and so on. They do represent a growing market in niche areas such as remote areas where it is not economical to put in powerlines and the growing markets in the islands of the Pacific and Indonesia. During the APEC ministers'

conference I had some discussions with the Indonesian minister and he showed great interest in the growth of this particular market. He saw this as a growing opportunity.

I know this will please you, Senator Margetts—it certainly pleases me: generally, those countries look on Australia as having the leading edge in the development of solar electricity generation. When you take the long view, I think we are going down that track.

Next week I intend to release the green paper on sustainable energy for the next 25 years. That will give people across the board the opportunity for much input before the publication of the white paper, which I expect to occur some time in the middle of next year. The green paper will be the basis for the input from the whole community. I am sure Senator Margetts will have a major input into that paper.

Senator MARGETTS—Madam President, I ask a supplementary question. I am pleased the minister mentioned that ERDC's budget has been cut or slashed by 50 per cent this year. Does Australia's current massive investment in the promotion of coal exports at the expense of greater investment in energy conservation and renewable energy research and development fit with this long view, even if it is making us ever more fossil fuel dependent, transferring greenhouse costs to future generations?

Senator PARER—I think the important thing to recognise is the foreseeable future and when, I say 'foreseeable', that may be the next 10 years for the traditional forms of energy. This came out very strongly in the APEC energy ministers' conference. It was not inspired by me. It was all the energy ministers from APEC. I think APEC includes 18 countries.

Basically, the predicted growth rate is enormous within the APEC region. They are looking at about $1.5 trillion worth of energy infrastructure investment. Predominantly, that will continue to be the traditional sources of coal, gas, uranium and, to a smaller extent, hydro, where it is available in those particular countries. There is a growing market. When you talk about us slashing ERDC, you are wrong. In fact, I think the amount being spent by ERDC this year is in the order of about $9 million or $10 million.

Senator Margetts—Our question is your answer. Are you wrong then? Nearly 50 per cent of the budget has been cut.

Senator PARER—No, you are wrong—*(Time expired)*

Unemployment: Labour Market Assistance

Senator FAULKNER—My question is directed to Senator Vanstone, the Minister for Employment, Education, Training and Youth Affairs. Minister, in answer to a question from Senator Watson yesterday on labour market assistance you said this:

> The groups consulted were very supportive of the government's policy direction. For example, the South Australian Unemployed Groups in Action said:
>
> We feel there is much to be gained in efficiency, flexibility and quality of service to unemployed people from the reform process.

Isn't it true that the following is the full sentence? It reads:

> Although we remain opposed to the overall reductions in expenditure on labour market assistance and the policy of tying benefits closely to jobsearch activity, we feel there is much to be gained in efficiency, flexibility and quality of service from the reform process.

Did you deliberately or inadvertently mislead the Senate? Were you selectively quoting on that occasion?

Senator VANSTONE—Senator, I thank you for the question, because you give me just another opportunity to repeat what I told Senator Cook. That is, when you come in and give excerpts from a very wide range of consultations where there were hundreds of submissions received and numbers of meetings held, you cannot quote at all.

The bottom line, Senator, that you find so very difficult to swallow—as irrelevant as you are sitting there, when you have the real leader up the back—is that the reforms we have made to labour market delivery are actually being very positively received.

Senator, do you expect for one minute that anyone ever welcomes a reduction of funding from the Commonwealth on any area? Do you

expect that in consultations the Salvation Army or FECCA or some other group would have said, 'Gee, what a fabulous thing. Labor left the finances in a mess, and you had to cut some funding from labour market programs'? Do you actually expect that they would say that? No, of course you do not. It is what you take to be a fact so well known. It is like coming in and saying, 'The sky is blue.' Nobody welcomes reductions in government funding.

I will tell you this, Senator: if you go to any taxpayer or any recipient of labour market programs and you say, 'Look, I've got a good idea. Why don't we do what the previous government did? Why don't we spend about $800 million on the three least effective programs? Gee, wouldn't that be a good idea?' If you think anybody is going to say yes to that, you are barking mad. Of course they are not.

You had some programs that were exceptionally ineffective. All we have done is, in effect, cut the money that you wasted on those ineffective programs. Over and above that, we have not gone for a simple cutting; we have actually redesigned the program delivery to make it much more efficient. It will give much better service to unemployed Australians as a consequence.

Senator, what sticks in your throat is that so many people—when, of course, they say 'The sky is blue. We would rather we had more money'—go on to say that the direction of the reform is right, that the needy have been looked after and that the disadvantaged have been looked after. What really gets up your nose is that community groups say that at last they have a government that listens to them.

Senator FAULKNER—Madam President, I ask a supplementary question. Minister, the last time you came here with examples of excerpts was, of course, the Wright family saga. This is the sordid sequel to the Wright family saga. That is the truth of the matter. What I expect or hope is that you would not deliberately or inadvertently mislead the Senate. I ask you: why didn't you have either the honesty or the decency or the responsibility to quote the whole sentence of the South Australian Unemployed Groups in Action? Were you incompetent or did you just deliberately mislead the Senate?

Senator VANSTONE—I do not know why the senator is so silly to come in for another serve. You raised the Wright family, Senator, and what you forget to say is that yes, of course—and it was clearly admitted—the Wright family started off as an actual family and became a construct. The truth that you have never told, and the truth that your people on the back bench never wanted to tell, is that such a family—in the absence of an actual means test introduced by your party when you were in government—would be collecting Austudy benefits. That is the truth that you were not prepared to tell. So you told the truth and not the whole truth.

Senator, what you are accusing me of doing is misleading. If you want a copy of the report on the consultations, where you can read all about what everybody said, I will be happy to let you have as many as you want.

Euthanasia Legislation

Senator TAMBLING—Madam President, my question is directed to you and relates to the private members legislation withdrawing rights and powers of territories. Can you confirm that the number of submissions received by the Senate Legal and Constitutional Affairs Legislation Committee for the voluntary euthanasia inquiry has broken all previous records of parliamentary inquiries? How many submissions have been received to date and how many are likely to be received? Can I have your assurance that the committee has been resourced with sufficient staff and advisers to adequately address its terms of reference, including the important constitutional implications for our territories, to enable the Senate report to be tabled on 24 February 1997?

The PRESIDENT—In answer to Senator Tambling's question, I understand that there have been submissions in the order of 7,000 or more. But submissions do not close until, I think, tomorrow, so it is likely that there will be significantly more than. It may well be that it is the greatest number that have ever been received by a committee.

As to the question of providing adequate resources for the committee, once the debate had taken place and it was being referred, it became obvious that the committee would need additional resources, given the other work it had. Committees have five staff. This committee has been given an extra six staff, five of whom are working on this particular inquiry. I anticipate the report being presented in the parliament on the due date.

Pensions: British Expatriates

Senator CONROY—My question is directed to the Minister for Social Security, Senator Newman. I refer to the longstanding problems created by the unwillingness of the UK government to provide indexation for the pensions of British expatriates living in Australia—or, indeed, most other Commonwealth countries—and the $80 million fiscal burden this places on Australian taxpayers. Is it a fact that, during your visit to London last month, you offered that Australia would assume top-up responsibility for all current UK pensioners in Australia, provided Britain indexed the pensions of new UK arrivals in Australia? Is it also a fact that this offer was made without any prior consultation with the other Commonwealth countries attempting to have this discriminatory practice overturned? Minister, were you advised that such an offer would destroy any leverage Australia may have had by making such a substantial concession only months before the likely election of a Labour government in the UK? What advice did you receive prior to making this offer?

Senator NEWMAN—It is true that last month I went to London—as my predecessors in this job have done—to try to have the UK government honour its moral duty to index the pensions of its expatriates in Australia. The Senate should be aware of the fact that the UK government indexes its pensions in, I think, something like 35 countries around the world, including Europe, the United States and, more recently, the Philippines. It does not choose to index the pensions of its expatriates in Canada, Australia or New Zealand. Mr Beazley has been misrepresenting this situation very grievously in Western Australia. I suppose it has got something to do with the election there. But, as I have said before, it is cruel and he should desist from being so dishonest. The Beazley name has been a proud name in Australian politics over the years—father and son. I think it was beneath him to do that to elderly people.

The point is that I have not made any proposal to top up the pensions of existing British pensioners in Australia provided the government takes on responsibility for the new ones. The agreement requires me to acknowledge—and I cheerfully do—the responsibility of Australia to continue to top up the pensions of those British pensioners that we already top up. However, over many years and successive ministers and successive governments, the British have refused a number of proposals which would make for fairer treatment of their own people in Australia.

I went to Britain with a new proposal which was fair by anybody's standards. It was very fair to the British taxpayer and very fair to all the British pensioners in Australia. It would have meant that, in the future, at a date to be fixed by agreement between the parties, all future British pensioners in Australia would have their pensions indexed. Nothing is fairer than that. The proposal was developed on advice from my department. It was taken after representations only about a month before by the Minister for Foreign Affairs (Mr Downer). I went to see the British minister, accompanied by the Australian High Commissioner to the United Kingdom, the former Minister for Social Security, Dr Neal Blewett. We went to visit the opposition spokesman, Harriet Harman, and we also spent a working lunch with the House of Commons select committee. The committee is investigating this matter right now, and is very concerned about the issue. Across party lines, members said that they were embarrassed by the British position. In fact, I pointed out that I thought it was immoral.

Poultry: Newcastle Disease

Senator WOODLEY—My question is addressed to Senator Parer representing the Minister for Primary Industries and Energy. Is the minister aware that China has just banned imports of poultry from the United

States to prevent an outbreak of newcastle disease, an acute virus which is devastating to domestic and native bird populations? Has the Chinese government's quarantine office, unlike AQIS, decided to protect its poultry from newcastle disease following fresh outbreaks of the disease in Oklahoma and Missouri in the US? Will the minister's proposal to allow US chicken into Australia be revised in the light of this major outbreak of the disease in the USA?

Senator Bob Collins—Good question.

Senator PARER—I am unaware of the banning of cooked chicken meat going into China. But let me just say that I couldn't help but pick up Senator Bob Collins's 'good question'. I think it is worth pointing out that Senator Collins was minister. He would have known that the decision to bring in or not bring in a particular foodstuff comes under the recommendation of AQIS.

Senator Bob Collins—Oh, really!

Senator PARER—The reason it is done is so that the decision will be made—

Senator Bob Collins—They told me that, and do you know what I told them?

The PRESIDENT—Senator Bob Collins!

Senator PARER—On a proper scientific basis. Let's just see—

Senator Bob Collins—Why aren't we up to our ears in imported chicken meat then?

The PRESIDENT—Order! Senator Parer. Order! You may proceed with the answer.

Senator PARER—Thank you, Madam President. Let me just point out what happened when Senator Collins was minister.

Senator Sherry—He stopped it.

Senator PARER—He stopped it! What he did was that on the advice of AQIS—

Senator Woodley—On a point of order: I have listened to the minister for quite a while. The point of order is on the question of relevance. I asked a question about an outbreak of newcastle disease in the US. I do not know what that has to do with Senator Collins. I would request the minister to answer my question.

The PRESIDENT—Order! Senator Parer, you should be mindful of the question asked in dealing with the matter before us.

Senator PARER—The position taken by this particular government—and it has been outlined on numerous occasions—is that any decision in regard to the importation of any product must be on a scientific basis. I said to Senator Woodley right at the beginning of this answer that I am unaware of the outbreak of newcastle disease in the United States. The decision in regard to whether a product of any sort is brought into this country has to be made on a proper scientific basis.

Senator Bob Collins—Yes, correct. That's what Senator Woodley is talking about. I am agreeing with the minister.

The PRESIDENT—Senator Collins!

Senator PARER—It is absolutely vital that we maintain this. It is vital for Australia's total primary industry, because this country, Senator Woodley, exports about 80 per cent of its primary products. We consume about 20 per cent domestically. For us to be able to get entre into other markets, we must ensure that, as I said, whatever decision is taken is done on a proper scientific basis. If any indication is given—and I see Senator Collins nodding; I think he agrees with me—that somehow the AQIS system, the quarantine system, is used as a non-tariff barrier, it will be to the detriment of our primary industries in Australia.

Senator WOODLEY—Madam President, I ask a supplementary question. Thank you, Minister, for, I think, trying to answer the question, which was a bit better than you did the other day. Will AQIS send a team of investigators to the United States to investigate this major outbreak of newcastle disease, particularly because the AQIS recommendation that chicken imports be allowed from the US to Australia maintains that Newcastle disease is not a significant problem in the US?

Senator Bob Collins—Get Senator Alston to do it on his overseas trip. He can look at the chickens in Honolulu.

Senator Alston—All the geese are here!

The PRESIDENT—I am waiting to call Senator Parer to answer Senator Woodley's question.

Senator PARER—It is the responsibility of AQIS—and no-one in this chamber or anywhere else, I think, will disagree—to make sure that proper scientific work is carried out and that proper investigations are carried out to ensure that we do not bring into Australia diseases that we do not have in this country.

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

Families

Senator HILL—I have some further information in reply to a question from Senator Faulkner regarding the family tax initiative. He wanted certain detailed information as to the costs, which departments are funding, who holds the contract for the campaign and matters relating to tender procedures. I seek leave to have the answer incorporated in *Hansard*.

Leave granted.

The answer read as follows—

FAMILY TAX INITIATIVE—CAMPAIGN ADVERTISING

Senator Hill—Madam President yesterday Senator Faulkner asked me questions regarding the Family Tax Initiative campaign. I now have more detailed answers to his questions and I seek leave to incorporate them in *Hansard.*

Key points

1. How much will the campaign cost?

Planned campaign press and television production and advertising placement costs are budgeted at $1,716,718.

There are some other costs associated with the advertising campaign to date:

Printing booklet Family Tax Assistance: $178,000

Printing of posters: $1,224

Agency design, production and administration costs (November, December): $30,400

Pitch fees for agencies competing for campaign: $12,000

ATO contribution to Department of Social Security *You and Your Family* Magazine: $425,000 (an existing publication for DSS clients)

Focus testing advertising agency campaign presentations and subsequent related pre-campaign research: $40,350 (Minter Research P/L)

Total cost: $2,403,692

Note: These progress costs are based on information to date. Final ATO expenditure on the Family Tax Initiative campaign will be published as required in its next Annual Report to Parliament.

2. Which department is funding the campaign?

The ATO is funding the campaign from funds allocated to it and is conducting the campaign in cooperation with the Department of Social Security (DSS).

3. Who has the contract for the campaign?

Bond, Strohfeldt, Henshaw P/L: an advertising agency in Balmain, Sydney.

4. Were normal tender procedures followed?

Yes. Proper procedures were followed.

Banking

Senator HILL—This is a rather aged question, I have to confess. It was on 15 October and from Senator Kernot, relating to potentials for conflict of interest in donations to our political party and matters relating to the Wallis inquiry. I seek leave to have the answer incorporated in *Hansard* .

Leave granted.

The answer read as follows—

LEADER OF THE GOVERNMENT IN THE SENATE

AND MINISTER REPRESENTING THE PRIME MINISTER

SENATE QUESTION WITHOUT NOTICE

Banking

Senator Hill—In question time on Tuesday, l5 October 1996, *Hansard* page 3985, Senator Kernot asked me as Minister representing the Prime Minister, whether:

A) the Prime Minister would explore the potential conflict of interest raised when a person can be the trustee of a political party, the director of major fund raising organisations of that party and the chairman of a large bank seeking major changes to banking policy and whether, in light of this, there is an extra onus on the government to ensure transparency of process to give Australians confidence that banking policy is being made in the interest of consum-

ers and not as a pay back to any particular bank; and

B) the Wallis inquiry would be made a public inquiry and whether the government supported a public inquiry into retirement savings accounts as proposed by the ANZ Bank?

I now have a response from the Prime Minister for Senator Kernot and seek leave to have it incorporated in *Hansard*.

Answers:

A) I have been informed by Andrew Robb, Federal Director of the Liberal Party, that the Party does not accept funds that are donated subject to political conditions of any kind. Under no circumstances will the Party accept funds which, even if only by inference, are intended to obtain the Party's support for specific actions or attitudes. A donor has a right to put his views to the Party but a right to no more than that.

B) The Financial System Inquiry (FSI) is both transparent and open to public debate.

The inquiry is being conducted by an independent committee, chaired by Mr Stan Wallis, and the inquiry members are expected to consult widely on all matters in their terms of reference with a view to ensuring that all views are properly considered.

The prime means of consulting the public has been by way of submissions from interested parties. Around 250 submissions have been received, and most of these have been made public (except where commercial-in-confidence information precluded publication). The Committee released for public debate a discussion paper at the end of November, which will provide an opportunity for public response and discussion.

A final report will be submitted to the Treasurer by March l997. This will allow the Government to act on the Committee's recommendations during this parliamentary term.

Retirement Savings Accounts (RSAs) are being progressed separately from the FSI. The introduction of RSAs was an election commitment of the Government, and the Government has already announced its decision to introduce RSAs.

RSAs will be a simple, low cost, low risk product that will be especially of use to people with small amounts of superannuation, such as itinerant and casual workers, those wishing to amalgamate several small accounts and those close to retirement.

The Government sees no need for a public inquiry into RSAs, and notes that introduction of a product akin to RSAs was supported by the FitzGerald report on National Saving that was commissioned by the previous government. The Government has established appropriate mechanisms for consulting with interested parties on implementation details, and has received a number of submissions that it is considering.

The legislation allowing for the introduction of RSAs will be open to public scrutiny when it is introduced into the Parliament.

Department of Foreign Affairs and Trade: Unauthorised Disclosures

Senator HILL—There were three questions from Senator Forshaw on 9 December regarding an alleged crackdown on unauthorised leaks in the Department of Foreign Affairs and Trade. There was one additional question from Senator Faulkner, who was wanting to know how many DFAT officers had been disciplined. I have answers to those questions. I seek leave to incorporate the answers in *Hansard*.

Leave granted.

The answers read as follows—

FOREIGN AFFAIRS AND TRADE

SENATE QUESTIONS

UNAUTHORISED DISCLOSURES FROM THE DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

(Questions Without Notice)

For: Senator Hill

Mr Downer—for information

Senator FORSHAW asked the minister representing the Minister for Foreign Affairs, Senator HILL, without notice, on 9 December, 1996:

Q—(1) Is it a fact that details of a plan to crack down on unauthorised leaks has actually been leaked?

Q—(2) How many DFAT officers have been disciplined in the last five years for unauthorised disclosures?

Q—(3) Is it the intention of the department that the leaking of the details of the retreat contained in the *Sydney Morning Herald* will be dealt with under the new provisions of the Public Service Act?

Senator FAULKNER also asked the minister representing the Minister for Foreign Affairs, Senator HILL, without notice, on 9 December, 1996:

Q—Do you know how many DFAT officers have been disciplined?

Senator Hill—the Minister for Foreign Affairs and Trade has provided the following answers to the honourable senator's questions:

A—(1) The department's determination to investigate information fraud (unauthorised disclosure of official information) and when appropriate to prosecute offenders was reiterated by the Secretary of the Department of Foreign Affairs and Trade during the course of the Senior Executive Officers' meeting. A plan to counter information fraud has been developed, but the distribution of this plan is of course strictly limited. No details of this plan were in fact leaked.

A—(2) No DFAT officers have been successfully prosecuted or disciplined for unauthorised disclosure of information in the last five years.

A—(3) As always, the department will avail itself of all appropriate Commonwealth legislation, including any new provisions of the Public Service Act, to deal with information fraud.

Senator Hill—the Minister For Foreign Affairs and Trade has provided the following answer to the honourable senator's question:

A—No DFAT officers have been successfully prosecuted or disciplined for unauthorised disclosure of information in the last five years.

DATE 11 December 1996

Adoption of Orphans in People's Republic of China

Senator HILL—Senator Harradine asked me a question about overseas adoption in relation to China. I think he asked the question yesterday. I now have an answer from the Minister for Immigration and Multicultural Affairs (Mr Ruddock) to that question. I seek leave to incorporate the answer in *Hansard* .

Leave granted.

The answer read as follows—

QUESTION TAKEN ON NOTICE

Yesterday in question time Senator Harradine asked me:

(1) Why is it that Australia is the only western country, apart from two, not to have an adoption agreement with the PRC?

(2) Also, could the minister inform the senate why there has been such a long delay in completing the agreement and advise the Senate of where those negotiations are up to and when we can expect such an agreement in the best interest of all concerned?

After receiving advice from my colleague the Minister for Immigration and Multicultural Affairs, which I understand in turn is partially based on advice received from the Victorian Department of Human Services, I can advise that:

(1) Responsibility for adoption of children (including intercountry adoption) rests with state/territory welfare authorities. Development of new intercountry programs is undertaken, though a co-operative approach by all states and territories based on agreement reached by the Health and Community Services Ministers' Council.

The Department of Immigration and Multicultural Affairs provides advice on visa matters and facilitates the entry of children to Australia once the adoptive parents have complied with all Australian state/territory welfare requirements or those of the relevant authorities overseas.

The Immigration (Guardianship of Children) Act 1946 places certain non-citizen children under the guardianship of the Minister for Immigration and Multicultural Affairs at the time they enter Australia. Children entering Australia as holders of an adoption visa for the purpose of adoption fall into this category.

As the guardian of these non-citizen children, the Minister for Immigration and Multicultural Affairs has the same rights, powers, duties, obligations and liabilities as the natural guardian of the child would have, to the exclusion of any other guardian. The minister remains the guardian of the child until the child turns 18, leaves Australia permanently or until the provisions of the act cease to apply in relation to the child.

Guardianship powers of the minister are delegated immediately upon arrival of the child in Australia to the relevant state or territory welfare administrators in the state or territory where the child intends to live.

Australia currently has bilateral agreements with 15 overseas countries.

The department of Human Services in Victoria has a lead role in negotiating an agreement for Australia with China.

I am advised that, as far as it is aware there are currently no formal working agreements between China and any western countries in relation to intercountry adoption. Although adoption agencies in the USA, Canada, Scandinavia and Europe do adopt children from China, these arrangements are not formalised in any agreements at a government level.

(2) Australia has been negotiating an agreement with China since 1992 following an initiative by a Victorian intercountry support group in 1991. As the program with China was first proposed by Victoria, the lead role in developing an agreement remained with that state.

I understand that the Minister for Community Services in Victoria was nominated by the health and community services ministers to sign the

agreement on behalf of all Australian states and territories. Once an agreement is finalised, the lead state or territory maintains responsibility for policy and legal issues but all states and territories are responsible for individual cases.

I am advised that the reasons for the delays in finalising the agreement between Australia and China mainly relate to the recognition of Chinese adoptions in Australia and the Chinese government's concerns about the children's status on arrival in Australia. In 1995 China proposed that this could be resolved by the lodging of a US$5,000 bond with notary public offices in China which they propose would be returned to the applicants when the adoption was finalised. This requirement remains an outstanding issue for Australia.

I am also advised that there may have been a change in the agency in China responsible for negotiating adoption agreements, which may have slowed the negotiating process.

The Australian Embassy in Beijing is presently trying to verify whether a transfer of responsibilities in China on this issue has occurred.

I understand that the Minister for Immigration and Multicultural Affairs and the Minister for Foreign Affairs have received correspondence on these issues, and I am advised that a response will be provided as soon as possible.

QUESTIONS ON NOTICE

Question No. 240

Senator VANSTONE—On 8 October, Senator Ray asked me a question on notice. I seek leave to incorporate an answer in *Hansard*.

Leave granted.

The answer read as follows—

EMPLOYMENT, EDUCATION, TRAINING AND YOUTH AFFAIRS

SENATE QUESTION

Senator Ray asked the Minister representing the Minister for Schools, Vocational Education and Training, upon notice, on 8 October 1996:

(1) What staff, other than staff employed under the Members of Parliament (Staff) Act 1984, were employed in or attached to the office(s) of the Minister and each of his or her Parliamentary Secretaries as at 8 October 1996.

(2) What were the total salary costs of such staff.

(3) What was the financial cost to the Commonwealth of the employment of such staff.

(4) What were the titles, roles and duties of such staff and what public service (or equivalent) classifications did they carry.

(5) Under what programs were they employed.

Senator Vanstone—The Minister for Schools, Vocational Education and Training has provided the following answer to the honourable senator's question:

(1) As at 8 October 1996, there were two staff permanently employed in the office of the Minister for Schools, Vocational Education and Training, other than staff employed under the Members of Parliament (Staff) Act 1984.

(2) The combined salary costs for the two officers each financial year is $161,330, which includes a ministerial allowance of $11,024 paid to each of them in lieu of the overtime they are expected to work

(3) The financial cost to the Commonwealth of employing the two officers each financial year is $239,892.

(4) The titles of the staff were Departmental Liaison Officers and their classifications were at the Senior Officer Grade B level. Their roles and duties were to:

provide advice and support to the Minister and the Minister's staff on matters related to the portfolio;

liaise with Departmental and Ministerial staff to ensure that priorities are met with the processing of ministerial papers;

proof read and monitor all ministerial papers within the office;

co-ordinate support services for the Minister's office.

(5) The officers were employed under program 6.1.6—Ministerial Liaison—Department of Employment, Education, Training and Youth Affairs.

Question No. 235

Senator NEWMAN—On 9 October, Senator Ray put a question on notice to the Minister for Health and Family Services (Dr Wooldridge) and on 8 October he put a question on notice to the Minister for Defence Industry, Science and Personnel (Mrs Bishop). I seek leave to have the responses incorporated in *Hansard*.

Leave granted.

The responses read as follows—

SENATOR RAY asked the Minister representing the Minister for Family Services, upon notice, on 9 October 1996:

(1) What staff, other than staff employed under the Members of Parliament (Staff) Act 1984, were employed in or attached to the office(s) of the

Minister and each of his or her Parliamentary Secretaries as at Tuesday, 8th October 1996.

(2) What were the total salary costs of such staff.

(3) What was the financial cost to the Commonwealth of the employment of such staff.

(4) What were the titles, roles and duties of such staff and what public service (or equivalent) classifications did they carry.

(5) Under what programs were they employed.

SENATOR NEWMAN—The Minister for Family Services has provided the following answer to the honourable senator's question:

(1) 2 staff

(2)-(3) The salaries for the two staff, including ministerial allowances totalled $22,117.41 to 8 October 1996. This figure makes up the bulk of the financial cost to the Commonwealth of the employment of the staff.

To obtain information on other overheads associated with the employment of these staff, such as superannuation and property operating expenses, would involve considerable research, and I am not prepared to authorise the time and resources entailed in collecting the information.

(4) Senior Officer Grade B, Senior Departmental Liaison Officer. Responsibilities: To provide liaison between the Department of Health and Family Services and the Minister's Office; Coordinate Question Time Briefs, Minutes to the Minister, Parliamentary Questions, outgoing correspondence, manage enquiries about Departmental programs and finalise speeches on Departmental programs.

Administrative Service Officer Grade 3, Junior Departmental Liaison Officer. Responsibilities: Assist in liaison between the Department and the Minister's Office, provide reception duties, record and track all incoming ministerial correspondence.

(5) Employed under the Australian Public Service Act.

Question No. 249

Senator HERRON—On 8 October, Senator Ray asked me a question. I seek leave to incorporate an answer in *Hansard*.

Leave granted.

The answer read as follows—

Senator Ray asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 8 October 1996:

(1) What staff, other than staff employed under the Members of Parliament (Staff) Act 1994, were employed in or attached to the office(s) of the Minister and each of his or her Parliamentary secretaries as at Tuesday, 8 October 1996.

(2) What were the total costs of such staff.

(3) What was the financial cost to the Commonwealth of the employment of such staff.

(4) What were the titles, roles and duties of such staff and what public service (or Equivalent) classifications did they carry.

(5) Under what programs were they employed.

Senator Herron: The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable Senator's question:

(1) Two such staff are employed in the minister's office.

(2)-(3) The salaries of the two staff, including ministerial allowances, together with expenditure on travel totalled $30,680.04 to 8 October 1996. This figure makes up the bulk of the financial cost to the Commonwealth of the employment of staff.

To obtain information on other overheads associated with the employment of these staff, such as superannuation and property operating expenses, would involve considerable research, and I am not prepared to authorise the time and resources entailed in collecting the information.

(4) The staff are titled Departmental Liaison Officers and are classified at the Senior Officer Grade C level.

Their role and duties in each case are to act as a main point of contact between the minister's office and the Department of the Prime Minister and Cabinet and the Aboriginal and Torres Strait Islander Commission respectively. They provide advice and support the following areas: correspondence, parliamentary matters, administrative matters, overseas travel and representational duties by or on behalf of the minister.

(5) The positions are funded under the Corporate Services (Support Services) program, Prime Minister and Cabinet portfolio, and under the Corporate and Strategic Development and Support Program, Aboriginal and Torres Strait Islander Affairs portfolio.

QUESTIONS WITHOUT NOTICE

Defence: Glenn Review

Senator NEWMAN—On 10 December, Senator Jacinta Collins asked a question of me which is in my capacity as representing the Minister for Defence Industry, Science and Personnel (Mrs Bishop). I seek leave to incorporate an answer.

Leave granted.

The answer read as follows—

SENATOR JACINTA COLLINS asked the Minister representing the Minister for Defence Industry, Science and Personnel on 10 December 1996:

Minister, could you nominate one initiative adopted by the current government arising from the Glenn review?

SENATOR NEWMAN—The Minister for Defence Industry, Science and Personnel has provided the following answer to the honourable senator's question:

The Glenn Review was a report undertaken for the previous government. While the review serves as a useful basis for discussion of the personnel issues facing the ADF and we agree with its 10 stated principles, it was written under a different industrial relations culture. The basis of this culture was the presumption that members of the ADF are public servants in uniform.

Unlike the previous government we do not regard ADF personnel as public servants in uniform. This is a major philosophical shift which moulds our policy.

The government did make certain personnel policy commitments in the lead up to the election, a number of which coincided with the Glenn Review but which stand alone on their merits. All of these issues have either been implemented or are in the process of being implemented and include the following:

- an increase in the defence home owner scheme loan limit from $40,000 to $80,000, reducing the eligibility period from five to six years, and extending the eligibility to reserves with 8 years' continuous service. The Minister introduced the bill into Parliament to enact the changes on 26 June 1996 and Royal Assent was received on 8 November 1996.
- funding for the construction and maintenance of up to six thirty place extended hour and occasional child care centres on military bases throughout Australia.
- an increase in the Family Support Funding Program, currently at $20,000, to a maximum grant of $50,000. This year grants totalling over $680,000 have already been allocated and a further $215,000 will be distributed early next year.
- focus on negotiations with the states to ensure children of defence personnel are not disadvantaged in relation to age and entry requirements when starting or changing schools.
- the establishment of a spouse employment data base. One million dollars has been allocated in the budget for spouse employment programs.
- maintaining the current arrangements in retention bonuses for the ADF. Further to this commitment, $17 million is allocated in the budget for retention purposes.

Other commitments of the government, especially those relating to industrial relations in the ADF, are currently under review.

In addition to our pre-election promises, the government has moved forward on a range of other defence personnel issues.

- The Government has also approved initiatives to allow pre-posting travel for ADF members with special needs children and reunion travel for dependant tertiary students.
- In November the Minister announced that relocation and living assistance provisions currently applicable to ADF members with family are to be extended to members without family. This action will provide a non-discriminatory common package of entitlements to apply to all members of the ADF based on perceived need.
- The Minister has also directed that there should be an examination of whether the existing rehabilitation and compensation arrangements for military personnel are suitable for the range of activities undertaken by members of the ADF, such as hazardous training, and the circumstances of ADF service.

The initiatives I have highlighted above and others which will follow over the course of this parliament ensure that our defence men and women and their families will receive a fairer deal under this coalition government.

BEIJING PLATFORM OF ACTION FOR WOMEN

Senator NEWMAN (Tasmania—Minister for Social Security) (3.08 p.m.)—On 3 December, the Senate resolved on a motion of Senator Reynolds's in relation to the Beijing Platform of Action for Women. I seek leave to incorporate in *Hansard* the government's response and to advise you that Senator Reynolds has had an early copy by way of courtesy.

Leave granted.

The government's response read as follows—

On 3 December 1996, the Senate resolved on the motion of Senator Reynolds, as follows:

That the Senate calls on the Minister Assisting the Prime Minister for the Status of Women (Senator Newman) to table the Government's

response to the Beijing Platform of Action for Women, including the following documents

(a) the Australian report due in New York by December 1996;

(b) a comprehensive statement of the specific action plans to be implemented across government departments and their progress in the first 12 months; and

(c) a detailed analysis of the Australian Government's commitments to the support of South Pacific women, as guaranteed by the previous Government in September 1995.

Response

(a) I am concerned that Australia meets its obligations under paragraph 297 of the Platform for Action, which states that Governments are required to develop strategies to implement the Plan by the end of 1996. However, with the caretaker period earlier this year the process was prolonged. Australia will now be reporting to the United Nations by February 1997. I will table the Report in the Senate as soon as it is completed.

(b) The Office of the Status of Women (OSW) has been coordinating an interdepartmental committee of line departments responsible for each policy area. Australia's Implementation Report of the Platform for Action will include a comprehensive report across Government departments as to what has been achieved and which areas have yet to be addressed under all 12 areas of critical concern.

(c) In the year since the Beijing Conference, AusAID has contributed funds to Pacific island nations to assist in the implementation of commitments arising from the Beijing Conference. A total of $375,000 was provided in 1995/96 to four projects as detailed below. In 1996/97 AusAID are negotiating a package of assistance for the South Pacific Commission's Pacific Women's Resource Bureau aimed at delivering benefits to women at the community level.

Pacific Projects Funded Post-Beijing

1. International Women's Tribune Centre (IWTC)—Strategies for follow-up to the Beijing Meetings: Public Policy and Community Action/Global-Local Exchange

Total paid in 1995/96—A$38,146 (Regional)

This activity aims to provide Pacific women with the skills and resources necessary to develop the policies expanded upon at the Beijing conference into practical community based activities.

2. Women's Action for Change (WAC)—Women's Community and School Education

Total paid in 1995/96—A$37,383 (Fiji)

AusAID funding was provided to enable WAC to produce two plays aimed at raising awareness regarding the role of women's unpaid work in society.

3. Federated States of Micronesia—Family Resource Centre (FRC)

Total paid in 1995/96—A$25,220 (Federated States of Micronesia)

The Family Resource Centre is a counselling and crisis intervention project focusing on the needs of victims of domestic violence.

4. South Pacific Commission (SPC)—Pacific Women's Resource Bureau (PWRB)

Total paid in 1995/96—A$275,248 (Regional)

Funds were provided to cover a small grants scheme for women NGOs for activities aimed at income generation; educational exchanges for village women; training for women at the SPC Community Educators Centre; and support for the PWRB Women's Information Officer.

QUESTIONS WITHOUT NOTICE

Office of Government Information and Advertising

Senator KEMP—I received a question from Senator Ray in relation to the operations of the Office of Government Information and Advertising on 10 December. I have received the following advice from the Minister for Administrative Services (Mr Jull):

The decision to proceed with a review of the Office of Government Information and Advertising was made on 28 November 1996, when the terms of reference for the review were finalised.

Expressions of interest for a consultancy to conduct the review were first publicly advertised on 7 December 1996.

The fact that calls for expressions of interest were publicly advertised demonstrates that the review is being conducted openly.

This Government, unlike the previous Government, is committed to achieving efficiency and cost effectiveness in all of its information and advertising activities.

Our pre-election commitment to deliver savings of $20 million on Government advertising is evidence of this.

An obvious step in achieving our goal is a review of current procedures and operations.

Any reading of the terms of reference for the consultancy will show that the review has no hidden agenda—its aims are simply to achieve the desired efficiency and cost effectiveness in Government advertising and information activities.

The terms of reference extend beyond the operations of the Office of Government Information and Advertising's to include a review of the:

. operation and efficiency of the Central Advertising System;

. efficiency and cost effectiveness of Commonwealth print advertising;

. planning of Commonwealth Government advertising and information activities;

. shortlisting of advertising, public relations and research agencies for Commonwealth public education campaigns, including a review of the effectiveness of OGIA's database and an examination of alternative shortlisting and tender processes; and

. development of standard evaluation and reporting mechanisms on the effectiveness of Commonwealth advertising and public relations campaigns.

Any suggestion that the review is politically motivated is a further sign of paranoia and desperation on the part of the opposition.

It is envisaged that the review will take approximately three months. The successful consultant may be engaged for a further period to assist with agreed implementation activities.

The Minister will determine the appropriateness of making the findings of the review public at the appropriate time.

A statement in relation to conflict of interest is attached to the terms of reference.

As the Prime Minister has indicated, Ministers and Parliamentary Secretaries are already bound by the Ministerial Code of Conduct.

The former Government did not consider it necessary to supplement their code of conduct with additional measures for Government committees, and this Government shares that view.

Unemployment: Labour Market Assistance

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.10 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Employment, Education, Training and Youth Affairs (Senator Vanstone), to a question without notice asked by Senator Faulkner today, relating to an answer the Minister gave on 10 December 1996 concerning labour market assistance.

What we have today is yet another example of the absolute incompetence of Senator Vanstone and her unwillingness to fulfil her responsibilities as a minister. There are only two conclusions that can be drawn from the answers given by Senator Vanstone in this chamber: either she did not read the submissions which related to labour market assistance that she quoted from yesterday or, if she did read them, she deliberately chose to mislead the Senate.

It is an extraordinary saga. Yesterday, Senator Vanstone waxed lyrical about certain groups that were allegedly supporting this government's policies. Her words were these:

The groups consulted were very supportive of the government's policy direction. Then she went on to give examples. And what do the examples show? This is what she said:

For example, the South Australian Unemployed Groups in Action said:

We feel there is much to be gained in efficiency, flexibility and quality of service to unemployed people from the reform process.

Mr Deputy President, is that true? Answer: no, it is not true. The truth of the matter is that the South Australian Unemployed Groups in Action said this—and this is the full paragraph of their covering letter:

Although we remain opposed to the overall reductions in expenditure on labour market assistance and the policy of tying benefits closely to job search activity, we feel there is much to be gained in efficiency, flexibility and quality of service from the reform process.

How could a competent minister not read the whole of that sentence in that covering letter from the South Australian Unemployed Groups in Action?

Then there is the FECCA submission to the minister. Senator Vanstone said, 'Senator Bolkus may be interested in this.' Unfortunately for Senator Vanstone, Senator Bolkus was interested—so interested that he got the whole of the submission and read it. Quoting Senator Vanstone from yesterday's *Hansard*:

FECCA, Senator Bolkus may be interested in this, said:

FECCA welcomes the Government's aim of simplifying clients' access to Government services through the establishment of a one stop agency.

Then, what does FECCA go on to say? In the same paragraph FECCA says:

However, given that the number of one stop agencies will be significantly fewer than the current

combined number of CES and DSS offices, and the fact that those assessed as being eligible for additional assistance will have to then move to an employment placement enterprise, FECCA questions the likelihood of the government realising its objectives. In addition, whilst the notion of offering choice of provider to those assessed as eligible for additional assistance may have some merit, this must be balanced by the likely confusion and uncertainty engendered by such a process for many unemployed people, especially those of non-English speaking backgrounds.

That is the full story; that is the complete paragraph. They are the words that Senator Vanstone selectively quoted from.

Then we go on to the ACROD submission on reforming employment assistance. Senator Vanstone quoted a half-sentence from that:

ACROD members welcome the objective of the reforms that labour market assistance will become client driven rather than process driven . . .

Then we have a very substantive submission of 14 pages basically debunking what Senator Vanstone has said.

The issue is this: is it good enough for a minister to come into this Senate chamber and selectively quote from documents in that way? Is it proper, is it acceptable for a minister to not only mislead the Senate but to mislead the public?

I must say, as I indicated in question time, this is just another example of the Wright family syndrome. This is the Wright family syndrome again from Senator Vanstone. This is the sequel to the Wright family saga from Senator Vanstone. What she has been doing is deceiving the Australian public and the parliament, barefacedly telling untruths in this place, misleading the parliament. It has become, of course, a way of ministerial life for Senator Vanstone. It is Senator Vanstone's modus operandi in this chamber. That is the way she does business. And again today, she has been exposed comprehensively by the opposition for it.

The DEPUTY PRESIDENT—I call Senator Bolkus.

Senator Panizza—Mr Deputy President, I raise a point of order. As Senator Faulkner was winding up he mentioned that the modus operandi of Senator Vanstone was misleading the Senate. I think that is unparliamentary and he should withdraw it.

The DEPUTY PRESIDENT—I do not think it is; but let me check.

Senator BOLKUS (South Australia) (3.15 p.m.)—I also make the point that either Senator Vanstone is not up to the job or she has deliberately misled this place. The starting point for all ministers should be the ministerial guide to responsibility, a document that was floated just a few months ago by the Prime Minister (Mr Howard). It says:

Ministers must be honest in their public dealings and should not—

Senator Ferguson—Mr Deputy President, I raise a point of order. In the past, people have often used the word 'misleading'. But Senator Bolkus said the words 'deliberately misleading'. I think that has been ruled as unparliamentary in previous rulings. You should ask him to withdraw the term 'deliberating misleading'.

The DEPUTY PRESIDENT—I was seeking advice on a former expression being used and I did not hear the comment. But, if the term 'deliberating misleading' was used, I ask Senator Bolkus to withdraw it.

Senator BOLKUS—I withdraw. The guide to ministerial conduct says:

Ministers must be honest in their public dealings and should not intentionally mislead the parliament or the public. Any misconception caused inadvertently should be corrected at the earliest opportunity.

Senator Vanstone should come in here very quickly and eradicate the misconception with respect to just about all the submissions she referred to yesterday. Yesterday, on labour market assistance, she quoted and crowed about the fact that the groups consulted were very supportive of the government's policy direction.

She alerted me to the FECCA submission. I went off and read it. What did I find in the one paragraph that Senator Vanstone quoted from? I found that the second sentence ran totally contrary to the impression Senator Vanstone tried to give here yesterday. She came in here trying to give us the impression of support from FECCA. She came in here

quoting selectively, and the effect was to mislead this place. Let us read that paragraph. The sentence that Senator Vanstone read out stated:

> FECCA welcomes the Government's aim of simplifying clients' access to Government services through the establishment of a one stop agency.

The next sentence states:

> However, given that the number of one stop agencies will be significantly fewer than the current combined number of CES and DSS offices and the fact that those assessed as being eligible for additional assistance will then have to move to an employment placement enterprise, FECCA questions the likelihood of the government realising its objectives.

On it goes:

> Whilst the notion of offering choice of provider to those assessed as eligible for additional assistance may have some merit, this must be balanced with the likely confusion and uncertainty engendered by such a process for many unemployed, especially those from a non-English speaking background.

She was selective and she was misleading in her selectivity. In doing so, she misled us not only as to the context of that sentence but also as to the whole FECCA submission with respect to this particular area.

She comes in here today not content with having been misleading with respect to a selective excising of one part of a paragraph. She says that what we should do is take it that she is giving us a sentence and, in producing a sentence from a submission, she is giving the full flavour of the submission. She did not do that in respect of FECCA.

I tell you what: she did not even do it in respect of the South Australian Unemployed Groups in Action. Senator Vanstone, in quoting them yesterday, selectively excised the relevant part of the same sentence. Senator Vanstone did not excise the rest of the submission when she came in here yesterday. She quoted some part of a sentence and did not quote the rest. With respect to the Unemployed Groups in Action of South Australia, she said that they felt that there was much to be gained in efficiency, flexibility and quality of service from the reform process. What she did not say was that, in that very same sentence, they also said:

> Although we remain opposed to the overall reductions in expenditure on labour market assistance and the policy of tying benefits closely to job search activity . . .

Also, she did not say that the submission from that group, like the FECCA submission, is riddled with concerns about what this government and she, as minister, are doing with respect to most of the important elements of the programs that she is pushing forward. So she cannot even tell the truth when it comes to repeating one sentence of a submission, let alone getting the whole submission right.

But it goes on. We did go out and check other organisations as well. For instance, the submission from the National Council on Intellectual Disability is also riddled with concerns—concerns, for instance, as to the capacity-to-benefit aspect of what the minister is doing. As Senator Faulkner said, the ACROD submission is some 14 pages. Senator Vanstone could not go to that submission; she could not invoke it as support and do it honestly because that submission is riddled item by item with concerns about what this government is doing.

When it comes to misleading the Senate, this minister is a recidivist. She has done it again. She should not be allowed to do it. In doing so, she has basically undermined once again the Prime Minister's code of ministerial conduct. It is a code that has had a fair battering this year and, of course, a battering from this minister. She is not up to the job, if she has not read the submissions. If she has read them, there is absolutely no way she could have come into this parliament yesterday and claimed that what she said was an honest reflection of what those submissions are saying about her policies and programs.

Senator ABETZ (Tasmania) (3.20 p.m.)—It really is the height of cheek, isn't it, for the Labor Party to come into this chamber and try to give us on this side a lecture on ministerial ethics.

Senator Bob Collins—That's what we're here for.

Senator ABETZ—And Senator Collins says, 'That's what we're here for.' Senator Collins, where were you when Dr Carmen

Lawrence was found to have lied under oath in front of a royal commission? Perfectly silent, weren't you, along with Senator Bolkus, along with Senator Faulkner and along with everybody else in the Labor Party. You had a minister in your ranks found guilty of lying under oath, yet you have the audacity to present yourselves to the Australian people as somehow being the binders of public ethics. What a joke!

Then of course we have former disgraced minister Ros Kelly—the minister for sports rorts. Where were you in relation to ministerial ethics then? Strangely silent, weren't they. No comment from Senator Collins now; no interjections now. No comments from Senator Bolkus. No comments from Senator Faulkner. Where were they?

Alan Ramsey summed it up in the *Sydney Morning Herald* this morning when he suggested that this opposition is a classic case of poor losers. They have no policy direction, no future direction for this country and nothing to advance to the Australian people—nothing positive and nothing to be proud of. So what do they do? They wallow around in the gutter and try to make allegations against ministers who are performing in very difficult circumstances.

Let us not forget the difficult circumstances in which the Minister for Employment, Education, Training and Youth Affairs (Senator Vanstone) finds herself in. First of all, she is administering one of the biggest budget areas of the government.

Senator Cook—Oh, dear, oh, dear.

Senator ABETZ—And she is confronted, Senator Cook, by the $10 billion deficit you left us with. Yet you promised us a budget surplus. You promised this nation a budget surplus that would continue for years to come. On 3 March we soon realised what a rort that was.

I ask Senator Cook and members of the Australian Labor Party—through you, of course, Mr Deputy President, through whom I must direct my remarks—about ministerial ethics. Where were their comments on the ministerial ethics of the former Minister for Finance, the now Leader of the Opposition (Mr Beazley), who misled the Australian people. He was shameless about it. He was not concerned. He completely misled the people.

You might be out by a dollar, you might be out by 50c. When you are dealing with a budget of Australia's nature, you might be out by a couple of million dollars—possibly $100 million or more. But being out by $10 billion? I ask Senator Cook, Senator Faulkner or Senator Bob Collins: was he misleading—to use your analogy—the people of Australia or was it simply pure ignorance, a pure incapacity on behalf of your leader?

You people on that side have to make a choice. You still have Dr Carmen Lawrence in your midst—you know, the one who lied under oath in front of a royal commission. You have the audacity to talk to us about ministerial ethics. You have as Leader of the Opposition—supposedly the best suited, from your side of the House, person to lead this country—a man who misled the Australian people to the tune of a $10 billion budget deficit. Yet you come in here seeking to hector us about ministerial standards. It really is a joke.

Can you not understand why the Australian people do not believe you? Your secretary, Gary Gray, has told you. Senator Mackay has told you. Your federal president, Barry Jones, has told you. The Australian people do not believe you. You can repeat, and repeat and repeat allegations against our ministers, but mere repetition will not overcome the void occasioned by the absence of merit. You can repeat it, but it does not make out your case. These allegations being made by the opposition against our ministers are just another indication of their lack of policy and a lack of direction they have to offer. So they engage in mud-slinging.

Senator COOK (Western Australia) (3.25 p.m.)—I, too, wish the Senate to take note of the misleading statements made by the Minister for Employment, Education, Training and Youth Affairs (Senator Vanstone). Before I turn to them, though, I am bound to respond to the extraordinary remarks we have just heard in this chamber from Senator Abetz. I know that Senator Abetz in his previous

existence was a lawyer. All one can say is that he is the ready-made and advocated-at-all-opportunities person to call when you do not have a speaker to make a case, no matter how fallacious.

Senator Abetz was presenting a classical fallacy. It is a fallacy which in Latin is defined as an ad hominem fallacy. That is to say, 'You are crook, therefore we cannot be criticised.' That is what he said. I do not for one minute accept any of the arguments that have been put by Senator Abetz about the three Labor members who he named. However, he believes that they are crooks. He says this is disgusting behaviour, therefore we have no right to criticise the disgusting behaviour on their side. Where are the parliamentary standards in that type of behaviour?

If it is bad, it is bad. Whoever has been responsible for making it bad is justifiably criticised. On this occasion, the criticism is justifiably at the door of Senator Vanstone. It is quite extraordinary what she did in question time. Let us walk ourselves for a minute through what she did. She said, 'Yes, I selectively quoted but, of course, I cannot spend all of my time quoting everything these organisations said.' But when you look at what she selectively quoted, you would expect to see that it would represent in microcosm what the organisation said in their whole submission.

But does it? No, it does not. She selects—very selectively—one part of, in one case, a 14-page submission, the very one part that says something complementary about the government, and she reproduces that as if that is the representative view of the organisation, when quite clearly it is not. By being selective in that way, she seeks to deceive.

If she had said, 'They said these things but, on the other hand, they said that,' we would get a view of what that organisation believed. Take the example of FECCA, which concerns the question I asked of her. I have here the submission of FECCA. It runs for 10½ pages. On the one-stop agency, Senator Vanstone said:

> FECCA welcomes the Government's aim of simplifying clients' access to Government services through the establishment of a one stop agency.

Did FECCA say that? Yes, they did. Is that representative of their view? No, it is not. The next sentence says:

> However, given the number of one stop agencies will be significantly fewer than the current combined number of CES and DSS offices and the fact that those assessed as being eligible for additional assistance will have to then move to an employment placement enterprise, FECCA questions the likelihood of the Government realising its objectives. In addition, whilst the notion of offering choice of the provider to those assessed as eligible for additional assistance may have some merit, this must be balanced by the likely confusion and uncertainty engendered by such a process for many unemployed, especially those of non-English speaking background.

Is that a ringing endorsement of what the government is doing? Of course it is not a ringing endorsement of the measures introduced here by Senator Vanstone, and to select the one sentence and ignore the myriad of other sentences which are condemnatory of the government and pretend that that one sentence represents the view of the organisation is to deceive, is a fabrication and is to mislead. Senator Vanstone says, 'Well, I can't represent the lot, so I chose one.' She then went on to a lot of other organisations that she chose to quote from. We have had examples given here this afternoon. The example that was most outrageous was the South Australian Unemployed Groups in Action. She said:

> . . . we feel there is much to be gained in efficiency, flexibility and quality of service from the reform process.

That is part of a sentence. The full sentence goes:

> Although we remain opposed to the overall reductions in expenditure on labour market assistance and the policy of tying benefits closely to jobsearch activities, we feel . . .

And on it goes. To select only that part of a sentence and leave all of these other parts of the sentence which represent the true view of this organisation and pretend that that organisation endorses the government is misleading.

Question resolved in the affirmative.

Euthanasia Legislation

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Social Security) (3.30 p.m.)—I move:

That the Senate take note of the answer given by the President, to a question without notice asked by Senator Tambling today, relating to the administration of the Legal and Constitutional Legislation Committee's inquiry into the provisions of the Euthanasia Laws Bill 1996.

I was very pleased to receive the assurance of the President that the Senate Legal and Constitutional Legislation Committee, which is inquiring into voluntary euthanasia, will be properly and adequately resourced for the task that it has been asked to undertake on behalf of this Senate. This is a most important issue and the fact that we now have an extraordinary number of submissions to the committee—well over 7,000 on Monday of this week and likely to exceed 10,000 submissions by the time that they close—does demand that the Senate and our staffers give this matter proper and full consideration when addressing the issues that are at stake.

Naturally, the issues, as they relate to Senator Bob Collins from the Northern Territory, and to Senator Lundy and Senator Reid from the Australian Capital Territory, are those that very carefully go to the terms of reference of the committee. They look at the constitutional implication for the territories of the enactment of the legislation, the impact of the enactment on the provisions of the Northern Territory criminal code and the impact on and the attitudes of the Aboriginal community.

I am well aware that a number of submissions will be coming forward that address all of those issues. I have personally written to over 900 constituents in the Northern Territory who I know share concern about the issues that Senator Collins and I take very seriously in the Northern Territory. The debate in the House of Representatives this week, and in the last number of weeks, certainly has excited a lot of emotion in the Northern Territory. Today's *Northern Territory News* talks about how, in the House of Representatives, the speakers on voluntary euthanasia rubbished the Northern Territory. The *Northern Territory News* editorial went on to describe that debate as being one of vitriol and pomposity. They also made the point that the parliament was quite happy to throw democracy and fairness to the winds and overturn that law—that being the Northern Territory law. The editorial further said that the anti-voluntary euthanasia campaigners have 'fought dirty and won'.

I would like to draw to the attention of the Senate three speeches that I have made here previously. The first of those speeches was on 21 June 1995, when I tabled the Northern Territory legislation, various select committee reports in the Northern Territory and other documentation. Following that speech and that legislation, there was no action in this federal parliament to disallow, under the provisions that were available under the Northern Territory (Self-Government) Act, that Northern Territory legislation. It was only subsequently and opportunistically raised in the House of Representatives by Mr Andrews at a much later date, after the six months provision had expired.

On 16 October this year, I addressed the matter of the evolving issues related to statehood for the Northern Territory and very much drew attention to the provisions that are in the draft constitution that has been prepared, and is currently circulating, with regard to statehood for the Northern Territory. As a result of the initiatives, it is going to be a pity, if it gets passed in the Senate at some stage next year, that the Northern Territory parliament will again have to revisit the issue subsequent to statehood.

On 28 October this year, I addressed the issue of the remonstrance which was presented to this parliament by the parliament of the Northern Territory and which was supported and backed up by the parliaments of the Australian Capital Territory and Norfolk Island. Those three constituencies have very important issues at stake that do need to be properly addressed.

We do need to be able to ensure that the Senate is now doing the job that the House of Representatives should have done in sending the matter to a committee for a full and proper debate, and that committee will now

proceed. I am pleased that the committee is going to meet on 24 January in Darwin to hear submissions in that particular area. Senator Collins and I have agreed to co-host a public forum in Darwin the evening before that. I am very pleased that Senator Collins will be able to facilitate that particular exercise to enable territorians to put on the record the passion that they feel about this issue where the federal parliament may override the territories. Certainly, this Senate has a responsibility that the House of Representatives did not carry out.

Senator BOB COLLINS (Northern Territory) (3.35 p.m.)—I support the sentiments just expressed by Senator Tambling and confirm that I have agreed to co-host with him an evening on this question of euthanasia. From information Madam President gave the Senate today, I understand it to be the case that the previous Senate inquiry that held the record for submissions was also the Senate Legal and Constitutional Committee on child support. It received 6,197 submissions or something like that. I have been advised that we have been receiving submissions on euthanasia at the rate of about 1,000 per day, which indicates how serious an issue it is.

Senator Ellison—Another 2,000 today.

Senator BOB COLLINS—Another 2,000 today. That indicates that it will probably exceed 10,000 submissions by the time it is over. It is a serious matter.

I rise briefly today to note with great misgiving a story that appeared in today's *Sydney Morning Herald*, which appalled me, if it is accurate. Since the beginning of this exercise, there has been an enormous amount of publicity, with some leading lights in it. No more leading a light has there been than Dr Philip Nitschke. I disagree with almost everything that Philip Nitschke has ever said or done in his public life in the Northern Territory.

Philip Nitschke's first foray into the public domain was over the hospital's lack of equipment for a nuclear disaster in Darwin Harbour. His second was methadone treatment for heroin addicts and so on. It was almost impossible at one period in the Northern Territory to turn on a radio or television set without seeing Dr Philip Nitschke. Philip Nitschke is now professionally managed by Harry M. Miller on this question of euthanasia. I said nothing about that, much as it turned my stomach.

Today's story in the *Sydney Morning Herald* is appalling, if it is true. The story says that Dr Philip Nitschke is currently negotiating with the Powerhouse Museum in Sydney for them to have his killer computer, his death machine. It will not be a replacement for it, but the actual machine. Dr Nitschke is quoted as saying that there is no money involved. The museum is negotiating with him for him—that is, Dr Nitschke—to have a replacement machine. By necessary implication, that means that the museum will be getting the actual piece of medical equipment that killed that patient in the Northern Territory.

Will it be a ghouls gallery at the Powerhouse Museum? Philip Nitschke has gone one step too far on this issue. What is being proposed is ghoulish. I call on Philip Nitschke to cease and desist. It is just appalling that a medical practitioner would even contemplate handing over a piece of his medical equipment, particularly this one. It is Dr Death and his killer computer. That is fair enough, I suppose, if that is what he wants to do. But he is having it mounted as a museum exhibit. I might agree to it if Dr Philip Nitschke agreed to be mounted beside it. Leaving that aside, it is a ghoulish proposition. I call on Philip Nitschke or Harry M. Miller, whoever is negotiating this issue—

Senator Campbell—Or the Powerhouse Museum.

Senator BOB COLLINS—I also call on the Powerhouse Museum. Museums acquire property. I suppose that they would think it was an exhibit. For a medical practitioner to even contemplate doing this is appalling.

Question resolved in the affirmative.

ORDER OF BUSINESS

Government Documents

Motion (by **Senator Campbell**)—by leave—agreed to:

That consideration of government documents not be proceeded with today.

DAYS AND HOURS OF MEETING

Motion (by **Senator Campbell**)—by leave—agreed to:

That on Thursday, 12 December 1996 the hours of meeting shall be:

(a) 9.30 am to 7 p.m.

8 p.m. to midnight;

(b) the routine of business shall be as for a Thursday except that general business and consideration of committee reports and government responses shall not be called on; and

(c) the procedures for the adjournment specified in the sessional order of 2 February 1994 relating to the times of sitting and routine of business shall apply in respect of this order.

NOTICES OF MOTION

Days and Hours of Meeting

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

(1) That the days of meeting of the Senate in 1997 be as follows:

Autumn sittings:

Tuesday, 4 February to Thursday, 6 February

Monday, 10 February to Thursday, 13 February

Monday, 24 February to Thursday, 27 February

Monday, 3 March to Thursday, 6 March

Tuesday, 18 March to Thursday, 20 March

Monday, 24 March to Wednesday, 26 March

Winter sittings:

Tuesday, 13 May to Thursday, 15 May

Monday, 26 May to Thursday, 29 May

Monday, 16 June to Thursday, 19 June

Monday, 23 June to Thursday, 26 June

Spring sittings:

Monday, 25 August to Thursday, 28 August

Monday, 1 September to Thursday, 4 September

Monday, 22 September to Thursday, 25 September

Monday, 29 September to Thursday, 2 October

Monday, 20 October to Thursday, 23 October

Monday, 27 October to Thursday, 30 October

Monday, 10 November to Thursday, 13 November

Monday, 17 November to Thursday, 20 November

Monday, 24 November to Thursday, 27 November.

(2) That the hours of meeting on Tuesday, 4 February 1997 be 2 pm to 5.30 pm.

Consideration of Appropriation Bills by Legislation Committees

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

That the Senate—

(1) That estimates hearings in 1997 be scheduled as follows:

1996-97 additional estimates:

Wednesday, 26 February to Friday, 28 February (initial hearings)

Wednesday, 7 May to Friday, 9 May (supplementary hearings)

1997-98 budget estimates:

Monday, 2 June to Friday, 6 June (initial hearings)

Tuesday, 10 June to Friday, 13 June, and, if required, 16 June (initial hearings)

Monday, 18 August to Friday, 22 August (supplementary hearings)

1997-98 additional estimates:

Monday, 10 November to Friday, 14 November (initial hearings).

(2) That legislation committees consider proposed expenditure and expenditure under the Advance to the Minister for Finance in accordance with the allocation of departments to committees agreed to on 1 May 1996.

(3) That the committees report to the Senate on or before the following dates:

6 March 1997 in respect of the 1996-97 additional estimates

19 June 1997 in respect of the 1997-98 budget estimates

20 November 1997 in respect of the 1997-98 additional estimates.

(4) That, subject to the sittings of the Senate, legislation committees meet to hear evidence in accordance with the following schedule:

(a) Community Affairs

Employment, Education and Training

Economics

Finance and Public Administration

1996-97 additional estimates:

Wednesday, 26 February and, if required, Friday, 28 February (initial hearings)

Wednesday, 7 May and, if required, Friday, 9 May (supplementary hearings)

1997-98 budget estimates:

Monday, 2 June to Thursday, 5 June and, if required, Friday, 6 June (initial hearings)

Monday, 18 August, Tuesday, 19 August, and, if required, Friday, 22 August (supplementary hearings); and

(b) Environment, Recreation, Communications and the Arts

Foreign Affairs, Defence and Trade

Legal and Constitutional

Rural and Regional Affairs and Transport

1996-97 additional estimates:

Thursday, 27 February and, if required, Friday, 28 February (initial hearings)

Thursday, 8 May and, if required, Friday, 9 May (supplementary hearings)

1997-98 budget estimates:

Tuesday, 10 June to Friday, 13 June, and, if required, Monday, 16 June till 2 pm (initial hearings)

Wednesday, 20 August, Thursday, 21 August, and, if required, Friday, 22 August (supplementary hearings).

1996 PROGRESS REPORT TO THE PEOPLE

Senator CAMPBELL (Western Australia—Manager of Government Business in the Senate)—I present the Prime Minister's 1996 progress report to the people. I seek leave to incorporate the statement in *Hansard*.

Leave granted.

The statement read as follows—

The 1996 Progress Report to the People

Today, as the parliamentary year draws to a close, we reflect on the months since March in the knowledge that we have been true to our word. We do so, not under any delusion that the job is over, but in the knowledge that the job has successfully begun.

We promised to stay in touch with the great Australian mainstream. And we have been true to our word.

We promised honest, competent and accountable government. And we have been true to our word.

We promised to restore the fundamentals of a sound, growing and competitive economy. And we have been true to our word.

We promised more choice for Australians in how they live and work—more choice for families, more choice in industrial relations, more choice in education, more choice in child care, more choice in telecommunications. And we have been true to our word on all of them.

We promised greater freedom, more incentives for achievement, more competition and less regulation. And we have been true to our word

We promised that where change is necessary, the reasons for it would be communicated clearly to the Australian community and its burdens would be shared fairly by different sections of the community. And we have been true to our word.

We promised no new taxes or increased taxes, the retention of Medicare, the maintenance of the safety net for the disadvantaged and a better deal for rural and regional Australia—and we have been true to our word on all of them.

And in the wake of the tragic events at Port Arthur in April my government, in co-operation with state governments and with the full support of the Labor Party and the Democrats, delivered strong national gun laws prohibiting automatic and semi-automatic weapons.

This action alone has made a lasting contribution to a safer and more peaceful Australian community.

Both symbolically and in substance it struck a defiant blow against a culture of violence which too readily permeates our community and which has wreaked such terrible consequences in other nations.

Nine months into our first term, we are still a young government. But we are already a government of clear and consistent values.

Our achievements are being built on a fundamental conviction : that the decentralised networks of families, workplaces and communities of free individuals are far more effective generators of choice, freedom and opportunity than the suffocating centralism of political grand plans and bureaucratic controls.

That conviction will remain our enduring guide.

In looking to the future, we know that we have established a secure first base camp as we climb a high mountain. We know that we must continue to go forward, and that we must do so together.

As a nation, we face the economic challenges of achieving high sustainable economic and employment growth at a time when the great driving forces of change and opportunity will be globalisation, technological change and the communications revolution.

As a society, we also confront the tensions and strains imposed by family breakdowns, violence, homelessness, economic hardship and youth alienation in our community.

In these circumstances, our agenda for the next year is clear.

We will consolidate the gains we have made in establishing sound economic management, in advancing the interests of families, in boosting small business, and in building a new framework for higher productivity, more investment and more jobs in Australia.

But we will also move on to meeting new challenges, both economic and social:

to tackling our national savings problems;

to building a more world-competitive economic infrastructure in Australia;

to enhancing the protection of our environment;

to streamlining processes for attracting job-creating investment in Australia;

to making it easier to do business in Australia for the benefit of all Australians; and

to re-building the social capital of our community through a strategic but limited role for government and through encouraging the talents and potential of every Australian.

The Labor Party has been left on the sideline—marginalised, factionalised, hopelessly out of touch and irrelevant to the re-invigoration of Australian policy-making that is now taking place.

Labor is left fighting yesterday's battles and refusing to learn the lessons of its electoral defeat.

It is left noisily insisting that its priorities in government were right, and that they remain right. They still cannot understand why an ungrateful Australian mainstream abandoned them so comprehensively.

Labor is left practising the last resort of failed political leadership—trying to scare people by misleading and deceiving them.

They will not succeed because Australia has moved on.

It is worthwhile recalling just how far we have come in the 10 months since the people decided to place their trust in a new coalition Government on 2 March this year.

The compelling need for fiscal repair has been pursued without compromising our main election commitments. We did not create the $8 billion Bankcard bill but we have accepted the responsibility to fix it.

GETTING THE FUNDAMENTALS OF THE AUSTRALIAN ECONOMY RIGHT

The economy we inherited from Labor was loaded with large debts, heavy deficits and high levels of unemployment.

Our economic strategy is rightly focused on establishing the economic fundamentals for sustained economic and employment growth, action to reduce unemployment over time and a steady improvement in living standards.

We have set Australia on a new course of proper fiscal responsibility built on increased national saving, the maintenance of low inflation, reduced pressure on interest rates and restoring the underlying budget balance to surplus.

The major building blocks for this are now in place. They include the recently passed Workplace Relations Legislation, the 1996-97 Budget and new monetary policy arrangements with the Reserve Bank.

Our policies are already starting to work.

Our inflation rate compares favourably with that in other industrial countries. Underlying inflation is now comfortably within the Reserve Bank's target range. And forecasters predict that inflation will remain moderate.

As a result of lower inflation, and the reduction in the budget deficit, interest rates have fallen. The Reserve Bank has reduced the official cash rate three times since March—the latest this morning.

Families and businesses have benefited substantially. Families with a $100,000 mortgage are saving around $145 a month in interest payments as a result of the fall in variable home loan interest rates by 1¾ percentage points. If today's rate cut is passed on in full there will be a further saving of $40 a month. Cash flows are under less pressure, and that means business can now undertake the investment needed for faster growth, higher productivity and more jobs.

Our first budget aimed to transform the underlying budget balance from a deficit of $10.3 billion in 1995-96 to one of $1.5 billion in 1997-98 and a surplus in 1998-99—a massive turnaround of $8.8 billion or 1.8% of GDP in just two years.

This is being achieved with no increase in income tax rates, no increase in the company tax rate, no increase in the wholesale sales tax rates and no increase in the petrol excise.

We are also legislating a Charter of Budget Honesty to ensure that the Australian community is kept fully informed of the true state of the economy and the budget, particularly at election time. This ushers in a new era where deceit, such as that attempted by Labor at the last election as to the true state of the national accounts, will be a thing of the past.

Approval by parliament of the government's landmark Workplace Relations Legislation heralds a new industrial relations era for Australia which will boost productivity enabling higher take home pay and lay the foundations over time for greater job creation.

The previous government's anti-job, unfair dismissal laws have gone. They have been replaced with a simpler more balanced system that provides for a fair go all round.

Employees and employers are now able to reach mutually beneficial agreements about productivity, wages and conditions that best suit their particular workplace. This will be achieved within an appropriate framework of guaranteed minimum conditions, and without the uninvited intervention of third parties.

Our support for a safety net increase of $24-a-week phased in over three years reflects a commitment to genuine protection for the low paid.

Compulsory unionism has been abolished. It's gone. It has been replaced by the fundamental principle of freedom of association. Stronger sanctions have been introduced against unlawful industrial action, including union secondary boycotts, which have been outlawed through the reintroduction of sections 45 D and E of the Trade Practices Act.

We have also concluded an historic agreement with the Victorian Government which will give all Victorian workers and employers the opportunity to operate within the one industrial relations system.

The old industrial relations system was holding back growth and holding back our country. This government can proudly say that it has given Australia an industrial relations system for the 21st Century.

We have acted to remove the impediments to growth caused by unnecessary regulation. We have, in co-operation with the states, created clear, fair and efficient procedures for approving new resource projects. We have ended effectively the use of export controls on minerals except for uranium, terminated the three mines policy and entered into co-operative arrangements for environmental assessments for new projects with the states. All these measures will especially assist the development of resource projects.

As a strong demonstration of my government's commitment to ongoing investment in major projects of all kinds I announce today that I will be appointing to my office a Major Projects Facilitator. The role of that person will be to ensure that speedy approvals are given to major investment proposals which conform with government policy. This person will have business experience as well as a full understanding of the workings of government. We believe that at all times the climate for investment in Australia should be a welcoming one and not one where unreasonable obstacles are thrown up at every turn.

The Australian financial system is in need of review. The inquiry into the financial system, which we have established under the chairmanship of Mr Stan Wallis, will identify the forces of change and the scope for improvement in the regulation of Australia's financial sector. It will provide the foundations for a more efficient and competitive sector while maintaining essential stability.

This will enhance Australia's attractiveness as an international financial centre, improve both the quality and cost of services to customers of financial institutions, and increase the potential of competition to keep downward pressure on interest rates.

Labor's high interest rates sent many small businesses to the wall—and this government will do everything possible to maintain the downward pressure on rates so that enterprise and jobs are not stifled by the cost of capital.

Consistent with its election commitment, the government is accelerating the pace of microeconomic reform. Today the government is announcing major reforms in the petroleum products industry which will increase competition, put downward pressure on petrol prices and benefit consumers.

PROVIDING JOBS AND OPPORTUNITY BY GETTING GOVERNMENT OFF THE BACK OF SMALL BUSINESS

Small business is part of the heart and soul of all members of this government.

Small businesses are the engine room of the Australian economy. They provide a livelihood for millions of Australian families. They are the single greatest source of jobs and opportunities in our economy. They are the backbone of local communities and neighbourhoods, as well as towns throughout regional and rural Australia.

Getting government off the backs of small businesses has been one of our highest priorities since taking office.

We are determined to promote the small business sector as a dynamic and expanding generator of

jobs, national wealth, economic opportunity and community responsibility. We are re-invigorating it through a range of tax, labour market and de-regulatory reforms.

On the tax front, one of our first actions was to reduce the provisional tax uplift factor, freeing up cash flows for small businesses and valuable capital for investment in expansion and jobs. In the budget we implemented our promises to provide rollover relief from capital gains tax to allow small businesses to grow. We also provided an exemption for up to half a million dollars on capital gains on the sale of a small business where the proceeds are used for retirement.

After listening to small business people, we recently made the scheme even better so that the capital gains tax relief applies not just to those rolling over into "like businesses".

As well, we are determined to cut the red tape, the regulation and the paperwork that bedevil so many hard-working small business operators and deter so many potential new ones.

We have already made a start—the Australian Bureau of Statistics is reducing the burden of statistical collections on small business by 20 per cent.

I received the report of the Small Business Deregulation Task Force on 1 November 1996. It is an important and welcome document, containing 62 recommendations for changes in tax arrangements, measures to reduce business compliance costs and to improve the efficiency of regulation and information provision.

The government will respond to the report by February 1997 and I can assure you that the response will be a positive one.

ENHANCING CHOICE AND SECURITY FOR FAMILIES

This government is proud to say that it has Australian families at the centre of national decision-making—whether it be economic policy, social policy service delivery, industrial relations or any other area of government activity.

Our more responsible economic management has delivered practical relief for families in terms of recent reductions in home loan interest rates.

But we also took direct action in the budget. Overall we have cut the tax burden on families by around $1 billion. From the first day of the new year, almost two million low and middle income Australian families will benefit from our Family Tax Initiative.

For a one-income family earning up to $68,000 a year with two children, one of whom is under five, this will deliver an extra $34 a fortnight. Of course, that includes sole parent families.

When it comes to families, we have delivered

We will make private health insurance more attractive to low and middle income families. From 1 July 1997, families with dependent children will be entitled to receive an incentive of up to $450 per year, paid either as an up-front reduction in their premiums or as a tax rebate.

The government also recognises that for many families choice means access to quality, affordable child care appropriate to their needs. Our child care strategy will ensure the continuation of a flexible and responsive child care sector.

Other measures including the Retirement Savings Accounts, superannuation improvements, such as the low income spouse rebate, lower interest rates and lower inflation will all ease pressures on families and provide them with more choice about how they live their lives.

We also believe that the special work of carers deserve more recognition and in line with our commitments, we have provided significant additional funding for the National Respite for Carers Programme to augment existing respite funding and establish Carer Resource Centres throughout Australia.

Eligibility requirements for the Carer Payment will be liberalised, enabling carers to work longer hours in non-caring roles and to take an average of one day a week off from caring.

We know that various pressures produce family breakdown and we want to prevent this wherever possible. We have increased funding for marriage and relationship education, and to enable community organisations to help people become better parents.

GIVING HOPE TO YOUNG AUSTRALIANS

Young people of Australia are our future leaders. We need to nurture them and invest in them.

We are addressing the root cause of youth unemployment by establishing the preconditions for real job growth through improved economic management and our regulatory and industrial reforms.

We are implementing a number of strategies directly targeted at young people which particularly address the development of skills through education and training, for example, in literacy and numeracy, and through school-based vocational training.

Our training and industrial relations reforms will encourage the expansion of traineeship and apprenticeship opportunities. The government has allocated over 200 million dollars over the next four years towards implementing the Modern Apprenticeship and Training Scheme, MAATS. The scheme will bring Commonwealth expenditure in this area to over 1.7 billion dollars over the next four years.

Integral to our approach to other young people who need help, is the development of strong social institutions—the family, the community, and schools. Early intervention, family support and community involvement are critical to the success of our programmes to deal with youth suicide and homelessness.

The Youth Homelessness Pilot Programme which I initiated, for example, involves community groups working with homeless young people to facilitate family reconciliation and to improve their level of engagement in work, education, training and the community.

And the National Youth Suicide Strategy which will receive an additional $18 million over three years is a real attempt by all governments to address a serious social problem in our community.

ENSURING INVOLVEMENT AND SECURITY FOR OLDER AUSTRALIANS

The government has a special commitment to the security and well-being of older Australians.

The value of their pensions is guaranteed through the indexing of pensions on a twice yearly basis in accordance with the Consumer Price Index and by maintaining their value at a minimum of 25 per cent of Average Weekly Earnings.

We are encouraging people to make greater provision for their retirement during their working lives. For instance, the exemption from Capital Gains Tax where a small business is sold to provide for retirement. People will also be able to continue contributing to superannuation up to age 70 and the lower provisional tax uplift factor will assist many older Australians.

Discrimination in the tax system against self-funded retirees has also ended. The tax rebate applying to pensioners is being extended to low income retirees of pension age.

We have been particularly concerned to protect the economic future of people not readily covered by existing superannuation arrangements. Retirement Savings Accounts and the new superannuation spouse rebate will improve the opportunities for the accumulation of benefits by non-working or low income spouses.

We recognise that many older Australians need care. The budget included a package designed to restructure residential aged care to arrest the decline in the standards of nursing homes around the nation. This package will also better meet the special care needs of older people, particularly those suffering from dementia.

Our private health insurance incentives have also been welcomed by older Australians and I hope that in the years ahead we can do more in other ways to ensure our senior citizens have a comfortable and secure retirement.

REVITALISING REGIONAL AUSTRALIA

We said we would revitalise Australia's regions and provide the basis for renewed confidence in the future. We are on track to meeting this commitment.

A strong small business sector and new investment will provide jobs in regional areas and our actions are aimed at encouraging both.

Some areas of rural and regional Australia are still recovering from the worst drought on record. The government has increased the support to farm families until normal cash flows return, so they can get on with rebuilding their properties and help restore the vitality of their region.

We announced in October an additional $81.5 million package for areas recovering from exceptional drought.

The government has also introduced legislation to establish the Natural Heritage Trust of Australia. The Trust will provide more than $1.2 billion for a comprehensive programme of action to address key environmental problems facing Australia. Funding for the Trust is to be sourced from the proceeds of the sale of one third of Telstra.

Cleaning up waterways and improving landcare are both crucial to future generations of Australians in country areas and the coalition is proud that in its first year, it has, with the help of Senators Harradine and Colston, moved to implement this historic environmental reform.

Advanced telecommunications infrastructure is critical for the social and economic health of rural and regional Australia. The government has moved to ensure the availability of enhanced services such as call waiting, call diversion and high speed access to the Internet through the early completion of the digitisation programme.

We are establishing a $250 million Regional Telecommunications Infrastructure Fund to ensure that Australians living in regional and rural areas are not left behind by advances in telecommunications technologies. The application of such technologies outside our capital cities has virtually unlimited potential to reduce the geographical isolation of regional and rural communities and enhance their business competitiveness and educational opportunities.

Transport costs often represent a significant economic hurdle for regional Australia and the government remains committed to lowering this burden. We will spend $750 million upgrading the Pacific Highway and $149 million on Black Spots. Our reforms to rail will also provide a more efficient and competitive rail system, thus further reducing the barriers to investing in regional Australia.

The government is particularly pleased about the establishment in September of a high powered joint

industry and government Supermarket to Asia Council. This brings together government, business, labour, science and marketing expertise to remove bottlenecks which prevent us exporting our quality food products to Asia to our full potential. Those bottlenecks are costing country people their jobs.

We are addressing specific challenges in sectors critical to rural Australia, such as the workability of the Native Title Act.

We have given forest industries certainty through the granting of transitional licences for three years to underpin future investment and employment. We are working to ensure long term resource security while protecting high conservation value forests under the Regional Forests Agreements Process.

Major resource project approvals are being handled expeditiously without duplication with the states, while providing certainty for industry and ensuring sound environmental outcomes.

We have approved the $500 million Korea Zinc Australia Pty Ltd operation at Townsville. Complementary Commonwealth-State environmental assessment for the Jabiluka No 2 proposal and the $1.25 billion expansion proposal for Olympic Dam arrangements have been announced.

The National Rural Finance Summit Activating Committee has presented its first report to the government, identifying high priority areas for action flowing from the Rural Finance Summit held in July. These will be assessed by the government for implementation. The Committee will report to government early in 1997 on a Business Plan for Rural Australia.

IMPROVING OUR EXPORT PERFORMANCE

Australia's trading performance is a vital element of the government's strategy to improve job opportunities and living standards for all Australians.

The government therefore is putting particular effort into reducing barriers to Australia's exports—both tariffs and other obstacles.

A recently concluded agreement with Taiwan will improve our access to markets for beef, citrus and other fruit and cars. As a result, Mitsubishi Australia has already concluded a $35 million deal to export its new Magnas to Taiwan and announced extra jobs at its Adelaide plant. We are exporting fresh milk to Hong Kong for the first time as a result of recent negotiations.

This year's APEC leaders' meeting successfully maintained the momentum for regional trade liberalisation. Australia has already opened up its own economy, decreasing average tariffs to 5 per cent. We are looking for other economies to match us, and this year's APEC individual action plans are a good start.

These action plans clearly show that the momentum for regional trade liberalisation is there and delivering concrete benefits for Australian business.

Restrictions on some agricultural imports are being reduced in Hong Kong and Japan. New access for Australian business in banking and investment will be available in China, Thailand, Singapore and the Philippines. The Philippines will lift import restrictions on coal and Thailand will liberalise the natural gas market.

In the World Trade Organisation the government is working hard to ensure that market access commitments made in the Uruguay Round are adhered to. The government also wants to ensure momentum is maintained for further progress beyond Uruguay Round outcomes in all areas of concern to Australian business. In particular, we want the ground to be laid for negotiations on agricultural access to proceed expeditiously from 1999.

DEVELOPING THE GREAT POTENTIAL OF AUSTRALIA'S REGIONAL RELATIONSHIPS

Australia's success and prosperity is tightly bound to the future of the Asia-Pacific region. The government is deeply committed to strengthening Australia's economic and strategic relationships with the other major economies and powers in our region.

Since coming to office, ministers have moved quickly to establish productive contacts with their Asia-Pacific counterparts. Within weeks of forming government, I held a successful meeting with the Prime Minister of Malaysia. My first bilateral overseas visit was to two of our most important regional partners—Japan and Indonesia. Discussions with the Japanese Prime Minister, Mr Hashimoto, and President Soeharto made clear their interest in co-operating closely with Australia under my government.

At the APEC leaders' meeting in Manila I met Chinese President, Mr Jiang Zemin, and underlined the importance the new government placed on its relationship with China. My visit to China next year will be a good opportunity to build the relationship further.

I was delighted to welcome to Australia President Clinton, only the third such visit to Australia by a US President. The clear message from both sides during the visit was the enduring strength of the bilateral relationship and a common commitment to our region.

The visit built on the Australia-United States ministerial talks in July at which agreement was reached on a number of measures to strengthen the Australia-US alliance, and the contribution it makes to regional stability.

The government played an important role in concluding the Comprehensive Test Ban Treaty and will continue to work hard for non-proliferation objectives.

We have moved quickly to address deficiencies in the combat of our defence force.

Defence was quarantined from budget cuts in the government's deficit reduction efforts. The administrative savings of $125 million a year were redirected to improve combat capabilities, training and personnel retention.

A COHESIVE AUSTRALIAN SOCIETY

Australia is a united tolerant and harmonious nation.

The goal of my government is to focus on those things which unite Australians and not those which might divide them.

Our success in absorbing millions of people from the four corners of the globe in a climate of tolerance and positive espousal of common national goals has been an example to the rest of the world.

Despite our success we must all strive to build on our past legacy of tolerance and egalitarianism.

My government is steadfast in its commitment to the process of reconciliation between indigenous Australians and the wider Australian community.

We want higher living standards and greater economic independence for Aboriginal and Torres Strait Islander people. We will work with states and Territories and with ATSIC to achieve practical outcomes designed to overcome the undoubted social and economic disadvantages of our indigenous people.

We have demonstrated an enduring commitment to the role of the arts in Australian life.

This has included a particular focus on accessibility through innovative programmes such as the Major Festivals Fund to assist Australian productions performed in capital cities and major regional areas. We are also providing support through the Regional Arts Fund, the Emerging Artists Fund and the touring programmes of the Department of Communications and the Arts.

Funding for the One Stop Shop and National Cultural Network will enable greater access to information on arts and national cultural collections, including industry support programmes offered by government departments and agencies.

As part of our commitment to a safer Australia, the government has committed $13 million to the National Campaign on Violence and Crime. This campaign is aimed at more effective co-ordination and implementation of crime prevention efforts across the country and at the reduction of crime and fear of crime.

We are committed to dealing more effectively with the issue of domestic violence. We anticipate specific strategies to be endorsed at the National Domestic Violence Summit to be held in 1997.

We remain strongly committed to public involvement in the debate and decision making process about our Head of state and we will announce the next step in that process early next year.

In 2001, the centenary of Federation provides an opportunity to celebrate Australia's achievements and our immense democratic inheritance. I have recently announced the Commonwealth's appointees to the Centenary of Federation Council to be chaired by Mr Dick Smith. The Council will co-operate with the states, local government and community organisations to develop a co-ordinated programme across the country.

Our National Flag is a focus for national pride. As promised, the government introduced on 26 June 1996 the Flags Amendment Bill 1996 to ensure that the Flag cannot be changed in any way without a national vote of the people.

A very positive example of this government's commitment to our national institutions is the enhanced opportunity now provided to ask questions in this place. Whereas in the last year of the Keating government an average of only 12.7 questions were asked each question time, the average so far this year is 19 questions. That is the highest average in the last twenty years.

It is important that the next generation understands our society and appreciates our heritage. We have reaffirmed the commitment to civics and citizenship education and refocussed the programme to emphasise understanding of our history, the operations of Australia's system of government and institutions and the principles that support Australian democracy.

CONCLUSION

There are a whole host of other achievements across a range of portfolios and we have only just begun.

Ten months on from the Election, we are proud of the important start that we have made in restoring good government and responsible policy-making at the national level:

an important start in re-building a sense of national purpose in place of Labor's shifting alliance of special interests;

an important start in restoring the family as the centrepiece of national policy-making;

an important start in fixing the fundamentals of our economy;

. an important start in re-energising small business;

. an important start in revitalising regional Australia;

and an important start in building genuine hope for young Australians and greater security for older Australians.

But we know that it in all these areas, what we have achieved is only a start.

We need to keep going forward—and we will.

We need to ensure that all Australians—irrespective of their race, colour, beliefs or country of origin—are accorded respect and dignity as individuals and are given an equal entitlement to achieve their aspirations free from discrimination and intimidation—and we will.

Above all, we need to continue to relate the government's priorities to the concerns and aspirations of the Australian mainstream, rather than to the narrower agenda of elites and special interests—and we will.

As Prime Minister, I am proud of the coalition team and I'm proud of the team's achievements. It's been a good 10 months for the Liberal and National Parties, but more importantly, it's been a good 10 months for the Australian people who gave us their trust.

Senator KERNOT (Queensland—Leader of the Australian Democrats) (3.43 p.m.)—I move:

That the Senate take note of the document.

The Prime Minister (Mr Howard) says that he is being true to his word. He said that so many times during his speech. The truth is that he is being true to some of his words and that we are supposed to forget about the rest of them. He has not been true to his word in honouring his election promises. He has not been true to that word by $12 billion. His word in the election campaign was that, given the hard choice between honouring his election promises and reducing the deficit, he would choose to honour his election promises to the Australian people. It is not being true to your word to come back after winning an election say, 'PS. I meant core election promises.'

Australians need to look very carefully at the difference between what John Howard says and what John Howard does. What John Howard says is, 'I honour my promises. I govern for all of us and I stand for higher standards.' That is what he says. But what John Howard does knowingly—

The DEPUTY PRESIDENT—Could we have 'Mr Howard' please.

Senator KERNOT—What Mr Howard does knowingly, deliberately and often divisively is exactly the opposite. Despite this, we all know that he will achieve his aim of dominating the headlines tomorrow. I am sure it is entirely coincidental that it is the lead-up to the Western Australian election. There are positives in the first nine months of Mr Howard's government. His tough stand on gun control following the tragedy at Port Arthur, assisted by the Deputy Prime Minister (Mr Fischer), was a sign that he can, when he chooses, flex real leadership muscle on important national issues.

The government also demonstrated a welcome capacity to be flexible on industrial relations reform and the end result of that flexibility was a package of reforms which is fair to Australian workers. This government has provided some overdue relief for small business, but what was left out of the Prime Minister's progress report is a lot more interesting than what was included in it. The Prime Minister talked about putting Australian families at the centre of government policy through tax relief. There is more than one way to force people to pay higher taxes. What the Prime Minister did not remind us of in his progress report was that Australian families will be paying much more for a range of services which they use every day.

Here is an example that did not find its way into the Prime Minister's speech. The management committee of the Katoomba Children's Cottage met this week and worked out that the lowest fee increase they can make to cover the government's cuts to their operating grants is $25 per week per child. There goes the family tax payment for those families. The Prime Minister did not tell families that they are going to pay more for medicines and health care. He did not talk about his government's decision to cut support payments for families with a disabled child. He did not talk about the funding cuts to public schools where 70 per cent of Australian children still go. He did not talk about the funding cuts to public hospitals and cuts to free dental services. He did not talk about the

massive tax hike and breach of promise involved in university fee increases. He did not talk about that little hike of $10 a week for a first year teacher or nurse.

In fact, this government's claims to economic credibility are built on the shifting sands of $12.7 billion worth of broken election promises, the impacts of which have not yet been felt. The explanation this government offers for the callous choices it has made is, 'We had no choice and, look, we did explain why we had to do it,'—after the event, of course. The Democrats still believe that this budget has cut too far and too quickly, and that, in the end, it will do more damage than good for the economy. Why do you think we are seeing repeated cuts in interest rates? I do not begrudge people the benefits of those cuts—when the banks actually pass them on, which is not what the Assistant Treasurer talked about today.

We are seeing those repeated cuts in interest rates not as a reward for good economic management but because the economy has been killed stone dead. The economy is not comfortable and relaxed. It is poleaxed and comatose. That is why I say Australians need to look very carefully at the difference between what Prime Minister Howard says and what Prime Minister Howard does. He likes to talk a lot about choice. Everything is wrapped up in the rhetoric of choice. His government has made choices about who is paying the price of its decision to reduce the deficit over a shorter rather than a longer time frame. It is Prime Minister Howard who has made these choices and many of them are callous and cruel choices which cannot, by any stretch of the imagination, be described as being for all of us.

This is not about increasing choices for all of us over the last nine months of coalition government. The record very clearly shows that, in fact, it is about increasing choice for some of us at the expense of the rest of us. Where is the increase in choice in cutting $400 million in benefits to the most disadvantaged Australians—indigenous Australians—while, on the same day, announcing that the mining industry would get to keep its $800 million a year subsidy for diesel fuel? Of course, there is no pandering to special interest groups! This is the Liberal Party—the Liberal Party does not have any special interest groups!

Where is the increase in choice in cutting payments to families with a disabled child, while finding $35 million to encourage income splitting on superannuation by high income households? That is really sharing the burden, Liberal style!

Where is the choice in making it harder for unemployed people to get unemployment benefits, in reducing rent assistance for disabled people living in group houses, or in forcing people over 55 to draw on their superannuation rather than get income support if they are sacked from their jobs at that time in their lives when it is very difficult to find further employment? That is not great choice. That is really pandering to special interest groups.

Let us look at another area: the environment. This government asserts that it cares for the environment, riding on the back of its Natural Heritage Trust Fund. Let us make one thing clear about being true to your word here. When the Natural Heritage Trust Fund money is added up, it represents a cut in spending on the environment—another case of reality not matching the rhetoric. When we look at the government's other so-called environmental credentials—things the Prime Minister conveniently left out of his progress report today—the Prime Minister forgot to remind us about the massive increase in woodchipping. He forgot to remind us about the plan to mine in national parks and, of course, about the world's worst greenhouse policy.

Most of all, this Prime Minister's government of the past nine months has not been true to its word on governing for all of us because this government has singled out, in the most divisive and calculated way, the more vulnerable—Aboriginal Australians, Asian migrants. It has singled out unions. It has singled out some undefined elite who have been living off special treatment for the last 13 years. This government, and its Minister for Social Security (Senator Newman), constantly refer to people on benefits

in this country as bludging off the backs of taxpayers. That is a wonderful statement of unity and harmony, isn't it? This is the policy of deliberate division. This is nasty and divisive, but what makes it worse is that it is totally calculated and poll driven. This is what I think fails the Prime Minister's basic test of leadership, the basic test of being true to his word. He has failed the test of bringing honesty, trust and integrity to government by being no different from every other Prime Minister who has said, 'I will honour my promises,' and then fails to do so to the tune of $12.7 billion.

That is the great fraud that is going to be exposed in the years to come. The short-term results we know will be positive. The headlines will be there, but the damage, the division and the financial impact will be felt in the next two years of this government.

Question resolved in the affirmative.

DOCUMENTS

Auditor-General's Reports

Report No. 20 of 1996-97

The DEPUTY PRESIDENT—In accordance with the provisions of the Audit Act 1901, on behalf of the President I present the following report of the Auditor-General:

Report No. 20 of 1996-97—Performance audit—Selected Commonwealth property sales: Portfolio Departments of Veterans' Affairs, Defence and Administrative Services.

Auditor-General's Reports

Report No. 21 of 1996-97

The DEPUTY PRESIDENT—In accordance with the provisions of the Audit Act 1901, on behalf of the President I present the following report of the Auditor-General:

Report No. 21 of 1996-97—Performance audit—Management of IT outsourcing: Department of Veterans' Affairs.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator COONEY (Victoria)—I present the 13th report of 1996 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table *Scrutiny of Bills Alert Digest No. 15 1996*, dated 11 December 1996.

Ordered that the report be printed.

Public Works Committee

Report

Senator PANIZZA (Western Australia)—On behalf of Senator Calvert and the Joint Committee on Public Works, I present two reports of the committee entitled *Development of facilities for 5 Aviation Regiment at RAAF Base Townsville* and *Development of infrastructure on Townsville Field Training Area, Townsville*. I seek leave to move a motion in relation to the reports.

Leave granted.

Senator PANIZZA—I move:

That the Senate take note of the reports.

I seek leave to incorporate Senator Calvert's tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

Development of facilities for 5 Aviation Regiment at RAAF Base Townsville (Committee's 4th Report of 1996)

Development of infrastructure on Townsville Field Training Area, Townsville. (Committee's 5th Report of 1996)

Madam President, the first report which I have tabled concerns proposed facilities at RAAF Base Townsville for 5 Aviation Regiment.

The proposed works examined by the Committee encompass two major elements.

The first is the construction of an advanced wash facility and environmental shelters equipped with dehumidification equipment for Black Hawk and Chinook helicopters. This will reduce corrosion caused by operation and open storage of the helicopters in salt-laden atmospheric conditions. The shelters will also reduce exposure of the helicopters to high temperatures and ultra-violet radiation and will alleviate occupational health and safety problems associated with personnel working on the helicopters in the tropical sun.

The second is the relocation of 5 Aviation Regiment's transport and vehicle workshop facilities within the existing regimental precinct to enhance operational efficiency. Ancillary works involving the refurbishment of a helicopter arming area are also included.

The estimated out-turn cost of the proposed works is $21.332 million.

The Committee has recommended that the project should proceed as planned.

The report concludes that Black Hawk helicopters operated by 5 Aviation Regiment at RAAF Base Townsville have experienced unexpectedly high rates of corrosion.

This has been attributed to the use of high strength, lightweight alloys in helicopter structures and the operation and storage of aircraft in humid and salt laden atmospheric conditions. Prolonged exposure to ultra-violet radiation has affected internal electronic components and plastic fittings.

In response to questions from Members, the Department of Defence advised the Committee that development of the proposed work commenced 12 months before the tragic Black Hawk accident and that it is not linked in any way to the crash.

RAAF Base Townsville remains the preferred location of 5 Aviation Regiment due to the proximity of 3 Brigade and impracticalities and considerable investment associated with alternative locations.

High corrosion rates have diminished the capacity to operate the helicopters through to Life of Type, planned for 2015 as well as affecting aircraft serviceability and requiring expenditure on maintenance, with associated costs expected to exceed sustainable funding levels.

The Department of Defence has implemented a Corrosion Control Program for the helicopters to permit 5 Aviation Regiment's Black Hawk helicopters to operate effectively through to Life of Type.

To satisfy the requirements of the Corrosion Control Program, there is a need to provide environmental protection shelters serviced by dehumidification equipment and an enclosed helicopter washing facility.

Based on the number of Black Hawk and Chinook helicopters operated by 5 Aviation Regiment and current maintenance programs, there is a requirement for 19 Black Hawk and four Chinook shelters.

The Department of Defence estimates that cost of environmental protection shelters would be recovered after two years, based on the $1.5 million cost of corrosion control undertaken in 1995 on four helicopters.

With regard to the need for improved arrangements for vehicles and workshops, the Committee has concluded that existing transport and some technical workshop facilities are located at inappropriately remote sites, from 5 Aviation Regiment's precinct at RAAF Base Townsville.

The facilities are inadequate and their locations present an ongoing cost to unit efficiency. There is also a need to relocate 5 Aviation Regiment's Small Arms Repair Section and to refurbish the gunship helicopter arming point.

The report concludes that the proposed environmental protection shelters, the provision of dehumidification equipment and the helicopter wash facility can be justified as providing the necessary facilities for the successful and economic implementation of the Corrosion Control Plan.

The scope of works for the transport compound and workshop facilities can be justified on the basis of considerably improved working conditions, improved shelter and security for the extensive fleet of vehicles and resulting improved efficiency.

The extent of proposed ancillary work will improve the small arms repair section and ordnance loading aprons.

The second report which I have tabled concerns the proposed development of infrastructure on Townsville Field Training Area, Townsville.

By way of background, the proposal will enable the Army and the RAAF to effectively utilise a large training area encompassing more than 230,000 hectares and to ease environmental pressures on the High Range Training Area.

Broadly, the proposal will provide:

fences and warning signs;

office accommodation for the range control organisation;

communication facilities;

access roads;

basic infrastructure for a 350 man camp;

vehicle crossing points for creeks, roads and railways; and

vehicle wash points.

The estimated out-turn cost of the proposed work is the estimated out-turn cost of the proposed work was $18.694 million.

As part of the Committee's inquiry, Members were able to fly over this extensive tract of land in two Black Hawk helicopters to inspect the extent of the training area and the sites for various components of the proposed work.

The Committee has recommended that the work should proceed.

The report concludes that a need exists to provide the necessary infrastructure to enable elements of the Australian Defence Force to undertake collective and joint training in live fire and manoeuvre, at Brigade level, in the Townsville Field Training Area.

Of development options examined, the preferred option will allow the Range to be developed close to its maximum potential and provide training

benefits within a realistic time-frame and at realistic costs.

The extent of the proposed development can be justified on the grounds of public safety, effective management and maximum use of the Range, in accordance with the user requirement and concepts for manoeuvre operations.

The report supports the use of Army Engineers on elements of the project which would provide training benefits and not directly compete with the private sector.

Design standards will conform with relevant codes, statutes and operational manuals and procedures.

The proposed development was the subject of extensive environmental impact assessments demonstrating a commitment to responsible stewardship of the Townsville Field Training area by the Department of Defence.

I commend the reports to the Senate.

Senator PANIZZA—I also seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUDGET 1996-97

Consideration of Appropriation Bills by Legislation Committees

Additional Information

Senator PANIZZA (Western Australia)—At the request of Senator Ellison, I present additional information received by the Legal and Constitutional Legislation Committee in response to the 1996-97 budget estimates hearings.

COMMITTEES

Public Accounts Committee

The DEPUTY PRESIDENT—Order! A message has been received from the House of Representatives acquainting the Senate of a resolution to refer a matter to the Joint Committee of Public Accounts. The full text of the message has been circulated in the chamber.

The message read as follows—

Message No. 148

Madam President

The House of Representatives acquaints the Senate of the following resolution which was agreed to by the House of Representatives this day:

That:

(1) the Tax Law Improvement Bill 1996 be referred to the Joint Committee of Public Accounts for consideration and an advisory report to the House by 6 March 1997; and

(2) the terms of this resolution, so far as they are inconsistent with standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders.

Speaker

House of Representatives

11 December 1996.

TELSTRA (DILUTION OF PUBLIC OWNERSHIP) BILL 1996

In Committee

Consideration resumed.

The CHAIRMAN—The committee is considering amendments 12 to 14 moved by Senator Allison. The initial question is that amendments 12 and 13 be agreed to.

Senator ALLISON (Victoria) (3.57 p.m.)—I want to seek leave to withdraw amendments 12 and 13. I do not know whether this is an appropriate time to do that.

Leave granted; amendments withdrawn.

The CHAIRMAN—The question before the Chair, therefore, is that amendment 14 be agreed to.

Senator COONEY (Victoria) (3.57 p.m.)—This is a question that was raised initially by Senator Schacht and by others. It talks about this issue of damages. The opposition has moved an amendment that the figure of $25,000 be substituted for the figure of $3,000. I think it was said, at the close of the debate prior to the luncheon break, that this was in addition to other civil actions that might be available—such as actions in tort or in contract.

As distinct from that, this is a consumer protection provision. It seems a very clumsy way of giving the consumer protection, because if the periods that are talked about in clause 87E are not complied with then the consumer may want to do something about it. This purports to enable the consumer to do that. As it presently stands, the amount of damages is left at $3,000. It is not clear whether there are costs in addition to that. I would have thought if an action were pursued the costs might take up a lot of the $3,000 or

even $5,000 that would be awarded. So there has to be some clarification about the issue of costs.

The general thrust of my objection to it is that this is a very clumsy way of providing consumer protection. An action has to be taken in a common law court. There are almost—and I use this word advisedly—inevitable delays in bringing the action on. There is the worry of costs. As Senator Schacht said, the provider of the services will be much more endowed with resources than will the consumer. There are no provisions, as far as I can see, in the bill to make legal aid available to the consumer. I would like that clarified.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (3.59 p.m.)—I wonder whether I could trespass on your good nature and indicate that it seems to us that the game is not worth the candle on this one. We will therefore not oppose it. We certainly do not support it for the reasons I indicated. I could say the same in respect of 16 as well.

Senator Schacht—Sixteen you accept. What about 15—that 'or service provider' is inserted after 'carrier'. You hinted at that earlier.

Senator ALSTON—I think it has already been dealt with.

Senator Schacht—Yes, it has. So you accept 14 and you accept 16 as well?

Senator ALSTON—We are not opposed to it.

Amendment 14 agreed to.

Amendment (**Senator Allison's**) agreed to:

(16) Schedule 1, item 11, page 8 (after line 2), at the end of section 87H, add:

(8) Nothing in this section affects the right of a customer to complain to the Telecommunications Industry Ombudsman about a breach of a performance standard.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.01 p.m.)—I wish to say a few words about the Australian Democrats' opposition to item 11, section 87J. The proposal here is to effectively take away from consumers the right to choose not to have the customer service guarantee available to them. The obvious consequence of that would be that consumers would therefore be able to choose a lower cost, no-frills service, which they might be perfectly satisfied with.

I think it is important to understand that there ought to be industry codes of practice in place, which there will be, to ensure that people's rights are properly brought to their attention. If that is the case, it seems to us that there is no good reason why you should force a customer to take the theoretical benefit of a customer service guarantee when they might just as much prefer—

Senator Schacht—We are opposing the Democrats too.

Senator ALSTON—Okay; I will not say any more then.

Senator SCHACHT (South Australia) (4.01 p.m.)—I just might help you along a bit. I want to indicate that the opposition does not support the Democrats. We believe that the waivering of the customer service guarantee is a choice to the consumer. If they choose to do that, I find they would be strange in most case to waiver it, but that is their choice. We support the section.

The CHAIRMAN—The question is that section 87J stand as printed.

Section 87J agreed to.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.03 p.m.)—I also wish to speak on amendment 18, which is the review of the customer service guarantee every four years. I think I made the point earlier that in many respects it is better to have a continuous review of these things, so there is an obvious arbitrary element in picking out four years. If deficiencies arise, I would have thought that they would be very quickly brought to our attention and we would be interested in doing something about it. By us, I mean the parliament. It just seems to us that four years does not make a great deal of sense. I do not want to spend any time on it. It is really a matter of how others feel about it.

The CHAIRMAN—The minister got in before me because it has not even been moved yet. I presume you are moving amendment 18?

Senator ALLISON (Victoria) (4.03 p.m.)—Yes. I move:

(18) Schedule 1, item 11, page 10 (after line 8), at the end of Division 6, add:

87R Review of Customer Service Guarantee

(1) For:

(a) the period from the commencement of this Division until the end of 31 December 1998; and

(b) the period of four years starting on 1 January 1999 and each following period of four years;

the Minister must cause either AUSTEL or an independent committee established for the purpose, to review and report to the Minister in writing about:

(c) the operation and adequacy of the Customer Service Guarantee and any other relevant consumer protection measures; and

(d) recommendations for enhancing consumer protection in the context of technological developments and changing social requirements.

(2) If the Minister appoints an independent committee to review and report to the Minister pursuant to subsection (1), the independent committee must consist of at least three members who, in the Minister's opinion, are suitably qualified and appropriate to do so.

(3) AUSTEL or the independent committee, as the case may be, must give the report to the Minister as soon as practicable, and in any event within 6 months, after the end of the period to which it relates.

(4) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

(5) Subsections 34C(4) to (7) of the *Acts Interpretation Act 1901* apply to a report under this section as if it were a periodic report as defined in subsection 34C(1) of that Act.

(6) As soon as practicable after receiving the report, and within three months if possible, the Minister must cause a copy of the Government's response to the recommendations in the report to be tabled in each House of the Parliament.

It is proposed that the customer service guarantee be reviewed after two years, as Senator Alston has mentioned, to see how well it is performing and the ways in which it could be improved, and after that, once every four years. We would like to see that review conducted publicly, either by Austel or an independent committee established for the purpose. That should culminate with a report from the minister.

I am happy to take on board suggestions about those time lines. The Democrats think that in two years time and then every four years is appropriate, but if there is another point of view, I am happy to hear that.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.04 p.m.)—I wish to indicate that the reason why we take the view that four years is somewhat artificial is that section 399(2) of the act gives Austel the duty of reviewing and reporting to the minister on carrier performance. Austel is required to report annually and the minister has to table those reports in the parliament. So there will effectively be annual reviews undertaken in any event.

Senator MARGETTS (Western Australia) (4.05 p.m.)—I would like to add that we are all going to need to watch this process very carefully. I am not convinced that the review that is suggested with the timing and the number of people may not be counterproductive. I certainly would like to see reviews, and perhaps they will be parliamentary reviews.

One of the concerns that I have is that if we have reviews and there is to be this review, it might be used as an excuse not to have a proper parliamentary review, on the basis that there is a review built in. Many of us might consider that that is not an ideal sort of review and it may take away some of the power of the argument to have a properly constituted parliamentary inquiry from time to time or to require regular information to be provided. Whilst we like the idea, I think it needs more work.

Senator SCHACHT (South Australia) (4.06 p.m.)—Minister, you say that every year Austel is required to make a report on the carrier performance. This is a customer service guarantee. If this amendment is not carried, what procedure do you have to get a review of the customer service guarantee by Austel? When will it occur? Will it be manda-

tory or automatic as part of the review of the carrier each year or would it just fall silent and require some direction from the minister from time to time to do a review?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.06 p.m.)—My understanding of that section is that Austel would have an annual obligation to report.

Senator Schacht—Without this amendment?

Senator ALSTON—Yes, without this amendment.

Senator Schacht—On the customer service guarantee?

Senator ALSTON—Yes, because Austel has a duty to review and report on carrier performance. That includes its performance of all of its obligation, including customer service guarantees.

Senator SCHACHT (South Australia) (4.07 p.m.)—Minister, will the review include service providers since you have accepted previous amendments about service providers being added?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.07 p.m.)—I did not quite hear what you said, but I hope this might cover it in any event. If you look at No. 14—

Senator Schacht—On what page?

Senator ALSTON—Page 10. If you look at No. 14, you see that we are including new paragraph 399(2)(da) to require Austel to consider 'the appropriateness and adequacy of the approaches taken by the carriers in carrying out their obligations, and discharging their liabilities, under Division 6 of Part 5'. That would precisely cover the performance of these obligations, so you will get an annual review.

Senator Schacht—We will get an annual review?

Senator ALSTON—Yes.

Senator SCHACHT (South Australia) (4.08 p.m.)—I am trying to keep up with all of this. On the minister's word that there is an annual review on these areas, it is actually a more stringent requirement that the Democrat amendment. Therefore, I accept the minister on this occasion.

Amendment negatived.

Senator ALLISON (Victoria) (4.10 p.m.)—I move:

(1) Schedule 1, items 9 and 10, page 4 (lines 5 to 8), omit the items, substitute:

9 Subsection 73(3) (definition of *eligible customer*)

At the end of the definition, add:

; or (c) a business customer.

10 Subsection 73(3) (after the definition of *eligible customer*)

Insert:

untimed call includes calls for the purpose of transmitting facsimiles or data.

This amendment does two things: firstly, it expands the definition of untimed local calls to explicitly include data and fax transmission; and, secondly, it guarantees access to untimed local calls as an option for businesses in addition to welfare and charitable organisations for whom this is already guaranteed in the legislation.

Currently, only the provision of untimed voice calls is legislated for. But, if Telstra is permitted to remove the option of having to provide untimed local calls for fax and data, this will certainly make the enterprise more profitable. It would also enable the government to raise the sale price. However, this would occur at the expense of consumers.

I think it is important to note that the intention of this amendment is not to prevent Telstra from offering the option of timed local calls, voice or data, for customers—some customers may find this option more attractive. However, if the option of untimed local calls is removed or not extended to businesses or to include fax and data transmission, this would raise telecommunication costs for many small businesses quite dramatically. It would also make access and update of online services much more difficult. The information superhighway, as we call it, would in effect be an information supertollway instead.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.11 p.m.)—The bill does extend the right to untimed local voice calls to business and it also

extends the right to untimed non-voice or data calls to residential and charity consumers. This amendment takes that proposal further and says that business customers should have access to untimed local data calls or non-voice calls.

What we are really talking about, therefore, is a very significant subsidy for the big end of town. If anyone can afford the cost of phone calls and at least in some respect cost-based calls, then it ought to be business. Yet the Democrats are proposing to give business a very cheap opportunity to make what can be often very long calls.

To the extent that there are problems in this area now—and most commentators predict that there will be very significant problems in the future—it is because business does transfer huge quantities of data, often over a period of many hours. The Democrat amendment says that that is fine and that it can do all that for the price of a local call. That is moving completely away from any concept of cost.

The practical effect would be that the carrier has to subsidise it and recoup the cost out of its other charges. You continue to have close to the highest local call charges in the world at the moment because of the Telstra's cost structures. If you are going to burden Telstra's cost structures by not allowing it to charge business on a timed basis for data calls, then you are effectively going to put up the price of other services, including local call charges for residential consumers.

So the practical effect of this could well be that you simply encourage business to make more and more very long calls at rock-bottom prices, clog up the system and as a result make it difficult for elderly people to make emergency service calls because the network has not been upgraded sufficiently to provide them with the quality of service that we would all want to see.

The more you squeeze the carrier, the more difficult it is to ultimately provide those services. So I cannot for the life of me see why you would be wanting to see the big end of town get a huge subsidy which will effectively be borne by all users of the system, including residential consumers. We, therefore, very much oppose this amendment.

We have gone further than the current regime in extending the right to untimed local voice calls to businesses. They do not have that right at the moment, but we have given it to them. We have also made what we think is a very far-sighted decision to allow residential customers to have access to data calls—the internet, broadband services and the like—on an untimed basis. That is very deliberately to encourage people at home, particularly children, not only to be computer literate but to make the best use of these resources not just for entertainment purposes but for education purposes.

That is a completely different concept from saying that we need to encourage business. You certainly do not. Business is more than happy to bear the cost of the service. They simply pass it on to their customers, as we know. Why would you want to give them one of the biggest free kicks in history? It does not make sense. I would have thought we have gone a fair way down the track in terms of ensuring that people have access to the system. What you are going to do is effectively restrict quality of service and access, because the system is being clogged up by large-scale, high volume users.

Senator ALLISON (Victoria) (4.16 p.m.)—What you seem to be suggesting is that the government is being very generous here in talking about going a fair way down the track and so forth. What we are talking about is conditions that already apply in practice. So to suggest that what we are doing is somehow subsidising the big end of town is quite absurd.

Also, what has not been given by you is any sort of real evidence that there is the clogging up. Perhaps the government should have let us know what the scale of the problem is in that respect. As I understand it, there is not a problem at present. The very large organisations do not clog up ordinary telephone lines. They have their own systems in place, so they do not need to do that.

So, once again, I go back to the point that these conditions already apply in practice. Both residential and business customers

currently have untimed local calls for fax and data services. All we are trying to do is put the existing conditions in place in the legislation.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.17 p.m.)—It is one thing to say that at the present time it may be technologically difficult. I think the answer is that, in practice, it is more administratively difficult to distinguish between data calls and voice calls. What you want to do is put in place a legislated right for business transferring data to make any length of call for the cost of a local call. Why would you want to do that? I would have thought it is self-evident. There is about $5 billion worth of revenue that Telstra derives from local calls on an annual basis. I forget the proportion, but it is probably close to 50 per cent—that is a business-residential split. So you are probably talking about $2 billion to $3 billion worth of calls.

Senator Schacht—But not data calls, business calls.

Senator ALSTON—Voice calls at the present time. Of local calls both—

Senator Schacht—How many of the $5 billion worth of local calls are actually data calls?

Senator ALSTON—I do not think we know that. They say that it is too difficult to distinguish at the present time, but it is not going to be long before they will.

Senator Schacht—Telstra always says that.

Senator ALSTON—I know they do, but the consequence of their saying that is that we do not have a figure on data. You do not have to be aware of the last dollar value of it to know that businesses all around Australia have local area networks, wide area networks, private networks and closed systems. Businesses are constantly transferring huge amounts of data around the country.

What Senator Allison is saying is that somehow we ought to be allowing business to go on doing that at local call untimed rates when she would not, for example, extend the same privilege to non-profit organisations or government departments. Why you would want to be in these terms punishing the government but giving business a huge subsidy is simply beyond me.

I would have thought you would be interested in ensuring that residential consumers had the access we are proposing to give them. Why you would want to extend that right—other than to simply muddy the waters to the point where you never had any idea what the true cost of a service was, because you had artificially legislated that they could do whatever they wanted to do at 25c unlimited—is simply beyond me. So it is no use saying that currently they do not do it. You want to put in concrete a right to an untimed local call rate for data, even when it is possible to distinguish between them.

Senator SCHACHT (South Australia) (4.20 p.m.)—The minister just said that Telstra cannot give us an estimation of how many of the local calls—and the revenue is worth about $5 billion—are data calls and how many are voice calls. Yet the minister wants to charge by time for data calls in the local call zone.

Senator Alston—To have the right to do it, yes.

Senator SCHACHT—Right. How can they identify doing it in the future if they cannot tell us now how much is going in data anyway? When you give them the power to start charging by time for a data call in the local loop, how are they going to do that when they cannot tell you now how many data calls are being made in the local loop?

Senator Alston—The answer is they will not do it until they are able to do it, but it is the principle we are talking about here.

Senator SCHACHT—I can understand you arguing the principle, but I want to know whether they are technically capable of doing it. Even though you are saying we want to do it in principle, there is no use giving them the principle if they do not have the technical capability in the telephone exchange, in the switching equipment, to differentiate between what is a data call and what is a voice call. Telstra want it both ways, which is not unusual.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.21 p.m.)—

They cannot currently distinguish between a data call and a voice call. What they would have the ability to do in future is to impose a separate time charge on a call from a business organisation to a data service provider; in other words, you can identify by function what the transaction is. If you have a dedicated line that is providing a service between two business outlets, you know what is going on. If you know it is a business data service that is providing the traffic, you can identify that as something that ought to be charged for on a timed basis.

Can I just say—I would like you to address this—whether or not you can put a price tag on it, I do not understand why in principle you would argue that businesses ought to be able to make data calls on an untimed basis when you do have the capacity to distinguish. That is what we are talking about here. Otherwise you are putting in place a right to an untimed local call even if, the day after they can distinguish, they would not be allowed to do it on a timed basis.

Senator SCHACHT (South Australia) (4.23 p.m.) I have to say that we in the opposition are not unsympathetic to the view about data information. In the long run, the concept is that someone pays 25c and has an open line for running data in the local loop until hell freezes over. I understand that. If everyone does that, there will not be enough cables hanging in every street in Australia to provide the capacity and the switching equipment. But I have to say I am a little suspicious of our good friends at Telstra. They want it both ways. They want us to give them the legislation in this bill, which is about the sale of Telstra, without telling us how they are going to determine the difference technically. This argument has been around for a fair while.

My view is that, as you have quite rightly pointed out, some of these things would be better dealt with in the deregulatory telecommunications bill post-July. Your item here would be better dealt with in that bill next year. In the meantime, Telstra should turn up when we have the committee hearing. They can tell us technically whether they are able to identify. For ever and a day they have told you, me and everybody else that they cannot identify yet, but they want us to put an amendment in. And then—lo and behold! Hallelujah!—Telstra will say, 'Oh, we've got the device to do it.' I would like to know about the device first and how they would separate. If they can separate out the data transmission in the local loop for various customers generally, they therefore will be able to distinguish which customers.

I do not want to give a free kick to the big end of town—BHP, Coles Myer and so on—so that they are able to rort the local loop on data transmission. I am not picking on Coles or Woolworths, but Coles has got shops in the whole metropolitan area of Adelaide. They could take one 25c line for ever and a day to transmit data backwards and forwards between 15 supermarket stores. I understand that. If they can identify the customer, I want them to tell us if it is possible to separate out the big end of town. Senator Allison and you mentioned quite colourfully the big end of town, as have I. Do we want to give a free kick to the big end of town? When there is data at the small business level or even amongst domestic consumers, if they can tell us that they can identify, maybe we can segment the data issue for the use of different customers. We are saying that anyone who transmits data is going to pay a timed local call, and yet Telstra will not and cannot tell us yet—this has been going on for years—how they are going to do it.

If they can do it and if they can explain it to us in the next two or three months, I will be more willing to say I am sympathetic to the view of the opposition about data transmission. But I have to say that, with my experience with Telstra, great glorious organisation that it is—your 600 pound gorilla—I am a bit suspicious about what they are asking us to do. They are asking us to buy a pig in a poke without our knowing what the technology is for them to identify it. Up until now they have always argued that they cannot identify. Until they tell us how they will do it, I suggest to you that we would be better off if you refer this amendment to the post-deregulatory bill. We can deal with it properly there.

Senator ALLISON (Victoria) (4.27 p.m.)—Yes, I support Senator Schacht's remarks. We heard arguments for the customer service guarantee being put off until the post-regulatory legislation comes before the Senate. I think this is a good example of something which is not necessary at this time. It could rightly be sorted out later. Privacy implications, for instance, is one of the issues which will arise with the whole question of distinguishing data and voice. That is something which needs a good deal more work before we agree to go ahead with legislation which would put it in place.

I think it is also important to say that large businesses, which have been the subject of much of this debate, already use the ISDN services for data transfer. That is my information. This is already a timed call. I think we need to see a lot more evidence down the track that big business is rorting—to use this government's word—the system before we would be inclined to support that sort of legislation. I will draw on an article which was published in the *Australian* back in August this year. It says:

> In an interview last week with Kirsty Simpson, of the Melbourne Herald-Sun, Mr Blount railed against the inequities of the Internet and called, once again, for the right to impose timed local calls on domestic and residential users.
>
> "We have to do something," he said.
>
> "We can't have people on the Internet ring up for 25 cents and sit there for 24 hours; they tie up the whole exchange."

Senator Schacht—But he would say that, wouldn't he?

Senator ALLISON—He would. He went on to say:

> Anyone who thinks Internet users—

this is the journalist's view now—

> can "tie up the whole exchange" was obviously weaned from Strowger switches to Crossbars only in his declining years, in the early 1970s.
>
> The old Crossbar exchanges were limited in the number of calls they could handle but, these days, digital exchange switches are virtually unblockable.
>
> And Telstra's plan to digitise the network, called the FMO (Future Mode of Operations), was designed to solve this problem.

The journalist went on to say:

> So if every Internet user in Australia sat on their service-provider connections for 24 hours next Monday, they could perhaps increase Telstra's capacity problems by 2 or 3 per cent in a few inter-exchange connections, for a few minutes around 10 a.m., in some circumstances, at some older exchanges.

I think we would want to know that there was conclusive evidence that exchanges were being tied up, that there was abuse and that there was rorting by the big end of town. If that were the case, the Democrats would have no problem in supporting this proposal.

Senator MARGETTS (Western Australia) (4.30 p.m.)—The arguments have been given quite well. This is a debate we ought to have. There is a fair amount of technical information that I think it would be necessary for us to look at specifically. The ability for us to make the proper judgments right at this very second is very limited. I would prefer that we take the time in March.

Of course the notice has now been given to Telstra to have that information available. I suggest that if they could circulate it before March, it would be very good. I think we do have to have this debate and we do need to know more technical information. To a certain extent, this amendment pre-empts the telecommunications bill. At this stage, I think it would be better to make sure that the message is quite clear. The issue has to be addressed again. We do not have the full technical information to be able to make a decision at this point.

Senator SCHACHT (South Australia) (4.31 p.m.)—I think the minister can see that the Senate is being cooperative about this. I have to say that, if Telstra think that they can bluff their way through with this massive 600-page bill, they ought to be warned that—as the minister would be aware—a committee stage in a 600-page bill can be extraordinarily painful for the government and for Telstra if just a few of us choose to hang it out to dry for a long time. We do not want to do that.

The minister, in the private conversation which we have just had, has indicated that Telstra will get the message that we do want decent information. We do want the information during the Senate committee hearing on the other bill. I think it is best—and the

opposition is willing to say to the Democrats that the amendment should not proceed at the moment—that the position stays as is. But, in doing that, I just want to double-check, Minister—in accepting your suggestion that this stays as is—what the bill says on page 4. It says:

Subsection 73(2)

Omit "an eligible customer", substitute "a customer".

And then it says:

Subsection 73(3) (definition of *eligible customer*)

Repeal the definition.

I just want clarification. If we remove that definition, which really is the whole of 73(3), what does that do to these existing definitions between now and when we go back to the telecommunications bill in March or April next year? Should we not leave the existing definition as is, if that is the situation? I may be misreading this but I am extremely cautious about this. I want to be clear that, if we are going to revisit this, in the meantime we have not opened the back door and let something else escape by accidentally changing a definition. I want to be clear that when your own bill, your own proposal, says to repeal one matter and change a definition, we do not accidentally do something else that lets Telstra or someone else come through the back door.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.34 p.m.)—What that clause in the bill does, by removing 'eligible', is allow business the right to have an untimed local voice call. At the moment,—

Senator Schacht—The right to have an untimed local voice call?

Senator ALSTON—That is right—local voice call. The provisions in relation to data calls, and the commitment we have given to allow residential consumers to have untimed local data or non-voice calls, are in the post-1997 legislation.

Senator Schacht—But it's not here.

Senator ALSTON—No. That is why it is highly appropriate to then debate the question of whether that should be at that same time extended to business. That is really what that issue is all about.

Senator Schacht—What about 73(3), which says 'repeal the definition'?

Senator ALSTON—Yes. That is in relation to voice calls.

Senator Schacht—To voice calls.

Senator ALSTON—Yes. So all that is doing is honouring our commitment. The position has always been that residential consumers have had the right to an untimed local call. That has been one of the big debates in telecommunications history. But business has never had that, even though Telstra have not applied a timed local call regime. They could have.

Senator Schacht—They could have.

Senator ALSTON—For the first time, we are giving business the right to the same untimed local call.

Senator Schacht—For local?

Senator ALSTON—For voice, yes.

Senator ALLISON (Victoria) (4.36 p.m.)—I would like to have the minister clarify something if he would. I think we know what the minister's views are on big business in terms of facts and data calls. But can you just confirm that, in principle, you support legislation for untimed fax and data calls for residential and small business? Perhaps you could just give us your views on that.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.36 p.m.)—I did not say 'small business.' I said 'residential.' Our post-1997 legislation will contain a provision to extend the right of an untimed local call to—

Senator Schacht—Voice?

Senator ALSTON—No, non-voice—to residential. This here gives the voice to business.

Senator Schacht—This gets back to the other argument. How can Telstra tell us?

Senator ALSTON—We will deal with that when we get the facts and information. But, as I say, you can deal on the principle of it as to whether business should be able to make an unlimited data call. That is the principle of it. We are going to have that argument later. The answer to Senator Allison's question is

that our post-1997 legislation will provide a right for residential and charity users to have untimed local call rights for non-voice services; in other words, data calls. You want to extend it to business.

Senator MARGETTS (Western Australia) (4.37 p.m.)—Where is the reference currently to voice call?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.38 p.m.)—It is in the definition of a 'standard telephone service', but it then flows into 73(2).

Senator SCHACHT (South Australia) (4.38 p.m.)—Minister, if you can provide data to the domestic consumer—they get access to the data at an untimed rate, domestic—how can Telstra tell whether that person is self-employed and operating a small business, say a consultancy, from home? From my previous incarnation as minister for small business, I have to say that I know there is an extraordinary growth in small businesses operating from home. The reason they are operating from home is that the data is available. Whether or not people tell pork pies or not when they are getting a connection is another aspect of it. But this is the issue: how is Telstra going to tell whether or not it is a small business operating from home under this definition of 'domestic'?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.39 p.m.)—In order for it to operate automatically, they presumably would need to have technical equipment which would identify a voice call from a non-voice call. But they could also do it on a functional basis. If people are operating small businesses from home, presumably they will have phone numbers in the Yellow Pages or even in the White Pages. So it is not too difficult to determine who is running a business from home and who is not.

As you would know, in our business it has been quite common practice to effectively strike a balance as to what proportion of your calls are private and what proportion are, in our terms, business. Presumably, the same would apply if you simply did it on that functional basis. But if you have the technical capacity, then of course you will do it on a call by call basis.

Senator Schacht—I look forward to the debate on that.

Amendment negatived.

Senator ALLISON (Victoria) (4.40 p.m.)—I move:

(19) Schedule 1, page 10 (after line 8), after item 11, insert:

11A Sections 116, 117, 118, 119 and 120

Repeal the sections.

This amendment achieves a number of ends. Firstly, it removes all the exemptions granted to telecommunications carriers from state and territory laws. These are currently granted under section 116 of the Telecommunications Act. Secondly, it abolishes the requirement to abide by the telecommunications national code. This is currently provided by sections 117 to 119 of the Telecommunications Act. The purpose of these two elements of the amendment is to force carriers to abide by state and territory planning and environment laws, instead of the code which places patently inadequate requirements on carriers.

Thirdly, and finally, the amendment eliminates section 120 of the telecommunications act, which section prevents state and territory laws discriminating against carriers. Eliminating this clause will avoid the possibility of carriers, for example, arguing that they should be permitted to string cables overhead in areas where powerlines are already overhead, or from arguing that they should not be forced underground until other utilities are.

This clause or form of argument has not been used yet in the current debates concerning aerial cabling. But, should the immunities of carriers from state and territory laws be affected, either now or following 1 July, it is likely that the carriers will turn to this clause as a way of enabling them to continue their roll-out unimpeded. For this reason, we believe that this clause needs to be deleted if residents are to be adequately protected.

Senator MARGETTS (Western Australia) (4.43 p.m.)—by leave—I move:

(1) Heading to item 11A, omit ", 117, 118, 119" from the heading to item 11A.

(2) After item 11A, insert:

11AA Section 117

Omit "exempt" (wherever occurring).

11AB Subsection 117(2)

Repeal the subsection.

11AC Subsection 117(3)

Repeal the subsection, substitute:

(3) Nothing in subsection (1) limits the generality of anything else in that section.

11AD Section 118

Repeal the section, substitute:

118 National Code binding on carriers

The carrier must comply with the National Code in force under section 117, so far as that Code applies in relation to the carrier's activities.

These amendments 1 and 2 are to Democrats amendment 19, and that is on our revised sheet 257. Our amendment is to delete 'exempt' in the section wherever it appears, instead of deleting the section. It will mean a national code could be developed in relation to a carrier's activities, rather than a carrier's exempt activities. I think it makes it easier to understand and to implement. So, basically, instead of omitting those sections, it kind of reverses the process. But I think it should achieve the desired outcome with potentially fewer problems.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.45 p.m.)—These are very significant amendments, both the one moved by the Australian Democrats and the one moved by Senator Margetts. It is quite surprising that Senator Allison simply spoke to it for a couple of moments without at least indicating the enormity of the proposition. The fact is that we currently have a regime that has been in place, as I have said many times, since Mr Beazley put it there in 1991.

Senator Schacht—Since 1901.

Senator ALSTON—In one form or another. But, since we have introduced competition and the duopoly of general carriers has been there, they have always had this legislative entitlement to immunities from state and territory planning regulations. On that basis they have proceeded to roll out multibillion dollar programs. They have known that the window of opportunity closes on 1 July. Yet Senator Allison, in what I would have thought was a classic example of breathtaking irresponsibility, is saying, 'Who cares. I'm simply going to pander to every populist cause, irrespective of the consequences'—not worried about the clever country; not worried about the benefits of cables.

Senator Schacht—There are a few of your people who actually think it's a pretty popular cause, too.

Senator ALSTON—At the end of the day I do not think you will find anyone in our party room who went anywhere near this far. This is just amazing, to think that the—

Senator Schacht—They went pretty close.

Senator ALSTON—No. The starting point was, and it was the one thing that we made clear from the outset, that we were not in the business of stopping the roll-out. We are in the business of tightening the code, and we did in a number of significant respects. The public inquiry is under way right now.

If ever there was a set of rules of the game that had financial consequences, it was the 1991 legislation. It is breathtaking beyond belief to think that Senator Allison can simply get to her feet, talk for 60 seconds and pretend that this is just another amendment. This would be a major breach of faith that would not only devastate the investment plans of the carriers but also send all the wrong signals to international investors about the reliability of this country as a place to make major infrastructure commitments. We will certainly be tightening up the existing regime before 30 June.

As I understand it, Senator Margetts, in her amendment, simply wants to have both the code and the state and territory planning laws apply as from now. Once again, that would be an even greater breach of faith in many respects. It has the fundamental deficiency of simply ripping up the rule book prematurely.

So this proposal, without putting too fine a point on it, is utterly irresponsible. We could not possibly wear it. The carriers were awarded licences and paid very good sums of money for it. We are not in the business of simply improving their bottom lines. We are in the business of seeing them enhance the clever country by providing interactive broadband services and competition in local teleph-

ony and cable television. We would like to see it in as many places as possible. Indeed, I think one of Senator Harradine's concerns is that it is not likely to happen in Tasmania in the short term. What Senators Allison and Margetts would have is to basically stop it happening anywhere in Australia, or certainly make it utterly unprofitable for the carriers to maintain their business plans. So we would all be the losers.

I simply refer again very briefly to that so-called legal advice which she claimed indicated that the Commonwealth would not be liable if we were to go down this track. The fact is that, even on the advice itself, it raised the very real prospect of the carriers not only taking legal action but also embroiling the Commonwealth in the most protracted and costly litigation that one could imagine. The author of the advice—if you can dignify it with that term—says:

> Whether a carrier would be successful with such a claim—

in promissory estoppel—

> would involve a very detailed legal analysis beyond the time and resources of this Law Group.

There would not be too many lawyers who would not be prepared to embark on it because it was too hard. They then go on to say:

> Suffice to say that it—

the promissory estoppel—

> would be one option to be considered by a carrier and I could readily understand the carrier looking at this legal doctrine.

In other words, the author is conceding that the carriers would have a good basis for suing the Commonwealth on that course of action. They continue:

> All I can say is that it would be a very involved and lengthy litigation.

I would not be paying too much for advice that said that to me—'I can't tell you what your chances are. All I know is that it would be very involved and lengthy.' They are basically telling you that you are going to be taken to the cleaners simply by virtue of the enormous costs and complexity. If I recall that advice correctly, it ended up saying that the Commonwealth would be better to roll over and make an ex gratia payment, which again demonstrates the absolute nonsense of the proposition.

I cannot understand how Senator Allison can sit there and laugh about these things as though somehow there is not a validity to these criticisms. I have not heard her respond, other than to simply ignore it. The fact is that to have the Commonwealth inevitably exposed to multimillion dollar claims—and I would have thought billion dollar claims—by the carriers would not only bring the whole system into disrepute but also fundamentally jeopardise the roll-out. We could not for a moment support it.

Senator ALLISON (Victoria) (4.51 p.m.)—No doubt we could have a very lengthy debate over this matter. I note that once again the minister chooses to selectively read from that legal advice, which did come from the Parliamentary Library, as I have already mentioned. I could quote from the rest of the report, which outlines in no uncertain terms that it would be extremely unlikely that the government would be liable for any loss, but I will not because we can move on.

What I do want to ask is whether or not it constitutes a breach of faith—as the minister keeps reminding us that such a removal of exemption would—according to the new draft national code, for the government now to use grey cables instead of black, for cables to be underground and at major intersections, for cables to be at least 3.5 metres above the ground or higher, if possible, and to insist that there is co-location of tower facilities wherever feasible et cetera.

On the one hand, the minister argues that there is a terrible problem with breach of faith and with the legal situation; on the other hand, the government is appearing to be going some way in that direction in this new draft national code. I do not understand why removal of exemption is so much more a breach of faith than these measures put in place by the national code. Perhaps the minister could enlighten us.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (4.52 p.m.)—The answer is simply that the 1991 act, which conferred those powers and immunities, at the same time provided for the bringing into

effect of a telecommunications national code. In other words, it allowed for tightening at the margin, if you like, in environmental terms. But in no shape or form was that designed to inhibit, let alone stop, the roll-out or to suddenly throw people at the mercy of those who had specifically been given an exemption.

The clear intention of the act was to say that you do not have to comply with state and territory planning and environment laws, but there can be a code that will impose certain obligations which will have to be consistent with the overall framework. Clearly, you have the capacity to upgrade the code and tighten it to a certain extent. But you have to make sure that you do not go so far in tightening it that you actually cut across it.

If you are arguing that we have gone so far in tightening the code that we are effectively overriding the immunity that they currently have under the act, then I am very fascinated to hear that statement. I would have thought that you would be saying that our code tightening has not gone far enough. But, if you say it has gone too far, or to the point where we are actually cutting across their immunities, then that is about the only way you could justify your argument.

Senator ALLISON (Victoria) (4.54 p.m.)—I do not say that at all, Minister. I want to draw on your argument about breach of faith. I do not think it stands up that you can produce a code which changes substantially the previous one. Yes, we do support very much greater restriction on the carriers' abilities.

I refer to the question of legal advice. You have spent some time in this chamber saying that the legal advice which came from the parliamentary library was not useful, and you have chosen to selectively quote from it. On occasions I have asked you whether the government has had level advice, and you have suggested it has not. Is that still the case? As a result of this parliamentary library legal advice, did the government then seek further legal advice about what its liabilities might be? If so, would you table it?

Senator MARGETTS (Western Australia) (4.55 p.m.)—There are some very important principles involved here. The first question is whether the private industry bottom line now directs to parliament. I would think that, if that is the case, it is a fairly astounding shift and an improper way to go about decision making.

Right at the beginning of the Telstra inquiry, I asked Treasury whether or not industry would be expecting to continue to be exempt from state and federal laws on environment and planning, and Treasury said no. They were saying the market was not expecting to continue this exemption. So, Minister, if there has been an expectation, it has not been created by us; it somehow has been created by your government, I would suggest. If there is an expectation, it has been created by you, not by anybody else. There must be an ability for the Senate process to make these decisions.

The interesting thing is that this exemption was originally related to Telecom as a wholly owned government service provider. At that stage, Telecom had responsibilities to other levels of government, and we all assumed it had responsibilities to the general community as well. These responsibilities now have a very narrow commercial focus on a definition of efficiency and effectiveness. So the whole ball game has changed.

To suggest that somehow or other the Senate should be treated like a local council—which ends up getting threatened by industry any time they try to impose some sort of regulation, like being sued—is an extraordinary turn of events. It is something that we should resist very strongly. We should not be dictated to by industry bottom line, because there are real costs to the community—not just in respect of the roll-out of Telstra and Optus now, but in respect of the future and what we as yet are not even aware of concerning other levels of telecommunications and other data roll-outs. If their bottom line does not fit with the community's concerns about the environment, amenity and so on, we may have no control over it.

It is appropriate that these exemptions finish. They were for a government entity. As you say, this now is not operating as a government entity; it is operating as a private

player. You cannot have it both ways. Therefore, this amendment should be supported.

Senator SCHACHT (South Australia) (4.58 p.m.)—As to the amendments moved by the Democrats, and amended by the Greens, by Senator Margetts, the opposition will not support the abolition or repeal of the immunities in the present act. If we repeal the way it is outlined and nothing goes in, we will find that into the vacuum will step not only local government but also—I am more worried about this—state governments.

In Victoria, for example, it is speculated that the new privatised electricity companies, which already have their poles up, once the immunity is removed will want to become telecommunications carriers. I can see them convincing the state government of Victoria, in the void, to give them exactly the same immunity over planning of telecommunications as the federal power now gives. The only thing I have ever learned about politics is that, whatever difficulty we have at the national level, you should never give a state government an even break on these things, because they will abuse it.

Secondly, as a national parliament, we cannot step away from the immunities issue and hand it back holus-bolus to state or local government. If we did that, within a year or so we would regret it greatly. The opposition's view is that you do need to have a national obligation to ensure an adequate roll-out of a telecommunication system that reaches all Australians. I do not want to see six different state rules operating on telecommunications that absolutely ignore the national interest, nor the 800 local government organisations having an absolute right. Therefore, outraged though I feel—as do the Democrats, the Greens and others from both sides of parliament—at the way that the carriers, in particular Optus, have arrogantly acted over the last 18 months in their consultation with local communities, I do not think trying to make amendments here today in this bill will be successful or achieve the outcome that we all want.

When the telecommunications bill comes up for review by the legislative committee, I will certainly be encouraging local government organisations, who have done a lot of work already, to put forward their suggested amendments. The opposition will be putting forward amendments for discussion at that legislative committee level of the kind of structure that we should have on the immunities issue in the bill post-July next year. I do not believe this should go back to the planning powers of local or state government.

Even if it is complicated and even if it means a greater effort of resources, I believe that this parliament should maintain a direction and control over the obligations on carriers. I do not think we can step away from it and just say, 'Over to you, state government; over to you, local government; do whatever you like.' It will not overcome the problem of overhead cables, which are creating so much outrage around Australia. It will mean that there will be a patchwork: some areas will have cables, some will have no cables and other areas of Australia will not get access to broadband services.

I think the Senate should use the opportunity through the Senate committee and the negotiation of the new draft bill in March of next year to get a good outcome. That will mean an interventionist approach against the carriers. I am sick of the carriers whingeing and whining that we are all being unfair to them. I am sick and tired of hearing carriers saying, 'People will get used to the cables hanging past their door; people will get used to it once the wonders of the new service are available to them.' I just do not think that is going to occur.

We are in trouble with this immunities issue because of the abuse and arrogance of the carriers over the last two years. As Senator Alston says, it is true that this is a bill that the previous government brought in, in 1991-92, that extended the immunities from the old Telecom, PMG's department, to the new licensed carriers. I was part of the drafting of that legislation. At that time, the people who are now Optus said that they would absolutely never be in the local loop with any sort of cabling. Everybody accepted that advice, including the government. We were wrong—I have to say it. All sides of parliament accepted the technical advice back in 1991-92.

But, if it had been in any way suggested that the second and third carriers—particularly the second carrier—would roll out black cable down the suburbs of Australia, there would have been a different amendment. I do not think there is any doubt about that. But everybody said, 'No, no. There will be no second carrier in the local loop with cable. We've got to get an interconnect fee to give them a chance to interconnect to the existing underground cable system that Telstra has.' Telstra then argued that we were making the interconnect fee too advantageous to Optus. That was the argument. They said, 'It is unfair; they will never come into the local loop; you are giving them an advantageous interconnect fee.' But we said, 'No. We want a good second carrier to come in, to provide the competition to get better benefits for the customer.'

Optus have used the immunities and have gone about it in a very arrogant way. Telstra has therefore responded and, after 1 July next year, when other carriers can come in, in an open deregulated market, unless we use the immunity power to change the rules about cabling, it will be used to abuse the views of the local communities around Australia. On this issue, I think there is a common view amongst the representatives here in parliament, whether they are Liberal, Labor, Democrat or Green. In that bill, we have to put into place procedures that get rid of overhead cables over a reasonable period of time. We have to put it on the carriers that they have to do it in conjunction with local government and appropriate electricity authorities.

It will not happen overnight but we ought to start going down that path and put it in our own legislation. That is what this opposition through this committee process next year will be arguing. I believe that the carriers in this case have abused the immunity that we gave them. There can be no argument about that. If you had asked the people of Australia back in 1991, 1992 or 1993 whether they would favour competition coming in if it meant getting a black cable down the street, I think I know what the answer would have been.

Ordinary Australians now say, 'What is going on? We have got two cables coming down the street competing with each other. We don't have two water pipes coming down the street; we don't have two electricity cables coming down the street; we don't have two gas pipes coming down the street. But for telecommunications, we are going to have two cables—we could have three or four.' Ordinary Australians just think it is ridiculous in commonsense terms.

I think the carriers have let loose against themselves a whole series of questions which, with some careful planning and cooperation, they could have avoided. But the arrogant personalities running the two major carriers could never agree. We have seen it in Adelaide over the last couple of months. They both will not agree to step back and share a common duct when, clearly, local government is willing to participate in that process with them.

Reluctantly, the opposition will not support the removal of these immunities at this stage. We believe that we would go from the frying pan into the fire if we did. We say to the minister that we want to be very serious, in cooperation with the government and other parties, in March next year in writing a new process right through this. We will not give it back totally to local government but maintain that we provide the leadership.

Senator Allison's other amendment is about the towers not being within 300 metres of certain places. It is amendment No. 12 on the running sheet. The opposition will support this amendment. If the present carriers do not watch out, they will find that the community will, in the end, put the foot right on their throat in this matter. It is all very well to say that they have been given immunity, but people are suddenly finding that they have not had any proper consultation. Carriers—even Telstra is now getting into it—are dictatorially saying, 'You're going to cop a tower at the bottom of the school yard, the local university yard and the kindergarten' without having any proper consultation. Unfortunately, people who have a view about technology development—anyone with a slight apprehension about it—are now running scare campaigns about electromagnetic radiation from these towers.

This is really becoming a very difficult situation. Because the carriers have done this arrogantly, they have encouraged speculation in the community that there is something nasty going on with electromagnetic radiation from these towers. When the Telstra inquiry was in Adelaide, the deputy principal of the Mitcham Girls High School said, 'We want to stop the tower being put up at the bottom of the school yard. We have a petition from hundreds of local residents.' We have had petitions put by kindergartens and child-care centres saying that they do not want any risk of having a tower. What do the good old carriers say? They say, 'Bad luck. We have the immunity. We will build it, and you will get it whether you like it or not.'

The carriers have brought upon themselves an enormous backlash, which is getting stronger. Unless they take account of it and start sharing towers and putting them in areas that create less concern in the community, they will end up forcing outcomes at a parliamentary level. This issue operates across the board. This is not concern by Labor, the Democrats, the Liberals or the Greens; this operates across the board, and all backbenchers are getting letters, protests and community opposition. But the carriers blithely go on saying, 'We'll do it until 1 July. When the immunity goes, we will have enough up for it.'

This is not a response that we would like to take on this issue. However, we need to look at the way that the carriers have gone on about placing these towers and how they have blithely said, 'Bad luck. We will put it in your school yard.' They have done this in my suburb of Magill at the Magill campus of the University of South Australia. They have just announced that they will put the tower up in the corner of that campus. Of course, a local residents group is already campaigning against it. The university is not too happy about it. That is another consistent example.

The opposition thinks the 300 metre zone is not unreasonable only in that these carriers have not accepted that there is great outrage in the community. They say, 'Why do people keep buying mobile telephones? We have to keep putting these towers up to meet the demand for mobile telephones.' Most of us in this place have at least one mobile telephone in our office. We use these phones regularly. I understand all that.

However, the carriers have abused the immunities. This has unfortunately let loose a backlash in the community, which is now challenging the technology. Some snake oil merchants on the fringes of the science community are in some cases running around with really extraordinary claims. This amendment about a 300 metre zone, which is amendment No. 12, will assuage some of the unnecessary fears if it is carried. Generally, though, we support the minister's view about a reduction in the removal of the overall immunities. However, we will not be supporting Democrat amendment No. 19 or the revised one from the Greens. That does not mean that we will not be back here in March having a very detailed discussion with the government in committee. Even what they have already done is probably, in my view, not enough.

Senator ALLISON (Victoria) (5.13 p.m.)—It is very disappointing to sit here and listen to this debate. We now have the ALP admitting that they made a mistake in 1991. I was not in this place, but, as I understand it, we did attempt to tell them then that it was a mistake.

Senator Schacht—That is not true. No-one opposed it when it came into the parliament on the issue of the immunities.

Senator ALLISON—I have looked at the debate. That is not my understanding. What is more disappointing is that the ALP is now not prepared to fix the problem, and the coalition government is also not prepared to. We all know that after 1 July it will be too late for the likes of Adelaide and most places in Australia. We know that the carriers will proceed apace to roll out the cabling. It will be aerial on the whole. They will be in a great hurry to erect towers and get all of this infrastructure in place before any constraints can be placed on their activities.

Whilst it is good to hear that the ALP have admitted this was a terrible mistake, it is also disappointing that they will not attempt to fix it. I return to the question of fixing it. I still

have not had an answer from the minister about legal advice, which goes to the heart of the issue here.

We have seen the carriers abusing their rights and we have seen, to some degree, the government stepping towards removing some of these rights with this new draft code, but I think we have the right to ask just how much this code can be further tightened. How far can we go before we start to incur legal liabilities? The minister keeps stepping aside from this question. He has said previously that there has been no legal advice. I find it amazing that the government would not understand what its liabilities might be for a whole range of options. The first thing I would have done as the minister would be to seek that advice pretty quick smart.

I ask again: has the minister sought that legal advice? If so, will he table it? Will he tell the Senate what that advice was? If he has not received any advice, then how does he know how far the code can be tightened? What are we talking about here? Is it just grey cables and undergrounding at intersection? That is okay, we would not be sued for that, but if we allow local government to make these decisions on behalf of their communities, that is somehow gravely more serious in terms of legal liabilities. We have just seen the spectacle of a federal government admitting that it made a mistake on this legislation in the first place but, on the other hand, we say we cannot trust the statistics and we cannot trust local government. They do not know what they are doing. They only represent their local communities. They are only responsible for their streetscapes. They are only responsible for health and safety in their areas. We cannot trust them. Goodness knows what they might decide. They might decide that some suburbs cannot have cables. How terrible! It is quite extraordinary.

The minister talks about the Democrats picking this issue up as a populist cause. I have to say it is, indeed, a popular cause. There have probably been hundreds, if not thousands, of letters received on this subject. They are not from individuals alone; they are from people like the Australian Local Government Association, they are from councils right round this country, they are from the Australian Planning Institute, from the national trusts, from heritage commissions and from conservation groups. Indeed, this is a populist issue. This is one which has raised the interests of a good many people in Australia, Minister. It astounds me that you imagine that the government can go on facilitating the carriers in this way, allowing them to abuse their rights, bringing out some national code which tells them they have to put up grey cables instead of black, and imagining that this will have approval out there in Australia with all those people who are so disaffected by what is going on here.

I say again, it is most disappointing that we have a federal government that has not known what it is doing, is still not prepared to take any steps to correct the situation, but stands back and accuses other levels of government of being inadequate in this respect. It says that we cannot trust local government. They might veto something—what a terrible thing! They might veto a decision to put a tower up somewhere or cabling in some street.

The Democrats are most disappointed that government will not see its way clear to at least saving Perth and Adelaide from the worst of the excesses of our carriers. I really do want an answer to those questions I raised about legal advice because I think it is crucial. Just how far can the government go in tightening the code? How much more can it demand of the carriers, or are we simply going to waste another inquiry and another couple of months looking at this draft code, finding inadequacies in it and bringing them forward? Local government everywhere will get involved in this new inquiry, and so it goes on. At the end of the day, it really will not matter.

Senator SCHACHT (South Australia) (5.20 p.m.)—I want to emphasise two things to Senator Allison. I made it quite clear—and I have said this before during the Telstra inquiry—that it is the advice that we had back in 1991 and 1992. No technical expert gave us any advice that the second or third carrier, or any other carrier, would want to lay cable in what is called the local loop. Now you say we made an error, but all the advice we

received—and that was the technical advice from every expert, even the people who are now Optus—said they would not lay cable on the local loop. Even they said up until a year and a half ago, when they combined the cables for providing telephony, pay TV and some interactivity, that they found a way that this could be made profitable. That is what I was explaining.

The government, on the advice at the time, made a decision in the competitive model that we thought was reasonable. If we had known then what we know now in the wisdom of hindsight, I think the then government—I was part of it on the telecommunications caucus committee—would have put a few different things in.

On the issue of the national code, Senator Allison raised a point which I do not disagree with. If the national code can be changed from time to time to impose new conditions on the carrier and not be sued, therefore, you have conceded the point that obligations can be changed and put on the carrier. Under the new code that you have now put out, you have said they have to make grey cable. That is an obligation. They probably think that does not cost too much, so they are going to accept it. But you have said under the code—and I do not know what the definition of a major intersection is—that at major intersections they have to go underground.

There have been some genuine discussions about sharing the cost of going underground. Some of the costs may be in dispute, but what was initially said by Optus and Telstra about the cost of going underground has been revised substantially in discussions with local government. If you can direct them to do that legally, why can you not, under the code, such as in Adelaide at the moment, say, 'You can't roll that out at the moment until you complete the independent investigation on costing'?

They are not committed. You are not stopping them halfway through. If you can tell them now that at certain intersections they cannot go overhead but have to go underground, that is a direction. It is a direction that they have to use grey cable covering rather than black. Therefore, you are proving that the code can be changed from time to time, even in a period where they have a licence.

I also have to say something about this issue of being sued. Is there some contract that this parliament is unaware of that the government—your government or the previous government—signed that gave commercial protection from a change under the code? As far as I am aware, there is none. If there is no actual contract written, when they got the licence, did they get an exemption to say that until 1997 the code could not be changed? If that has not been put in the code—that it cannot be changed—you do have the power, under the existing code, to make directions to them as you are about intersections and the colour of the cable.

Why can't you say in Adelaide and Perth that this is a reasonable thing? There needs to be an agreement about costing arrangements where, genuinely, people are being involved. Telstra says they will stop the cable being rolled out overhead in Adelaide if Optus stops till the work is done. Optus said, 'We will continue the work, but we are going to roll the cable out.' Then immediately Telstra says, 'We are going to roll our cable out.' At some time in the next week, as I understand it, they are both going to start rolling. They will do themselves, their own image, their own public standing, enormous damage in the public's mind by rolling two cables out.

I think the question of the legal position of the code is not as you say it is, unless you can prove that there was a contract signed when they got the licence that the code as it then was in 1992 could not change until 1997. We know that is not correct unless there is a contract secretly held somewhere. If it is not held, you are proving, by changing the code now on intersections and on the colouring of the cable, that you can change it and say, 'In Adelaide and Perth, you will not roll the cable out until we get some decent costings done.'

As Senator Allison has raised, I think the code even now has the ability for you to take direct action. You cannot be sued unless you can show that there is a commercial contract which gives them an exemption from the code. The original legislation made it quite

clear that the code was not set in place, that it could be changed from time to time at ministerial direction subject to a process of calling for evidence and so on. You have proven that because you have changed it.

Senator MARGETTS (Western Australia) (5.26 p.m.)—There are some real ethical problems here. The problems involve allowing someone to purchase the power of government without accountability. What you have is our recognition that the motive of private entities is profit. We have an indication that PR has not been sufficient. The damage in PR has not been sufficient to stop roll-outs and huge battles with communities, state governments and local governments so far. We do not have the motive for private carriers to do anything but try to minimise their costs and maximise their market.

The word 'yes' has been used a lot in telecommunications. It really is interesting that in this sense it is not market. The market has been taken away because there is no real cost for that community cost. If you exempt carriers from normal regulations on environment—and it could be habitat; it could be destroying the habitat of a particular species—the only real choice is 'yes'. You have a choice to accept the roll-out or you have a choice to accept the roll-out in whichever form it comes. That is not even market.

If people believe in the market, they should believe in the fact that the community costs are real costs, that they should not be written out of the equation. If the only way community costs can be written into the equation is for appropriate local or regional authorities to have a say, they are also being driven by their own constituency. What we are saying is that that political constituency will not get a say. They will not get a chance to say no at all; they will only have a chance to say yes. Then the market gets a go. It is a free kick. It means the market gets a huge community subsidy.

If you say that that makes it too expensive then that is the real cost of these decisions. Those real costs should never be written out of the equation. They are real costs—environmental costs, social costs and amenity costs. If you are saying that you are going to give a free kick to industry, they will not have to pay for this social disamenity, they will not have to pay for the real environmental and social costs and they will not have to pay what the community thinks is the real cost of these decisions. They will get a free kick. They will get a huge community subsidy. It goes on and on.

It is not the right thing to do. I think this is not a light issue that any of us have taken in relation to these kinds of issues. The exemption should not continue, in my estimation. It should never have continued in relation to an entity which is no longer fully accountable to the people as a government entity was. It is not appropriate. I think the amendment should be supported.

Senator ALLISON (Victoria) (5.29 p.m.)—The minister is yet to answer my questions about legal advice. I would be obliged if he would do that.

Senator Schacht—I wouldn't mind you having a go at mine as well—just about the national code issue.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (5.30 p.m.)—The starting point is that the 1991 act provided both powers and immunities. That meant that the carriers were entitled to proceed to embark upon a roll-out by whatever means they saw fit, irrespective of state and territory planning and environmental laws. They have been doing that over a period of years. It is not that somehow people have suddenly woken up and said, 'Did you realise they are going overhead?' Optus made it clear about two years ago that they were going overhead. They have continued to outlay very significant sums of money.

Against that background of there being a statutory ability to proceed through until 1 July by going overhead, which is what the act allowed, there were also provisions that imposed an ability for certain environmental limitations, consistent with those immunities. They were able to be enshrined in a code. As you would know, the code actually did not come into effect until 1994, some three years later. We argued that it should have been tightened, and it was not. Nonetheless, that is what we are proposing to do now, not just

grey cables instead of black or major intersections. There are some 20 provisions.

At the end of the day, you can only go so far with the code. If the code effectively cuts across those immunities, it is not just a code that is ancillary to the immunities; it is effectively overriding them. You are therefore pulling the rug out—from what you gave on the one hand, you would be taking them back with the other.

I am not about to table any legal advice, because that certainly would not be in the best interests of the Commonwealth, if it were, in fact, sued, as no doubt Senator Allison would like us to be sued by removing the current powers and immunities as from now. The fact remains that you only have to look at that piece of paper that she has waved around—I think embarrassingly so—to recognise that even the library acknowledges that there is a doctrine of promissory estoppel which could found a cause of action that could lead to the Commonwealth incurring multi-million dollar liabilities.

Senator Schacht asked me whether there was any contract in writing. To my knowledge, the answer is no. The doctrine of estoppel is not based on contract; it is based on representations and actions. In other words, you hold out that you will do certain things: I therefore act on those representations to my detriment. In other words, I embark on a rollout costing me billions of dollars. In those circumstances, you can be stopped from reneging on those representations. Even though there was not anything in writing, by your actions or conduct you led me to embark on a course of action which the law would say was quite justified in the circumstances.

That is the way in which the Commonwealth would be held to be liable by the content of that act, which quite clearly made it plain that there would be immunities from planning regulations which therefore allowed overhead cabling. It is not much consolation to say that if we were all starting afresh, we would have prohibited that. The fact is that from 1 July we will prohibit that, apart from the three-month transition arrangements.

If you were to say, for example, in respect of Adelaide, 'I am going to hold you up and require you to go off and get an independent assessment', you would effectively be stalling them to the point where they would run out of time. Under those rights deriving from the act, they have nine months to go overhead. That is their entitlement.

Senator Schacht—Maybe not the three months, though.

Senator ALSTON—They are the transitional arrangements.

Senator Schacht—They cannot claim the three months.

Senator ALSTON—That is not business as usual. If you have given notification and commenced the construction prior to 30 June, you are then allowed to complete that. I was rolling it together and saying that, at worst, you are talking about a further nine-month entitlement—a window of opportunity. If you were to step in and take the Telstra bait, you and I both know that Telstra would love to see Optus brought back to the field and forced to go underground because it would be three times more expensive and it would slow them down quite dramatically. That is precisely what Telstra is on about. Telstra would love to see Optus forced to go underground right now because it would make Optus's business case uncommercial.

To tighten the code in a way that would effectively remove that immunity, which would take away the most important benefit that they have derived from the immunity, which is the ability to go overhead for a limited period of time, you would be going well beyond the concept of a code, which is to make some environmental improvements at the fringe without adversely affecting your entitlement. You would be going beyond that and you would effectively be overriding the immunity. Once you got to that point, the cause of action would clearly be based on the proposition that you have effectively removed the immunities by the back door.

As I said before, it is the cheap populist option, irrespective of the consequences. No-one is decrying the need to protect the environment or saying that we should not be taking some very serious steps to do just that at the appropriate time, which is 1 July. But

to do it prematurely, irrespective of the consequences, as the Senator Allisons of this world would have it, is quite irresponsible.

It is like you asking what is the value of Telstra. You have to make a judgment and strike a balance. That is why litigation is so complex and uncertain—because you do not know at what precise point you have gone across the Rubicon to the point where you have effectively destroyed the code. The plaintiff would say yes and the defendant would say no and 10 years later you would have your answer.

Senator MARGETTS (Western Australia) (5.36 p.m.)—It is quite clear that Senator Alston keeps using the word 'populist'. In fact, he means that there is a lot of community concern. There is a lot of community concern. I just wonder who the heck he is representing here. If there is a lot of community concern—this is growing by the week and growing by the day as people begin to see how it affects them—exactly who are you representing, if not the commercial interest, the bottom line profit-making interests of the big end of town? This is the big end of town. These are not small players; these are huge corporations.

The forced race to the bottom in terms of environmental standards was created by the Optus exemption. Yes, Telstra is saying that they feel they have no choice other than to compete on the cheapest option for cabling. I would agree with them that these exemptions should be removed, just as I agree with those companies which say that optional standards for Australian companies operating overseas should be compulsory, so that all companies have to abide by them. I would agree with that too. The small companies tend to get it worst.

I would agree that if the real cost is abiding by and looking at what the community concerns are, that is the real cost. That is what ecologically sustainable development is. To suggest that those things should not be taken into consideration is appalling, and you stand condemned.

Senator SCHACHT (South Australia) (5.38 p.m.)—The minister has responded to my questions about the power of the code and about the legal concept of estoppel, saying that, once there is an undertaking given, once the legislation went through, nothing appears to have changed. From 1991-92, when the legislation went through, up until today, has the minister received any representations from any carrier saying that, as it understands it, there will be no change to the national code and no change to any of the legislative requirements?

It is all very well to say that there is a legal concept that says you cannot change it. First of all, it will have to be proven that somebody was concerned that there would be changes and that they were concerned the national code or any of the other regulations would be changed. Is the minister saying that between 1991 and 1992—and in 1992 the legislation establishing the competitive model went through—this parliament, irrespective of the code, if we chose to, was not able to change the arrangements of the competition model? Goodness me! We have changed it several times—on the operation of Austel. Today we will change it with some of these amendments and so on.

Could Optus argue that the partial privatisation of Telstra has changed the competitive model, has changed the rules and makes it less competitive or more competitive. If there was going to be a legal challenge I believe that at the very least it would have to show that it made representations from time to time saying you cannot change the code or you cannot change the law in this area.

Senator Alston interjecting—

Senator SCHACHT—In that case, Minister, they may threaten legal action. They have not so far threatened legal action about the code, I presume. Have they threatened legal action because you have already changed the code to put cables underground at intersections, to have the colour of the cables changed or to change the other 20 parts of it, as you have said?

It seems to me that you are creating a much larger mountain out of a legal molehill in view of the fact that, in every area of government administration, licensing arrangements, et cetera, governments from time to time change the rules in public debate. Unless you

have signed a commercial contract—and you have said they have not—the parliament does have the right to change from time to time the rules and the regulations.

If we did not, we may as well go home for large parts of each decade because we would not be able to change anything. We change the laws every day because that is the demand of the community. I think that concept under law would stand up.

Senator ALLISON (Victoria) (5.42 p.m.)—I think we can assume from the minister's remarks that the government has had legal advice and that legal advice somehow culminates in the national code that we have now seen drafted. He makes the comment that there is a point at which you would go across the Rubicon—I think they were his words. Unless the minister tells us otherwise, we can probably assume that his advice says that undergrounding at intersections, grey cables and some other measures in the code are all okay. I certainly hope that is the case.

I do want to go back to the legal advice that the minister so selectively but liberally quotes from that I sought and to give the other counter position. Advice I have been given states:

> There was nothing in the Telecommunications Act which prevents the minister from changing the provisions of the national code by revoking an existing code and determining a replacement code—

we know that—

> but we consider that neither the parliament or the executive government can have any liability for the consequences of a change in the law i.e. changes to legislation, regulations or other instruments under the legislation to any person or corporation.
>
> It is an axiomatic constitutional principle that, subject to the constitution only, the Commonwealth parliament has an unfettered and unrestricted power to make laws with respect to peace, order and good management of the Commonwealth in relation to the matters specified in the constitution. It is our opinion that the principles applied in equal effect in respect of changes to the law, including changes to regulatory controls, which are affected by other instruments that are enacted, made or determined pursuant to legislation. There is no reason to differentiate between regulations and such other instruments.

I would like to move on to another point. In the national code the minister has recommended that carriers share ducts. I imagine that this would seem to most members of this house to be a very sensible approach. Duct and infrastructure sharing will only occur once the carriers have been forced to go underground.

Optus are not going to be interested in negotiating on infrastructure sharing whilst they know they can go overhead. If you ask me, that is pretty straightforward. If they had to go underground, I think we could be sure that they would not build their own ducts. We could be sure that they would engage in quite sensible negotiations with Telstra, with councils and with power authorities, as is the case in Western Australia.

I suggest that you, Senator Alston, as minister, have the responsibility to ensure that Telstra do not abuse their power over Optus and that these negotiations should be fair. For some time now, local government has been calling for round table discussions where they can sit around and talk this through. It seems to me that a step must be taken now to remove those exemptions. That is critical for any progress to proceed on this matter. It is something the federal government has shown it cannot deal with. I think local government is the appropriate level of government to sort this whole question out.

I do not want to prolong this debate any further, but I would urge both the opposition and the government to reconsider this. They should see it not just as an opportunity for councils to veto and somehow put in jeopardy this terribly important national infrastructure but also as an opportunity for local government and the states to perhaps sort this problem out. I think we have demonstrated that it is unlikely that legal advice could lead you to suggest that the Commonwealth would be in serious trouble in terms of legal action. I commend this amendment to the Senate as being the only sensible way forward in this matter.

Senator SCHACHT (South Australia) (5.47 p.m.)—I have a question on the doctrine of estoppel. As I understand it, for that to work, someone has to have made representa-

tions on behalf of the Commonwealth that the rules and regulations under this legislation and under the code would not have changed for the period. Can you tell me whether you have any evidence that someone did make representations on behalf of the Commonwealth that under the doctrine of estoppel there would be no change.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (5.48 p.m.)—I cannot identify all the evidence that might be put before a court on the matter. It is not hard to imagine that the carriers would argue that they embarked upon a decision to undertake a very expensive and extensive roll-out on the basis that they would not be exposed to legislative risk prematurely. Would you seriously start a—

Senator Schacht—No, that is not my question.

Senator ALSTON—It is.

Senator Schacht—You said that is their expectation. I am asking a specific question. I understand that, for that doctrine to work, someone has to have made what is called a representation on behalf of the Commonwealth.

Senator ALSTON—That is right.

Senator Schacht—They may expect that they had that. They may assume they had. What we are after is: do you have any evidence back in the system, in the files of DOCA or anywhere else, that such a representation was made to the carriers under this doctrine? If not, the advice I am getting is that the position of the carriers would be, under the doctrine of estoppel, a lot weaker than you are claiming.

Senator ALSTON—What I am saying is that it is not just a matter of finding a note of a conversation which you say constitutes a representation. It would be perfectly open to the carriers to say that they had discussions. Hang on—

Senator Schacht—I am not interjecting. I am just frowning. I am trying to digest all of the information.

Senator ALSTON—This is all hypothetical, so you are really asking me—and I think I am here as a lawyer rather than anything else—whether it would be perfectly possible to envisage a situation in which the carriers said, 'We obtained a licence after discussions with the minister. We indicated to the minister that we had an intention to embark on a multibillion dollar roll-out and that it would take us a period of years. We knew the world was going to change on 1 July 1997. On that basis, and on that basis only, we proceeded to embark on the roll-out.' A court could say that that constituted a representation upon which they acted to their detriment.

It does not follow from that that there is going to be any note on any file of Kim Beazley or anyone else saying, 'I made representations to Optus.' Optus would be saying, 'The actions and words of the minister, or a bureaucrat or someone else on behalf of the government, were a reasonable basis for us to expect that we would be able to proceed with a roll-out unencumbered until that point in time.'

The last thing we would ever have expected—and it is responsible for us not to have expected it—would be that someone would come in and prematurely pull out the rug. I do not think it would be beyond imagination that they would be able to produce a business plan that showed they had always intended to go up until 1 July. They would say they did that on the basis of representations made to them. Beyond that, I cannot rehearse all the evidence that might be picked up.

Senator SCHACHT (South Australia) (5.51 p.m.)—What you are saying is that, as far as you are aware, there is no record of a representation made specifically that they could produce in court to strengthen their case under the doctrine of estoppel.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (5.51 p.m.)—As I have said, the doctrine does not simply rely upon a document or something in writing; it relies on actions or words. We may not have any note. The minister may not have any note. I see a lot of people. I am sure you do too. They come in and see you and say, 'How's it going? What can we expect to do? These are our plans.' You sit there and say,

'Well, it sounds all right to me.' You have no note of the conversation.

You get along to court some years later and up gets the managing director. He says, 'Well, I met with the minister, Senator Schacht, and I told him what we had in mind. We were going to embark on a $3 billion to $4 billion program. We were going to do that up until 1 July 1997.' He said, 'Well, that sounds terrific. Thanks very much.' The managing director says, 'On that basis, I argue that that was a representation made to me, and I acted on that to my detriment.' That is basically all you would need to establish in a court of law. That is what the doctrine says.

The crowd that Senator Allison got this piece of paper from say, 'Well, it's all too hard for us to even pass judgment on it—other than to say that it would be lengthy and complex and, presumably, horrendously expensive.'

Senator SCHACHT (South Australia) (5.52 p.m.)—Across the board people take action in the commercial world. For example, at times in my previous job as Customs minister, people took action on making business plans based on certain arrangements, customs regulations and so on. The next year, because of budget needs, et cetera, we changed it. It affected their business plan. They complained like billyo that they had been drastically affected by it. But I have to say I can't recollect that they actually stood up and said, 'We're going to sue you,' because the law was changed by the parliament. It was a proper process of parliament. The law was changed from time to time for the good government of Australia. They might claim it was not for good government, that it affected them, but it was our say.

I don't claim to be a legal person—I have not had the training in this area. But it seems to me that the parliament must have some right to change things for the good government of Australia and to claim that it was in the balancing act of the doctrine of estoppel. What if no-one has actually produced what has been written down? You can have a hundred conversations and people are going to claim it all over the place. You can claim whatever you like. That is why I asked the specific question—it was not an assumption—as to whether there is any evidence around that a representation was made that they acted upon to their detriment.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (5.53 p.m.)—I say again that you would not expect the Commonwealth—if it did it would be feeling very nervous about it—to have some document which it effectively regarded as a representation which had been made and which others had acted on to their detriment. The Commonwealth may have a bland record of conversation which it says could not possibly constitute a representation, but that does not stop a plaintiff from arguing it.

You can easily get bogged down in the law on these things. Everyone accepts that parliaments have got the right to change the law. They are not liable for damages every time they do. That is the starting point. That is the amateur legal aid advice that has been trumpeted around by Senator Allison. But that does not get you very far. What you are talking about here is an absolutely unique circumstance where you are not just making a minor change that might, to some extent, impact on someone's business. You could effectively be killing the whole business case unless you complete your roll-out. Unless you get it all together, you do not have a system that is going to generate the payback which you need to stay viable. It does not require much imagination to anticipate how you might actually go over the edge as a result of a fairly minor intervention.

While you and I are agreed that this amendment should be opposed, we are talking about a fundamental intervention—a premature one. We all know that the rules will change on 1 July. This is saying, 'To hell with the consequences. Let's go in there and rip up that immunity now. Let's not wait until 1 July. Let's rip it up now. We're not concerned about the fact that Optus or Telstra might have invested billions of dollars. We're not really interested in whether the people of Adelaide get the roll-out or not. We're just interested in stopping it stone-dead.' I think we have agreed that it is appropriate to have

a tighter regime and a fundamentally different one from 1 July.

We have said all cables will be underground after 1 July, unless state local authorities agree to the contrary. That is a pretty fundamental change. That is where most the angst has been. But, again, we have always accepted that the carriers had rights. Whether they are legal rights or political rights, the fact is that, on the strength of them, they have expended huge amounts of money. To put all that at risk simply because you want to curry a bit of favour with those who believe that local government should have an absolute right of veto in 300 places around the country is not a view that we think is in the national interest.

Senator SCHACHT (South Australia) (5.55 p.m.)—Though we are opposing Senator Allison's and Senator Margetts's amendment, my main reason is that taking it out leaves a void. I do not believe the Commonwealth parliament should walk right away from—

Senator Alston—That is why you type in the code.

Senator SCHACHT—Yes, that is an argument about the code not going far enough. If there were a process here today which, in detail, changed the powers and immunities to deal with these issues and did not just deal with them by saying, 'We're putting it all back to local and state governments,' if there were a structured way of doing it and saying, 'We retain an overview for the national interest, and so on, I would probably get the opposition to put their hands up for that. But we have got a plot where you just eliminate the immunities and so on. Although I believe in the restructuring, I have always had the view that local and state governments have got to have an effective say and influence on the outcome.

I will not support, and the opposition will not support, walking away and leaving a void in which we abrogate our responsibility constitutionally. That is the difference. If there had been a detailed amendment—even if it had gone for pages—to outline the new regime, we would be more willing to support it. That is not before us. I hope it comes before us in the post-1997 regulations. It is not just a matter of saying, 'After 1 July you've got to go underground unless the council says otherwise.' I will be looking at amendments saying that you encourage what is already above the ground, including cables, and a process that encourages all the instrumentalities to go underground, in conjunction with local government.

That is not before us. Therefore, in view of that void, we reluctantly vote against this, even though we will be accused of not doing our best to stop the ugly cables being rolled out. Because that is not before us in a detailed way saying that the Commonwealth should still play a role in all this and that it should not walk away from its constitutional responsibility—I do not believe that we have a constitutional power—we should hand it back to the states whether it is in this area or in any other area. We should take a national approach on these things. That is the thing I want to make quite clear.

Senator Alston—We will no doubt have that debate in spades.

Senator SCHACHT—In spades. We will have to. We will take a very tough attitude at that time. I look forward to working with the Democrats, the Greens and you to get a good outcome that maintains our role. Maybe the outcome will outline the process that we are interested in: encouragement of carriers and the electricity authorities in Australia to look at going underground over a reasonable period and to share the cost to the benefit of Australia.

Senator ALLISON (Victoria) (6.00 p.m.)—I have concluded the remarks on behalf of the Democrats, but there are three questions that I need to put directly to the Minister for Communications and the Arts (Senator Alston) and to ask him for a direct answer. He easily dismisses the legal advice from the Parliamentary Library as being amateurish, which is fine, but I want to know: did the federal government seek legal advice? When did it do so? And will the minister table it?

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.01 p.m.)—I have indicated that any legal advice we have should not be made available and put in the public arena. It would fundamentally jeopar-

dise any action that might be taken at a later point in time. It is therefore not appropriate to go further into those matters.

Amendment (**Senator Margetts's**) negatived.

Question put:

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

The committee divided. [6.05 p.m.]

(The Temporary Chairman—Senator H.G.P. Chapman)

Ayes	9
Noes	51
Majority	42

AYES

Allison, L.	Bourne, V. *
Brown, B.	Kernot, C.
Lees, M. H.	Margetts, D.
Murray, A.	Stott Despoja, N.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Bishop, M.	Boswell, R. L. D.
Brownhill, D. G. C.	Calvert, P. H.
Campbell, I. G.	Childs, B. K.
Collins, J. M. A.	Colston, M. A.
Conroy, S.	Cook, P. F. S.
Coonan, H.	Crowley, R. A.
Denman, K. J.	Eggleston, A.
Evans, C. V.	Faulkner, J. P.
Ferguson, A. B.	Ferris, J
Foreman, D. J. *	Forshaw, M. G.
Gibbs, B.	Gibson, B. F.
Heffernan, W.	Herron, J.
Hill, R. M.	Hogg, J.
Kemp, R.	Lundy, K.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	Mackay, S.
McGauran, J. J. J.	McKiernan, J. P.
Minchin, N. H.	Murphy, S. M.
Neal, B. J.	Newman, J. M.
O'Brien, K. W. K.	Reid, M. E.
Reynolds, M.	Schacht, C. C.
Sherry, N.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Watson, J. O. W.	West, S. M.
Woods, R. L.	

*** denotes teller**

Question so resolved in the negative.

Senator ALLISON (Victoria) (6.10 p.m.)—I move:

(20) Schedule 1, page 10 (after line 8), after item 11, insert:

11B Subsection 129(2)

Omit "subsection (5) and (6), substitute "subsection (5), (6) and (7)".

11C At the end of section 129

Add:

(7) A carrier must not construct a mobile phone base station within 300 metres of a child care centre, kindergarten, school or hospital.

This amendment will ensure that no mobile phone base stations or towers are constructed within 300 metres of kindergartens, schools, child-care centres and hospitals. This was one of the two recommendations made by the majority report of the Senate Telstra inquiry which highlighted community concerns over the possible health dangers stemming from electromagnetic radiation.

The first recommendation of the majority report was that a levy be raised from telecommunications and other industry contributors responsible for electromagnetic radiation to finance independent research into public health issues concerning electromagnetic radiation. Despite the government labelling the majority report as a mishmash of prejudice and inaccuracy—I think were the words—the government went on to adopt this recommendation as though it were one of its own. So we now have $4.5 million set aside for the next four and a half years to spend on research and public relations.

The second recommendation of the majority report is the one that I am now moving as an amendment. I urge all senators to think of the future and to bear in mind the precautionary principle when deciding on their position.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.11 p.m.)—It is one thing to espouse a precautionary principle which is normally based on the knowledge that some thing or action will have an actual or potential effect. The fact is that there is not scientific evidence associating health risks with exposure to electromagnetic energy from mobile phone base stations. It would be, in the government's view, an absolute nightmare were we to go down this path.

I just ask the Senate to think about this for a moment. If Senator Allison seriously con-

tends that there are dangers flowing from the close location of mobile towers in terms of the emission of electromagnetic energy, then why stop at child-care centres, kindergartens, schools and hospitals? Why should the person living next-door to the tower be exposed? What is meant by 'child-care centre'? Presumably, a community day care centre or a private day care centre. But what about the children who are in family day care who happen to be living in private homes? Do you somehow ignore their interests? It is logical nonsense.

If there is any serious basis for these concerns, we would be very much interested in acting on it. If you were serious about this, you would not allow these towers to be located anywhere. Why would you say they could be located alongside houses, fire stations, government departments or, let us say, a recreation centre where children are busy playing sport in the afternoon of every day, and then try to preclude a location within 300 metres of what you would just pick out as a few, presumably, highly emotional and emotive examples of people who you think might be exposed? In other words, you are more likely to get a headline if you focus on children; I presume that is the sort of rationale for that. If you were in any way, shape or form seriously contending that there were health dangers, why would you stop at child-care centres, kindergartens, schools and hospitals? There can be no logic to that at all.

However, if you say that you cannot locate within 300 metres, the problems are much greater than that. Presumably, you have not in the slightest attempted to identify how this would play out in practice; in other words, you would have to have done very detailed mapping of all of those particular structures and their relative locations, and then see what black holes might emerge. But you have absolutely no idea of the impact of this. It could well devastate the rollout.

Senator Schacht mentioned earlier that he had a tower close to his place. I have one pretty close to my place. It happens to be about 50 metres from one of the largest girls schools in Melbourne. I have not heard any complaints about it.

The point is that within a kilometre of my place there are six secondary schools. What you would probably find on the strength of this would be that when you combined child-care centres, kindergartens, schools and hospitals you would not have a mobile phone tower for miles. You would simply have a dirty big black hole which would, you would think, not only be to the detriment of local residents who might like to use the service but also disadvantage those travelling through that area and anyone from around Australia making a call into that area.

The practical consequence would likely be that, because you were precluded from erecting towers in a vast number of areas because of the conjunction of those four structures, you would have to build higher towers and probably more of them. What do you achieve by doing all of that?

The advice I have had is that if handsets were used in places like schools, where there would be no towers in the vicinity, then there would be a higher level of radiation from those handsets to compensate for the fact that the signals would have to travel a further distance to the nearest tower. So again it would be utterly counterproductive if there was a serious environmental or health basis for these concerns. You would simply be ensuring that those people were exposed to a much higher level of radiation than others who did not have to suffer that distance problem.

The government has recently committed $4.5 million over, I think, five years to make absolutely sure that these concerns are addressed with the greatest degree of responsibility, that we continue to monitor the situation and that we do not in any shape or form run risks that anyone in the community would regard as unacceptable. The World Health Organisation is undertaking studies on a regular basis. There are people around the world who are doing research in this area. We have an interdepartmental committee that has been working on the issue as well. All of those programs are designed to make absolutely sure that there are not any risks that might emerge without us being aware of them.

But to date no risks have been identified. As I understand it, even Dr Hocking conceded that his findings were not a basis on which firm conclusions could be drawn. Dr Hocking has emphasised in meetings with officials from the Department of Communications and the Arts that his findings are preliminary and that no firm conclusions should be drawn from them. So on what conceivable basis would you rush to impose such a draconian limit on the location of mobile phone towers? I did not hear any argumentation, but I presume you are simply concerned with the health aspects.

You have to have regard to the purpose of the mobile phone towers, which purpose does not ever seem to get a mention in these discussions. They are there for a very real and obvious community benefit. You ought to be aware that the new code, which we hope will be able to be proclaimed prior to Christmas, will contain a requirement for mandatory co-location of towers, unless it is not technically feasible. In other words, we will go much further than the current code allows in terms of co-location. There is still the requirement for consultation, and that is going to be beefed up. But at the end of the day to arbitrarily come in and say that towers cannot be located within 300 metres of a whole range of structures that you just happen to have picked out of the air, so it would seem, could fundamentally damage that whole network. Given that mobile telephones are—

Senator Margetts—It could damage the bottom line.

Senator ALSTON—No, not damage the bottom line. Your anti-capitalist obsessions seem to start and finish with whether people are making a profit out of it. The only reason people make a profit in most instances is that they are selling products that people actually want. If ever there is an example of something that people want, it is mobile phones. That is why there are about four million of them in this country and why we have the highest penetration rates in the world, particularly having regard to the fact that they have been available for only a relatively short period of time.

Senator Margetts—It's probably got a fairly high penetration rate into schoolyards because that's the area they have got.

Senator ALSTON—If there is any scientific basis—and we are not in any shape or form aware of it—for saying that you ought to limit the locations, why would you limit it in juxtaposition to only child-care centres, kindergartens, schools and hospitals? Why are you not concerned about the homes that have children in them that might be next door and the houses that accommodate children in family daycare—

Senator Margetts—Risk management; precautionary principle and risk management.

Senator ALSTON—That is just jargon which I do not understand.

Senator ALLISON (Victoria) (6.21 p.m.)—I acknowledge that to some degree the choice of kindergartens, schools, child-care centres and hospitals is somewhat arbitrary. But there is some logic behind that, and it is that there are plenty of medical researchers who are of the view that children can absorb 3.3 times, I think, as much radioactivity through various frequencies as adults do. I imagine that those who presented to the Telstra inquiry selected those structures because they are the places that children frequent. They are the places where children spend much of their day and where they would have a regular, long-term exposure to electromagnetic radiation. That is the reason for choosing those places.

There are plenty of people in this country who do not like the idea of the towers being near their houses, and no doubt they would like us to nominate locations 300 metres away from all residences, too. I have to say that I would be inclined to that view, too. The reason we have stopped at that is that we have tried to go as far as we can in order to get a positive outcome.

Obviously we cannot prevent towers going up everywhere. Already they are in many locations, and sometimes inside school and kindergarten environs. What we are simply trying to do is to stop further towers from going up in those areas where we think there is the greatest risk.

I warn the Minister for Communications and the Arts (Senator Alston) against the industry attitude, 'There is no evidence, therefore there is no risk.' I would be quite happy to cite the very many opinions, expressed by people who know about these things much better than I do, about the growing evidence that there is a health risk associated with electromagnetic radiation. I will start with Professor John Goldsmith, who in a recent study, said:

> Epidemiology provides a growing number of reports which find health status change, including increased cancers, miscarriage, brain activity changes, anxiety, sleep disorders, et cetera, in association with above average exposure to radio frequency and microwave radiation.

He says:

> There are strong political and economic reasons for needing there to be no health effect of this exposure just as there are very strong public health reasons for more accurately portraying the risks. Those of us who intend to speak for public health must be ready for opposition which is nominally but not truly scientific.

The minister is doing that. He is attempting to say that, because there is no hard evidence, we should just go ahead. He suggests that those of us who propose any measures that might protect people must necessarily be emotional. In fact, I think he used the words 'highly emotional'. He suggests it is not serious, that this is really just a figment of somebody's imagination and that we are trying to drum up, with no justification, emotional responses to something.

I would be quite happy to stand here and go through the very substantial and growing body of evidence which shows that there is convincing evidence of biological effects from electromagnetic radiation. I appeal to you to consider it. But I do not want to go through it tonight because we are under great time pressures. I would offer any senator who would like further information on the sort of work that is being done already to contact me. I would be happy to provide them with any number of reports. My office now has a very substantial library of the evidence which has already been developed.

The evidence does not say, 'Yes, we will all get brain tumours because we use mobile phones, or because we live next door to mobile phone towers.' It simply says that there is much we do not know, that cancers develop over a long period of time and that children in particular should be protected. Minister, you know as well as everybody else in this chamber that towers have been with us for only a very short time and that most of the telecommunications infrastructure that is now in our environment was not there a few years ago. So it is not possible to do longitudinal studies—I think that is the right terminology—that show the effects over time.

The work that has been done is very preliminary, and it is necessarily so because we have not adopted the precautionary principle. We have simply said, 'We all want mobile phones, so let us put up towers in kindergartens, schools and anywhere else that is convenient,' without worrying about whether we are putting children at risk.

I would be quite happy to prolong this debate and to raise all of the early research findings that have come across my desk. I know there will be even more than that. I will be happy to start to work through them. If the minister wants to maintain the line that there is no evidence and therefore there is no problem, then I am happy to argue the other view. I certainly wish the government would not make those claims. I do not believe that they are right.

Senator BROWN (Tasmania) (6.27 p.m.)—What Senator Allison has just said makes good sense. I will answer some of the questions the Minister for Communications and Arts (Senator Alston) asked of the senator. The first concerns the precautionary principle. Where there is an apparent inherent danger, you take the precaution of not extending that danger. You wait until you know that the hazard has gone or the danger is not real. You do not do it the other way around.

Those who have studied the epidemiology of lung cancer coming from smoking, and mesotheliomas coming from asbestos, would get to see that the early warning signs are very often suppressed by those who have a real commercial motive to not take precautions. When the minister pooh-poohs the idea that the bottom line, the profit line, does not

dictate to government in situations like this to the detriment of the wider populous, he should look at that history.

The point of Senator Allison saying that schools and child-care centres should be given protection until at least it is known that these towers are not a health hazard is that it is recognised that children are more vulnerable to many forms of radiation. We know, for example, that it is primarily children who are affected at Sellafield, in the United Kingdom, by the very-difficult-to-specify radiation coming from a nuclear power reactor.

The rates of leukemia and blood cell-related diseases are higher amongst children in that vicinity than they are in the rest of the populace or populations elsewhere. That is simply because children are growing, their cells are dividing faster and they are more vulnerable to the impact of radiation.

When it comes to electromagnetic radiation, very little is known compared to other forms of radiation. But the danger signs are there and the concerns are there, and they are in the scientific community. It is not just a group of people who are simply floating a scare campaign. Precaution and commonsense would say that Senator Allison should be listened to.

I go to one other point which would be otherwise completely missed in this debate about these towers, and that is the visual intrusion, the visual pollution that they cause not only in urban areas but also in some of the most scenically sensitive areas in this nation. If you drive down the Midlands Highway in Tasmania from Launceston to Hobart, you will find that towers have recently sprouted on Gunns Quoin and on the eastern part of the Great Western Tiers, on some of the most important visual parts of the skyline of a state that depends very much on its wild and scenic attraction.

There is no environmental study or impact assessment required. It is simply that the corporations who are making money out of the spread of these towers put them where they think it is going to be best for them. It is something that the community should have an input into; it is something that should be taken into account. But, I guess, if the government is not going to listen to arguments about the health of children, it is not going to listen to arguments about the protection of the environmental amenity in a wider sense.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.31 p.m.)—Briefly, the government does not for a moment lack concern on this issue. I make it clear that we currently do have in this country standards which establish EME levels that are considered to be safe. The AS2772.1 is one of the most stringent exposure standards in the world. It has been developed following the consideration of substantiated scientific evidence, including non-thermal evidence by appropriately qualified technical and scientific experts. The level of energy involved at ground level in a mobile phone base station transmission is approximately 100 times less than the exposure level permitted by that standard.

On 15 October, the government announced that it would provide $4.5 million over five years—firstly, for a public information dissemination strategy; secondly, for continuing participation in the World Health Organisation project to assess the health and environmental effects of EME exposure; and, thirdly, an independent Australian research program. I simply say that, if evidence emerges that warrants further action being taken, we will be the first to take it. What we should not be doing is simply acting on what might be regarded at this stage as little more than apprehensions.

Senator HARRADINE (Tasmania) (6.33 p.m.)—I will be very brief because of the time. I have sympathy with this particular proposition. I realise that the matter was dealt with by the committee during its consideration. In fact, it is referred to in this report. This matter will be revisited, of course, during our discussions next year. I am concerned that, if something is not done at this point in time, you will have carriers making sure that they get in to the prime spots—irrespective of whether there are schools, hospitals or whatever around the place. Obviously, we would not be able to take action retrospectively when we deal with this next year, if there is further evidence of problems.

However, I have not really heard justification for the 300 metres. I know 300 metres is not very long: the corridor outside my office is 300 metres. As the minister has indicated, there are quite a large number of schools and hospitals and so on—I do not know whether they are within his electorate office or near his home. I have not heard any strong view or argument in support of the 300 metres. In my view, 300 metres is erring on the extreme side. Before getting to the full discussion next March or April, I would have thought 150 metres, but perhaps 200 metres might be a compromise. I know this sounds rather ludicrous because I have no scientific support for 200. I would, if pressed, have scientific support for 150. I would be willing to vote for the amendment if it were 200, and we could then revisit it next March or April.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.36 p.m.)—I think Senator Harradine has identified a very important issue here and that is the dangers of simply plucking out figures and propositions on the run. We do not have any idea of the practical impact of this across Australia, particularly in metropolitan areas, and the conjunctions of those structures may well mean that you could literally have areas where there are miles without any mobile phone towers if this were to come into effect. If you were serious about wanting to go down this path, the very least you ought to do is identify the impact that it would have and whether it is, in fact, practical. The overlap between those four types of places, all of which are pretty frequent, I would have thought, could well mean that it would be virtually impossible to locate mobile phone towers in the very places where they are in the greatest demand. We should not make these sorts of judgments and decisions on the run.

Bear in mind that this has nothing to do with the partial privatisation of Telstra. The proper place to address these issues is after you have done that homework, worked out a sensible rationale for any distance that you might want to argue for and looked at the practical impact. Otherwise, it is simply a knee jerk response designed to—

Senator Schacht—It is not quite knee jerk, Minister.

Senator ALSTON—We have heard no argument in favour of 300, 150 or 200 metres.

Senator Schacht—If you say that, it encourages an even bigger distance because people are not sure.

Senator ALSTON—But there has been no reference to scientific evidence to suggest—

Senator Schacht—Oh!

Senator ALSTON—Just a minute. There is no evidence to suggest that any particular distance makes a difference. I have read suggestions that if you are in line of sight you may be more exposed than if you are underneath the tower. All these things ought to be capable of sensible analysis and not simply pushed through the Senate on the tail end of a bill about the partial privatisation of Telstra. You have the perfect opportunity to do it in March next year. I simply appeal to the Senate to take a considered view on the matter, to debate it at a time when it is appropriate to do so and after you have done some homework on it.

Senator ALLISON (Victoria) (6.38 p.m.)—I hope that the Minister for Communications and the Arts (Senator Alston) is not suggesting that we go out and do the homework. I want to make some remarks about distance. I acknowledge that there was some difficulty in arriving at 300 metres. People have asked, 'Why not 500 metres?' and 'Why not 150 metres?' As Senator Harradine rightly points out, we do not know.

The evidence we have, however, is that around a mobile phone tower—this comes to me from the Telstra research laboratories in Clayton in Victoria—there is a doughnut shape. At 150 metres, the greatest concentration of electromagnetic radiation exists. That is the basis for saying that 150 metres is obviously not enough, because that would place us right in the centre of this area of high concentration.

It also does not take into account, as I understand it, co-location. The government is on the one hand arguing that we should have Vodafone, Telstra and Optus with their towers co-located. Does that add to the concentration

or widen the doughnut? I do not know. This is so important that if Senator Harradine is prepared to support this at 200 metres, the Democrats are as well. I am happy to change our amendment to reflect that. I acknowledge that we are all in the dark here. It is an argument for spending money on real research that can tell us what is safe and which says, 'Look, you don't put these up in the middle of places where children are' or 'They are okay to have in parks but not in industrial areas.' We just do not know the answers to that.

This is about precaution. It is about children and precaution and at least putting in place some measures before it is too late and we have all the towers erected everywhere and emitting electromagnetic radiation. I argue that it will be much more difficult for us to remove these towers if we find that there is a problem. We may have that as a problem further down the track.

Senator Alston tells us that it has nothing to do with the sale of Telstra. Quite a lot that we have talked about today and quite a lot that is in the bill does not have to do with the sale. It is an opportunity that is not to be missed. Over the next six months, if we do not do something about it, it may well be too late. I am willing to alter this amendment to reflect 200 metres. I look forward to the debate next year in which we can draw upon the existing evidence. Hopefully, there will be some more conducted between now and that time. I seek leave to amend my amendment to change the figure of 300 metres to 200 metres.

Leave granted.

Question put:

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

The committee divided. [6.46 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	33
Noes	33
Majority	0

AYES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Childs, B. K.
Collins, J. M. A.	Conroy, S.
Cooney, B.	Denman, K. J.
Evans, C. V.	Faulkner, J. P.
Foreman, D. J. *	Forshaw, M. G.
Gibbs, B.	Harradine, B.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	Neal, B. J.
O'Brien, K. W. K.	Ray, R. F.
Reynolds, M.	Schacht, C. C.
Stott Despoja, N.	West, S. M.
Woodley, J.	

NOES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Heffernan, W.	Herron, J.
Hill, R. M.	Kemp, R.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	McGauran, J. J. J.
Minchin, N. H.	Newman, J. M.
Panizza, J. H. *	Parer, W. R.
Reid, M. E.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Watson, J. O. W.
Woods, R. L.	

PAIRS

Carr, K.	Patterson, K. C. L.
Collins, R. L.	Knowles, S. C.
Cook, P. F. S.	Vanstone, A. E.
Crowley, R. A.	O'Chee, W. G.
Sherry, N.	Crane, W.

*** denotes teller**

Question so resolved in the negative.

Senator ALLISON (Victoria) (6.50 p.m.)—I move:

(21) Schedule 1, page 10 (after line 8), after item 11, insert:

11D At the end of subsection 288(1)

Add:

; and (e) to provide operator assisted directory services free of charge to people in Australia; and

(f) to provide 24 hour access, free of charge, to operator assisted emergency call services to people in Australia.

Amendment 21 does two things: firstly, it guarantees, free of charge, 24-hour access to operator or assisted directory services as part of the universal service obligation; secondly, it guarantees 24-hour access, free of charge, to emergency calls as part of the universal service obligation. There has been widespread discussion saying that charging for both directory assistance and emergency calls is a development which is not too far away. Indeed, in the November edition of the Telstra operator assistance services newsletter, charging for directory assistance is highlighted as a high priority.

It has been rumoured that Telstra already has the technology in place to enable such charging to take place and that they are simply waiting for the go-ahead from the government, or at least some indication that there will be no impediment to their so doing. It is important to recognise, however, that consumers already meet the cost of such services through rental and through call charges, even though a charge is not levied on a per call basis. Introducing a pay per call fee, without corresponding reductions in existing charges, we would argue, would be a double slug.

Writing the provision of directory assistance and emergency call services into the universal service obligation will ensure such services are not charged on a per call basis and will ensure that the cost of providing such services is borne proportionately by all carriers.

Senator MARGETTS (Western Australia) (6.53 p.m.)—I rise in support of this amendment.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.53 p.m.)—The government opposes this amendment because the provision of directory assistance and access to emergency call services are guaranteed now under carrier licence conditions. But, more importantly, what this purports to do is to bring these services within the universal service obligation ambit.

The effect of that would be to confine the obligation to provide those services to only those customers who subscribe to the services of the universal service provider, currently Telstra. So, if you are an Optus customer, you would not get the benefit of this particular proposal even if it were necessary in the first instance.

But after 1 July, when all carriers will be covered under licence conditions, you will, hopefully, have a lot more competition in the marketplace, a lot more people who are not beholden to the universal service provider, and, in those circumstances, a lot more people who simply would not come within the ambit of this provision.

It does not do anything to protect anyone. It simply covers a particular portion of the community—a proportion which will shrink over time. It simply replicates provisions that are already in licence conditions, and that will continue after July 1997.

Senator SCHACHT (South Australia) (6.54 p.m.)—I am reading the existing section of the act, section 288, universal service obligation. This amendment adds (e) and (f) to what the obligation is. I want you to explain further how adding (e) and (f), as in the Democrats' amendment, would apply only to Telstra. I think that is what you are trying to imply.

Senator Alston—To the universal service provider, currently Telstra.

Senator SCHACHT—So what you are saying is that past July next year, in a deregulated market, Telstra will not have to provide the assisted directory service.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.55 p.m.)—Perhaps I had better explain. The universal service obligation is imposed on the universal service provider. That is currently Telstra. At the moment, Telstra has an obligation to provide a range of services. They then get the benefit of the cross-subsidy through the fund. So it is Telstra who provides the service. That means that if you are a Telstra customer you get the benefit of that, but if you are not you do not.

At the moment it is only Optus who is in the marketplace as an alternative, but post-July, when you would hope there would be a lot more players in the marketplace, the universal service provider will overwhelmingly remain Telstra. There may be some areas

in the country where someone else might put up their hand and volunteer, in which case they would be the universal service provider in that region.

But anyone who is a customer of someone other than the nominated universal service provider would not be covered by this provision. As I say, these things are already in licence conditions. They apply to all carriers.

Senator SCHACHT (South Australia) (6.56 p.m.)—This is one of those things that may well be revisited in March next year. But, in the meantime, as I think this will be, at the latest, proclaimed on 1 May—and we can have a look at it again—I do not think it is unreasonable to put this in. If the universal service provider is Telstra, at the moment or on 1 July, then let it be that they will continue with this (e) and (f) provision. Then we can have a look in March-April next year, when we deal with the bill, and ensure that all those other carriers who come in will themselves have to have this provision put on them to meet the universal service obligation.

I do not think anybody here would support any future carrier getting away from having the same obligation put on them. So in March next year—from what I understand you have said—when we deal with the overall telecommunications bill, we do not want any of the future carriers to escape universal service obligations. We should amend the bill accordingly. In the meantime, until 1 July, I do not see anything wrong with adding (e) and (f) now. Then that should be the basis of ensuring that all future carriers also provide the same universal service obligation.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (6.58 p.m.)—The provision of directory assistance and access to emergency call services is currently guaranteed under the licence provisions. After 1 July, they will continue to apply to all carriers under the licence provisions. If you tack this on to the USO, you are tacking it on, effectively, to Telstra customers, and they will be a declining proportion of the total population of subscribers as new players come into the market.

There is no point in doing it here. The place to do it is in the licence conditions. When you debate the post-1997 legislation, you can have a very good look at that to make sure that it meets those concerns. But to do it now, some months ahead of it coming in—because I think we are not just talking about 1 May on this; we may well be talking about it coming into effect earlier—it seems to me that, again, on the run, you are doing something that is really quite the opposite of what you have in mind. If you want it to apply to everyone, the way you do not do it is to have it as part of a USO when that USO coverage will shrink.

Senator SCHACHT (South Australia) (7.00 p.m.)—I suppose I can take one part of your point, Minister, but I do not think it is wrong to put it in now. We are already going to have an earlier proclamation date for some of the things. This means that it will operate earlier than 1 May.

The other disadvantage we have is that you have a specialist committee dealing with universal service obligations. That is reporting on 21 December. It would have been useful to have known what that universal service obligation committee, which is due to report on 21 December—

Senator Alston—On the standard telephone service.

Senator SCHACHT—Is that dealing with any of this area of universal service obligation? It has not been released; I do not know whether it has been completed.

Senator Alston—I think Steve Lewis has got it.

Senator SCHACHT—There is a report in the press—

Senator Alston—I haven't seen it, but he has.

Senator SCHACHT—I am not going to vouch for whether Mr Lewis has it correct or not. Minister, I think in the end, I can take part of your point, but I do not think there is any harm in putting this in now and then revisiting it in the March legislation.

Senator ALLISON (Victoria) (7.01 p.m.)—Perhaps the minister could answer this question: what would prevent a customer of Optus, Vodafone or any of the others from accessing free directory or emergency assist-

ance if it was written into the USO? Our amendment says that Telstra will provide the service, but that does not stop any of the other users from accessing that service.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (7.01 p.m.)—It puts the obligation on the universal service provider. The universal service provider is Telstra. Telstra provides it for the benefit of its customers. So if you are a customer of Optus or Vodafone, you are not covered by the universal service obligation.

Senator Allison—It doesn't stop you accessing it.

Senator ALSTON—Accessing Telstra's directory assistance? If you happen to subscribe to Telstra, yes. But customers who choose to subscribe exclusively to another carrier because they think it is a better deal would be the ones who would not be able to access it.

Senator Allison—Why can't anyone ring 013, regardless of who you are a customer of?

Senator ALSTON—I am advised that at present if you are an Optus customer and you dial 013, Optus relays that call to Telstra. If no charge is made for that call, Optus has performed a service on behalf of Telstra. That may not always remain the case.

Senator Schacht—It will certainly do that to 1 July.

Senator ALSTON—It probably will, so there is no need to change it prior to that time.

Senator Schacht—No, but we are adding it as an extra.

Senator ALSTON—You are adding it in circumstances where all you are doing is including it in a group which is not wide enough for your purposes. You are wanting it to be available to all subscribers—to all carriers. You are simply putting the obligation on the single carrier, Telstra, to provide this service to all other customers.

Senator Schacht—Do you suggest—

The TEMPORARY CHAIRMAN (Senator McKiernan)—Order! There are people who are trying to follow the debate through the internal monitoring system, and we are being broadcast. They cannot hear the questions that are asked by way of a two-way interchange. It is important for the people who are following the debate that they hear it. Please, can we keep a bit of order.

Senator ALSTON—To the extent that you are an Optus customer, it does not make sense to impose an obligation on Telstra to provide a service to you. Nor is it fair for Optus to have to provide the service free of charge when it is the carrier of choice. If you want to impose the obligation on all carriers so that all customers benefit, you would do it by way of licence conditions. That is currently the regime and that will be the regime after 1 July. That is the way to go.

Question put:

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

The committee divided. [7.09 p.m.]

(The Chairman—Senator M.A. Colston)

Ayes	32
Noes	34
Majority	2

AYES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Collins, J. M. A.
Collins, R. L.	Conroy, S.
Cook, P. F. S.	Cooney, B.
Crowley, R. A.	Denman, K. J.
Evans, C. V.	Foreman, D. J. *
Forshaw, M. G.	Gibbs, B.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murray, A.
Neal, B. J.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Stott Despoja, N.
West, S. M.	Woodley, J.

NOES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.

NOES

Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H. *
Parer, W. R.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Watson, J. O. W.	Woods, R. L.

PAIRS

Carr, K.	Patterson, K. C. L.
Childs, B. K.	O'Chee, W. G.
Faulkner, J. P.	Vanstone, A. E.
Murphy, S. M.	Knowles, S. C.
Sherry, N.	Crane, W.

*** denotes teller**

Question so resolved in the negative.

Progress reported.

ORDER OF BUSINESS

Days and Hours of Meeting

Motion (by **Senator Campbell**)—by leave—agreed to:

That the question for the adjournment not be proposed at 7.20 p.m. and that the Senate be adjourned at 8 p.m. without any question being put.

TELSTRA (DILUTION OF PUBLIC OWNERSHIP) BILL 1996

In Committee

Consideration resumed.

Senator ALLISON (Victoria) (7.14 p.m.)—by leave—I move:

(25) Schedule 1, item 24, page 37 (line 25), at the end of the heading, add "**and qualifications of directors**".

(26) Schedule 1, item 24, page 38 (after line 13), after section 8BU, insert:

8BUA Qualifications of Australian directors

In addition to qualifications specified by the *Corporations Law* and this law, the majority of Australian directors specified in section 8BU must include a person with knowledge of, or experience in, the following fields:

(a) consumer affairs;

(b) industrial relations as a union representative.

It is perfectly legitimate for legislation to spell out the desirable skills or organisations to be represented on boards. Appointment of a person with skills in consumer affairs has precedence both on the boards of Austel and of ACCC. There is no legitimate reason, we would argue, why the same should not also hold for Telstra. Such an appointment would ensure a more added focus on customers and customer related matters at board level. I think, if the government is serious about making Telstra more responsive to the interests of customers, as the government has said it is, it should have no difficulty in guaranteeing consumers a voice at board level.

The appointment of a union representative to a board is common, although it is perhaps unlikely under the present government. Until recently we have had, for example, Bill Kelty on the board of the Reserve Bank. While on the board of Telstra, we had ACTU Assistant Secretary Mr Bill Mansfield, who was recently dismissed with a number of other members. Notably, one of the replacements and now the deputy chair, Mr John Ralph, is the CEO of CRA and architect of their industrial relations policy. While, no doubt, Mr Ralph has tremendous experience in industrial relations, it is important to question whether a voice like his is the only one the government should appoint, especially given the massive downsizing that Telstra is currently embarking on.

Ensuring that a union representative with a solid background in industrial relations is appointed will, we argue, help encourage industrial democracy and ensure the board has input from a more diverse range of views than it does at present. We believe this is a measure which should be supported by every senator who is genuinely concerned with job losses at Telstra.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (7.16 p.m.)—I would simply indicate that it is our view that this is not a constituency board. You should not have people there in a representative capacity. They should be there on their merits. You want people with all of the requisite skills.

The amendment says that you have to have knowledge of consumer affairs. I would have thought that is so vague that it is meaningless. I would be amazed if you could not appoint anyone who at least claimed to have some knowledge of consumer affairs, but that is really a criticism of the way in which it was drafted. The idea of having both a unionist

and a consumer affairs representative—if that is really what you had intended—goes quite contrary to the notion of decisions being made in the best interests of the company. You would have people being beholden to outside groups to try to get appointed in the first place and to stay there in the second place. It seems to us that this sends a very poor signal.

I would have thought it would be readily apparent that, if Telstra is to compete effectively, particularly after 1 July, it has to be customer focused and consumer oriented; it has to be selling its products. In other words, it has to be acutely aware of consumer needs. It ignores those at its peril.

Indeed, some of the people we have recently appointed did, I thought, have a particular focus on marketing skills and on awareness of consumer needs, but I would expect that all directors would have an acute sensitivity to consumer interests and to the industrial relations interests. What you do not want is simply to have someone there because they have been in a union. It seems to me that is no qualification for anything. You are much better off to have people who have a demonstrated knowledge of the industrial relations system; whether or not they come from either side of the fence does not really matter. It might be a retired judge.

The idea of having constituents represented on the board is fundamentally antagonistic to the concept of a commercial organisation. Austel and the ACCC are regulators. I am not sure that I would even agree that they should have consumer representatives on those boards but—

Senator Schacht—This is not a regulator; this is Telstra.

Senator ALSTON—Precisely my point. Thank you, Senator Schacht. Senator Allison argues that because we have these types of people on Austel and on the ACCC we, therefore, should have them on Telstra, as though somehow these three bodies are analogous. They are not. Two are regulators and one is a commercial player. It has commercial interest. It ought to be acutely aware of those sensitivities in any event.

Senator SCHACHT (South Australia) (7.19 p.m.)—The opposition supports this amendment. I suppose in one sense this amendment might not have been necessary if we had not seen the blood-letting by the minister a couple of months ago, when the axe was taken to five or six directors.

Senator Alston—I thought Bill Mansfield was doing quite a good job in many respects. You don't have him there because he was a unionist.

Senator SCHACHT—That is true, but he got the chop because he was from the ACTU. Other people who are members of the Business Council of Australia did not get the chop. In fact, some of them got appointed. Mr Ralph—and I think he is chairman of the Business Council of Australia—got appointed.

The Business Council of Australia is almost the alternate replica of the ACTU. The Business Council of Australia represents bosses; the ACTU represents workers. Mr Ralph gets appointed. He is not seen as representing a sectional interest. My God, that is not right. He certainly is representing a sectional interest in the background he comes from. As a director, he will carry out his due diligence, just as Mr Mansfield would have. They understand their due diligence and they add expertise around the table.

Minister, if you had not gone enthusiastically with the axe through half a dozen members of the board in the way that you did, this amendment might not have been necessary. It is clear that either you or some of your colleagues in cabinet are going to go about chopping up anybody who seems to be either a consumer rep or a trade union rep or someone who has a trade union background.

When we appointed members to the Telstra board in the past, they were overwhelmingly business representatives or people with business background. We thought it was not unreasonable having one person there who has trade union experience in view of the fact that the organisation employs 70,000, even going to down to 50,000.

So we believe it is not unreasonable to add these two qualifications because, unfortunately, this government does seem to be bent on

removing anybody who does not fit the business description coming from that sectional interest.

Senator MARGETTS (Western Australia) (7.22 p.m.)—I would like to indicate that I will be supporting this amendment.

Senator HARRADINE (Tasmania) (7.22 p.m.)—Likewise.

Question put:

That the amendments (**Senator Allison's**) be agreed to.

The committee divided. [7.26 p.m.]

(The Temporary Chairman—Senator H.G.P. Chapman)

Ayes	32
Noes	33
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.
Cook, P. F. S.	Crowley, R. A.
Denman, K. J.	Evans, C. V.*
Faulkner, J. P.	Forshaw, M. G.
Gibbs, B.	Harradine, B.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
Murphy, S. M.	Murray, A.
Neal, B. J.	O'Brien, K. W. K.
Ray, R. F.	Schacht, C. C.
Stott Despoja, N.	West, S. M.

NOES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Heffernan, W.	Herron, J.
Hill, R. M.	Kemp, R.
Macdonald, I.	Macdonald, S.
MacGibbon, D. J.	McGauran, J. J. J.
Minchin, N. H.	Newman, J. M.
Panizza, J. H.*	Parer, W. R.
Reid, M. E.	Short, J. R.
Tambling, G. E. J.	Tierney, J.
Troeth, J.	Watson, J. O. W.
Woods, R. L.	

PAIRS

Cooney, B.	Patterson, K. C. L.
Foreman, D. J.	O'Chee, W. G.
McKiernan, J. P.	Vanstone, A. E.
Reynolds, M.	Knowles, S. C.
Sherry, N.	Crane, W.

*** denotes teller**

Question so resolved in the negative.

Amendment (by **Senator Alston**) agreed to:

Clause 2, page 1 (line 7) to page 2 (line 5), omit the clause, substitute:

2 Commencement

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) The amendments of the *Telstra Corporation Act 1991* made by this Act commence on 1 May 1997.

Senator SCHACHT (South Australia) (7.32 p.m.)—There was circulated earlier today on behalf of the government, an amendment which I was told was consequential upon the carriage of my amendment about power to direct—

Senator Alston—The one about disallowable instruments?

Senator SCHACHT—No. This one has not got a date on it.

Senator Alston—I am instructed that that is an earlier one.

Senator SCHACHT—That has been predated by the one you just moved?

Senator Alston—Yes.

Senator SCHACHT—It has been succeeded by it?

Senator Alston—Yes.

Senator SCHACHT—The earlier one has now been succeeded by this one, which covers both the issue of making sure that the amendment that was carried in my name about the power to direct and the service providers operating from royal assent, and then Senator Harradine's date of 1 May stands?

Senator Alston—Yes.

Senator Allison—I believe there are two further amendments. I have one which we have not dealt with yet, No. 17. I understand that Senator Harradine has one, too.

The TEMPORARY CHAIRMAN (Senator Chapman)—That was dealt with by way of the question that section 87J stand as printed.

Senator Harradine—My amendment is to the motion that the report of the committee be adopted.

Bill, as amended, agreed to.

Bill reported with amendments.

Adoption of Report

Motion (by **Senator Alston**) proposed:

That the report of the committee be adopted.

Senator HARRADINE (Tasmania) (7.36 p.m.)—This is the first occasion that I have been able to speak to the Senate. We have been in committee all day. I would like to take the opportunity of congratulating Senator Heffernan on his maiden speech yesterday.

Senator Schacht—It seems like three years ago.

Senator HARRADINE—Yes. I would like sometime to join him around the boree log.

Mr Acting Deputy President, I move:

At the end of the motion, add ", and, in view of the amendment made to the commencement provisions of the bill, the matter of public equity in Telstra Corporation Limited, as provided for in the Telstra (Dilution of Public Ownership) Bill 1996, be referred to the Economics Legislation Committee for inquiry and report by 26 March 1997, with particular reference to the following matter:

The suitability of redeemable preference shares or other capital raising options for public participation by way of investment in Telstra, other than ordinary voting shares."

I will not speak to that at any length because the issues have been canvassed in the committee stage, and I would be only wasting the time of the Senate. I understand that Senator Margetts has an amendment to it.

Senator MARGETTS (Western Australia) (7.39 p.m.)—I move:

At the end of the motion, add "and that the bill be recommitted and further consideration of the bill in committee of the whole be an order of the day for the day on which the Economics Legislation Committee reports to the Senate on the above reference."

That basically gives some teeth to the committee. It indicates that the government is fair dinkum. It indicates that there is some element of reality to the committee and its outcome, some sort of point to it. So I urge that all honourable senators support the amendment.

Senator ROBERT RAY (Victoria) (7.39 p.m.)—I will not go on at great length because I understand that we are trying to wrap this up by 8 o'clock. But in my only other single contribution to this debate I expressed some concerns about this particular matter.

The first concern I expressed is: why is this going to a legislation committee, given that the government was massively opposed to a legislative matter going to a reference committee some months ago? I wondered why they had done such a backflip. This does not actually affect legislation; this legislation, presumably, will at least have passed its third reading. It will not have got to the proclamation stage—I acknowledge that. Nevertheless, it is to deal with principles, and they would be much better at a reference committee.

I do not really have a concern about which of the two committees it goes to, only to point out that I do not want any plaintiff squeals from the other side in future if things have been referred to what they regard as the wrong committee. And certainly that is not a criticism at this stage of Senator Harradine.

Secondly, I do not understand why we would have a report date by 26 March when it is not going to actually influence the legislation. Thirdly, I wonder why we are having an inquiry when the government is going to reject any recommendations that come out of it. Senator Harradine was kind enough to pass on to me some of the views put to him by Treasury. Therefore, there may be some purpose in this inquiry, as I understand, to check the veracity of the views of Treasury and whether, in fact, they have approached this in a fair manner, a logical manner, and whether they can stand up to the scrutiny of the committee. As such, maybe it will have some useful purpose.

Finally, let me say that I think the government has made up its mind on this, and it is not going to affect anything in particular. I would like to ask Senator Alston whether he will be present in the January hearings,

especially in the early January hearings, to assist the committee with its inquiries. I am sure that Senator Cook, my esteemed colleague who actually is a full-time member of this committee, looks forward to the company of Senator Alston at that committee especially in, let us say, the first three weeks of January. He is however willing, Senator Alston, to visit you, wherever you may be at the time.

I would make one other point on this. I hope that it is understood, given the timing and the timetable of this—and it does not affect me—that the Senate would not in any way inhibit this committee sitting when the Senate sits in February and March. Let us face it: not many of the committee members will be available in January—let us be serious about that. Then we sit, I think, six weeks out of eight in February and March. So I think it would only be fair—and I know we do not like to do it—for the committee to be given leave to sit while the Senate is sitting.

Most of the evidence, I think, will come from people in Canberra; I do not know how many people from outside will be giving evidence. Again I say that it is going to the wrong committee. But that is great because the other side can never complain again if they vote for this particular thing. I regret that Senator Alston will not be able to give of his expertise.

I conclude on this note: having watched the debate rather than having participated, I congratulate the participants in this debate—Senator Schacht representing the Labor Party; the minority parties; and you too, Senator Alston. Senator Alston actually approached the committee stage in a constructive way, tried to deal with it and kept his temper all the way through—as far as I could see. So, apart from the first day, which he knew was a bit of a blow-out day, the committee stage of this particular bill has been done very constructively. It is a model for any of the other shadow ministers and ministers to look at.

Senator SCHACHT (South Australia) (7.42 p.m.)—On behalf of the opposition, I indicate that we will be supporting Senator Margetts's amendment. We have already gone over earlier—and it seems like three or four weeks ago, but in fact it was only a couple of days ago—the difference between Senator Harradine's amendment to the committee report and Senator Margetts's. Again we will state just very simply: to us it is irrelevant if this goes off to a committee. The government will not change its mind. After the legislation is carried on the third reading, any report from the committee will be dispensed to the rubbish bin and have no effect at all, other than to delay the proclamation date.

But this bill will be proclaimed, as passed today in the Senate with amendments, at that time. So the work of the committee, in my view and the view of the opposition, will basically be irrelevant—other than for those who want to have a bit of blood sport with Treasury, over Senator Harradine's response to the Treasury, to Mr Costello's letter. It may be of a bit of interest to us on the committee to have an argument with Treasury about the veracity of their views versus Senator Harradine's.

Senator Margetts's amendment is the correct one. If we are to have a committee dealing with the contents of a major amendment, a major issue about how Telstra preference shares could be sold, et cetera, it is only appropriate that the bill be referred back—recommitted, as Senator Margetts has said. That makes the work of the committee relevant rather than irrelevant. I think that this is a procedure that, in a way, will debase the operation of Senate committees because, as we have said before—and I say again—the government will ignore any recommendation that comes from the work of this committee.

During the committee stage of this bill there have been some accusations that we have been filibustering. The reason there were a number of committee stage speeches of up to 15 minutes by the opposition was that, when the minister summed up at the end of the second reading debate, he did not sum up all the arguments he had heard; he announced a completely new arrangement that he had reached with Senator Colston and Senator Harradine. A whole new dimension was put before us which no-one in the opposition parties or even in the government parties had a chance to comment on during the second

reading debate. That is why we took the opportunity to make a number of speeches about what had happened.

Secondly, we used the opportunity in the first few hours to ask the minister a number of questions to flesh out the arrangements of the deal made by Senator Harradine, Senator Colston and the government. It took until the second day for the minister to table a two-page document outlining how the telecommunications infrastructure fund for regional areas would work. If we had not been in here pushing that and asking question after question, debate on this bill would have come and gone with no information available to the people of Australia and without any detail of substance about how that fund would work. So we did take that opportunity to keep pushing until the minister obviously tabled his document. Skimpy as it is, it still in no way equates with the National Heritage Trust Fund, which is separate legislation. We made our comments about all those deficiencies.

As Senator Ray suggested, once we got into the detail of the amendments this committee stage worked reasonably well. But this in no way diminishes the opposition's total and absolute opposition to the partial sale of Telstra. We did want to deal with the amendments. We had some success with a couple. Whether the House of Representatives accepts them is a matter for the government to determine.

As I have commented privately to Senator Alston, in March of next year we will have the 600-page post-1997 telecommunications regulatory bill. The fact that a dozen amendments moved to the Telstra bill took a day and a half to deal with really shows to the government and to us all that we will have to deal seriously in the Senate legislative committee on telecommunications with a range of material. There is going to have to be a lot of cooperation on this 600-page telecommunications bill, because an opposition even without the numbers can hang out any government to dry, with endless amendments and discussion that would blow out any arrangement.

I have indicated to Senator Alston all the way through that both sides will have to cooperate in getting that bill through. We will have to have a lot of patience, because we will be dealing with extremely technical information and technical amendments. I again indicate that we support Senator Margetts's amendment. We will oppose and call a division on the third reading to show our total opposition in principle to the partial privatisation of Telstra.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (7.48 p.m.)—Senator Margetts's amendment for obvious reasons is opposed by the government. It is simply another stalling device. I am grateful to Senator Ray for his kind offer. Unfortunately I am advised that the committee will not be sitting during January, but of course I will be taking a very keen interest in its deliberations whenever it gets under way. I thank Senator Schacht for his offer of continuing constructive work on telecommunications legislation. All I can say about the last couple of days is that you did not manage to persuade Alan Ramsey, but I am sure we will be able to make some real progress when we resume.

Question put:

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

The committee divided. [7.54 p.m.]

(The Temporary Chairman—Senator H. G. P. Chapman)

Ayes	32
Noes	34
Majority	2

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.	Crowley, R. A.
Evans, C. V. *	Faulkner, J. P.
Foreman, D. J.	Forshaw, M. G.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Stott Despoja, N.
West, S. M.	Woodley, J.

NOES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H. *
Parer, W. R.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Watson, J. O. W.	Woods, R. L.

PAIRS

Cooney, B.	Vanstone, A. E.
Denman, K. J.	Patterson, K. C. L.
Neal, B. J.	Knowles, S. C.
Sherry, N.	Crane, W.

*** denotes teller**

Question so resolved in the negative.

Motion (by **Senator Alston**) proposed:

That the Senate adjourn at the conclusion of consideration of the Telstra (Dilution of Public Ownership) Bill 1996 without any question being put.

Senator MARGETTS (Western Australia) (7.58 p.m.)—As the motion precludes an adjournment debate, I would be happy to agree to it if I am granted leave to incorporate my adjournment speech in *Hansard*.

Leave granted.

The speech will appear at the conclusion of today's proceedings—

Question resolved in the affirmative.

Question put:

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

The Senate divided. [8.02 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes	34
Noes	32
Majority	2

AYES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.
Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H. *
Parer, W. R.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Watson, J. O. W.	Woods, R. L.

NOES

Allison, L.	Bishop, M.
Bolkus, N.	Bourne, V.
Brown, B.	Carr, K.
Childs, B. K.	Collins, J. M. A.
Collins, R. L.	Cook, P. F. S.
Cooney, B.	Crowley, R. A.
Evans, C. V. *	Faulkner, J. P.
Foreman, D. J.	Forshaw, M. G.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Stott Despoja, N.
West, S. M.	Woodley, J.

PAIRS

Crane, W.	Sherry, N.
Knowles, S. C.	Neal, B. J.
Patterson, K. C. L.	Gibbs, B.
Vanstone, A. E.	Conroy, S.

*** denotes teller**

Question so resolved in the affirmative.

Original question, as amended, resolved in the affirmative.

Third Reading

Motion (by **Senator Alston**) put:

That the bill be now read a third time.

The Senate divided. [8.06 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes	34
Noes	32
Majority	2

AYES

Abetz, E.	Alston, R. K. R.
Boswell, R. L. D.	Brownhill, D. G. C.
Calvert, P. H.	Campbell, I. G.

AYES

Chapman, H. G. P.	Colston, M. A.
Coonan, H.	Eggleston, A.
Ellison, C.	Ferguson, A. B.
Ferris, J	Gibson, B. F.
Harradine, B.	Heffernan, W.
Herron, J.	Hill, R. M.
Kemp, R.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McGauran, J. J. J.	Minchin, N. H.
Newman, J. M.	Panizza, J. H. *
Parer, W. R.	Reid, M. E.
Short, J. R.	Tambling, G. E. J.
Tierney, J.	Troeth, J.
Watson, J. O. W.	Woods, R. L.

NOES

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.	Crowley, R. A.
Evans, C. V. *	Faulkner, J. P.
Foreman, D. J.	Forshaw, M. G.
Hogg, J.	Kernot, C.
Lees, M. H.	Lundy, K.
Mackay, S.	Margetts, D.
McKiernan, J. P.	Murphy, S. M.
Murray, A.	O'Brien, K. W. K.
Ray, R. F.	Reynolds, M.
Schacht, C. C.	Stott Despoja, N.
West, S. M.	Woodley, J.

PAIRS

Crane, W.	Sherry, N.
Knowles, S. C.	Neal, B. J.
Patterson, K. C. L.	Gibbs, B.
Vanstone, A. E.	Cooney, B.

*** denotes teller**

Question so resolved in the affirmative.

Bill read a third time.

ADJOURNMENT

Nuclear Weapons

The speech that Senator Margetts was granted leave to incorporate read as follows—

The Greens today launched the Global Abolition 2000 Campaign in Parliament House. We also moved a motion to get the support of the Senate for the global campaign which calls for the abolition of nuclear weapons by the year 2000 and a nuclear weapons convention.

The Abolition 2000 Campaign is about spearheading new ways to keep up the pressure on nuclear disarmament. So far, we have had international responses plagued with pragmatism and compromise in the Non-Proliferation Treaty and the Comprehensive Test Ban Treaty which have perpetuated the status quo. Granted, the CTBT may stop nuclear testing in the environment, however laboratory testing and nuclear weapons research and development will continue which preserves the status of the 5 nuclear weapons states.

We have also seen the success of grassroots community campaigning for nuclear disarmament resulting in the World Court decision that pronounced the use or threat of use of nuclear weapons to be illegal. Abolition 2000—a global network of people campaigning for negotiations for a nuclear weapons convention by the-year 2000 arose out of the 10 year World Court campaign. The Abolition Campaign was launched today at Parliament House and is supported by over 600 international organisations and 38 Australian organisations.

I would like to draw the Senate's attention to the vote today at the UN General Assembly which the Government has been very quiet on. This is the Malaysian resolution which calls for negotiations for a nuclear weapons convention by the year 2000. The outcome of the Malaysian resolution exposes the lie of the Government and both the major parties for that matter, in taking pseudo disarmament initiatives which they have no sincerity in pursuing.

The Malaysian Government and 32 other cosponsoring countries pipped Australia at the post in terms of taking a proactive stance on nuclear disarmament. The Malaysian resolution is the first international response to the outcome of the World Court decision and is a fine example of the direction we should be moving in. However, Australia has abstained on this vote at the UN, kowtowing to the position of the US and other nuclear nations who want to keep their arsenals. The vote came up in Committee in mid November and Australia abstained. All the nuclear states except China voted No. Ninety seven countries including Afghanistan, Brazil, Ghana and many in our region such as Singapore, Malaysia, Philippines, Thailand, India, Indonesia, Burma, Samoa, Papua New Guinea, Vietnam and Solomon Islands supported the resolution.

This vote was repeated in New York last night and we have not yet seen the final results however, we know that Australia has abstained again, this time at the Plenary session of the UN General Assembly. Other countries are expected to vote as they did before which renders similar results (ie around 97 supporters, 20 against and 25 abstentions). This ultimately means that the Malaysian resolution has been successful and renders Australia's position as very foolish and hypocritical.

The Malaysian resolution called for negotiations to take place before the year 2000 which led to a nuclear weapons convention. It does not call for a

nuclear weapons convention by the year 2000—but for the beginning of negotiations to be taking place by that time.

The Government's excuse as to why it could not support this resolution has been shameful and woefully inadequate. It has claimed that a nuclear weapons convention with a timebound framework for the phased elimination of nuclear weapons is too prescriptive and unachievable. However, it was not long ago that former Foreign Minister Gareth Evans called the World Court Project 'hopelessly utopian' and that it wouldn't gain a successful outcome—and of course it did through a 10 year campaign which Australia did not support until the very last minute. The Government also claims it cannot support the Malaysian resolution because it does not allow for the Canberra Commission report recommendations. This is utter rubbish and an overt lie.

As we all know, our Government facilitated the Canberra Commission report which called on Governments to undertake a series of steps to generate momentum for nuclear disarmament, including negotiations for US and Russian arsenal reductions, taking nuclear forces off alert, the dismantling of warheads from delivery vehicles and no first use undertakings. The Malaysian resolution builds on this and accepts the stages outlined by the Canberra Commission as long as they lead to negotiations for a nuclear weapons abolition convention. The resolution accepts that smaller steps are necessary as long as countries agree on the end goal of nuclear disarmament.

I would now like to turn to what other countries are doing in response to the World Court decision which will also point to the complete inadequacy of the Australian Government's response to the ruling on the illegality of nuclear weapons.

Action that other countries are taking in response to the World Court decision.

On November 8, 1996, the Canadian Government announced an initiative to review its nuclear policy in light of the World Court decision on the legality of the threat or use of nuclear weapons. Canada relies on the US nuclear weapons arsenal and does not have any of its own, however it is in partnership with the US in NORAD—the North American Aerospace Defence Command which controls a network of radar stations involved in nuclear defence. The outcome may be that Canada pulls out of NORAD.

Canada also has full public support for the proactive stance they are taking. Canada has organised a Cross Canada series of Roundtables on nuclear disarmament which determined that a broad section of Canadian society welcomes and rallies behind the Canadian Government's position in working to secure an international nuclear weapons abolition program.

In September 1996, 404 community leaders in 18 cities and 10 provinces participated in the Project Ploughshares talks which endorsed policies to achieve a nuclear abolition agreement in response to questions posed by the Canadian Foreign Affairs Minister on Canada's response to the World Court. The roundtable discussion endorsed international law over NATO defence, endorsed a resolution for a nuclear weapons abolition convention and a step by step comprehensive framework to lead to nuclear disarmament.

We have also seen Field Marshal Lord Carver speak up for the elimination of nuclear weapons. He was chief of the defence staff in 1973-1976 and is acknowledged as one of Britain's best military thinkers. His view is that "a major effort should now be made for a real, genuine and unequivocal commitment by the declared nuclear weapon States to the target of total elimination and for them to demonstrate that by a number of steps they would need to fulfil." Interestingly he also believes that the enlargement of NATO is a grave mistake because it is the major obstacle for Russia and the US to commence Start III on the further reduction of their nuclear arsenals. START III was also one of the steps recommended by the Canberra commission.

Mikhail Gorbachev has also said that "we must move to abolish nuclear weapons." Other top military leaders such as General Lee Butler and General Charles Horner have spoken out with Field Marshall Lord Carver saying that nuclear weapons are not necessary and have called for their elimination.

Belgian activists have invaded military bases to expose the illegality of nuclear weapons in a Belgian military base after the World Court decision. The judge has been sympathetic to the world court decision in making his verdict. Dutch activists have also trespassed an air base to bring the nuclear weapons on the base to public attention. The advisory opinion will again be used during the trial.

A Norwegian law Professor believes the implications of the ICJ decision are that NATO states such as Norway will have to change their nuclear policies (specifically their NATO B4s defence plans) in order to avoid criminal liability.

The world court decision has also opened up the floodgates in Ireland where Irish people will now be able to sue companies for personal injury claims thought to be caused by nuclear contamination. There is much research into the links between nuclear plants and cancer clusters and many people have suffered from the pollution in the Irish sea from Sellafield and accidents at Dounreay and Greenham.

It is evident that there has been much civil action and Government attempts to work actively with the

World Court Judgement. One important observation was the fact that the public do not realise the enormous strides that have been made in the international agenda to put nuclear weapons back at the centre of the agenda. There is now an opportunity to build on the small steps that have been made in response to the CTBT and NPT. The NPT was signed with an obligation for states to pursue negotiations for nuclear disarmament. The Canberra Commission refrained from calling for a Nuclear Weapons Abolition Convention but is supportive of states pursuing negotiations in good faith to lead to total nuclear disarmament without being prescriptive.

Now we have a real opportunity to push forward with a nuclear weapons abolition convention through the Malaysian initiative (supported by 32 countries and not Australia).

The Abolition 2000 network and World Court Project have produced an action plan for nuclear weapons states, non-nuclear weapons states and action to be taken at the United Nations.

As Australia falls into the non-nuclear weapons states, the World Court Project and Abolition 2000 team believe domestic legislation could be passed distancing Australia from an illegal defence strategy citing the advisory opinion. Those allied with the nuclear powers in their defence such as Australia with the US should review their foreign and defence policies. This would include military bases, exercises, aircraft overflights and landing and nuclear armed warship port access and transit. New Zealand has recently signed a Memorandum of Cooperation with South Africa to work for a nuclear free Southern Hemisphere challenging nuclear alliances like ANZUS. Australia could be dissolving the nuclear alliance, strengthening nuclear weapon free zones and hastening other disarmament initiatives.

Instead, however the Government has recently upgraded ANZUS through the AUSMIN talks and is looking at upgrading Pine Gap, upgrading US defence exercises, allowing a nuclear powered submarine to endanger the fragile Queensland coastline and sit adjacent to the Great Barrier Reef—a World Heritage area.

This is an appalling pro-nuclear position that the Australian Government is taking. It goes against international law, common morality and environmental and social justice.

The Abolition 2000 network is a part of the campaign for a convention and sincere measures to disarm and dismantle the existing nuclear arsenal, deployment and delivery systems. It is important that Senators are aware and supportive of the Abolition 2000 initiative so the Government is forced to take a proactive stance on these issues.

Senate adjourned at 8.09 p.m.

DOCUMENTS

Tabling

The Parliamentary Secretary to the Treasurer (Senator Campbell) tabled the following government documents:

Aboriginal Land Rights (Northern Territory) Act—Aboriginal Land Commissioner—Report no. 48—Jawoyn (Gimbat Area) land claim no. 111 and Alligator Rivers Area III (Gimbat Resumption-Waterfall Creek) (No. 2) repeat land claim no. 142.

Agriculture and Resource Management Council of Australia and New Zealand—Record and resolutions—8th meeting, Cairns, 27 September 1996.

Audit Act—Reports for 1995-96—

Royal Australian Air Force Veterans' Residences Trust.

Tobacco Research and Development Corporation.

Australian Industry Development Corporation Act—Australian Industry Development Corporation (AIDC)—Report for 1995-96.

Council of Financial Supervisors—Report for 1996.

Department of Immigration and Multicultural Affairs—Access and equity—Report for 1996.

Employment, Education and Training Act—National Board of Employment, Education and Training—Higher Education Council—Report—Professional education and credentialism, December 1996.

Equal Employment Opportunity (Commonwealth Authorities) Act—Equal employment opportunity program—Army and Air Force Canteen Service (AAFCANS)(trading as Frontline Defence Services)—Report for 1995-96.

Fisheries Management Act—Western Australian Fisheries Joint Authority—Report for period 1 January to 30 June 1995.

National Crime Authority Act—National Crime Authority—

Correspondence by members of the Intergovernmental Committee of the National Crime Authority.

Report for 1995-96.

National Environment Protection Council Act and Audit Act—National Environment Protection Council and NEPC Service Corporation—Reports for period 15 September 1995 to 30 June 1996.

Telecommunications Act—Australian Telecommunications Authority (AUSTEL)—Competitive safeguards and carrier performance—Report for 1995-96.

Treaty—National interest analysis together with explanatory letter—

Multilateral—

Constitution of the United Nations Industrial Development Organization (UNIDO), done at Vienna on 8 April 1979. *[The text of the Constitution of UNIDO was tabled in both Houses of Parliament on 1 June 1992.]*

Tabling

The following documents were tabled by the Clerk:

Acts Interpretation Act—Statement pursuant to subsection 34C(7) relating to the delay in presentation of a report—Western Australian Fisheries Joint Authority Report for period 1 January to 30 June 1995.

Australian Bureau of Statistics Act—Proposals for the collection of information—Proposals Nos 18 and 19 of 1996.

Australian Capital Territory (Planning and Land Management) Act—National Capital Plan—Approvals of Amendments Nos 14 and 16.

Christmas Island Act—Casino Control Ordinance—Appointment of a member of the Casino Surveillance Authority, dated 2 December 1996.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Amendment of section 40, dated 30 November 1996.

Directives—Part—

105, dated 15, 18[3], 19[2], 20[2], 26[3] and 28[2] November 1996.

107, dated 18 November 1996.

Export Control Act—Export Control (Orders) Regulations—Export Control (Hardwood Woodchips) (Monitoring Fee) Orders (Amendment)—Order No. HW1 of 1996.

Higher Education Funding Act—Determinations under section 15—T14-96 to T16-96.

Lands Acquisition Act—Statement describing property acquired by agreement under section 40 of the Act for specified public purposes.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Mercenaries

(Question No. 291)

Senator Margetts asked the Minister representing the Attorney-General, upon notice, on 31 October 1996:

With reference to the Declaration of 20 July 1989 by the then Attorney-General (Lionel Bowen) and published in the 'Commonwealth Gazette' on 24 July 1989, in which it was declared that it is in the interests of the defence of Australia for Australian citizens to be exempt from the provisions of the Crimes (Foreign Incursions and Recruitment) Act 1978:

(1) Are Australians exempt from the provisions of the above Act.

(2) Is any data available on known or suspected Australian mercenaries abroad; if so, can a copy of that data be provided.

(3)(a) How many known or suspected Australian mercenaries are working abroad in this capacity; (b) in which countries; (c) in what combat roles; and (d) how many casualties have they been responsible for.

(4)(a) How many known or suspected Australian mercenaries are working in Papua New Guinea (PNG); (b) are any of them paid by the Australian government; (c) do any of them fight in the Bougainville conflict; (d) are any of them paid by the PNG Government or Defence Force; and (e) do any of them fly Iroquois helicopters; if so, how many.

(5)(a) What is the Australian Government doing to stop Australian mercenaries, either former members of the Australian Defence Force or not, from working overseas in a mercenary capacity; and (b) what ability does the Australian Government have for prosecuting such individuals.

Senator Vanstone—The Attorney-General has provided the following answers to the honourable senator's questions:

The Declaration made by former Attorney-General, Mr Lionel Bowen on 20 July 1989, and notified in the 'Gazette' on 24 July 1989, did not declare that it was in the interests of the defence of Australia for Australian citizens to be exempt from the provisions of the Crimes (Foreign Incursions and Recruitment) Act 1978. It only declared that it was in the interests of the defence of Australia to permit the recruitment in Australia by the Government of Papua New Guinea or its contractors or agents, of persons to serve in or with the Papua New Guinea Defence Force in any capacity for the purpose of facilitating the use of four Iroquois helicopters supplied to that Government by the Australian Government. This permission was subject to the condition that the Government of Papua New Guinea not recruit in Australia for that purpose any person who was a member of the Permanent Naval Forces, the Australian Regular Army, the Regular Army Supplement or the Permanent Air Force.

The declaration had and continues to have one effect and one effect only, namely, that it prevents it being an offence under subsection 9(1) of the Act for steps to be taken for the recruitment in Australia of people (other than members of the named forces) for service in or with the Papua New Guinea Defence Force to facilitate the use of the four specified Iroquois helicopters. However, even without the declaration, it would not be contrary to the Act for Australians to serve in or with the Papua New Guinea Defence Force to facilitate the use of the helicopters or for any other purpose. Paragraph 6(4)(a) of the Act applies whether or not a declaration has been made under subsection 9(2). It states that the prohibition on Australians engaging in hostile activities in a foreign State does not apply where they are serving in or with the armed forces of the government of a foreign State. (On the other hand, it is contrary to the Act for an Australian to serve in or with another armed force, say, a rebel force, unless the Minister makes a declaration in respect of it under subsection 9(2)).

The answers to the specific parts of the question are:

(1) No.

(2) In relation to Australians serving in or with the armed forces of the governments of foreign States, such data is not, and should not, be available, because such service is not contrary to Australian law. In relation to Australians serving with forces other than government armed forces, if such data was available, it would not be disclosed on the basis that it might prejudice investigations of criminal offences.

(3) In relation to Australians serving in or with the armed forces of the governments of foreign

States, (a), (b), (c), and (d) are not known. In relation to Australians serving in or with forces other than government armed forces, if such data was available, it would not be disclosed on the basis that it might prejudice investigations of criminal offences.

(4) In relation to Australians serving in or with the armed forces of the government of Papua New Guinea, (a), (c), (d) and (e) are not known. No persons other than Australian military personnel serving in or with those armed forces are paid by the Australian Government. In relation to Australians serving in or with any forces other than government armed forces in Papua New Guinea, if such data on (a), (c), (d) and (e) was available, it would not be disclosed on the basis that it might prejudice investigations of criminal offences. No persons serving in or with forces other than government armed forces in Papua New Guinea are paid by the Australian Government.

(5)(a) The Government's authority to restrict such actions is dependent upon the provisions of Australian law. The Crimes (Foreign Incursions and Recruitment) Act 1978 restricts service by Australians, whether mercenaries or not, in non-government armed forces in foreign countries. As outlined in the answer to (2), service by Australians in or with the armed forces of the governments of foreign States is not contrary to Australian law. The Crimes (Foreign Incursions and Recruitment) Act also restricts the recruitment in Australia of persons, whether mercenaries or not, to serve in any foreign armed force. Prosecutions are conducted under the Act as offences come to notice.

(b) The Act includes certain offences in relation to Australians engaging in hostile activities in foreign states. As outlined above, prosecutions are conducted under the Act as offences come to notice.