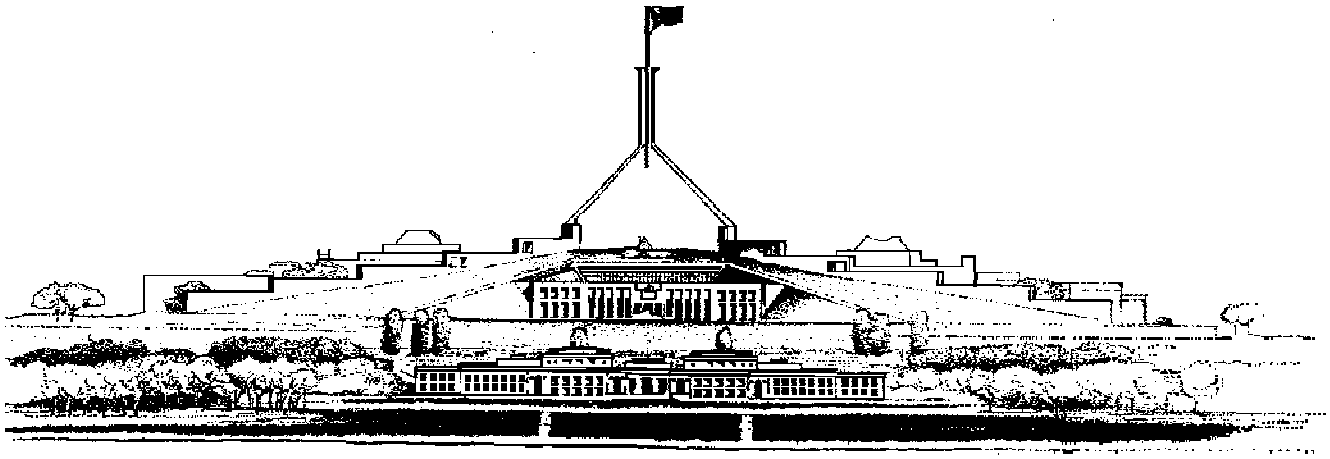
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

WEDNESDAY, 5 FEBRUARY 1997

THIRTY-EIGHTH PARLIAMENT
FIRST SESSION—THIRD PERIOD

BY AUTHORITY OF THE SENATE
CANBERRA

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Wednesday, 5 February 1997

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:

Aerial Cabling

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

The Petition of the undersigned shows:

The people of Western Australia are opposed to any proposal to string aerial cabling.

Your Petitioners ask that the Senate should:

Ensure that pay TV and telephone cable networks are installed underground and furthermore that carriers should either share existing infrastructure or co-locate their cables.

by **Senator Campbell** (from 451 citizens).

Food Labelling

We, the undersigned citizens and residents of Australia, call on all Senators to support implementation of the following:

a requirement to label with the production process, all foods from genetic engineering technologies or containing their products;

real public participation in decisions on whether to allow commercialisation of foods, additives and processing agents produced by gene technologies;

premarket human trials and strict safety rules on these foods, to assess production processes as well as the end products.

Precedents which support our petition include several examples of foods already labelled with the processes of production; irradiated foods (here and internationally); certified organic foods; and many conventional foods (pasteurised; salt-reduced; free-range; vitamin-enriched; to name only a few).

We ask you all to accord a high priority to supporting and implementing our petition.

by **Senator Woodley** (from 42 citizens).

Uranium

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

The petition of the undersigned strongly opposes any attempts by the Australian government to mine uranium at the Jabiluka and Koongara sites in the World Heritage Listed Area of the Kakadu National Park or any other proposed or current operating site.

Your petitioners ask that the Senate oppose any intentions by the Australian government to support the nuclear industry via any mining, enrichment and sale of uranium.

by **Senator Woodley** (from 20 citizens).

Logging and Woodchipping

To the Honourable President and Members of the Senate in Parliament assembled. The petition of the undersigned shows:

Australia's old growth forest and wilderness areas are being diminished as a result of continued logging. The Federal Government has granted new woodchip export licences despite its agreement for a moratorium on logging in high conservation areas.

Your petitioners ask that the Senate should:

apply conditions retrospectively to woodchip licences in order to meet Commonwealth obligations, and

exclude from licenses, woodchip derived from old growth forests and wilderness areas.

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

Australian Broadcasting Corporation

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

The petition of certain citizens of Australia.

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

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

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

by **Senator West** (from 115 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 165 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 Chris Evans** (from 32 citizens) and

Senator West (from 28 citizens).

Medicare Office, Lithgow

To the Honourable President and Senators assembled in parliament.

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

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

by **Senator West** (from 471 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 23 citizens).

Child Care

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

The petition of the undersigned requests that in the interests of maintaining excellence and access to quality child care services for all Australian children and their families:

(1) The Parliament recognise the detrimental economic and social impact on families of all incomes from Budget cuts to Child Care services.

(2) The Parliament recognise the loss of public infrastructure if Community-Based Child Care services are forced to close as a result of the abolition of operational subsidies.

(3) The Parliament recognise the value of the non-profit child care sector in providing high quality, accountable and transparent services to the community.

Your Petitioners request the Senate vote against any legislation that implements 1996 Budget cuts to child care services and the removal of the operational subsidy.

by **Senator Chris Evans** (from nine citizens).

Ramsar Treaty

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 33 citizens).

Sri Lanka

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

The petition of certain citizens of Australia expresses our grave concerns about the conflict in Sri Lanka as arguably the most significant crisis in the Commonwealth of Nations of which Australia is a member.

We understand that both the Prime Minister and the Minister for Foreign Affairs have expressed their concerns about the conflict and have advocated sending a fact-finding parliamentary delegation to Sri Lanka. They have also emphasised the need for an internationally mediated peaceful resolution to the conflict that would bring greater autonomy for the Tamils in Sri Lanka.

We therefore pray that the Senate call on the government:

to persuade the United Nations to authorise a delegation to carry out a fact finding mission to Sri Lanka.

to appeal to the Sri Lankan government to lift the economic embargo and allow non-government organisations to carry out emergency relief

works without any government interference in the Tamil areas.

to appeal to the parties to the conflict to stop the war and negotiate a political solution that recognises the right of self-determination of Tamils.

to persuade the parties to the conflict to accept the role of an independent "Envoy" to facilitate a negotiated peaceful resolution to the conflict under international observation.

by **Senator Woodley** (from 142 citizens).

Housing

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

We the undersigned respectfully submit that Social Housing is a major social safety net, crucial for all Australians.

Your petitioners therefore call upon the Senate to maintain a commitment to the buying and building of new housing properties. The new Commonwealth State Housing Agreement must provide the States with monies to buy and build more Public and Community Housing. Dismantling the safety net of Social Housing will mean homelessness, overcrowding and the scrapping of public housing redevelopment plans, all of which will impact on the most disadvantaged groups in the Australian society.

Your petitioners support an increase in assistance to low income earners in the private rental market, but not at the expense of Public and Community Housing.

Your petitioners thus urge the Senate to reject current plans in the area of public and community housing.

by **Senator Brownhill** (from 87 citizens).

Repatriation Benefits

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

The petition of certain citizens of Australia, draws to the attention of the Senate the fact that members of the Royal Australian Navy who served in Malaya between 1955 and 1960 are the only Australians to be deliberately excluded from eligibility for repatriation benefits in the Veterans' Entitlements Act 1986 (the Act) for honourable 'active service'. Australian Archives records show that the only reason for the exclusion was to save money. Members of the Australian Army and Air Force serving in Malaya were not excluded, and the costs associated with the land forces was one of the main reasons for the exclusion of the Navy. An injustice was done which later events have compounded.

There are two forms of benefits for ex-servicemen, Disability Pensions for war caused disabilities (denied the sailors referred to but introduced in 1972 for 'Defence Service' within Australia) and Service Pensions. Allied veterans of 55 nations involved in conflicts with Australian forces until the end of the Vietnam War can have qualifying eligibility for Service Pensions under the Act. Service by 5 countries in Vietnam was recognised after RAN service in Malaya was excluded. The Department of Veterans' Affairs confirms that 686 ex-members of the South Vietnamese Armed Forces are in receipt of Australian Service Pensions; 571 on married rate and 115 on single rate. In effect, 1,257 Service Pensions, denied to ex-members of the RAN, are being paid for serving alongside Australians in Vietnam.

It is claimed that:

(a) Naval personnel were engaged on operational duties that applied to all other Australian service personnel serving overseas on 'active service'. They bombarded enemy positions in Malaya and secretly intercepted enemy communications;

(b) Naval personnel were subject to similar dangers as all other Australian service personnel serving in Malaya and there were RAN casualties, none of which appear on the Roll of Honour at the Australian War Memorial;

(c) the Royal Australian Navy was 'allotted' for operational service from 1st July 1955 and this is documented in Navy Office Minute No. 011448 of 11 November 1955, signed by the Secretary to the Department of the Navy. The RAN was then apparently 'unallotted' secretly to enable the excluding legislation to be introduced;

(d) the Department of Veterans' Affairs has said it can find no written reason(s) for the RAN exclusion in the Act. In two independent Federal Court cases (Davis WA G130 of 1989 and Doessel Qld G62 of 1990) the courts found the two ex-members of the RAN had been 'allotted'. Davis had served in Malaya in 1956 and 57. As a result of these cases ex-members of the RAN who served in Malaya and who had, at that time, claims before the Department of Veterans' Affairs for benefits, had their claims accepted. Eight weeks after the Doessel decision the Act was amended to require allotment to have been by written instrument. In parliament, it was claimed the amendment was necessary to restore the intended purpose of the exclusion, reasons for which can not, allegedly, be found.

(e) Naval personnel were not, as claimed, bound by the 'Special Overseas Service' requirements, introduced in the Repatriation (Special Overseas Service) Act 1962. This Act became law some two years after the war in Malaya ended;

(f) as Australian citizens serving with the Royal Australian Navy they complied with three of the four requirements for 'active service'. The fourth,

for 'military occupation of a foreign country' did not apply to Malaya.

Your petitioners therefore request the Senate to remove the discriminatory exclusion in the Act thereby restoring justice and recognition of honourable 'active service' with the Royal Australian Navy in direct support of British and Malayan forces during the Malayan Emergency between 1955 and 1960.

by **Senator Brownhill** (from five citizens),

Senator Denman (from five citizens), and

Senator Kemp (from five citizens).

Repatriation Benefits

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 Harradine** (from 30 citizens).

Mobile Phone Towers

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

The Petition of the undersigned request the Telecommunications Act (1991) be amended to give local government authorities the statutory right to refuse permission for the erection of mobile phone towers if they so decide.

Your petitioners therefore humbly pray that you will give this matter your earnest consideration and your petitioners, as in duty bound, will ever pray.

by **Senator Chris Evans** (from 36 citizens).

British Commonwealth Occupational Force

To the Honourable the President and members of the Senate in Parliament assembled. The humble petition of the undersigned citizens/exservice personnel respectively showeth:

The 'Australia Remembers' 1945-1995 commemorative program successful in bringing the historical events of the World War Two years to the attention of all Australians. Within Australia's Official War History two chapters have not yet been completely told.

February 22nd 1996, marked the 50th anniversary of the arrival of Australian military personnel including those from the Chemical Warfare Research and Experimental Unit at the exnaval port of Kure Japan, as part of the British Commonwealth Occupational Force (BCOF).

Now, therefore your petitioners request that the Senate urges the Coalition Government to (a) review the Veterans Entitlements Act of 1986 which in its present form still prevents exservice personnel from obtaining compensation (b) to recognise Japan as being a Theatre of War between 1946 and 1948, (c) give appropriate recognition to those BCOF personnel along with those 400 that

made up the C.W. unit who suffered appalling conditions.

by **Senator Woodley** (from 52 citizens).

Petitions received.

NOTICES OF MOTION

Community Standards Committee

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

That the time for the presentation of the report of the Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies on the portrayal of violence in the electronic media and related matters arising from submissions to the Committee of Ministers on the Portrayal of Violence in the Media be extended to 13 February 1997.

Nuclear Weapons

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

That the Senate—

(a) notes that:

(i) the United States of America (US) intends to continue testing nuclear weapons systems despite signing the Comprehensive Test Ban Treaty (CTBT) in 1996 which legally binds countries not to test, whether or not the treaty is ratified,

(ii) the US has announced that it will conduct underground 'subcritical' tests at the Nevada test site, which is antithetical to the spirit of the CTBT and will undermine prospects for its global entry into force,

(iii) the US plans to expand its nuclear weapons capabilities by spending $40 billion over the next 10 years, and

(iv) this is planned to be achieved through the Stockpile Stewardship and Management Program which will expand nuclear capability by 150 weapons per year using computer simulations, data from above-ground hydrodynamic explosions and subcritical 'zero yield' underground tests at the Nevada site;

(c) condemns plans by the US to expand its nuclear capabilities over the next decade and conduct subcritical underground tests to assess the effects of new manufacturing techniques on weapons performance; and

(d) calls on the Government to convey this message in the strongest possible terms to the Government of the US and in forums at the United Nations.

Forests

Senator PATTERSON (Victoria)- I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes the signing, in the week beginning 2 February 1997, of Australia's first Regional Forest Agreement, between the Commonwealth and Victorian Governments for East Gippsland in Victoria;

(b) applauds this positive result for the environment and the economy, with the expansion and consolidation of Victoria's reserve system along with the generation of investment in small business and job creation in regional Victoria;

(c) notes that this agreement will ensure the protection of wilderness, old-growth forest and biodiversity and will provide for ecologically-sustainable development, and that the comprehensive, adequate and representative reserve system meets or exceeds all nationally agreed conservation criteria and surpasses international standards; and

(d) congratulates the community groups, scientists, researchers and officials who worked together in the creation of this agreement.

Higher Education

Senator STOTT DESPOJA (South Australia)- I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes the establishment of the Review of Higher Education Financing and Policy Committee, chaired by Mr Roderick West;

(b) calls on the committee to examine the impact of:

(i) the changes made to the Higher Education Contribution Scheme and operating grants in the 1996 federal budget, and

(ii) chronic underfunding and progressive expansion of the system;

(c) commends to the Federal Government the common goals of the Australian Vice-Chancellors' Committee, the National Tertiary Education Union, and the National Union of Students to maintain an appropriately financed higher education sector and

provide equitable access to university education for students of all backgrounds; and

(d) notes that further reductions in Government spending on universities, or further increases in student fees, would seriously undermine these goals.

Senator Woods

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

That the Senate—

(a) notes that:

(i) Senator Woods has announced his intention to resign his position as Liberal Senator for New South Wales with effect from 1 March 1997,

(ii) the Leader of the Opposition in the Senate (Senator Faulkner) has stated clearly that the Labor Party will grant a pair for Senator Woods from the date of his resignation until his replacement is sworn in, and

(iii) this has been the long-standing practice of the Labor Party; and

(b) calls on the Coalition parties to publicly commit themselves to the same policy.

Australian Broadcasting Corporation

Senator SCHACHT (South Australia)- I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that the recommendations of the review of the Australian Broadcasting Corporation (ABC), undertaken by Mr Bob Mansfield, are a complete rejection of the Government's ideological attacks on the ABC;

(b) welcomes Mr Mansfield's support of Triple J and Classic FM;

(c) notes:

(i) with concern, the draconian funding cuts which the Federal Government made to the ABC which led Mr Mansfield to recommend the transferral of program making, except in news and current affairs, to independent external producers and to recommend the abolition of Radio Australia and Australia Television, and

(ii) that it is in Australia's national interest to have an external broadcasting service;

(d) calls on the Federal Government to make a separate funding allocation to provide a service similar to Radio Australia and Australia Television;

(e) supports Mr Mansfield's recommendation that the legislative prohibition on advertising and sponsorship remain; and

(f) welcomes Mr Mansfield's support of regionalisation, with his recognition that radio and television in smaller States and regional areas are critical to community well-being.

Native Title

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

That the Senate—

(a) welcomes the efforts of the Prime Minister (Mr Howard) to fully discuss with stakeholders the implications of the High Court decision in the Wik case;

(b) commends the wisdom of all those advocating negotiated regional agreements as a basis for responding to the legal position relating to the co-existence of native title on pastoral leases; and

(c) congratulates the Leader of the Opposition (Mr Beazley), the Federal Minister for Primary Industries and Energy (Mr Anderson), the New South Wales Premier (Mr Carr) and the Queensland Opposition Leader (Mr Beattie), as well as the Australian Mining Industry, for categorically ruling out the extinguishment of native title on pastoral leases, which would take away the property rights of one group of Australians.

Uranium Mining

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

That the Senate—

(a) notes:

(i) that the proposed Jabiluka uranium mine in the Kakadu National Park region is currently facing an environmental impact assessment (EIA) by the proponent, Energy Resources of Australia,

(ii) that Northern Territory Aboriginal people have asked that the EIA be delayed until the Kakadu region social impact study is completed in order for the EIA to take into account the social impacts of mining, and

(iii) reports that the Australian Radiation Laboratory has said that workers at the

proposed mine may be exposed to radiation above the recommended safety limits by up to 2 millisieverts; and

(b) calls on the Government to reject the proposal on ethical, environmental, social and health grounds.

Alcohol Marketing

Senator ALLISON (Victoria)- I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes:

(i) plans by Bacardi-Martini Pacific to fit alcohol aroma dispensers in public bus shelters, designed to dispense the fragrance of their lemon-flavoured rum every 3 minutes whenever movement is detected within the bus shelter, and

(ii) that this marketing is indiscriminate in its application, spraying everyone who enters a bus shelter whether they are young children or people with allergies; and

(b) calls on Bacardi-Martini Pacific to immediately withdraw this irresponsible marketing campaign, or failing this, for the Minister for Small Business and Consumer Affairs (Mr Prosser) to ban the use of alcohol scents outside licensed premises.

Australian Quarantine and Inspection Service

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

That the Senate—

(a) notes that:

(i) four declared weeds and a fungus which threaten Australia's lupin industry have been identified on Western Australian farms,

(ii) the four weeds, Kochia, Cleavers, Field Madder and Redshank, and the fungus, Anthracnose, have entered Australia via imports from New Zealand and the United States of America, allegedly through the inefficiency of the Australian Quarantine and Inspection Service (AQIS), and

(iii) the introduction of such weeds and fungi present a severe blow to the efforts to develop and implement more sustainable systems of land use in agricultural regions of Western Australia and Australia as a whole; and

(b) calls on the Government to thoroughly investigate the operations of AQIS and implement recommendations which will ensure that these shortcomings in AQIS operations do not recur.

Genetically Engineered Foods

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

That the Senate—

(a) notes:

(i) the first shipment of genetically-engineered soya beans tolerant of the pesticide Roundup entered Australia on 29 November 1996,

(ii) the mutant beans, designed by Monsanto, were the first whole gene technology foods in Australia, yet the National Food Authority (NFA) did not assess or attempt to regulate them on the basis that they are a minor concern, and

(iii) the Australian GeneEthics Network (AGN) disputes that they are a minor concern, saying that soya beans are in 50 per cent of all processed foods in some form or another and Monsanto has allegedly applied to the NFA for a 200-fold increase in residue levels of Roundup for imported soya beans; and

(b) calls on the Government to:

(i) ban all genetically-engineered foods at least until there are standards agreed to in a wide-ranging public inquiry, and

(ii) seize any imports of genetically-engineered foods which have not been assessed or regulated in Australia.

ORDER OF BUSINESS

Logging and Woodchipping

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

That business of the Senate notice of motion No. 1 standing in the name of Senator Brown for today, relating to the disallowance of an order made under the Export Control Act 1982, be postponed till the next day of sitting.

King Island Dairy Products Pty Ltd

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

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 4 March 1997.

Introduction of Legislation

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

That general business notice of motion No. 409 standing in the name of Senator Woodley for today, relating to the introduction of the Defence Cooperation Control Amendment Bill 1996, be postponed till 10 February 1997.

BHP Petroleum

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

That general business notice of motion No. 11 standing in the name of Senator Margetts for today, relating to a review of BHP Petroleum's offshore safety arrangements, be postponed till 12 February 1997.

Tibet: Female Sterilisation

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

That general business notice of motion No. 410 standing in the name of Senator Reynolds for today, relating to the sterilisation of Tibetan women and girls, be postponed till the next day of sitting.

Minister for Social Security

Motion (by **Senator Chris Evans** at the request of **Senator Faulkner**) agreed to:

That general business notice of motion No. 411 standing in the name of Senator Faulkner for today, relating to the ministerial responsibilities of the Minister for Social Security (Senator Newman), be postponed till the next day of sitting.

Euthanasia

Motion (by **Senator Chris Evans** at the request of **Senator Bob Collins**) agreed to:

That general business notice of motion No. 412 standing in the name of Senator Bob Collins for today, relating to the Euthanasia Laws Bill 1996, be postponed till 24 February 1997.

Public Interest Secrecy Committee

Motion (by **Senator Woodley** at the request of **Senator Kernot**) agreed to:

That general business notice of motion No. 1 standing in the name of Senator Kernot for today, relating to the select committee of party leaders on public interest secrecy, be postponed till 26 May 1997.

LEAVE OF ABSENCE

Motion (by **Senator Calvert**)—by leave—agreed to:

That leave of absence be granted to Senators Crane and O'Chee from 10 to 13 February 1997 on account of parliamentary business overseas.

COMMITTEES

Finance and Public Administration References Committee

Report

Senator MURPHY (Tasmania)—I present the report of the Finance and Public Administration References Committee on the tabling of indexed lists of files of departments and agencies, together with submissions.

Ordered that the report be printed.

MIGRATION LEGISLATION AMENDMENT BILL (No. 3) 1996

MIGRATION (VISA APPLICATION) CHARGE BILL 1996

IMMIGRATION (EDUCATION) CHARGE AMENDMENT BILL 1996

First Reading

Bills received from the House of Representatives.

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

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

Bills read a first time.

Second Reading

Senator CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)(9.49 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

MIGRATION LEGISLATION AMENDMENT BILL (No. 3) 1996

This bill is the principal bill in a package of three bills which implement a number of the government's important policy initiatives within the Immigration and Multicultural Affairs portfolio.

The measures contained within the bill are consistent with the government's commitments to better manage the migration program, to increase cost recovery in this portfolio and to enhance the value of Australian citizenship.

This bill firstly seeks to provide the government with the authority to deliver a planned, orderly and balanced Migration Program. To be able to do so,

the government must have the authority to determine the number of people in each category of the Migration Program. This is not possible, other than through inflexible means, under the current legislation.

It is Australia's sovereign right to decide the total level of immigration to Australia. It is also Australia's sovereign right to decide the balance between the various migration categories.

The proposed amendments will assist the government of the day to determine, if necessary, the numbers of people in every migration category able to enter Australia each year.

Senators will recall that, on 7 November last year, a number of amendments to the Migration Regulations were disallowed. These regulations would have had the effect of reducing demand in the Preferential Family category.

Since then the government has reaffirmed that the Migration Program for 1996-97 will be 74,000. The government has also reaffirmed the desire to restore the balance between the family and skilled streams of the program.

Given the disallowance, the more flexible capping powers contained in this bill are even more necessary than before in order for the government to deliver its program this year. They also provide essential tools for future management of the Migration Program.

The amendments are crucial to restoring public confidence in immigration which had been greatly eroded under Labor.

Senators will also recall that in 1995-96, Labor had allowed immigration to get seriously out of control and out of balance. The family stream had grown by 27% in 1995-96. It had come to represent almost 70% of the Migration Program. The spouse category had grown by 32% and the number of parents had increased by 74% in that year alone.

The government is hopeful that there will be only limited need to use all of the additional powers being sought in these amendments.

However, even the best planning cannot predict every possible variation in the number of visa applications that will be made for the many different visa classes. It is for this reason that, from time to time, the government will need to fine-tune numbers in each category. These amendments will enhance the ability to manage the program by allowing applications to be carried over to the next financial year.

For a substantial part of the Migration Program, the only mechanism currently available requires the termination of existing applications. Use of this mechanism would create confusion and inconvenience to applicants and will be at a cost to the Budget. The alternative provisions being sought in this bill would mean that numbers can be managed in a more orderly fashion.

These provisions would have the effect that, in some years, visa issue in some parts of the family stream may be queued into the following year. This is a much more equitable outcome for these parts of the program.

These provisions will also allow the Minister to smooth out peaks and troughs in Migration Program numbers whilst at the same time minimising inconvenience to applicants and their sponsors. It is essential that the government be able to undertake this fine-tuning in the most flexible and equitable manner possible. The bill will achieve this objective.

As recently reiterated by the Prime Minister, the government is absolutely committed to a Migration Program that operates on a non-discriminatory basis in terms of race, religion and ethnic or cultural background. The measures in this bill are completely consistent with that principle.

It is understood that the Opposition supports the level of the program the government has announced. The achievement of the program level, and the continued restoration of the balance between the family and skilled categories which is the key to community support for the program, requires all the measures contained in this bill.

If the Opposition is not prepared to support these sensible measures, it will be clear to all that they are not serious about achieving a well managed and well structured Migration Program.

The government is also concerned by evidence that too many visas in the past have been granted on the basis of relationships that are not bona fide. Such abuse threatens the integrity of the Migration Program by allowing the entry of people who would not otherwise be eligible for migration. It also operates unfairly by taking up places in the Migration Program which might otherwise have been given to people who satisfy the criteria for other visa classes.

The Coalition's Immigration Policy Statement clearly signalled our intention to introduce measures to reduce the abuse of migration based on fabricated or non-bona fide relationships.

These measures included extending the current two year probationary period for onshore spouse and interdependency applicants to offshore spouse and interdependency applicants, limiting serial sponsorships, introducing more rigorous assessment procedures, and requiring a period of cohabitation for de facto and interdependency relationships. Each of these measures was integral to the overall success of the package in reducing abuse of Australia's Migration Program.

A key feature of migration entitlements based upon relationships must be that those involved have a long-term commitment to each other. Short-term or transitory relationships should not provide non-Australians with the life-long right to live in Australia.

It is therefore a major defect in the existing legislation that it does not enable there to be a period of cohabitation in order for people to qualify for a visa to migrate on the grounds of being the de facto spouse of an Australian citizen or resident sponsor. As a result, visa applications are being made where couples have only been together for short periods, sometimes only a matter of a few weeks. Such relationships can provide very little evidence of the necessary long-term commitment.

An evaluation of onshore spouse provisions at the beginning of 1996 provided empirical evidence that this is an area of concern, with de facto relationships being twice as likely as de jure marriages to break down during visa processing alone. The government considers that requiring evidence of a period of cohabitation is necessary to ensure that only couples who have already demonstrated their long-term commitment can be granted a visa.

The provisions in the bill will enable Regulations to specify the detail of the requirements, including any cohabitation period. The Regulations will also allow for any exceptions.

The government considers that it is necessary to impose different requirements on de facto couples to married couples because of the different legal consequences of marriage.

This amendment will mean that the Migration Regulations will be able to specify the nature and incidents of the relationship which are required to establish a "de facto" relationship between two people, notwithstanding the Sex Discrimination Act 1984.

It was outlined in the coalition's election commitment that de facto spouses will be required to meet different requirements from married couples before their relationship can be recognised for the purpose of visa applications. This differential treatment would create a distinction on the grounds of marital status, and this is presently prohibited by the Sex Discrimination Act 1984.

This amendment will exempt Migration Regulations dealing with visa applications from the effect of the Sex Discrimination Act 1984, insofar as it applies to the status or condition of being the married or de facto spouse of another person.

I note that, in relation to the grant of visas, interdependency relationships are not covered by the Sex Discrimination Act 1984 or any other equivalent Commonwealth legislation. As a result, no amendments are required to principal legislation to enable regulations to be made requiring a cohabitation period for those relationships.

The government believes that the mischief of bogus and short-term relationships is sufficiently serious to warrant an exception being made to the Sex Discrimination Act 1984 for visa applications based on de facto spouse relationships. We believe that this measure will contribute to the range of initiatives we are taking to renew public confidence in the integrity of this component of the Migration Program.

I shall now turn to the provisions relating to the proposed visa application charge.

The government considers that the present system of payments for Australian visas is unnecessarily complex. Not only is there a visa application fee, but some applicants are also liable to pay the English Education Charge and the Health Services Charge. These fees and charges are imposed and collected under three separate pieces of legislation.

The present system also imposes a burden on Australian taxpayers because the indirect costs to government of handling visa applications and providing post-settlement services cannot be recovered on a fee-for-service basis. This means that a proportion of government services that are provided to visa applicants are currently funded from general taxation.

This situation is not consistent with the government's stated election policy that "the coalition endorses . . . cost recovery of immigration procedures and services . . . to ensure that taxpayers are not called on to subsidise the processing of applications for migration."

The government proposes to simplify the processing of payments for visa applications by implementing a single visa application charge that will be payable by applicants for visas. This will be imposed by the Migration (Visa Application) Charge Bill 1996. The new charge will replace the existing system of visa application fees, the English Education Charge and the Health Services Charge. It will also allow recovery both of direct and indirect costs of processing visa applications.

The settings of the new scheme are very closely modelled on the existing charge schemes, which were introduced by the previous government. The details of the visa application charge will be set out in the Regulations.

Broadly speaking, the charge will be payable in two instalments. The first instalment (comparable to the existing system of visa application fees) is all that the majority of visa applicants will be required to pay. This will include all applicants for temporary visas.

The Regulations will provide that the second instalment will only be paid by people who have satisfied all of the criteria for the grant of a permanent visa to enter and remain in Australia. These are exactly the same people who would pay the

existing English Education Charge and Health Services Charge.

Valid visa applications that are made before the commencement of the visa application charge will continue to be subject to the existing fee and charging arrangements.

The amount of the charge will be prescribed in the Migration Regulations and will be subject to the ceiling set out in the Migration (Visa Application) Charge Bill 1996. A similar legislative ceiling mechanism is already in use for both of the charges that currently apply to visa applications.

The Regulations will reflect the fee and charge settings already announced in the budget context.

There will be appropriate flexibility to exempt certain persons from the application charge, or from part of the application charge. In some circumstances, such as refugee and humanitarian applicants, the charge will be nil. The Regulations will also provide for a waiver of the charge and for refunds in appropriate circumstances.

The bill also amends the Immigration (Education) Act 1971 to ensure that a person is permitted to have only one entitlement of up to 510 hours of English language tuition under that act.

The final measures in this bill relate to Australian citizenship.

The government is strongly committed to recognising the national significance of Australian citizenship. It represents our commitment to a common future and formal membership of the Australian community, and brings with it the responsibilities and privileges of that membership.

The government remains firmly committed to the general principle that a person granted citizenship after making a full and frank disclosure of all relevant factors should be on an equal footing with any other Australian citizen.

But the government is equally determined that the value of Australian citizenship should not be undermined by allowing the grant of citizenship to stand where it has been granted as the result of fraud or deception.

Yet the current provisions for deprivation of Australian citizenship in these circumstances are limited.

There is currently no provision for depriving a person of Australian citizenship if it was obtained by fraud at the time of immigration. For example, a person who migrated to Australia on spouse grounds cannot be deprived of citizenship if it is later proven that there was never any intention of a genuine union.

Also, a person who committed fraud when applying for citizenship cannot be deprived of that citizenship if prosecution for the fraud is not commenced within ten years of its occurrence.

The government considers that this is unacceptable. People should not be able to hide behind Australian citizenship which was obtained by deception. To allow them to do so weakens the meaning and value of Australian citizenship.

Therefore, in accordance with the government's pre-election policy commitment, the proposed amendments to the Australian Citizenship Act 1948 and the Migration Act 1958 will allow deprivation, without time limitation, of future grants of Australian citizenship obtained as a result of fraud, whether at the time of immigration or of application for citizenship.

Deprivation can only occur after a person has been successfully prosecuted for a relevant offence and where the minister is satisfied that it would be contrary to the public interest for the person to continue to be an Australian citizen.

These measures will further enhance the value and significance of Australian citizenship.

I commend the bill to the Senate.

MIGRATION (VISA APPLICATION) CHARGE BILL 1996

This bill is part of a package of three bills which will rationalise and bring together the charging legislation relating to visa applications.

The structure of the new charge scheme is closely modelled on the existing charge schemes that apply to visa applications, but will permit recovery of the indirect costs associated with processing visa applications and the provision of post-arrival services to permanent visa holders. The new scheme will also ensure greater administrative efficiency by consolidating into a single charge act the visa application fee and charges that are currently imposed by three separate pieces of legislation.

This bill imposes a single visa application charge and establishes a ceiling of $12,500 for the maximum amount of charge that may be prescribed in the Regulations. The ceiling is subject to an indexation formula based on annual movements in the Consumer Price Index. The ceiling has been designed to cover the most expensive existing visa applications, and to leave room for future cost-recovery initiatives relating to post-arrival services for permanent visa holders. Any increase in charge must be by way of regulation which will, of course, be subject to Parliamentary scrutiny.

The amount of charge that is paid by a visa applicant will be prescribed in the Migration Regulations which comprehensively govern the processing of visa applications.

I commend the bill to the Senate.

IMMIGRATION (EDUCATION) CHARGE AMENDMENT BILL 1996

This bill forms part of a package of three bills that will rationalise the existing system of fees and charges applying to visa applications.

The bill amends the Immigration (Education) Charge Act 1992 to ensure that the English Education Charge will no longer apply to visa applications that are made after the introduction of the visa application charge that is imposed by the Migration (Visa Application) Charge Bill 1996.

The amendment is necessary in order to provide a smooth transition to the new visa application charge scheme. People who made valid visa applications before the introduction of the application charge will not be liable to pay the visa application charge but will remain liable to pay the existing English Education Charge.

The English Education Charge is prescribed by regulations which are subject to a statutory ceiling. The bill will increase this ceiling to $5,500—a figure which more accurately reflects the true cost of providing English language tuition to migrants who do not have functional English.

The raised ceiling is consistent with the government's election commitment to achieve greater cost recovery for migration-related services. It will apply to all applicable outstanding visa applications that were made before the introduction of the visa application charge and which had not received an assessment notice for English Education Charge. These applications are liable to pay English Education Charge under the existing arrangements but the ceiling is now somewhat lower than cost recovery.

Applications which have already received an assessment notice will not be affected by any increase in the English Education Charge made by regulations under the new ceiling.

I commend the bill to the Chamber.

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

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives intimating that it had agreed to the amendments made by the Senate to the following bills.

Health Insurance Amendment Bill (No. 2) 1996

Social Security Legislation Amendment (Budget and Other Measures) Bill 1996

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

The following bill was returned from the House of Representatives without amendment:

Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996

HINDMARSH ISLAND BRIDGE BILL 1996

Second Reading

Debate resumed from 18 November 1996, on motion by **Senator Campbell**:

That this bill be now read a second time.

Senator BOB COLLINS (Northern Territory) (9.50 a.m.)—This is a totally unnecessary piece of legislation and, because it is unnecessary, it is also a particularly obnoxious piece of legislation. The shadow minister for Aboriginal affairs, Mr Daryl Melham, said in the House of Representatives quite correctly that the bill is wrongly named. It should not be named the Hindmarsh Island Bridge Bill at all; it should be named the Ian McLachlan payback bill. This is a piece of hairy-chested political nonsense that this parliament should not be proceeding with. The fact is that nothing now will prevent the construction of this bridge.

The bill is not only unnecessary and it is not only obnoxious, it is also a massive vote of no confidence in the Minister for Aboriginal and Torres Strait Islander Affairs on the way through. Clearly, the cabinet, when it determined that this measure was required, did not have enough confidence in the Minister for Aboriginal and Torres Strait Islander Affairs to properly discharge his duties under process.

The fact is there is no protection order in existence to prevent the construction of this bridge. There is also no way in which the minister can be legally compelled to issue one. I am testing my memory here. I am going back a lot of years and I have not bothered looking it up. If I am wrong, I am wrong, but I have a clear recollection of what I believe was the first occasion that this legislation was ever used. I stand to be corrected on it. I have not had time to look it up in the *Hansard*.

I think it was in relation to a dam in Western Australia. It was an acting minister for Aboriginal affairs, from memory, who was responsible—I think it was the then Senator Susan Ryan—the minister, I think it was Mr Holding then, being absent. The processes were implemented under the heritage protec-

tion act in relation to claims that the dam had in fact damaged a sacred site in its construction. An inquiry was conducted. The inquiry found that indeed the dam had damaged the site. There was no argument about that but, because the construction of the dam was at that stage significantly advanced and because a significant public purpose was served to the local communities in the water supplies that came from that dam, the acting minister declined to halt the construction.

That action, of course, is completely open to the minister under this act. It is not an act that requires the minister to stop everything at the end of the day. That discretion is available. As a result of the Boobera Lagoon case, if it was not clear before, it has been clear since that the minister cannot be compelled to issue a protection order.

This, of course, has all been canvassed in a Senate committee, but I would be delighted to hear the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) make out his case here today. The fact is, as I have stated, there is no protection order stopping the construction of this bridge now that all that has happened in the past has happened. There is no way that the minister can be compelled to issue such an order. So far as the heritage protection act is concerned, there is nothing stopping the construction of the Hindmarsh Island bridge.

We are moving an amendment to this legislation to correct the most obnoxious potential effects of it as far as we are concerned. That is, the provisions of this act will override the provisions of the Racial Discrimination Act. This is a backdoor attempt to do so, and not a particularly edifying one.

I was interested to see—and I know that all honourable senators will be interested to note, and those who were in fact in attendance at the committee will already know—that alternative proposals to address this issue, should the government feel that such clarification is necessary, are available to the government. When those legislative proposals were put to the committee, the department of the Attorney-General in evidence to the committee confirmed that those legislative proposals would in fact do the job.

Senator Harradine—Did you say you had an amendment?

Senator BOB COLLINS—Yes, I have, and I will move it shortly. If it has not been circulated, I will simply read it out. Can I say, Senator Harradine, that it is an amendment you will have heard before. This is not a unique amendment. It was successfully moved—

Senator Harradine—Something to do with the RDA?

Senator BOB COLLINS—Yes. It was not only moved in relation to the Social Security Act but also happily accepted by the government with no problem at all. I think it was Parliamentary Secretary Tambling who accepted it on behalf of the government. I foreshadow the amendment, which is clear in its terms, and I will provide a copy of it to the clerks. It reads:

(1) Page 1 (after line 8), after clause 2, insert:

2A Racial Discrimination Act to prevail

(1) For the avoidance of doubt, it is expressly declared to be the intention of the Parliament that the terms of the Racial Discrimination Act shall prevail over the provisions of this Act.

(2) Nothing in this Act shall be taken to authorise any conduct, whether legislative, executive or judicial, that is inconsistent with the operation of the Racial Discrimination Act.

An amendment in like terms, as senators in here know, was moved in relation to the social security legislation. The parliamentary secretary representing the government here in this chamber stated, as the government has stated in respect of this issue, 'This amendment is unnecessary. We don't intend these provisions under the Social Security Act to infringe on the provisions of the Racial Discrimination Act. We don't think it's necessary to accept this amendment, but because we don't intend to infringe on the Racial Discrimination Act anyway, we'll accept it quite happily,' and reference to the *Hansard* will show that.

I wonder—and I look forward to hearing this from the minister this morning—if it is a matter of no consequence for the government to accept such an amendment in respect of

recipients of certain social security payments in Australia, why should Aborigines be denied precisely the same amendment? That is precisely what the case comes down to here today if the government wants this legislation passed. The situation is this: if this amendment is carried, we will support the amended bill. It will satisfy our concerns that there will be no transgression of the Racial Discrimination Act and that the parliament will have made this intention crystal clear to a court.

If the amendment is opposed, then we will oppose the bill. But there is a job for the government here in the Senate this morning. I have copies of the *Hansard* if honourable senators want me to read out what Senator Tambling said. It is here. I know Senator Harradine was here when it was said. I was here, along with Senator Bolkus. He does not need to read it out. Senator Tambling said, and I repeat it, that the government had no difficulty accepting this precise amendment at all—it was not necessary and the government did not intend to circumvent the RDA by the back door; therefore, they had no problem accepting it.

The job for the government here in the Senate during this debate, if it wants this legislation passed, is to explain to the Senate and to Australia why people in receipt of certain social security benefits can have this protection inserted in law but Aborigines cannot. I have to say that I have tried to construct the thinnest of arguments to explain that, and I cannot. So I will be fascinated to hear what the minister says about it. I repeat again for the benefit of the minister: should the amendment that I foreshadowed be carried by the Senate, we will support the amended bill. But, if it fails, then we will oppose this particular piece of legislation.

I said earlier that proposals were put to the Senate committee that considered this issue of an alternative form of legislation should the government feel it necessary. It was Frank Brennan who put those proposals. I do not agree with everything Frank Brennan says or does, but even his worst enemies would concede that he is acknowledged as being one of the more competent legal specialists in this area of law in Australia today. Even his worst enemies would concede that.

I was interested in the response of the Attorney-General's Department to those proposals that he put. What A-G's said to the committee effectively was—and I think this is a fair quote—'Yes, a bill along these lines could indeed be enacted but it is a matter of policy for the government whether such an approach is preferred.' That of course is precisely the position. It is indeed a policy issue for the government as to whether such an approach would be preferred.

I must say, for what it is worth, which is nothing at all, that as a non-lawyer I simply agree with the commonsense position that Frank Brennan put to the committee in respect of whether the Aboriginal and Torres Strait Islander Heritage Protection Act itself is a special measure or not. For what it is worth, which is nothing, I think the position of the Attorney-General's Department is wrong, particularly in respect of recent judgments. I would be happy to put a substantial wager on the High Court having that view as well, certainly as the High Court is currently constituted. But whether or not you accept that it is a special measure, I certainly agree with Frank Brennan that it is not relevant to this debate.

Again, as a non-lawyer, and I know this does not always work in law, in terms of simple English, commonsense and a fair outcome, how could you possibly accept this bill as a special measure for the Ngarrindjeri people? Leave aside all other Aborigines in Australia: how could you possibly do that? Have a look in the international treaty at the definition of what a special measure is. The bottom line of that, unsurprisingly, is that special measures are for the benefit of minority groups, not to their detriment.

A-G's has constructed a very creative argument—almost as creative as the High Court has been in recent times in certain respects—that, providing an act did not provide for an outcome which was a lesser outcome than all of the people in a community enjoyed, it could be claimed to be a special measure. I think that is a piece of nonsense. It is impossible in my view to seriously argue,

in non-legal terms at least, for a measure which removes rights and opportunities that people have who are characterised as a group, and that is the Ngarrindjeri people. This bill without question discriminates or purports to discriminate against their interests as against the interests of all other Aborigines in Australia.

What this bill does is say, yes, all other Aboriginal people in Australia can utilise the heritage protection act to protect particular parts of their heritage but the parliament says that the Ngarrindjeri people, the women particularly, in respect of this particular part of their heritage, cannot have the benefit of that act.

How insidious. Forget the law, because the law is often an ass, as we know. In terms of simple justice, how can you seriously, with a straight face, as minister for Aboriginal affairs, argue that the people who are the subject of this act are not adversely discriminated against? Of course they are. The terms of the bill lay that out only too clearly. It is not a special measure for their benefit.

I am not having a go at lawyers. They are doing their job. The lawyers in Attorney-General's have a brief to put the best possible construction on the policy direction in which the government wants to go; they have done their job, and, in law, they may be right. In terms of the purpose for which special measures are intended by their simple definition—that is, for the benefit of a group—how could the minister for Aboriginal affairs, who is not a lawyer but the minister for Aboriginal affairs, argue with a straight face?

He can put a legal argument on behalf of the Attorney-General's Department. He can repeat those words that were uttered to the Senate committee, but how could he with a straight face as the Minister for Aboriginal Affairs say this is a special measure for the benefit of the Ngarrindjeri people, for whom it is intended?

This is a nonsense. It is a removal of their rights and, therefore, it is an utter travesty of the purpose for which special measures were intended for particular small groups of people. The government has sullied the legislative program of this Senate by bringing this in here.

We know that this bill has got nothing to do with the Hindmarsh Island Bridge. We know that it is a political bill. We know and the Senate committee knows that other legislative measures are available to the government should the government think they are necessary—and we do not think they are—and in policy terms determine to use them.

But this is all about hairy-chested political tokenism. I have been in the business long enough to recognise it when I see it. This is all about boosting the stocks in South Australia and letting Ian McLachlan feel that he has been vindicated in terms of the embarrassment that the Hindmarsh Island Bridge caused him. That is what this is all about.

This is not good law. This is bad law and bad policy. It is particularly bad policy for the Minister for Aboriginal and Torres Strait Islander Affairs to be bringing into the Senate on behalf of his constituency because this bill, unblushingly, is predicated on removing rights from people, not conferring them.

I would love to hear an argument—as well as an argument from the minister—as to why the government would not accept in favour of Aboriginal people in Australia the amendment which in like terms was happily accepted by the government in respect of social security recipients. I would love to hear that argument. I would also like to hear an argument from the minister as the Minister for Aboriginal and Torres Strait Islander Affairs, not as a lawyer, as to how he sees this act as a special measure for the benefit of the Ngarrindjeri people to whom it is specifically directed. It is, of course, nothing of the sort.

My colleague Senator Bolkus will canvass another major problem that we have got with this legislation. He will canvass arguments as to what power the government believes this bill is based upon. I will be interested to hear the results of that debate.

In conclusion, I say again for the benefit of the minister that, if the amendment which I have foreshadowed is carried by the Senate, we will support the amended legislation, as

unnecessary as we feel it is. If the amendment is defeated, we will oppose it.

Senator KERNOT (Queensland—Leader of the Australian Democrats) (10.11 a.m.)—It has been some time since this Hindmarsh Island Bridge Bill was debated in the House of Representatives. Senator Bob Collins has reminded us of a lot of the politics surrounding the bill. I think the bill itself still raises a number of significant questions, including whether this legislation is necessary at all to bring about the government's stated purpose of allowing the building of a bridge to Hindmarsh Island.

If we put aside the political rhetoric for one moment and take a look at the substance of the bill, I think you can make a claim that the Senate is being asked to legislate in favour of racial discrimination. The government tells us that this bill is necessary for a couple of reasons—because of the cost and because of the fact that the issue has remained unresolved for three years.

The 'affair' as the government calls it has, according to it, undermined public confidence in the ability of governments to deal sensibly with indigenous heritage issues. We have seen a lot of buzz words and tabloidism in previous months associated with this issue, but I think we need to examine the government's justification for this bill by going into the chronology of events which surround it.

The chronology begins in February 1995 when a single judge of the Federal Court brought down his decision in Chapman v. Tickner, quashing former Minister Tickner's declaration under section 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 on the grounds that procedural fairness was denied and that the minister had failed to personally consider the representations attached to Professor Saunders's report.

A lot of the politics has sought to lay a certain amount of blame at the feet of the Ngarrindjeri women. When you look at this chronological account of events, you can see that most of the things that happened were not in any way connected with the actions of the Ngarrindjeri women. This is a court case—the minister v. Chapman. In June 1995, former Minister Robert Tickner announced that he would appoint Justice Jane Mathews to provide a further report under section 10 of the Aboriginal and Torres Strait Island Heritage Protection Act to afford procedural fairness.

Former Minister Tickner said at the time that a further inquiry would not commence until his appeal against the Federal Court—in the previous case—had been handed down. That decision was handed down in December 1995 and the minister's appeal failed. Again this is happening separate from the Ngarrindjeri women.

In June 1995, the South Australian government established a royal commission to inquire into and report on whether any aspect of the women's business was fabricated. In September 1996, the High Court brought down its decision in Wilson v. the Minister for Aboriginal and Torres Strait Islander Affairs, finding that the appointment of Justice Jane Mathews offended the separation of powers doctrine under the constitution. So we have a hugh concentration of resources on legal challenges and legal procedures.

I think you could argue that, if the High Court had not ruled the report invalid because of the constitutional limits on the use of federal judges, the applicant women would have had no further recourse. So all we are seeing is due process of law. We might not like how long it takes. Yes, I think we would say it has been protracted and in some cases convoluted. But it is our legal system. If it is to have any claim to legitimacy, then it has to afford all petitioners avenues for redress and all people a full measure of natural justice.

It is not the Ngarrindjeri women's fault that these delays have occurred. They were not in here setting up inquiries and all the rest of it. In many respects the delays have been unavoidable. I do not see the government hopping in in other areas, where civil litigation can take up to six years. I do not see them hopping in there, attempting to circumvent the rule of law because of some kind of protracted outcome or delay. I think you can argue that the Ngarrindjeri women are entitled to have their application determined according to Australian law. It is a right of citizenship of all Australians.

In looking at the second reading speech of the Parliamentary Secretary to the Treasurer (Senator Campbell), I think we see a repetition of some of the buzz words. Somehow it is sensible to override the Racial Discrimination Act, we are told indirectly. I also think that there is a lack of some factual legal basis in the second reading speech. We see talk of 'further impeding the building' of the bridge. We see the parliamentary secretary speaking of removing the hiatus. We see the citation of advice from the Attorney-General's Department that yet another report must be prepared or the current law changed. Even more extraordinary, on the issue of appointing another report the parliamentary secretary said:

> While this appears to be the process least likely to cause concern, the recent history of the administration of the act . . . reveals that, even if all the "i's" were dotted, and "t's" crossed, there would be no guarantee of a satisfactory outcome . . .

There was a very valuable Senate committee hearing into this bill, and I would like to contrast the parliamentary secretary's words with the evidence of Father Frank Brennan, quoting from the joint judgments of Justices Dawson, Toohey, McHugh and Gummow of the High Court in the case Wilson v. Minister for Aboriginal Affairs. They say:

> A report is no more than a condition precedent to the exercise of the minister's power to make a declaration.

The reason I am going into all of this is that the minister says there is one thing he has to do or will not do and we are saying, 'You don't have to do anything. You can go ahead and build the bridge now.' I want to rely on this a little. Father Brennan, in quoting the justices, says:

> The reporter is not expressly required to hold a hearing but may nevertheless be required to observe requirements of procedural fairness . . . the act does not require the reporter to disregard ministerial instruction, advice or wish if preparing the report.

Father Brennan went on to say:

> What is required under the legislation is 14 days notice; written representations to be received—given the history of what has gone on with this, where everyone has made their representations in the past—and seven days allowed for those to come in; another 14 to 21 days allowed for people then to make responses to any other written representations that have been received; and then the writing of a final report.

In response to questions from Senator Bolkus to Mr Henry Burmester, Chief General Counsel of the Attorney-General's Department, about the existence of any legal impediment preventing the construction of the bridge, I believe his evidence was a resounding no. There was no legal impediment. I believe the Attorney-General's Department acknowledged that the Hindmarsh Island Bridge could have in fact been built after 24 July and, also, that there is presently nothing holding up the building of that bridge.

Senator Herron, the minister upon whom ultimately the unfettered discretion lies to make a declaration which would prevent the bridge from being built, when asked if he had any intention of making such a declaration, responded by saying that the question was theoretical because he cannot predetermine the outcome of a report that has not been produced. I think the minister has illustrated that there is another possible and less draconian route here and it is one that the High Court has confirmed. He has absolute discretion as long as the principles of natural justice are adhered to. That is why I am I saying that this bill is unnecessary; that is why I agree with Senator Collins. It is the politics that are motivating this bill, not the legal necessity.

The most revealing evidence comes from Mr and Mrs Chapman themselves in response to questions from Senator McKiernan. Senator McKiernan asked:

> Who is stopping the construction of the bridge now? Who is preventing construction starting next Monday, for instance?

Mr Chapman answered:

> Nothing is legally stopping it. There are no legal impediments, and there have not been any legal impediments since July this year . . . The state government have said that they are unwilling to commence construction of the bridge whilst there is a threat that it may be stopped or that this bill may not get through or when another reporting procedure may end up stopping the bridge.

The most startling revelations derive from evidence given by the solicitor for the Chapmans, Mr Palyga. When he was asked by Senator Bolkus what the problem was with starting the bridge, he replied:

The problem is that the state government have refused point blank. We have written them a letter about once a week for the last nine months saying, 'Start the bridge' . . .

and we cannot get them to change their mind on it.

This reminds me a bit of the Queensland Premier's response to the Century Zinc situation which is: when you have a problem, let's just have a special piece of legislation. When it is inconvenient to follow due process, we will just introduce a special bill—no worries about that. That is what we are doing here, apart from the comments that Senator Collins made about Mr McLachlan's role in this and the comments that Mr Melham, the shadow minister, made in his speech in the other place.

I do not believe this bill is necessary. I think the legal advice is that the bridge could have started after 24 July. We have to ask: why are we doing this? I think the politics of it have been adequately referred to by Senator Collins.

On the matter of the Racial Discrimination Act and special measures, I note that, in the coalition's election policy, the promise to respect the provisions of the Racial Discrimination Act was put to the Australian people; yet we are having this discussion about how much this action constitutes a special measure. Does this make it inconsistent with the Racial Discrimination Act? I suppose we will debate that at greater length when we debate the ALP's amendment.

Some witnesses put forward an argument which said that the Hindmarsh Island Bridge Bill is inconsistent with the Racial Discrimination Act in that it is not a special measure and it does discriminate against the Ngarrindjeri when compared with all other indigenous groups in Australia, because their heritage in the Hindmarsh Island bridge corridor cannot be protected by a valid application for protection considered by the minister whereas the heritage of all other indigenous persons, it is argued, can be so protected.

Further on the matter of special measures, I think you can mount the argument that heritage protection for indigenous people is not a special measure. It is not a matter of giving some kind of temporary special assistance to a disadvantaged group but, rather, of according substantive equality by treating unlike cases differently. We had a lot of discussion on this in the committee hearings.

When you have a political point to make first and you are designing a bill to get around that, it is easy to try to twist your understanding of whether you are bringing people back to some kind of substantive equality and therefore you are not breaching the Racial Discrimination Act. I thought that was a very clever kind of argument but, as a matter of principle, I do not think that is the right way to go. In my view, special measures are designed to ensure such groups of individuals have equal enjoyment in the exercise of human rights and fundamental freedoms to everybody else. Designing a bill to take away the rights as applied to them is just like some aspects of the Wik case, and the flow-on from native title and its link-up to the Racial Discrimination Act. I do not think it is the way to go; I do not think it is necessary. The minister has it in his power to make sure that he can achieve the government's stated outcome of the bridge being built.

Senator MARGETTS (Western Australia) (10.25 a.m.)—The purpose of the Hindmarsh Island Bridge Bill is to stop the Hindmarsh bridge from being affected by the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. The land and water surrounding the bridge area from Goolwa to Hindmarsh Island are to be exempt from the act. The other reason is to remove the project from the inquiry process and from any court challenges the project may face in the future.

We have heard from the opposition that, in their opinion, the development of the bridge can proceed without this bill. They say the developers are not stopped from going ahead and that it is therefore a stunt for developers to take away Aboriginal people's rights by the way the act demeans the Racial Discrimination Act. Of course, the opposition has an amendment in relation to the Racial Discrimination Act.

The Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) could allow the development to proceed under

discretionary powers—it could be either a section 9 emergency declaration or a section 10 declaration if a report is produced—in the act. What this bill in effect does is stop the process started by previous Minister Tickner under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, which investigated significant sites for protection.

The current minister, Senator Herron, could continue with this process and look at whether there are significant sites which warrant protection under section 10; but, instead, he is trying to circumvent this process by overriding the Commonwealth heritage protection act to make way for the development. With all the statements that have been made by this minister, you would think that protecting sites of significance to Aboriginal people is his mandate—no matter what anybody else says—and he is to be blamed if this does not happen.

It seems that it is debatable whether the bill itself is inconsistent with the Racial Discrimination Act. It is also argued that any future acts or regulation changes could leave it wide open to be changed so that future acts are inconsistent with the Racial Discrimination Act. We have heard that both Frank Brennan and the Social Justice Commissioner, Mick Dodson, believe this bill goes against the Racial Discrimination Act because it goes against fair and equal treatment under the act for Aboriginal and Torres Strait Islander people.

Aboriginal people will have been excluded from having their applications heard in this one project case, and that was very well argued by Senator Bob Collins. It singles out one group of people for discrimination. The government has claimed that this is a 'special measure'. Special measures are those allowed under both the heritage act and the International Convention on the Elimination of All Forms of Racial Discrimination—or CERD—which are racially discriminatory because they advance the interests of the racial group or they remedy a present inequality suffered by that group. This so-called 'special measure' does not do either of those things.

This is a bill that goes against the principles enshrined in the Racial Discrimination Act, the CERD and the International Covenant on Civil and Political Rights. The government has not given any reason why this bill is consistent with the Racial Discrimination Act. They only give reasons why they should not put in the amendment that says it should not be inconsistent with the Racial Discrimination Act. With the rest, they are mainly dealing with speculation; they have not given us any clear reasons.

Let us give a potted history of what has gone on here. The early history of the project is that, from the beginning, the project failed to get adequate environmental protection. The real story is that, in the first place, the project should not have been approved on environmental grounds. The decision was wrong, but the government at the time approved the project because of some deal between the state ALP government at the time, the local council and the developers.

The story goes like this. The ALP government did a deal with a council to have a bridge. At the time, the developers just wanted a better ferry service over to the island, but the council wanted the bridge in order to facilitate more development and, therefore, sold it to the developers on the basis that they would profit from future development. The bridge did not get a proper environmental impact statement and should not have been approved at the time. The State government rushed it through the environmental impact assessment process in order to get it approved quickly. When the State government wanted to back out of the bridge project, it wanted the federal government to overrule and step in so the federal government would have to pay the compensation costs to the developer instead of the State government. Originally the federal Liberals, in opposition, were opposed to the bridge. When the Liberal State government was elected it got trickier because they did not want to pay compensation. Now we have a coalition federal government and everybody wants to avoid paying compensation.

It appears that the State ALP Aboriginal affairs minister at the time mentioned that, both on environmental and Aboriginal grounds, the bridge should never have re-

ceived State approval. This brings together Aboriginal and environmental heritage issues and it shows that both parties here are in it up to their ears. We can hear that the outrage is not particularly strong on behalf of Labor because there is involvement on both sides.

In relation to the Aboriginal history of Hindmarsh, the bridge between Goolwa and Hindmarsh Island was first proposed in the early 80's. The proponents, as we have heard, were the Chapmans. The Aboriginal and Torres Strait Islander Heritage Protection Act protects sacred sites, upon application from Aboriginal people, that should be preserved, with details about the site's significance. The Ngarrindjeri people made an application under section 10, while Tickner was still minister. Senator Herron should follow through the process by providing a report on the sites of significance under section 10.

The previous minister, Mr Tickner, tried to do this but both the Saunders and Mathews reports were ruled invalid on technicalities. This is due to the deficiencies in the Aboriginal and Torres Strait Islander Heritage Protection Act, which would not allow the secret women's business to be protected as evidence. Basically, the act does not allow for secret business because all the proponents under section 10 have to be told of what the Aboriginal objections are and that, of course, in a cultural sense is appalling. The Evatt report of August 1996 was on the deficiencies in the act and had good suggestions for improving the act. Once these are done the Ngarrindjeri people can finally have their hearing because, as it stands, with two failed attempts, they have not yet been heard.

Minister Herron needs to appoint someone to prepare a section 10 report. Obviously, he would then be in the position of being able to ignore it. But his obligation under the act is to prepare the section 10 report, which he can then deal with as he sees fit. In fact, in order to proceed with the project, they are intending to break these various provisions and, in the end, not give the Aboriginal people the hearing. It is true that the process has been arduous and heart breaking, but this is not an excuse for taking away Aboriginal peoples' rights to be heard in opposition to a development project.

The history of the previous inquiries are: first of all, the Jacobs inquiry, then the Saunders inquiry, the South Australian royal commission, the Mathews inquiry and the Evatt report. In relation to the Jacobs inquiry—an independent barrister—a report was never released. In the Saunders inquiry of May 1994, Professor Saunders prepared a section 10 report after a Ngarrindjeri application in 1993. This gave the minister the circumstances to make a declaration, which Minister Tickner did, protecting the area for 25 years. The Federal Court overturned this on appeal because of the lack of technical specification of the area—that the Minister had not read the secret women's business aspect of the report; he had a female adviser do it out of respect for the women.

No women who supported the women's business gave evidence to the South Australian royal commission into the possible fabrication of women's business. What a surprise! It was only those who said it was a fabrication. These, of course, were the dissident women. So the commission ruled it was a fabrication on the basis of biased evidence. It was later shown that the dissenting women themselves 'disclaimed any knowledge of the island as a significant place'. Now that is different from what basically is often claimed.

In the Mathews inquiry, in December 1995, the Ngarrindjeri lodged a new application over the area. The section 10 was activated. Minister Tickner appointed Senator Crowley to oversee the inquiry and Justice Jane Matthews to do the section 10 report—as women—in order to avoid the same mistake. There was a change of government in the middle of this and Senator Herron has not appointed, or has refused to appoint, a female minister to deal with the claim. If the criticism has been that a minister has never seen this, it should be relatively easy to deal with it by appointing a female minister.

At the same time, the Broome crocodile farm judgment in the Federal Court said that all parties have to be informed of the application. This, of course, has implications for Hindmarsh in that the Chapmans, plus the

State government, would have to know the women's business. The Ngarrindjeri then withdrew evidence and didn't present some. Of course, the Mathews report ruled in support of a section 10 declaration on the basis of insufficient evidence. Despite this, Justice Mathews found that Hindmarsh Island and the Goolwa Area were of great traditional significance to the Ngarrindjeri people. That is on page l23. Nine 'dissident' women appealed this report to the High Court, challenging Judge Mathews's executive role instead of judicial role. It was overturned and the report ruled invalid. Now the minister must go again and get another report prepared.

The Evatt inquiry, in October 1995, was asked to review the Aboriginal and Torres Strait Islander Heritage Protection Act after previous difficult cases. It produced a report in August 1996 which put restrictions on information and ensured procedural fairness.

The current situation is that the Senate legal and constitutional committee has said that the current application for a section 10 is 'still live' and 'there is legal obligation to set in train the process for a s.10 inquiry and report on that application' even if the minister ignores the findings.

The conclusion is that we have a situation of development at all costs, abuse of common law processes, abuse of procedural fairness and of human rights, cultural and religious disrespect and racism. The minister, it would seem, is worried about going down the section 10 route, perhaps because another report would also be written off on technicalities.

If the problem is, as we have seen, that the Aboriginal and Torres Strait Islander Heritage Protection Act needs to be changed in order to allow for proper and fair dealing with such cases—such as secret women's business or it could be secret men's business—then we need to talk about that. We need to talk about how we make sure that the Aboriginal and Torres Strait Islander Heritage Protection Act does what it is meant to do, that is, protect Aboriginal and Torres Strait Islander sites of significance.

There are a number of major environmental issues, as I indicated. Senator Brown will be seeking the call later in this debate to deal with those issues so I will not go into detail. But this has been a farce. It has been a farce from both sides of politics, and I indicate clearly that the Greens (WA) will not be supporting this bill.

Senator BOLKUS (South Australia) (10.39 a.m.)—I also rise to speak in this debate and to follow on the comments of my colleague Senator Collins. I think the government is making a big mistake with this legislation. Unfortunately for Minister Herron, he is in many ways the bunny that has been caught in the headlights here.

I can understand how the government took this decision. I think they decided, on coming to government, that they wanted the bridge built and that they wanted also to extract as much political gain as possible out of this issue. They had seen it as a winner in South Australia and they thought that they could prolong it and raise the temperature on the issue by introducing legislation.

The minister, as is quite clear from the evidence before the committee, was the person who was given the job of pursuing the legislation. But unfortunately for him, he was not fully advised on the options available to him. This is a bad law for a number of reasons. It is a bad law for the reasons mentioned quite comprehensively, I think, in the minority reports of the Senate Legal and Constitutional Legislation Committee. Driven by prejudice, the government introduced legislation. They think they need legislation. As I say, they saw it as a winner.

But these things do turn, and, unfortunately for this minister, he has had a couple of issues that have turned on him already in this area. He embarked in a cavalier fashion on forcing an auditor onto ATSIC and just a few weeks later he found that the courts of this country decided that he acted outside the law in the way that he approached that.

This is a government which decided in response to the CRA issue that there was the need for special legislation, only to be left high and dry by the company involved in Queensland—on the basis that they thought that the legislative route was a provocative one and one that would never end and that negotiation was the best way through it.

If this bill gets through, I can anticipate some quite fundamental problems with it in the courts. It will be challenged, Minister—that has been made clear—and it will be challenged on a number of grounds. If you were to pursue this legislation, if it were to get through, you would probably be following the footsteps of your great heroes in Queensland, Joh and Premier Borbidge.

Joh Bjelke-Petersen took the decision which led the Aboriginal community in Queensland to taking the Mabo case to the High Court—and he will be forever thanked by Aboriginal Australia for his provocative actions with respect to the land at that time. If it were not for the provocative action of Premier Borbidge, you probably would not have had the Wik decision of a couple of weeks ago. I think, Minister, that this legislation also has the capacity to lay down some quite fundamental legal principles if it goes through and if it is taken to the High Court, which I am sure it will be.

It could very well fail because we are talking here about discriminatory legislation which takes away the rights of a small group of the Aboriginal race. As Senator Cooney spelt out quite eloquently in his minority report, there is something quite fundamental in our system of law, and that is equality before the law.

You should know that, Minister, because in your cabinet submission of April last year on the implications of the Wik case advice was given to government that the High Court could very well strike down any legislation in respect to that on the basis of it being discriminatory and contrary to the concept of equality before the law. That is well and truly squarely in the middle of that cabinet advice—advice which of course is not a public document but advice which has had some currency in the media in recent days.

Equality before the law is fundamental. As Senator Cooney says, in discriminating against a small group of one race—and let us face it: there is a capacity here to be racially discriminate—you are breaching the rule of law; you are not providing equality before the law and, as a consequence, there could be some repercussions in terms of the courts striking it down.

There is another issue which needs to be confronted and one which, I am sure, the government has not confronted: the question of what power you are acting under, under what constitutional power this legislation is being introduced into this parliament. I think that the government has not really considered that. In terms of evidence, there is no indication of that being considered.

You will come back and say, 'Look, it is placitum 51(xxvi) of the constitution that gives us the right to legislate in respect of a race.' I cannot see what other power you will try to invoke. But, if you do that, you are treading on very treacherous ground, very shaky ground, because judge after judge of the High Court of Australia over the last 15 years has spelt out that provision, particularly as it applies to Aborigines in Australia. That power can be used only for the benefit of that group of people.

No-one has argued that this legislation is for the benefit of Aboriginal Australians. It is legislation which takes away a right that they have. I can go through precedents—and maybe I should for the benefit of government advisers. The concept was one which, like many other concepts, was kicked off by His Honour Mr Justice Murphy in the Koowarta case emanating from Queensland—Koowarta v. Bjelke-Petersen. I can see this case against Minister Herron.

In 1982, Justice Murphy said in respect of placitum (xxvi) of section 51 of the constitution that 'for' means for the benefit of. It does not mean 'with respect to' so as to enable laws intended to affect adversely the people of any race. If 'with respect to' or a similar expression were intended, it would have been used, as it is in other parts of section 51. See the opening words of 51(xxxi) and 51(xxxvi).

At the referendum to give power to the Commonwealth over Aboriginal matters the intention of the Australian people was not to give power to the Commonwealth to discriminate against those people. It was to give them power to discriminate for the benefit of those people, for the protection of those people. That is what Murphy was saying in 1982. It

is a principle that His Honour Mr Justice Wilson in that case also reflected when he said:

The Act—

the Racial Discrimination Act—

is within the power because it is a law with respect to the people of any race who suffer discrimination on racial grounds, the Parliament having deemed it necessary to secure to them this special protection.

Does this legislation give the Aboriginal people special protection? No, it does not. You have failed the Wilson test.

Justice Wilson went on:

As the Chief Justice has observed, the power is apt to enable the Parliament, if it considered it necessary to do so, to prohibit racial discrimination against the people of the Aboriginal race.

Does this prohibit racial discrimination? No, it does not.

Senator Bob Collins—It enshrines it in law.

Senator BOLKUS—It enshrines it in law. You have some basic fundamental constitutional problems with this legislation and it is no good having last-minute pieces of paper handed to you, Minister, from a department which has got this issue wrong consistently over recent years.

Senator Herron—It says you're wrong.

Senator BOLKUS—Of course they say I am wrong. But they have said that for some time and they have got it wrong themselves. This is an issue which has not been adequately assessed by the government and I think it is important for the government to adequately assess it.

It is inconceivable that the people of Australia gave power to the Australian government to discriminate against a particular race, particularly Aboriginals, when that referendum was passed. It is inconceivable. That is what Mr Justice Murphy was saying, that is what is reflected in Mr Justice Wilson's comments. And they were not the only ones. There have been quite a number of them over the years—Justice Gaudron in a recent case in Lim v. the Minister for Immigration, Local Government and Ethnic Affairs in 1992 said that that particular approach of Justice Murphy 'has much to commend it'. And it goes on. It is a pretty fundamental principle. As Professors Blackshield, George Williams and Brian Fitzgerald said in their book—

Senator Harradine—What about his honour behind you then?

Senator BOLKUS—And his honour Mr Justice Cooney. These three eminent academics, Blackshield, Williams and Fitzgerald, said:

The approval of the proposed law for the amendment of par (xxvi) by deleting the words 'other than the aboriginal race' was an affirmation of the will of the Australian people that the odious politics of oppression and neglect of Aboriginal citizens were to be at an end, and that the primary object of the power is beneficial. The passing of the *Racial Discrimination Act* manifested the Parliament's intention that the power will hereafter be used only for the purpose of discriminatorily conferring benefits upon the people of a race for whom it is deemed necessary to make special laws.

The point is one that has continued and one that is a pretty strong one. They are not the only judges. Mr Justice Deane is cited in the Blackshield, Williams and Fitzgerald document as saying:

Since 1967,—

since the constitutional referendum and amendment—

that power has included a power to make laws benefiting the people of the Aboriginal race.

Those opposite might say I am wrong, but do they say that all these judges have got it wrong? How do they contend with the fact that over recent years some—

Senator Kernot—Judicial activism.

Senator BOLKUS—We will get to judicial activism in a second, Senator. But how do they say that over the recent years Justices Murphy, Wilson, Gaudron, Deane and Chief Justice Brennan have all espoused this principle? How do they write that out of the law books? And they cannot talk about judicial activism as if it is something new. The high prince of judicial activism was His Honour Mr Justice Barwick when he rewrote and rewrote again the tax laws of this country. You reckon that was judicial activism. There was no complaint from conservative Australia then about judicial activism.

The High Court of this country, despite Mr Howard, the Prime Minister, trying to limit its powers by definition in press statements a couple of weeks ago, has always had the power and responsibility to define the common law. That sits together with its responsibility and power to define statute law. It is not part of the Australian system alone. It is part of the British system that we have inherited to our benefit. It is a bit on the too smart side for the Prime Minister to say they have only got the responsibility of interpreting the law the parliament passes, when he should know, if he is worth his law degree, that defining the common law is something that has been the historical role of the courts in this system, not just the High Court. Let me go on. Justice Deane in essence says that when you are legislating in respect of Aboriginal Australia it has to be to their benefit. In the Koowarta case, he says:

> It is a law of the character which comes within the primary scope of the grant of legislative power to make laws with respect to the people of any race for whom it is deemed necessary to make special laws.

This is not a special law in the sense that Justice Deane talks about. His assertion is that you need to work to their benefit. He also says that any deprivation of rights of those people has to be on the basis of just terms. I raise that as another issue that has not really be considered in this process. We are here contemplating taking a right away from the people involved—and that is the right to have a process. It is not stretching the case law of the bank nationalisation case, which is judicial activism in the time of Howard, and the Georgiadis case of recent years, to argue on behalf of the women involved that if you are taking away their rights you have to look at just compensation. So, as I say, we have had a group of judges over the years in the High Court who have asserted that this power can be used only for the benefit of the people. You have a problem there. You are taking away the right to process and you may also have a problem there.

It is not necessary. There is no order in place. There is no intention by the minister to issue an order under the existing act. Let us move away from this sham piece of political prejudice and point scoring. Let us look at the existing law. Senator Collins was quite right. There is a precedent in place under which this minister can allow this bridge to be built immediately. It is not just me saying that; it is the lawyers acting for the Chapmans who say that. It is the lawyers who are acting for the Chapmans who have been writing to the state government of South Australia since July last year saying, 'Look, there is no order in place.'

I do not know whether I need to go through the evidence of the committee but it was pretty clear, Senator Herron, and it was pretty clear in terms of what you said before the committee: there is no order in place that would stop the construction of the bridge. There is no intention to have an order and there is no chance of an order being forced on you. That is the existing law, clearly understood by all involved—and there is no chance of an interim order. The court has made that very clear. Not only that, you have stated it to the committee. You made it clear that you understand that that is the legal situation.

You do not need special legislation to prevent you making a declaration, Senator Herron. That is correct. So why do you need this bill, particularly when on the same land that Mr Tickner issued a declaration order on, because of the lapsing of that declaration, a marina is being built right next to where the Chapmans want to build the bridge—on the same plot of land, on the subject land? Why is that not being stopped? It is because there is nothing in place that would stop either that or the construction of the bridge other than the fact that you want to play politics with this. It will come back and bite you where it really hurts—your credibility. There is no need for this. It is clear in the evidence.

Senator Herron, you do not intend to run away from your evidence, do you? You are not going to come in here and say, 'Look, I got it wrong when I said there was nothing that could stop the construction of the bridge'? You are not going to say that there is no court that would force an order on you other than to have a report, are you?

If you had commissioned a report instead of introducing this bill last year that process

would have been over by now as well, and you would not have to worry about that either. You have made a bungle of this, Senator Herron. You have been given this to run with and you have bungled it because you have decided to introduce legislation—and your evidence before the committee exposes your position.

The Chapmans share the view I have just expressed. Once again, I point people to the evidence of the Chapmans. On Friday, 29 November, as can be found on page 122 of the transcript of the legal and constitutional committee, Senator McKiernan stated, 'Who is stopping the construction of the bridge now?' Mr Chapman said:

> Nothing is legally stopping it. There are no legal impediments, and there have not been any legal impediments since July this year. It was finally cleared to go ahead in July this year.

Senator Bolkus said:

> . . . but you have already got construction work going on in the area . . . We have already accepted on the record that there is no legal impediment to the bridge being built. We have also accepted on the record that there is no capacity, under the heritage act, for an interim injunction to force cessation of the work.

Mr Palyga said, 'That is right.' Senator Bolkus said:

> So, you have got one project going; you have the state government not proceeding with the other project. You have no legal impediment to the bridge being constructed; you have no capacity for an interim conjunction.

Mr Palyga, the lawyer for the Chapmans, said, 'Correct.' He went on to say:

> The problem with that is that the state government have refused point blank. We have written them a letter about once a week for the last nine months saying, 'Start the bridge'. They have refused point blank to go ahead with it on the basis that, if they start sinking dollars into it, if there is any risk that it has to come to a stop because of a final section 10 declaration . . . that money is all down the drain . . . we cannot get them to change their mind on it.

So this is shaky law, it is unnecessary law. We think an amendment is necessary to keep you honest to the Racial Discrimination Act. We in this parliament should not be in the business of discriminatory legislation, particularly on matters like this. There are double standards. The amendment we are moving today is an amendment which was accepted when I moved it to the social security legislation not only here but also by Minister Ruddock in the House of Representatives. I cannot see why the government cannot accept that to make the law at least overcome one of the legal problems it might have and that is in respect of the concept of equality before the law. You have failed twice on two outings so far, Senator Herron. This will be another one.

Senator BROWN (Tasmania) (10.59 a.m.)—The Australian Greens oppose this legislation. We oppose the bridge. We support the Ngarrindjeri people who oppose the development and the onrush of developments which will follow this bridge in this very vital area of Australia. I want to emphasise the environmental part of this equation. This development is set in the Coorong in the region of the mouth of Australia's greatest river, the Murray. It is a region that includes one of the world's most important wetlands.

The Coorong is listed as a top order internationally recognised wetland under the Ramsar convention in the list of wetlands of international importance of the International Union for the Conservation of Nature. Not least is the fact that that listing gives international status to this area because in summer the area supports almost one quarter of a million birds of 82 species.

On the listing under the Ramsar convention are these factors. The Coorong regularly supports 122,000 waders as a summer population. It supports at least one per cent in the western range of the total population of Cape Barren geese. Remember that these were facing extinction just two decades ago. It supports at least one per cent of the world population of black swans. It is the largest permanent breeding habitat—in fact, the only breeding habitat—in South Australia of the Australian pelican. It is a breeding area for crested and fairy terns and pied oystercatchers. It is a great example of a hypersaline wetland. It includes in the region endemic musk grass, which is incredibly important for the food chain and the bird life that I have just mentioned.

In the Coorong, at least 12 species of international migratory birds use the shoreline and wetlands as they are at present. The Coorong is ranked first in Australia for both the sharp-tailed sandpiper—there are 55,700 of them; these migrate from Northern Siberia—and the red-necked stint, 63,800 also coming from Northern Siberia and Alaska to use this region as their summer feeding ground. It has the third biggest population in Australia of the sanderling, 930 of them coming from north and central Siberia each year. Of the curlew sandpiper, 40,000 migrate from the central high arctic of Siberia. These birds do not breed here, but this summer feeding ground of theirs in the Coorong is vital to their numbers.

I want to add here that I was in Taiwan in the middle of last year. Some of the species I have just mentioned come through that island and the important wetlands on the western part of Taiwan on their way to Australia. What is happening there is the rapid destruction of the wetlands, squeezing these species closer and closer towards extinction. At the moment, of 80,000 hectares on the western part of Taiwan, 11,000 are targeted for industrial development while 3,000 are already under the way of destruction and loss of habitat for these birds. Here in Australia, we are charged with doing better than that.

A tremendous diversity of other birds that are not migratory are in the Coorong. For example, it has the second biggest population in Australia of the pied oystercatcher. There are 630 of them. There are 5,700 red-capped plovers and 77,000 banded stilts. Many other species breed in the area, such as swans, pelicans, egrets, spoonbills, cormorants, terns and ibis. The Coorong is, as I have said earlier, the only site in South Australia where pelicans breed regularly. If you add all this together, in total abundance, there are approximately 60,000 waders, 40,000 of which are migratory and come each year around the globe from the artic, in particular from Siberia and Alaska. Of the 30 species of waders, 20 species are migratory. On top of those 60,000 waders, there are 110,000 waterfowl of 14 species. There are 70,000 other waterbirds, 38 species of them, giving a total summer population of 240,000 birds of 82 species.

You might ask, 'Why should we be worried about that?' The problem is that, as elsewhere in the world where development is encroaching on the habitat of these species, the numbers are falling. If you look at the time scale of the evolution of species rather than the day-to-day, short-term vision which we so often have in developmental terms, you will find that that downward population spiral is rapid and alarming and requires national action.

In fact, 27 species of wetland birds have shown a decrease of at least 10 per cent in the frequency with which they are recorded in this area. In many cases, the loss of numbers exceeds 20 per cent. The causes of the decreases are not known. However, the decline in reed bed habitat and the increase in human activity, with the obvious loss of habitat from buildings and the disturbance from motorised boats, are prime causes, if you want to speculate on why these bird numbers are dropping.

What is required here before the bridge and the attendant developments that are obviously going to be a consequence of that is a proper regional environmental management plan. This was recommended in the Hinsliff report in 1994. This was preceded by the Murray Mouth Working Group report of 1991, which said:

> There is a clear need for a management strategy over the whole area to protect its conservation status. It is clearly evident that a conflict exists between recreation activities and conservation values within the Murray Mouth region and that this situation is deteriorating.

What has very often been left out in this debate is the unassailable fact that the developers who are behind this bridge and the plans for further developments both on the island and the mainland are a direct threat to this magnificent internationally and nationally prized wetland.

There will be further erosion of the bird life. There will be a deterioration of the environmental values of this region with this bridge. Earlier, we heard the arguments—and I am not going to repeat them—as to why this legislation, of itself, is unnecessary in so far

as the designs of the developments are concerned. On that basis alone, we ought not be supporting it.

I also want to say that the opposition's move to ensure that the Racial Discrimination Act is not, in any way, trammelled by this legislation is one I will support, but I do not believe that that should allow the opposition, if it were successful, to then say, 'We will support the legislation.' I believe, again, that the opposition needs to think about that because this legislation does not warrant support. If it is not necessary for the developers, why support it?

I have just outlined why the development that is proposed—certainly the developers, through the government, see this legislation as paving the way for them—will impact injuriously on one of the world's great wetlands. We on this side of the house and, I submit, everybody in this place ought to be opposing this legislation, just as we ought to be opposing the Hindmarsh bridge development and the onrush of further developments, when, as yet, there is no regional management plan in place to draw a line as to where the rapid change in this region, due to our human impact, would impact deleteriously on the enormous range of other species which have lived in this region for time immemorial.

Senator COONEY (Victoria) (11.10 a.m.)—Mr Acting Deputy President—

Senator Bob Collins—His Honour Mr Justice Cooney.

Senator COONEY—Thank you very much. I have to say that to put it on the record, Senator Collins.

Mr Acting Deputy President, most legislation which comes before us in the Senate deals with the execution of broad policy, with the making of laws which have general application and with the provision of a remedy for a prevalent vice, and parliament is usually concerned with the social framework within which the community may best operate. So we pass tax laws which apply to everybody who has to pay taxes, we deal with social security provisions which affect all people who might be entitled to pensions, we pass laws about health, about education and about issues which have application to everyone.

Matters which are specific to individuals or to a specific case do not come before us very often. In the general constitutional set-up of our community, they are dealt with by the courts. We have people in here debating policy, debating the rights and wrongs of particular programs that might be put forward by the government and which affect the society as a whole, and other issues that are more specific to the individual where evidence must be examined more closely than perhaps we do using our broad positions. From a philosophical or political standpoint, those factors are used in debating matters here, whereas in court very specific matters are dealt with in terms of the law as it stands and in terms of the evidence that is needed.

That is why it is a matter of considerable worry that we have before us the Hindmarsh Island Bridge Bill which does not deal with general policy covering everybody in a particular class. This bill deals very specifically with one group and with one incident. The government has been quite definite about that. They do not disguise it; indeed, they proclaim it. That appears from the second reading speech by Mr Miles in the other place. When he was introducing this bill, he said:

> The purpose of this bill is to prevent the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984 from further impeding the building of the Hindmarsh Island Bridge. The bill achieves this by providing that the provisions of the act do not authorise the minister to make a declaration over the area which will be used to build the bridge.

What has happened there is that the act has been repealed, in effect, in respect of one incident only. We might understand if they then said, 'We think it is a very bad principle to have this Aboriginal and Torres Strait Islander Heritage Protection Act. We know that the people opposite disagree with us, but this is a matter of policy and our philosophy about things, and so we are going to knock over the act.' The interesting thing is that they are not saying that. The government then goes on to say, 'This is a tremendous bill, this is a great bill. We believe in the principles of the bill. We believe in the general thrust of

what that bill says.' The next paragraph that Mr Miles give us says:

> The bill will not affect the operations of the act in regard to any applications for protection made by members of the local indigenous community in respect of sites of significance elsewhere on Hindmarsh Island, or by the indigenous people elsewhere in Australia.

Senator Bob Collins—That's the one we don't like.

Senator COONEY—As Senator Bob Collins said, this is the one we do not like. So the principle that the government goes forward with is that all this legislation—the Aboriginal and Torres Strait Islander Heritage Protection Act, plus the Racial Discrimination Act and acts like that—is good because it sets up rights that citizens of this country can enjoy, and the government says, 'Look, we are behind all that.' I am sure the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, would be foremost in the proclamation of human rights and what have you.

So if all these principles are so good, and if these principles are maintained and, indeed, enhanced, why in this particular incident do we say that we are going to, in effect, repeal it for this particular group of people? Why do we say, 'Everybody else can have it but not you.' The answer given is that this particular incident has got out of control—that seems to be the general thrust of what has been said—and that the processes, as Senator Bolkus said, are such that it becomes an embarrassment.

It seems to me that the fact that the processes have gone wrong is not the fault of anybody who is going to be affected by this bridge. Mr and Mrs Chapman came before us. They seemed to me, as I was listening to them, to be very decent, honest people who wanted to go about their business and forward their commercial interests. The same with the indigenous people who came forward. They are the people who are locked into the position. Yet we say that the way out of that is not to go through the usual channels, which would be the judicial channels where you have hearings and rights of appeal and where there is a final decision made. We say, 'No, that is no good. We as a parliament will intervene in a situation which is very much of a character which the courts ought to deal with.'

There is no doubt that parliament has legislative power to do all sorts of things. But the fact that we have the power does not mean that we should use it in a way which does not do well by the system. There was a phrase used by a judge in the last century: he talked about the 'tyranny of parliament'. In modern days that has become the tyranny of the executive because the executive, in effect, runs the parliament, and that is a fact of life.

The concept of the tyranny of the parliament is the ability of the parliament, because of the stack-up in the numbers, to put through legislation that may adversely affect people, in circumstances where you say 'This is really unfair that parliament should be intervening in this way and doing these sorts of things.' When you reach a situation like that you can talk about the tyranny of parliament because—in my view at least—you have to think, as it were, of the rule of law. There is an overarching concept that says that in spite of the power the executive might have, in spite of the power the parliament might have and, indeed, in spite of the power the courts might have at times, nevertheless there is this overall sense of fairness, this sense of a proper process which should not be violated no matter what the circumstances.

I do not want go through the arguments that have been put by the speakers before me: Senator Bob Collins, Senator Margetts, Senator Brown and Senator Bolkus. They have illustrated quite clearly what I mean. This legislation is not the first time that this sort of thing has happened, where parliament has intervened in a process which should be better left to the courts. Nevertheless, it is another precedent we could well do without.

The phrase 'judicial activism' is a phrase that has been used this morning. That has been much in the news recently. This seems to me to be legislative activism, in other words, the legislature coming in where it ought best not come in. It seems to me that what is happening is that parliament is not, at the moment, moving in areas where it should,

and is moving in areas, as in this case, where it should not.

I think it does violence to the whole process. That is a real issue we have to grapple with. Are we going to, as it were, put aside the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act? If we are going to do that, let us at least not put aside the Racial Discrimination Act. If we do that, it compounds the problem, compounds the precedent and compounds the difficulties we are going to put ourselves in as a community.

If this legislation goes through unamended it will be yet another example of where the general expectation that people are entitled to have and the general rights that people are entitled to enjoy will be taken away in respect of a specific group and the rest left to enjoy them until another problem arises. Senator Collins has raised this issue. If these sorts of problems arise again do we then come along and say, 'We are not going to repeal the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 except in this next instance. We really believe in the principles but it is just that this got into such difficulties that we have to put it aside'? Then a third time it happens, and so on. What we really mean is that we believe in the principles and we are going to have these principles enshrined in legislation but we really do not want them to operate because when they operate we get into all sorts of inconveniences and we have to go through the processes, and what have you.

If we are going to take that approach, we might almost do away with criminal trials or, if a criminal trial gets into a difficulty and there has to be the process of appeal, why not truncate the whole process by bringing in legislation? In my view this is a bit of legislation that does quite a deal of violence to the constitutional balance that we should be operating under.

Senator HARRADINE (Tasmania) (11.23 a.m.)—I am not going to canvass or traverse the areas that have been covered by Senator Bob Collins, Senator Kernot, Senator Margetts, Senator Bolkus and, indeed, Senator Cooney. I have had the opportunity to look at the arguments, which were presented to the Senate Legal and Constitutional Legislation Committee. It is a very important service that is given to the chamber by those hardworking senators on that committee.

I have also noted with a great deal of interest and appreciation the one page of additional comments made by Senator Cooney. They were most erudite, perceptive and, might I say, judicial-like. I notice there is no page number, but those comments are on the page after page 41 of the Senate committee's report, for anybody who might have a look at that. I agree with Senator Cooney's comments about the minister. The Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) is a most committed minister in this area of Aboriginal matters and, in general, in the area of human rights. Of course, this whole affair was not of his own making, but he has got it now and, as Senator Collins said, it is a bit like a hare in the headlights at the present moment.

Senator Herron—Not true.

Senator HARRADINE—I acknowledge that, Senator Herron. I do have the same views as were expressed by Senator Cooney. First of all, on a practical matter, I cannot see why this bill is necessary if the bridge construction is to go on. There is nothing. This bill is not necessary. The government says it wants to avoid uncertainty. It says that this bill does not transgress the spirit of the RDA, the Racial Discrimination Act.

The government has to make up its mind about whether it is better to have this bill defeated totally, allow the processes to continue and appoint, for example, another reporter and do so in a manner that will expeditiously conclude this matter one way, or whether it is prepared to allow this bill to go through to the committee stages, or whether it would like this bill to go through to the committee stages so the opposition can move the amendment that has now been circulated. That amendment is now before us and indicates it is an amendment to ensure that the provisions of the Racial Discrimination Act prevail.

I suppose the government may consider that it may be even more uncertain to do that than

to just jettison the bill completely. I am not sure what the opposition wants to do, to be quite frank—whether it is going to support the bill in the second reading stage so that its amendment in relation to the Racial Discrimination Act can be moved and, hopefully, be supported.

I would like to hear in due course the arguments to and fro, but my inclination is that the bill is not necessary. It is a deliberate interference in process, as has been indicated by Senator Cooney. As such, it may well be that it ought to be defeated at the second reading stage, but I know that there are other views on that particular aspect and it might well be, as has been argued by Senator Collins on behalf of the opposition, that the bill should be supported with that amendment.

The opposition has made it perfectly clear through Senator Collins that the opposition is prepared to support the motion it is moving so that the Racial Discrimination Act is to prevail and, if that gets the support of the majority of the Senate, it will vote for the measure. I indicate that I will be supporting that amendment. My inclination at the present moment is to support the amendment that is to be moved by Senator Collins. As I indicated, it may well be for the minister now and the government to consider whether it is worth while proceeding with the legislation or whether they will also agree with the amendment that is being proposed by Senator Collins.

Without delaying this debate any further—all of the matters have been thoroughly canvassed before the Senate committee and pretty well canvassed in this debate thus far—and as I want to listen to what the minister has to say, I think the best thing for me to do is sit down and listen to what the minister has to say in response.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (11.30 a.m.)—I thought I should go through the points that struck me seriatim as the speakers brought forward the arguments, and I thank each one of them for their contribution. Senator Bob Collins started with his usual rhetorical flourish, which, Senator Collins, we all expect of you anyway. You used the words 'unnecessary', 'obnoxious' and 'hairy chested'. I enjoy rhetoric just as much as you do, but I will not use it on this occasion. I will stick to the facts.

Senator Collins said that nothing prevents the construction going ahead. I might say that, if other speakers are going to be critical of me for not including things that they have said, I thought that rather than repeat matters that have been brought forward I should go along the lines that once it is has been mentioned then I would accept that the others have probably mentioned it too. As is inevitable in these debates, there is considerable overlap of argument.

As I mentioned, Senator Collins said that nothing prevents the construction going ahead at the moment and that the amendment will override the Racial Discrimination Act, and brought forward the instance where the government accepted a similar amendment in relation to social security.

Senator Kernot spoke about heritage issues, the prolonged nature of the due process that had occurred and mentioned that it was in the 1980s that the bridge was first proposed. She also mentioned the Racial Discrimination Act. Senator Kernot ended up saying that we really should do nothing and that the bill should be withdrawn. She said that there was no legal impediment to the bridge going ahead and that, in fact, the bridge construction could start.

Senator Margetts spoke also of the Heritage Protection Act at some length. She said that this bill was a special measure, and I thought I might deal with the bill and the amendment as a whole in my speech. She said that the Aboriginal people were being discriminated against. She spoke then about the secret women's business and the factual matters in relation to the way in which that was handled at the time.

Senator Bolkus brought in what I thought was extraneous material. He spoke about the special auditor process, the Century Zinc matter and the Queensland Premier. He said that the bill was taking away the rights of a small group, that there was doubt about its constitutional validity and that there were legal opinions in relation to rights.

He then brought in other material about bank nationalisation, the Georgiadis case and compensation, which I do not think were really relevant to the bill. He thought it was a sham piece of political point scoring but introduced a new statement that if the bill were to pass it would then be challenged in the High Court—a sort of threat that this would not be the end of the matter.

Senator Brown spoke about environmental aspects, particularly in relation to migratory birds, and said that there should be a regional environmental plan. He in fact differed from the rest of the speakers in that he was totally against the construction of the bridge in any case. I think Senator Brown has a difficulty now in supporting the opposition, because they are in fact in favour of the bridge going ahead, with that amendment. Senator Brown will have a difficulty, as I think Senator Harradine has too, but at least Senator Harradine has not clarified his position.

Senator Cooney gave his usual scholarly dissertation. He said that we agreed to differ, but I thought, Senator Cooney, with respect, that in your argument you argued against yourself. You said that this was not the first time parliament had intervened, and you spoke about legislative action. Then you argued against that, but then said that it had occurred. It reminded me a little of St Paul's injunction about virtue, but not just yet.

Senator Cooney, you are known for your usual erudition, but I felt on this occasion that you argued against your own argument. Finally, Senator Harradine agreed with the other arguments that there was nothing to stop the bridge going ahead and said that there should be another reporter.

I would like to put the government's position now in relation to all those matters. First of all, why is the bill necessary? In summary, we believe it is necessary because we consider that it is time that the Hindmarsh Island bridge affair was brought to an end once and for all. It has been going on for a long time, as we know. The first proposal was in 1980 and here we are in 1997. We believe it has to finish.

In particular, in the last three years it has cost in excess of $4 million when the costs of the two state and two federal inquiries into the matter and the associated legal action are added up. Just in the last three years, it has cost $4 million. Three of the inquiries found that the bridge should go ahead—three. The other was effectively overturned on appeal.

Moreover, without the legislation, yet another report would have to be prepared. It would be like *Waiting for Godot* if we had another report. Given the history of litigation surrounding the issue, there would be no guarantee that another report would lead to finalisation of the matter—none whatsoever. We would be back where we were.

The previous government is guilty of gross mismanagement and incompetence on this matter—gross mismanagement and incompetence. The previous government has been the laughing stock of the Australian public in relation to the building of the Hindmarsh Island bridge. They have been the laughing stock of the Australian public and they are prolonging the affair. More importantly than that, I believe, the affair has undermined public confidence in the ability of government to deal sensibly with indigenous heritage issues.

We believe the time has come to end it once and for all. This is clearly an exceptional case and the use of special legislation is fully justified. The bill is consistent with the Racial Discrimination Act. It is not retrospective and there are no substantive grounds on which to challenge its constitutional validity.

Why do I say that the bill is consistent with the Racial Discrimination Act? The government's legal advice is that the bill is consistent with the RDA. The heritage protection act is a special measure for Aboriginal and Torres Strait Islander people. The bill effectively removes this measure as it applies to the Hindmarsh Island Bridge area; it does not affect any other part of Australia.

The bill does not leave Aboriginal and Torres Strait Islander people with fewer rights than the general community and, consequently, is consistent with the Racial Discrimination Act. It does not apply to any particular group. They can still apply for protection after the bill is passed, but the minister is restrained from making a declaration. That is

the difference. That does not seem to have been understood by the opposition.

The next question is: is the bill retrospective? The government's advice is that the bill is not retrospective. The bill provides that the minister may not grant a protection order over the Hindmarsh Island Bridge area. Clearly, it only affects the future. It does not change the law that applied to events in the past.

The government's advice is that there are no substantive grounds for challenging the bill's constitutional validity. Consequently, it will be open to a court to strike out any challenge to the bill's validity at an early stage in proceedings. In particular, I refer to Senator Bolkus's comments. He built his entire argument, therefore, on a false premise. It just collapses because there is no foundation for it. I think Senator Margetts said it was a special measure.

Senator Margetts—No, I didn't. I said it was not a special measure.

Senator HERRON—Thank you, Senator Margetts. I am pleased that that is clarified. The government has never suggested that the bill is a special measure. It is an amendment to a special measure, rolling back a special measure but not to a level below that of the general community.

There may be nothing to stop the construction of the bridge, but it is possible, if not likely, that I can be forced to go through this process of yet another section 10 report. That will be the effect of it, Senator Harradine. The cycle continues. There is no finality; it just keeps going. We have then got to thus justify the delays, the costs and the processes—another report is about another $1 million. But if that is what the Senate wants, so be it.

Labor agrees that the bridge should go ahead. Senator Collins, correct?

Senator Bob Collins—That is correct.

Senator HERRON—But it opposes the bill. It agrees that the affairs should be brought to an end. In other words, it agrees with the end, but not with the means.

Labor supports the suggestion that a further short sharp report be prepared, thereby allowing the minister to quickly make a decision to allow the bridge to be built. However, it suggests this option only because the proposer said he thinks the bill is inconsistent with the Racial Discrimination Act. He is incorrect on that issue, meaning that the whole basis for his suggested alternative way of resolving the affair, therefore, disappears because he is incorrect.

Moreover, legal advice indicates that a short sharp report would be subject to a serious risk of challenge, leaving us in a few months time in exactly the same position as we are now in, except that more time and money would have been wasted. Father Brennan when he came before the committee conceded that such a report would be a sham because its result would be predetermined. I certainly do not see any virtue in that.

Senator Bob Collins—Did he say that? I bet he didn't.

Senator HERRON—I suggest you read the report. It is difficult to see why this course of action is more palatable than the passage of legislation to close off the affair. There would then be the prospect that the minister's final decision relating to the grant of a protection order would be challenged. Given that it appears to be universally agreed that the whole process would be a sham, there is a good chance that the minister's decision would also be illegal. Clearly, this option was fraught with legal obstacles and cannot be pursued.

Senator Margetts brought up the secret women's business. You will be aware that whether or not the area on which the Hindmarsh Island Bridge will be built is a sacred site depends critically on the existence of the so-called secret women's business. It is now clear that this was a fabrication. Four reports have been prepared into the Hindmarsh Island Bridge affair and only one supported the existence of the secret women's business and this report by Professor Cheryl Saunders was quashed by the Federal Court. Moreover, it is clear that her report was flawed. For example, it appears that she never once visited the South Australian museum, which holds considerable anthropological knowledge on these sorts of matters.

Justice Mathews in the most recent report on the matter found that there was insufficient evidence that the Hindmarsh Island Bridge area was a sacred site. The South Australian royal commission conclusively found that the secret women's business had been fabricated—a royal commission. The facts bear these findings out. For example, the main proponent of the secret women's business had previously written that she did not know much about the culture, language and customs of the Ngarrindjeri people. She also claimed that the place that constituted the secret women's business was an exact place, yet Professor Saunders found it comprised about 100 square kilometres.

It also seems convenient that the so-called applicant women are the only people who seem to be in possession of this knowledge. Moreover, the secret women's business had never been raised before by anyone, even indirectly, until this affair began. Not even the anthropologists who had done much study into the Ngarrindjeri had any awareness of its existence.

So the question is then whether there should be a fully-fledged report. Labor simply suggested that the government do nothing, that it should simply allow this affair to roll on just as it has to date and that another fully-fledged report should be prepared after which the minister would make a decision on whether to grant a protection order. It further claims that the South Australian government should simply go ahead and build a bridge because there is no legal obstacle to it doing so. Again, this option is based on the false premise that the bill is inconsistent with the Racial Discrimination Act. The government's advice is that it is consistent.

Another properly prepared report would be likely to cost, as I mentioned before, in the vicinity of $1 million of taxpayers' money. It is difficult to see how this expenditure is justified given that this would be the fifth report on this issue. Moreover, further legal action is also inevitable—meaning that there is a significant chance we will be in exactly the same position in about a year's time. Will the opposition say that we should go through all this all over again?

Labor's claim that the South Australian government should simply go ahead and build the bridge before this report is completed and before the minister makes his decision is highly dubious. Would you go ahead and build a bridge in this situation given the possibility of further legal action, financial constraints and difficulty with funds? The opposition is really suggesting that the South Australian government take all the risks in this case. The law in this area is obviously still in the process of being developed. There is little certainty. It is precisely because of this that we have ended up where we are today. We would not be here today if there was clarity in the law. In those circumstances, it would be a brave person to tell the South Australian government that it should not worry about what a court might find in the future.

In these circumstances, it is perfectly reasonable for the South Australian government to delay commencing construction on the bridge until there is legal certainty. In other words, the only way there will be legal certainty is if this bill is passed. That is the responsible action of a responsible coalition government which will not put taxpayers' money unnecessarily at risk.

Our advice is that the bill is consistent with the Racial Discrimination Act. As Senator Cooney said, the opposition says that it is not. If the proposed amendment is carried, then in terms of the opposition's view that the bill is discriminatory the bill will be ineffective. That is logical. The opposition would be more honest if it opposed the bill outright rather than moving an amendment which, according to its views, would make the bill ineffective.

Finally, this is an argument about means, not ends. It is really an attempt by Labor to govern from opposition. The bill will bring this affair to an end consistent with the Racial Discrimination Act in a non-retrospective manner. The opposition should give the bill its full support, and it should be obvious from my foregoing remarks that the government will be opposing the amendment because we do not believe it will allow legal finality in relation to the ability to construct the bridge.

Question put:

That the bill be now read a second time.

The Senate divided. [11.53 a.m.]

(The Acting Deputy President—Senator A.B. Ferguson)

Ayes	58
Noes	10
Majority	48

AYES

Abetz, E.	Alston, R. K. R.
Bishop, M.	Bolkus, N.
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.	Crane, W.
Crowley, R. A.	Denman, K. J.
Eggleston, A.	Ellison, C.
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.
Knowles, S. C.	Macdonald, I.
Macdonald, S.	MacGibbon, D. J.
McKiernan, J. P.	Minchin, N. H.
Murphy, S. M.	Neal, B. J.
Newman, J. M.	O'Brien, K. W. K.
O'Chee, W. G. *	Parer, W. R.
Patterson, K. C. L.	Ray, R. F.
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.

NOES

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

PAIRS

*** denotes teller**

Question so resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator BOLKUS (South Australia) (11.59 a.m.)—My question to the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) relates to the point I raised in the second reading debate. Minister, can you tell us whether the government has actually asked for advice on the question of which power this legislation is being introduced under? Has that advice been sought in writing, and has any written advice been provided by the Attorney-General's Department?

Senator Herron—I am advised that the answer is no.

Senator BOLKUS—The answer is no—you have not sought advice on this point?

Senator Herron—On that specific matter you referred to. There has not been a specific question on it.

Senator BOLKUS—To get it clear then, on the fundamental point of what power is being used by the Commonwealth to introduce this legislation, the government has not sought legal advice from Attorney-General's or anyone else?

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (12.01 p.m.)—I am advised that, under the Aboriginal affairs power, we have the authority to introduce the legislation. We have not specifically asked Attorney-General's, because it should be fairly obvious to you that that is the act.

Senator BOLKUS (South Australia) (12.01 p.m.)—So, Minister, you are proceeding with this legislation without advice from Attorney-General's about whether it is constitutional, and you say to us that it has been introduced under the Aboriginal affairs power?

Senator Bob Collins—I can't believe it.

Senator BOLKUS—I cannot believe it either, Senator Collins. It is quite a bizarre turn of events that we have just had put to us. As I said in the second reading debate, there is a body of law, emanating from about 1982, which says that the exercise of that race power, particularly when it affects Aboriginals, has to be in their interest or to their benefit. You are saying that you have not sought advice from the Attorney-General's

Department on whether this legislation is valid under that power. Have your officers, in formulating this legislation, considered the judgments of Justices Murphy, Wilson, Gaudron, Deane and Chief Justice Brennan?

Senator Herron—I am advised that this is an amendment to a previous bill.

Senator BOLKUS—That is so, minister, but that previous legislation was to recognise and enshrine the heritage rights of Aboriginal Australians. This bill—which will become an act—undermines those rights. It acts contrary to the interests of Aboriginal Australians. It will be seen and assessed by any court as a bill which erodes those rights. You are saying that the government's position—or your position—is that, because it attaches to previous legislation, it is valid. I ask you to actually substantiate that.

As Senator Bob Collins said just a little while ago, it is a bizarre turn of events that you have not taken advice. And then you come in and say that, because it erodes the benefits Aboriginals have in Australia through its amending a previous bill, that is sufficient. I find that a very tenuous legal argument. Maybe we should defer this legislation so that you can see if there is anything more your officers can add to this. This parliament has been asked to make a decision on this legislation and to pass it on the basis of: 'Well we haven't asked for advice on whether it is constitutional; we think it is constitutional, even though it erodes the rights of Aboriginal Australians.' That is not good enough, is it?

Senator BOB COLLINS (Northern Territory) (12.04 p.m.)—Minister, Senator Bolkus is absolutely right. The reason I rise is that I do not think Senator Bolkus was in the chamber—he was busy elsewhere—when the minister, just a few minutes ago, made an absolutely pertinent statement in respect of the explanation he has just been given in regard to this bill. I am frankly astonished at this; it is getting curiouser and curiouser.

The minister has just said that no legal advice was sought by his officers or by him as to the constitutionality of this bill, because it was simply, to quote him, 'an amendment to a previous bill.' The previous bill, of course, is the Aboriginal and Torres Strait Islander Heritage Protection Act. I ask officers to carefully consider what I am saying in respect of the minister's response here: the heritage protection act has consistently been held by the government to be a special measure, and I do not think that is argued by anyone.

The second part of this that is important is this: no one is arguing—not even the government—that the effect of this amendment removes the right of the Ngarrindjeri women to use the benefits of that act for their heritage. The bill, as Senator Cooney correctly said, specifically and explicitly removes that right. This is one of the things I find most objectionable about it. It was not a rhetorical flourish when I used the word 'obnoxious', Minister, I assure you. I use that word advisedly. I do find this an obnoxious piece of legislation, because it is bringing to bear the entire weight, power and might of the federal parliament of Australia to crush the rights of a small group of Aboriginal women in South Australia. Whether you agree or disagree with them, that is what it does.

What the minister said in respect of this amendment to the act—and I do not think Senator Bolkus was here to hear it—is that the act was a special measure. We agree. Let me quote what the minister said a few minutes ago—I wrote it down and it will be in the *Hansard*. He said that this bill rolls back the special measure, and it does.

Senator Herron—No.

Senator BOB COLLINS—Minister, it is no good saying no. The *Hansard* will clearly indicate that you said those words.

I might add that the government has said that on previous occasions in other words. For at least the purpose of these Aboriginal people, for this piece of heritage, this bill explicitly removes the operation of the heritage protection act. Senator Bolkus, I think, referred to it earlier as 'an effective repeal of the act in so far as this matter is concerned'. And it is. I do not think anyone seriously argues that.

I am saying with some astonishment that it is a fact that this bill actually negates the application of the act that it amends; it ne-

gates it in respect of this matter. It is all laid out in the bill. It even gives you a map, which of course has legal force, as to where this bill applies and where the heritage protection act can no longer operate. It says explicitly:

> The Heritage Protection Act does not authorise the Minister to take any action after the commencement of this act in relation to an application—

And so on. This is of course the classic sledgehammer to crack an egg. This parliament is being used to bring down a specific law that crushes the rights of a small group of Aboriginal women in South Australia. For the purposes of the heritage protection act, it negates its application; it is not simply an amendment to the act. Again, my opinions on this in legal terms, I am happy to say, are worth nothing—and I concede that again. I put to the officers, in terms of why they should have sought legal advice—and I am astonished that no legal advice was sought—that this is in fact a major amendment to the act in so far as the Ngarrindjeri women are concerned and that it effectively suspends the operation of the act in respect of this piece of property identified in the act and their aspirations to not have development on it.

I dispute the minister's claim—and this was the most substantive argument he put and it is a nonsense—that the reason the government is introducing this bill is to 'put an end to this for all time,' that 'we want to bring this to a conclusion and to end it once and for all'. Minister, with the greatest respect, this bill is going to do nothing of the sort, and you know that. You cannot prevent people going into courts in this country.

I am absolutely confident that if this bill is passed unamended, there will be legal action taken against it in that it is without power and it is constitutionally invalid. I will tell you why—not that I think that I need to tell the officers why; I hope I would not have to. The people of Australia, in supporting that very rare amendment to an Australian constitution, did so unarguably for the benefit of Aborigines. No-one with a straight face could seriously argue that that amendment—a rare event in Australian constitutional history—was also done for the purpose, if the federal government wanted to, of passing acts of parliament to the detriment of Aborigines. No-one would seriously argue that with a straight face.

I have no doubt, as a non-lawyer, in saying this to you, Minister. If this bill rolls back the special measure, as you have said, if it in fact offends against the RDA, if legal action is taken against it—and you have just given us this—and if the constitutional power that the government is relying upon for this negation of the heritage protection act—not simply amending it; it negates it for the purpose of Hindmarsh Island Bridge and the rights of those Aboriginal people—and if the government argues in court, as you now tell us that it will, that it is relying on the amendment to the constitution empowering the federal parliament to make laws for—I stress 'for'—the Aboriginal people of Australia, and if it is demonstrated in that court, as it will be—and I have no doubt about this—that this bill is unarguably against the interests of these particular Aborigines in South Australia, and if the court then, in interpreting black-letter law, as it may, determines that it is indeed lawful to do that, what we are then doing in the Senate—and it is an appalling prospect—is passing legislation which may give the court an opportunity to say, 'Yes, the federal parliament can in fact lawfully enact laws under that amendment to the constitution that are actually to the detriment of Aboriginal people and not for their interests.' That is the argument.

If a court should find that—and in black-letter law it may be the case—then I say this: the law is an ass. It is a fact of course that on many occasions courts have done that—this is not a criticism of the courts, and I know that no lawyer would accept it as a criticism of the courts—when, in properly construing black-letter law, they have come to decisions like that. That is what has given rise to that famous statement that courts have on many occasions demonstrated that the law is an ass and that is why parliaments have often then reacted and responded by amending the anomalies that courts have found. Judges have often come to those conclusions, as Senator Cooney knows, very unhappily. But this is

not a minor issue; this is a major issue. I am absolutely appalled.

The responsibility for this failure rests with the minister, not with the department. I say without the slightest equivocation and without any doubt in my mind that as Minister for Aboriginal and Torres Strait Islander Affairs—for a start, I would not have brought this in here—had this been proposed, I would not have moved one inch without advice from the Department of the Attorney-General as to the constitutional validity of this proposal. It is not simply an amendment to the heritage protection act.

No-one here doubts, Minister, that the heritage protection act was for the benefit of Aborigines. Of course there is an unargued power in the Australian constitution to do things for the benefit of Aborigines—although, being a belt and braces man myself, which is obvious just looking at me, I probably would have sought the advice anyway. But this is unarguably a measure that is to the detriment of those Aboriginal people in South Australia.

It is no good you standing up here and saying, 'Oh, it is obvious,' which is what you said. Things are not always obvious to a court. In the same way, Senator Herron, I am astonished at this revelation in here. It is a very serious matter because if you are now saying, as you did, that the bill rolls back this special measure, and if you are saying that no advice at all was sought as to the constitutional validity of this, you would be no doubt aware that it has already been publicly mooted that this is without power. There are already lawyers looking very carefully at the prospects of a legal challenge to this bill, should it pass in this form, on the basis that there is no power for this bill. That is not something that I am talking about in an abstract sense. It is being done now.

Minister, if you go to court relying on the Aboriginal power conferred on this federal parliament unarguably in real life terms for the benefit of Aborigines, that amendment was brought about to end an international scandal that existed in respect of Australia at that time. It was brought about to put an end to a situation where Australia's indigenous people—the original inhabitants of this country—were not counted in a census, were not obliged to be part of the Australian political system and were not for most of this century even citizens in their own country. It was brought about to put an end to all of that.

I am not exactly Methuselah; all that has happened in my lifetime. That is how short is the time that Aborigines have actually enjoyed being citizens in their own country. It is a very short time indeed. If you seriously are telling me that the government is going to go into court—morally, I might add; forget the law for a minute—and argue that you could use that power to deprive particular small groups of Aboriginal people of rights that they formerly had and that you are going to rely on that amendment to the Australian constitution to do so, it is a disgrace.

I have to say, as a non-lawyer, I would not mind putting another bet on that proposition. I put one on this morning that I would be happy to collect on. I am prepared to take a punt that, if legal action were taken that there is no power to effectively negate the application of the heritage protection act in respect of the rights of these people, that it is without power and that it is to the detriment of these Aborigines and not to their benefit, I would not be in the least bit surprised if the High Court upheld that appeal.

Senator Kernot—It doesn't put an end to it at all.

Senator BOB COLLINS—Precisely. Correct, Senator Kernot. It was one of the weakest cases I have heard in here. Despite his statutory obligation to deny it, I know that the minister is a third party in this matter. It is the cabinet that has determined this, in the same way as they determined that a special auditor would be appointed to ATSIC. They have done this with very little advice. This is a knee-jerk piece of legislation just like that action was. I would not mind putting a bet on that the High Court will strike this down.

I am astonished that not only is there no legal advice in existence, but that none was sought on the basis that this is simply an amendment to a previous act of parliament. Forget the fact that it is an amendment that actually strikes out the application of that act

in respect of this matter! I am utterly astonished by this. I have to say, with great respect, Minister, that, as a result of that revelation, in my view the government would be well advised at this point to adjourn this debate and take some advice on the matter from Attorney-General's.

Senator KERNOT (Queensland—Leader of the Australian Democrats) (12.19 p.m.)—I am of that view too, having listened in. I think advisers as well as the minister are in a terrible political predicament. I think you are because you started with a political desire for an outcome and you have tried to clothe it in this constitutional validity and it is not standing up to scrutiny. You have a predicament. You stated that your outcome was to put an end to this; that we have had protracted proceedings. Yet you are opening up the one possibility you seek to deny, which is the right of the Ngarrindjeri women, and whoever else wants to, to take this to the High Court. You are not achieving your stated purpose at all.

I agree with Senator Bob Collins's arguments that you are relying on this head of power at the same time as you are rolling back the special measures. It is inconsistent. I do not know whether you meant to say that, Minister, but I heard you say that too.

Senator Herron—I'll say it again.

Senator KERNOT—Okay. I will be happy to listen. I just think it is transparently obvious that you cannot take away the rights. It is like the discussion we are having about the Wik case and extinguishing native title rights and whether the Racial Discrimination Act is breached there. You cannot take away the rights of a group of indigenous women at the same time as you are arguing you have the right to do it without breaching the Racial Discrimination Act. I do think you are in a predicament. You should consider Senator Collins's advice and have an adjournment.

I feel a bit sorry for the advisers because they are being just asked to give you something that will get you through. It is like schoolboy and schoolgirl debating where you have to take a side that you do not believe in and find the arguments to support the case. Unfortunately, the more you say, the more the arguments go the other way and you will have more litigation. You will not have the certainty you seek. I am afraid from what I have heard that you will be in serious breach of the Racial Discrimination Act.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (12.21 p.m.)—I feel sorry for Senator Kernot and Senator Bob Collins because they have misinterpreted what has occurred before. I will say it again. I hope to clarify it because I think once it is clarified this dispute can be resolved. There will always be the politics in it and I understand the politics as well as anybody else. So I will repeat what I said before.

I will respond first to Senator Bolkus's question as to what advice was sought. I said there was none in relation to this because it was unnecessary to seek advice. It was unnecessary to seek advice because this is an amendment to the act.

Senator Bob Collins—I think the less said from now on the better.

Senator HERRON—No, it is a very valid question that he asked and it is a very valid answer that I am giving, so do not just fob it off. I would like you to listen, Senator Collins, so that you will understand. I said, and I will repeat, this bill is an amendment to the act and the power to make this amendment flows from the power to make the original act in the first place. Why should one in relation to this amendment go back and say, 'Where is the power to make this amendment?' when the power already exists?

Senator Kernot—What is the purpose of the amendment with respect to the previous act?

Senator HERRON—Are you saying that government has no power, that in every case we should go back and seek legal advice when an amendment is made to a pre-existing bill? That is what you are saying. I did say—and these are the words that I used to Senator Margetts—the government has never suggested this bill is a special measure. She interjected and said no, that she had never suggested that and that that was an interpretation that I had made. It is an amendment to a special

measure, rolling back a special measure but not to a level below that of the general community—and that is the point, Senator Kernot, that I think needs to be taken aboard; it is not to a level below.

The government is entitled to repeal a special measure. Otherwise, if you could never amend a bill, you could not amend it in favour of Aboriginal people. Is that what you are suggesting, Senator Collins—that you can never amend a bill? We do not accept that it infringes the Racial Discrimination Act. We do not believe that—and that is where I differ with you, as I did with Senator Cooney. Our advice is that the bill is already consistent with the Racial Discrimination Act. The opposition has said it is not, but we are saying it is. I have tried to make that clear. We certainly sought advice—and Senator Collins seemed to roll over that original answer that I gave in relation to whether we sought advice on the powers to make the amendment into saying that we had not sought advice about the Racial Discrimination Act.

Senator Bob Collins—No, you said that!

Senator HERRON—With respect, Senator Collins, you will need to read the *Hansard*.

Senator Bob Collins—You said you had not sought advice.

Senator HERRON—I said I had sought advice on whether we had the power to make this amendment, and I said it should be obvious there was no need to do that, because we have the power to put forward the bill in the first place, so we also have the power then to amend it. I do not think that is disputed. So that is where I think we differ. That is why I say that if we can resolve this then I would expect that you would support the bill. I cannot see that Senator Bolkus's argument goes any further. We have the power to amend it. We have the power which arises from the power to enable the act to be passed in the first place. I do not see any dispute in that regard.

Senator Kernot—It is what the amendment does which is relevant to whether you should seek further advice.

Senator HERRON—You are hypothecating what will occur in the future. Our advice is that if there is any legal action taken as a result of the passage of the bill then that will be struck out at an early stage. So there is finality, Senator Kernot. The question was raised: does the bill discriminate against the Ngarrindjeri people by denying them rights under the heritage legislation? I think Senator Collins brought that up. The answer is no, it does not. The impact of the bill is to take away anyone's rights to make an application in relation to the Hindmarsh Island bridge area. It does not single out any particular racial group. In a 1985 decision the High Court recognised that the need for and extent of a special measure was a matter for political and not legal judgment. Parliament may therefore conclude whether there is no longer a need for special legislation to apply to a particular community or a particular area.

While the bill, when enacted, will remove the rights of those Aboriginal people with links to the bridge area to obtain protection—and this is the important point—it does not discriminate in favour of other Aboriginal and Torres Strait Islander people whose rights are similarly affected by the provisions of the bill. If you follow that argument then it should be fairly obvious that the differential operation of the bill in this way is not contrary to the Racial Discrimination Act. That is the advice we have received and I follow it. I accept it, Senator Collins. It seems perfectly logical to me and I cannot understand why you do not follow it, because that is a valid statement and there should be no argument about it. There is no legal bar on parliament's power to enact such laws.

Senator Bob Collins—What, have you heard of the High Court? We are not the British parliament.

Senator HERRON—The High Court in its 1985 decision recognised that the need for and extent of a special measure was a matter for political and not legal judgment. The question is: is there any basis, particularly constitutional, on which a court could invalidate the Hindmarsh Island bridge once passed? The answer is no. In particular, the bill could not be invalidated if passed in its

present form on the grounds of inconsistency with the Racial Discrimination Act retrospectively, even if such grounds were made out. There is no legal bar on parliament's power to enact such laws. There is not.

Senator Kernot—Or on people's rights to challenge them.

Senator HERRON—Of course, Senator Kernot, anybody can challenge anything—which is perfectly correct and right; it should be so. But we are not taking away, as I have said before, something that discriminates in favour of other Aboriginals and Torres Strait Islanders whose rights are similarly affected by the provision of the bill. I think that should clarify the position for you. I can see the politics of it—Senator Collins is shaking his head. I think it does clarify it—I cannot see why you cannot accept that—but, politics being politics, if that is your decision so be it; but it is on your political head.

Senator COONEY (Victoria) (12.29 p.m.)—I want to ask the minister one question. He said that the act is made in reference to the bridge and not to any particular people, which is so. Does he mean to infer from that that the courts would not look at the facts of a situation? Are you saying that if this were challenged, no court, including the High Court, would look at the facts that surround the act to see whether in fact there was a discrimination or not? If you say that the only thing to look at is not the reality or the facts but just the act, is not clause 4(2) of the bill, in its terms, retrospective? I say that for the following reason. It explicitly says that in its terms, if you ignore the facts:

> The Heritage Protection Act does not authorise the Minister to take any action after the commencement of this Act in relation to an application (whether made before or after the commencement of this Act) . . .

So if an application had been made before this act, that will be affected by an act of parliament made after the application was made and, therefore, must, in its terms, have retrospective effect. There are two issues.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (12.31 p.m.)—I thought I had answered the first question in speaking to Senator Kernot's question. I would not be so brave as to suggest—nor did I intend that it should be so—that the High Court, or any court in the land for that matter, could not question the validity of any act, law or anything of that nature. I did not wish to give that impression, and I certainly would not. If that is the implication of your question, I will say that I did not wish to imply that.

Senator Cooney—Are you saying that no court would look at the facts that surround this incident and that all they would look at is the act itself without looking at the factual circumstances in which it is made? Are you saying that?

Senator HERRON—No, I am not saying that. If I implied that, I withdraw it. I would not do that. You made a statement and asked a question in relation to possible retrospectivity. The answer is that the bill is not retrospective. The reason is that it does not amend the law retrospectively but operates for the future, although it will affect existing rights and obligations in relation to the current application for a declaration under the act.

Senator Bob Collins—Why use the words 'before the commencement of the act'?

Senator HERRON—It is not unprecedented to alter the law to affect rights of persons for the future in the light of judicial decisions. Examples of this are in the areas of taxation and social security, which Senator Cooney is aware of. The law is often changed to affect previous rights or expectations. It is not that this is a ground breaking exercise.

Senator Bob Collins—No-one has said that. Are you saying that this act could not have retrospective effect?

Senator HERRON—We are saying that it has future effect. That is clarified. It has future effect in that it says that in the future the minister cannot issue an action under the Heritage Protection Act in relation to the building of the Hindmarsh Island bridge. That is all, no more and no less.

Senator BOB COLLINS (Northern Territory) (12.34 p.m.)—With respect, I do not think that is correct. What you have just said—I do not think anyone disputes this; it was said only 30 seconds ago, and the breath

is still warm—is that this bill applies to future acts 'no more and no less'. These are common words. I have seen them many times before in acts. No-one is arguing that this is a novel provision. With respect, the statement you have made to parliament is factually wrong. You have said, in real terms, that this only has future effect. You have said that it affects future acts 'no more and no less'. But it says in clause 4(2):

> The Heritage Protection Act does not authorise the Minister to take any action after the commencement of this Act in relation to an application (whether made before or after the commencement of this Act) . . .

I will now ask you a precise question. Are you saying that this bill could not have retrospective effect?

Senator Herron—Yes.

Senator MARGETTS (Western Australia) (12.35 p.m.)—There are a number of issues in relation to the amendment proposed by the ALP. The principle of the Racial Discrimination Act is that rights are not being infringed. But it is quite clear from the debate we have had that rights will be. This amendment does not fix the bill. This amendment in effect continues blaming the Ngarrindjeri people for the problem. Labor, in my opinion, is looking at the wrong issue. The Aboriginal people have still not been heard, and this is not the way to do it.

Basically, the minister has talked about a problem. What we have not dealt with today in any real sense is why what we are dealing with today is not a fairly straightforward amendment to the Aboriginal and Torres Strait Islander Heritage Protection Act, which deals with that problem. Instead of trying to either go around the problem, stomp on the problem or put it to a court challenge some time in the future, which I do not really think will advance anybody's cause—I do not think it is going to advance the Wik cause or the cause to further the application of the Racial Discrimination Act in Australia—it is somehow trying to make it okay. I do not think I can support an amendment which somehow pretends that everything is okay.

It is quite clear that there is no real belief from the ALP that this amendment will make it okay. It may well mean that it goes to the courts. Basically, the real issue here is why there have been these technical problems and delays in people being able to maintain their rights. If there are cultural reasons for people having to give evidence in a certain way, surely under the Aboriginal and Torres Strait Islander Heritage Protection Act we can, as adults who have responsibility in this parliament, work out ways of making sure that that is properly done.

Unless and until we do that we will not solve or fix the problem. I have spoken to representatives of the Kumarangk Coalition who say the same thing. I have indicated where the involvement has been with the ALP along the way. The ALP has said that they would support amendments to the Aboriginal and Torres Strait Islander Heritage Protection Act. That is the way to go. This, I believe, is a retrograde step. I do not believe it will help in the maintenance of the Racial Discrimination Act. It may well be that by sticking this with cellotape into this appalling bill that all you do is create further arguments in the future for people who say the Racial Discrimination Act is unworkable.

I am not going to be party to that. I am not going to be party to this farce and I will not be supporting this amendment which might also give some people a moral approval to support this appalling bill. That is not the major reason. I am putting it clearly on record that the amendment is not supportable. The bill certainly is not supportable. I believe there are much better ways of doing it and this is not the way to do it.

Senator BOB COLLINS (Northern Territory) (12.39 p.m.)—by leave—I move:

(1) Page 1 (after line 8), after clause 2, insert:

2A Racial Discrimination Act to prevail

(1) For the avoidance of doubt, it is expressly declared to be the intention of the Parliament that the terms of the Racial Discrimination Act shall prevail over the provisions of this Act.

(2) Nothing in this Act shall be taken to authorise any conduct, whether legislative, executive or judicial, that is inconsistent with the operation of the Racial Discrimination Act.

(2) Clause 3, page 2 (after line 7), after the definition of ***pit area***, insert:

Racial Discrimination Act means the Racial Discrimination Act 1975.

I am not going to be particularly longwinded on this because it speaks for itself. I simply refer to the *Hansard* of both the Senate and the House of Representatives. This amendment, as a number of senators have said, is in the form of an amendment that the government accepted in respect of social security legislation. Senator Tambling said:

The government will not oppose this amendment. In doing so, however, I want to note very particularly the government does not consider that the amending act was, or is, in conflict with the Racial Discrimination Act.

In the House of Representatives, Mr Ruddock said exactly the same thing in respect of this amendment. He stated:

Amendment 5 concerns the effect of the Racial Discrimination Act and proposes to insert a clause into the bill to indicate that the provisions of the Racial Discrimination Act are to prevail over the amending act. The government does not oppose this amendment.

Somewhat to my bemusement, in real terms, the minister has indicated, in the face of all of this, that the government will not accept exactly the same amendment in respect of the Hindmarsh Island Bridge Bill. In other words, an amendment which the government was happy to see beneficiaries of social security payments get the benefit of is not going to apply to Aborigines. I think that is appalling and I have no hesitation in saying so. I know why they will not do it. I have been party to many of these discussions, with all the experts. The reason they will not do it is that, behind closed doors, people in the government concede that there is an even-money chance—although it might not be as high as that—that this does offend the Racial Discrimination Act and that, because it is at least respectably arguable, the government has taken the decision.

That is why we will not have this amendment accepted in respect of Aborigines—an amendment that was quite happily accepted in the case of social security benefits. In the event that such an argument could be mounted, they do not want the Racial Discrimination Act to interfere with the application of this act. Because it is a later act, technically in terms of black-letter law, that will be the case. I find that offensive and obnoxious and, I think and hope, so does the majority of the Senate. That is the reason you will not accept this amendment.

So far as this morning's events are concerned, and in terms of some of the most astonishing things that you have just said in the last few minutes, Minister, in respect of the way in which this has been approached and the effect it has on the Ngarrindjeri people, and in respect of the statements you have made in terms of giving an indication of the government's thinking to the world at large about how this was arrived at, I think this is one of these classic situations—another senator averred to it—that when you are up to your ears in manure, it is an extremely good idea to keep your mouth shut. Every time you have attempted to answer a question you have, in fact, dug the government much more deeply into the hole into which they have put themselves.

Can I encapsulate it in this way, in terms of a real world view. Attorney-General's advice—I have no doubt good advice was given to the Senate committee—on the basis that that was the brief they got and had to argue the best they could for the government's policy position—

Senator Kernot—On that basis.

Senator BOB COLLINS—Precisely. What they said was, in effect, that technically, under the Aboriginal and Torres Strait Islander Heritage Protection Act, Aborigines at large around the whole of Australia can utilise this act to make applications for heritage protection anywhere in Australia. Therefore, this act does not discriminate between those groups because it only says that this little bit of Australia will not be available for an application for a heritage protection act, and that applies to all Aborigines. That, essentially, is the argument. That may be true in terms of black-letter law but, in the real world, it is an utter nonsense. If a court ever upheld it, the law would be an ass in that case.

My punt is this. The High Court, particularly in respect of recent judgments—and we

live in enlightened times—is not an ass in that sense. Despite the fact that they may make judgments which, from time to time, I disagree with, I actually think the collective wisdom of the High Court is a lot smarter than that and a lot smarter than this particular government. I have no difficulty at all in constantly distinguishing at a glance—I do it almost unconsciously—when I walk around the Northern Territory and see an Aboriginal person, whether that person comes from Groote Eylandt, the Tiwi Islands, Milingimbi, Ramingining or Amoonguna. I can do it at a glance with people I have never seen before in my life. I say, 'I know that person comes from Milingimbi,' just by looking at them.

I know what a Tiwi Islander looks like. It is a nonsense in real world terms to say that the Tiwi Islanders could successfully apply for heritage protection on Hindmarsh Island. It would be a frivolous and vexatious act on their part and it would be kicked out. Although it may be technically correct, it is a real world nonsense. It is also a real world nonsense to say that there is an amorphous black blob of Aborigines in Australia and they are all lumped in together in one group.

The Ngarrindjeri people are, in real terms, as different from the Tiwi Islanders as Greeks are from the Tiwi Islanders. I think a real world High Court would find that. I think a real world High Court would strike down this carefully constructed—and they are just doing their job—legal argument that all Aborigines are prevented from making these applications. I think, as Senator Cooney suggested, the High Court would actually look at the facts of the case. I think the High Court would find that yes, this particular and identifiable group of Aboriginal people have had their rights impugned by this legislation and that it would offend the Racial Discrimination Act.

Progress reported.

MATTERS OF PUBLIC INTEREST

Australian National University: Students Association

Senator ABETZ (Tasmania) (12.45 p.m.)—The matter of public interest which I wish to raise this afternoon is that raised on the front page of today's *Canberra Times* dealing with Labor attempts to rig last year's ballot for the Students Association of the Australian National University.

Honourable senators may recall that I raised this issue late last year. There has been some inquiry into those allegations and the Students Association initiated such an inquiry. At the time I questioned the wisdom and appropriateness of the Students Association investigating the matter inasmuch as the person who was investigating the matter was the incumbent president of the Students Association who had won that position by virtue of being a member of the Labor Students Club. So it was, in effect, a situation of Labor investigating Labor.

I will just briefly detail what occurred in about September last year. The Students Association president at the time, William Mackerras, who was a member of the Labor Club, was running the show. His treasurer, Daniel Jenkins, who was also a member of the Labor Club, was the presidential candidate for the Labor ticket. Due to the Students Association electoral regulations, it was up to the current executive to appoint the returning officers. Mr Mackerras delegated this job to Daniel, despite the fact that he was the presidential candidate and therefore, one might assume, had some interest in the outcome. Undoubtedly that escaped the attention of the Labor Student Club at the time they made that arrangement.

Polling took place and that was relatively uneventful until a political student observed one of the Labor candidates—a Labor Students Club member—attempting to stuff a wad of ballot papers into the presidential box. After the election the ballot boxes were opened and discrete wads of ballot papers were found in the ballot box. Surprisingly, they all had Daniel Jenkins, the Labor candidate, as number one preference.

So we have a situation where these wads of ballot papers had been introduced into the system to undoubtedly come up with a fraudulent result. Despite the introduction of those 146 extra ballot papers, the Labor Club was unable to win the election. So, at the end of the day, it had no impact on the result. Nevertheless, I think we would all agree that

that sort of behaviour ought to be stamped out. It ought to be dealt with in a way that ensures an appropriate penalty is applied to the perpetrators of this, and also imposes an appropriate penalty to try to encourage others not to engage in the same activity; in other words, a deterrent penalty.

Mr Mackerras, who had appointed Daniel Jenkins to appoint the returning officers, was then appointed to have a look at the behaviour of Mr Jenkins and the other Labor people at ANU to ascertain what had occurred. It is quite instructive to look at the report that Mr Mackerras came down with, entitled *Report on irregularities in the 1996 annual elections of the ANU Students' Association*. I give him credit: it was a detailed report and it dealt with matters quite extensively. But, on the face of it, it really is a question of whether you can truly expect a Labor person who was so heavily involved in the partisan politics of his campus, trying to assist his group to win the election, discovering a fraud and then being required to inquire into that fraud, to be able to ascertain who was responsible.

He did find one person responsible, and that was Mr Daniel Jenkins. I have to say that no matter how biased you were, given all the evidence I would have thought that conclusion was inescapable. But what concerns me is that other people who it would appear were actively involved in this scam have escaped.

The purpose today is to call on the university administration to take this matter further. There has been correspondence by the registrar of the university with Mr William Mackerras. It concerned me that, in that correspondence of 11 November 1996, the registrar wrote to Mr Mackerras confirming a conversation. The letter reads as follows:

> At the time, I had a preference for the course of action upon which you and the Deputy Registrar had agreed, that is, that the matter should properly be pursued in terms of the provisions of the Constitution of the Association and the Electoral Regulations made under that Constitution.

and further on—

> If the Association wishes to pursue the matter after its due processes have been completed, it is welcome to do so.

At the end of the day, the university, the registrar and the vice-chancellor are responsible for behaviour at the university and the way students conduct themselves. To simply allow students who have engaged in such a fraud to escape by simple monetary penalty under the Students Association constitution without any academic or other penalty being imposed is a matter of concern. I would invite the Australian National University and its administration to investigate this matter—and investigate it thoroughly—to determine whether any of the other people who have been named are worthy of a penalty being imposed upon them.

Out of the 146 ballots, there were the initials of two returning officers on those ballot papers. Mr Mackerras's report, whilst I commend it for its length, does seem to have dismissed the possibility of further investigation because there were two returning officers, one of whom, I am reliably informed at least, was a member of the Labor club. In his report, Mr Mackerras says:

> Both Mr Ahmad and Mr Harrington have asserted that these signatures must have been forgeries.

These signatures being their initials on the ballot papers. He continues:

> This is a plausible explanation, as both signatures are not so distinctive as to avoid replication. It is possible that the polling officer involved deliberately forged the signatures of another two innocent polling officers, in order to avoid detection.

But the names were actually crossed off the list of ballots as well, undoubtedly from students who had not voted. I would have thought that it would not be beyond the wit of the university to examine those initials and get some handwriting expert to determine whether or not they were in fact forgeries. I would have thought it was quite simple.

When you are dealing with the rigging of a ballot for a position that, as I understand it, provides some remuneration to the successful candidate and where there is a degree of power and influence to be exercised by the holding of that office, anybody who is involved in such a scam ought be investigated in some detail. I would invite the university, if those ballot papers are still in existence, and I trust they are, to avail itself of the

opportunity of hearing from a handwriting expert to ascertain whether or not those initials were forged or whether Mr Ahmad and Mr Harrington simply misled Mr Mackerras, who did the report.

It is very easy for Mr Mackerras to dismiss the allegations against those two returning officers on the basis that he mentions without going into any further investigation, but the average punter on the ANU campus, I would have thought, would be concerned by the fact that Mr Mackerras was a member of the Labor club investigating this scam perpetrated, if not officially by the Labor club, by elements within the Labor club. I would simply invite the university to take some further action in relation to that matter.

One statutory declaration has been provided to me along with another one which had been prepared, but the person concerned was no longer prepared to actually swear it so simply signed it as a statement. The involvement of the people is shown in a statutory declaration dated 1 November 1996 sworn in Canberra by a Mr Mohammad Qasim Syed-Zaidi. He deposes as follows:

On the afternoon of September 19, 1996 after the SA Election Polling had finished I was helping the Deputy Registrar Mr Graham Hutchens along with another candidate Mr Kelvin Watt—

who was from the Labor club—

and Mr Fuad Ahmad, a student who was employed to assist in the polling. I overheard a conversation to which I cannot remember the details between Kelvin and Fuad when Mr Hutchens was not there which made me suspicious that there was something that was going on and was not right.

Immediately afterwards, I approached Mr Daniel Jenkins asked him.

"Daniel, are we rigging the elections?"

So Qasim, who deposed this, was a member of the Labor club. He asked Daniel Jenkins:

"Daniel, are we rigging the elections?"

He was astonished and said "Who told you?"

I said "I'm not blind".

On the afternoon of Friday 20th September.

Mr Jenkins said to me "Qasim, I need to talk to you."

Outside the Union Building, on the stairs above the bar,

He said "Sean—

that is, Sean Melbourne, who is the person who was identified as putting some of the ballot papers at least into the ballot box, something which I hasten to add Mr Melbourne denies—

wasn't able to put his in. I need you to put some in for me."

He was referring to ballot papers that had been rorted. The statement continues:

To which I replied "No way, Daniel. Its bad enough that I'm staying quiet, but not this."

. . . . . .

On a later occasion, after the wads had been discovered by the Returning Officer during the count, I spoke to Mr Fuad Ahmad. I said "Fuad, William's going to nail you down. He's working on some theory about the votes."

He replied "He won't be able to prove it."

On Thursday 31st October, I rang Mr Jenkins at home, and said

"Daniel, you know what Heidi did in the Senate".

He replied "Yes Yes Yes. I need to talk to you about that. Absolutely don't tell anyone about it. I'll ring you back. Are you going to be home?"

I said "Yes, if not you can ring me on my mobile . . . Yes, but what about William. He doesn't know anything about it."

Daniel said "I'll ring you."

So it is quite clear that there were a lot of people involved in this scam. To find only one person responsible and provide that person with a monetary penalty is not good enough. I call on the administration of the Australian National University to undertake a full-scale investigation and bring to justice all those who were involved in this terrible scam.

Unemployment

Senator STOTT DESPOJA (South Australia) (1.00 p.m.)—I rise today to express my concern and that of my Democrat colleagues about the issue of unemployment in this country—specifically, the fact that this government has not set about addressing the issue of unemployment, particularly youth unemployment. The Bureau of Statistics figures that came out on 16 January this year show that a staggering number of Australians—794,500, in fact—are looking for full-time employment. That is an unemployment rate of 8.6 per cent seasonally adjusted.

As many of us would be aware, in this group there is a disproportionate representation of young Australians. In fact, 99,900 15- to 19-year-olds in this country are looking for work. Nearly 100,000 young people are looking for full-time work in this nation and cannot find it. That is a 30.4 per cent unemployment rate seasonally adjusted. I believe that is the highest figure for youth unemployment in this country during the last 2½ years.

Yet with these staggering statistics before them, we have yet to see concrete policies being put forward by this government to address the unemployment level. This is a massive social problem in this country. I am sick and tired of the way that unemployed people are treated as economic blips or statistics on the landscape, without taking into account the massive economic, social, personal and emotional ramifications of unemployment in this country.

This is a problem that should be the No. 1 priority for the coalition. But, to date, the coalition have declined to give any real assurances to the people of Australia that they are doing anything more than waiting for the grail of low inflation, business confidence and a budget in the black to restore substantial jobs growth.

This unfortunately is not enough. People in this country want solutions. They want more than a government simply pulling the levers, more than economic rhetoric from the treasurers. They need some assurances now that they are going to have a shot in the future, that there are going to be employment, education and training opportunities for their friends, their families, their peers and their sons and daughters.

I think there are many people in this place who would like to know exactly what plans the coalition has to address the issue of rising unemployment in this nation. We want to know what they are going to do specifically to successfully address the issue of unemployment.

The August budget statement announced a number of reforms which were intended to have a direct impact on unemployment in this nation. We were looking forward to faster economic growth, which was going to reduce unemployment levels in Australia. But we now know that the budget forecast of 8.25 per cent unemployment by June this year was way off the mark and the foundations of that government employment strategy have crumbled.

I note the assessments of a number of private sector forecasters, such as Access Economics, Westpac and Dun and Bradsheet. They have suggested that unemployment could rise to nine per cent by mid-year unless something is done quickly to address this issue.

It is perhaps ironic that the overshooting of the government's budget forecast of 8.25 per cent unemployment by June is likely to mean another 90,000 people jobless, and an additional $1.5 billion deficit will be created as a consequence of the continued unemployment levels in this country. We could actually start to address the budget deficit by increasing employment in this country. I believe that, even if we increased employment opportunities by one per cent in Australia, we could decrease our budget deficit by around $1.5 billion.

The private sector forecasts that we have had from those organisations I mentioned—Westpac and Access Economics—are all based on the existing laws, practices and regulations of this government. What this means is that low inflation, business confidence, a budget in the black and labour market reforms will simply not be sufficient to restore substantial jobs growth. What the Treasury and private sector forecasting shows is that the rate of unemployment in this nation is not going to fall dramatically on the basis of the coalition's current regime of laws and policies.

So the inevitable conclusion from these forecasts is that the coalition needs to do more to actually address this issue of unemployment. What we need to see from this government is a positive plan to increase jobs. We need them to stop relying on pulling levers. By that, I do not mean increasing jobs for young Australians with just a token green corps, although that is a principle that the Australian Democrats support strongly—that is, young people being given training and

education opportunities in environmental areas and industries.

We held great hopes for the green corps. The Democrats were under the impression that at least $68 million would be put towards the green corps over the next three years. We thought at least 3,500 jobs would be created over the next three years. We would prefer 25,000 jobs over three years to replace the environmental action programs such as LEAP and REEP. My understanding, and I look forward to the minister responding to this at some stage, is that only 240, 340 or 440 jobs—we are still clarifying the figure—will be created in the first year of this token green corps.

Senator Chris Evans—Not for the unemployed.

Senator STOTT DESPOJA—It is not for the unemployed, and that is a very good point that Senator Evans raises; 17- to 20-year-olds are the only ones eligible to apply for this scheme, unlike the coalition's original promise of 17- to 25-year-olds. Even then, the applicants must show some kind of demonstrable commitment to the environment. So we are not talking about unskilled, low skilled or long-term unemployed people in this country. We are talking about a very select group who are to be targeted on merit. That is only one very token solution that we have seen put forward by this government when it comes to addressing the wider issue of unemployment.

The kind of plan we should be looking for, and we should see hopefully as the centrepiece of the next budget brought down by this government, could include the consideration of export assistance programs, small business incentives, regional development initiatives, tax reform to make employing more workers attractive, infrastructure programs, environmental repair programs and increased funding for education and training—again, another area that we seem to be cutting back dramatically—so that we have the opportunity for people in this nation, be they unemployed or be they young, to improve their skills and the opportunity to improve the creativity of this work force and to encourage research and development in this nation.

I would like to think that this coalition government will consider initiating a discussion about what work is, about the nature of work in our society, and look at the structural and technological changes that have been taking place in the labour market. This must include a discussion of job sharing, working hours, the contribution of those who work but who are not presently paid, the value of leisure and a wide range of other issues. Yes, that might even involve the setting of targets, something that I notice the Minister for Employment, Education, Training and Youth Affairs, Senator Vanstone, was somewhat reluctant to do on the *Meet the Press* program on Sunday. Maybe that is something this government should commit itself to—really addressing the issue of unemployment and setting targets that are achievable and realistic.

Finally I would like to focus on the matter of young Australians, the 30.4 per cent of 15- to 19-year-olds who are looking for full-time work in this nation but are unable to get it. The social and personal consequences of these figures on the lives of young Australians is unimaginable. This group in particular has been targeted by this coalition government with its economic, rationalist and mean-spirited objectives. In any part of the budget I can see where young people have been targeted—whether it is Triple J cuts, whether it is token green corps, whether it is labour market cuts.

Even yesterday there was the announcement of a people's convention with the notion that some young people, some 18- to 24-year-olds, will be appointed delegates to the people's convention. Again that is not a proportional representation of young people. Eighteen to 30-year-olds in this country make up 33 per cent of our population, but we will not see that proportional representation at a people's convention or in any other decision-making parliaments for that matter. The dob-in-a-dole-bludger scheme, the employer contact unit—all of these measures have hit hardest at young Australians who are suffering incredibly, especially when it comes to a lack of employment, education and training opportunities in this country.

I might add that in my home state of South Australia—which is also the state the minister represents—young people's unemployment levels are up to 39.6 per cent. The state will suffer even more if recommendations such as those in regard to tariffs contained in the Productivity Commission's report are implemented. I would like to quote from Senator Vanstone's response to a question without notice on 10 September last year when she said:

> As minister for youth affairs, I want to assure the Senate that this government is deeply committed to ensuring that the future for Australians is one where they face a world of optimism and of hope.
>
> We should be able to say to young Australians that into their hands we have put a land of opportunity, a land where they can get appropriate training, a land where they can expect to get a job—not any job, but a good job; a real job—and a land where they can make a career choice on what they want to be, not simply on the basis of where they think they can get a job.

I ask the minister: what has happened to this optimistic future that she had seen for our young Australians? I ask the minister: what choices and what opportunities, in the time that she and her government have been in office, have they given to young people to gain access to education, to training and to skill development to obtain the job of their choice?

I think it is fitting to end with a quote from the Governor-General, Sir William Deane, when he spoke at the opening of the Courthouse Project in Geelong on 23 November last year. He said:

> It is essential that our failure as a nation to provide adequate employment opportunities for our young is not seen as merely an economic problem to be elevated as a factor in some economic hypothesis and addressed only within the limits allowed by preconceptions of business efficiency. Youth unemployment must be addressed as an overwhelming social problem which is already having permanent destructive consequences. Youth unemployment is not a failure on the part of those who are unemployed, but a failure by our society to provide them with the basic entitlement to work.

Mr Acting Deputy President, it is a noble and appropriate sentiment, and I look forward to hearing a response to that from this federal government.

Sitting suspended from 1.12 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Australian Broadcasting Corporation

Senator SCHACHT—My question is to the Minister for Communications and the Arts, Senator Alston. Minister, do you recall that the *Advertiser* reported on 6 July 1996 that you had rubbished claims by the Labor opposition that the government was planning to slash over $110 million from the ABC and that you said, 'I think Mr Beazley's pulling figures out of thin air and I am surprised even the ABC would believe these sorts of stories'? Do you also recall on 23 June 1996 that the *Sunday Age* reported that you said the previous day, 'Any suggestion the ABC will have $100 million cut from its budget is an utter fabrication'? Isn't it true that you lodged a cabinet submission on 2 July 1996 which canvassed cuts to the ABC ranging from $50 million to over $125 million? Do you deny that you blatantly misled the Australian public about the cuts to the ABC?

Senator ALSTON—The short answer is, yes, I do deny it, but I suppose you want the long answer. The long answer is this: there were a series of discussions, some of which I will not go into, involving the Expenditure Review Committee, cabinet and me. The one that I think is of most importance, because it is already on the net, is a leaked cabinet submission—or a document headed 'Cabinet submission'; in fact, it is a submission to the ERC.

That document makes it crystal clear, if you had bothered to read it, which I presume you have not, as usual—

Senator Schacht—You didn't read it!

Senator ALSTON—Okay. If you had read it, you would have read this:

> I have previously indicated my support for an approach where resources are targeted to fit a redefined role for the ABC following an independent review of its functions and operations.

In other words, I made it clear that I did not advocate any cuts. It then went on to say, 'Ministers have requested examinations of two options.' Then I went on to deal with two

options, one of which involved cuts of $125 million while the second option was equivalent to a 20 per cent reduction in the ABC's budget, starting in 1996-97.

At one stage there was a report in the *Sunday Age*. I did not read the *Advertiser* report, I have to confess, but the *Age* indeed did try to run a story headed something like 'Costello's huge budget cut to the ABC'.

Senator Robert Ray—Which he leaked.

Senator ALSTON—I was then asked for comment. It was not in fact Costello's proposal at all; it was Finance's proposal, if you must know.

The PRESIDENT—Order! Mr Costello's proposal.

Senator ALSTON—But the fact is that I was then asked whether it was true that there would be a cut. The fact is that there were two proposals, neither of which I supported, one of which advocated a cut in excess of $100 million. I, perfectly correctly, made it plain that the government had not decided to cut—that there had been no decision and the government, therefore, 'will not cut'.

Senator Bob Collins—You said it wasn't being contemplated.

Senator ALSTON—I did not say 'contemplated'. If people want to write articles saying that we contemplated it, they can write them. If people want to get information that we are contemplating them, they can get it. They may well have been true, but I did not say we were contemplating them or considering them. I simply said that we had not decided, and that is the point of the exercise.

I know it is a bit hard for you to understand this and you do not want to deal in the subtleties of the argument. You simply want to run off the back of an *Age* headline which somehow suggests that this leaked cabinet submission in some way undermines the case. The fact is it does not; it speaks for itself. It makes it perfectly plain that I did not advocate any cuts ahead of a review. It spells out two options which I was asked to bring forward. It says, 'Ministers have requested consideration of two options.' Don't you understand that or don't you want to understand it?

Senator Robert Ray interjecting—

Senator ALSTON—That is a separate argument altogether. That may well be something you want to run out later, and I would be delighted to respond to it. But it is a completely different proposition because this chap down here is putting something else. He is putting that somehow I was wrong when I said the government will cut over $100 million. The government did not do it and it had not decided to.

Look at the facts. Have we? We did not. We proposed cuts for 1997-98 of $55 million, which is about $5 million ahead of option 1. So not only did we not make a decision at that time to do it; we have not in fact done it since then. It ought to be pretty plain to you. *(Time expired)*

Senator SCHACHT—Madam President, I ask a supplementary question. Minister, notwithstanding your pathetic pleading of the usual Nuremberg defence—in this case 'the ERC made me do it'—how can you possibly justify dismissing the reports about ABC cuts as an utter fabrication when you yourself had canvassed them as a possible option in your own paper? You said, 'They are an utter fabrication.' You put your name to a document that raised a cut of up to $127 million a year. That is not an utter fabrication.

Senator ALSTON—What can you do? You can only do your best, Madam President. The *Sunday Age* reported that I had said that 'any suggestion that the ABC will have'—'will', 'will', 'will'—'$100 million cut from its budget is an utter fabrication.' That is perfectly correct. There had been no decision to cut so therefore it was wrong to say that it would have $100 million cut, and they are the facts.

It did not have, did it? It had a proposed reduction of $55 million in the following financial year, 1997-98. If you cannot understand the difference between 'could possibly' and 'will', then you obviously do not want to understand the meaning of the English language. It is perfectly plain that my submission was not advocating either option. It was therefore not advocating cuts of either $55

million or $125 million. It was saying I preferred a review. *(Time expired)*

Small Business

Senator MacGIBBON—My question without notice is to the Leader of the Government in the Senate. What action is the government taking to assist families and small businesses so that they can expand and generate more jobs for all Australians?

Senator HILL—That is a very important question because families and small businesses did so badly under 13 years of Labor government. It is worth reflecting on that because that is the base from which we are starting. It will take families and small businesses a long time to forget and forgive this Labor Party. They will remember that it was not long ago under Labor that they were suffering with interest rates of over 17½ per cent. They will remember the massive debt that Labor built up. In the four years from 1992 to 1995, Commonwealth debt increased by 115 per cent—from $45 million to $97 million. This is your economic control, Senator Sherry.

Families and small businesses will remember the highest unemployment rates since the Great Depression—unemployment rates of over 11 per cent. They will remember what happened to living standards. Under Labor Australia fell from 10th position in 1983 to 22nd position in 1993. What a legacy! A fall in living standards in Australia was reflected in the fall from 10th position to 22nd position in only 10 years.

Families and small businesses will remember—they will not forget—foreign debt of over $180 billion which this discredited former Labor government left to the incoming Howard government to do something about. Just remember that Labor came to office with $23 billion of foreign debt. What did they leave? They left $180 billion of foreign debt.

That was the legacy that we inherited and that was the legacy that we were committed to challenge to the benefit of Australian families and Australian small businesses. So far the results have been positive. Any objective observer would have to say that they have been positive.

Opposition senators interjecting—

Senator HILL—Opposition senators scoff, but business investment is now projected to reach 17 per cent. That is good news for Australia. It is good news that Australian businesses have the confidence to invest under this Howard government. Why are they investing? Because they are getting low interest rates under the Howard government. There have been three cuts in official interest rates in the first 11 months of government. They are now starting to work under interest rates that they can afford. They could not ever do that under Labor.

Profit expectations have jumped to the highest level since 1995. The housing sector, I am pleased to say, is starting to improve again. What will that mean? That will mean jobs in small business. That will mean more hope for the unemployed in this country.

You will be pleased to know that, in the latest forecast, economic growth is still a solid 3.5 per cent. Small businesses have gained with capital gains, rollover relief, changes to industrial relations laws and the reduction of provisional tax uplift under the Howard government. This is good news.

I will end with the final reminder that, on 1 January, two billion Australian families that did it tough under Labor got $1 billion put back in their pockets. This is a government committed to the wellbeing of Australian businesses and Australian families and it will continue to be.

DISTINGUISHED VISITORS

The PRESIDENT—Before calling Senator Faulkner, I draw the attention of senators to the presence in the gallery of former Senator Wheelwright from New South Wales. Welcome to Canberra.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Australian Broadcasting Corporation

Senator FAULKNER—My question is directed to the Minister for Communications and the Arts. Minister, on 24 January 1997 the *Age* reported that you claimed you did not write part of a leaked cabinet submission

dated 2 July 1996, which said, 'Options examined in this submission are inconsistent with government election commitments to maintain ABC funding levels.' Did you sign off the cabinet submission, including the cover sheet, before it was lodged in the cabinet office? If so, did you bother to read the cabinet submission first? What note do ministers in the Howard government take of their responsibility for submissions to the cabinet? What responsibility, Minister, do you take for your own submissions to your own cabinet?

Senator ALSTON—Of course we take a great deal of notice of submissions. I hope that my colleagues do also. I hope that you took the trouble, because this was on the net, to actually read it. Unlike Senator Schacht, you might have learned a bit about what was contained in the document.

I am not particularly interested in a kerbside quote that some nameless bureaucrat might have given about the implications—

Senator Robert Ray—Did you sign off the document?

Senator ALSTON—I do not remember signing any document. You seem to be labouring under a misapprehension that, presumably, the processes have not changed since your time in government. I know you consistently like to think that it is only a mater of time before you are back and doing business as usual, but the fact is that we have different approaches.

Opposition senators interjecting—

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

Senator ALSTON—It is very important that the cabinet submission reflects the facts of the matter so that cabinet members can make the proper judgments. As I have just said, I do not think anyone is interested in a kerbside quote. We are not interested in opinions about whether or not something complies with our election promises. What we interested in is the facts.

Senator Bob Collins—Yes, we are.

Senator ALSTON—No, I am not interested in your opinion; I am interested in the facts. So the facts ought to become perfectly clear to you when you read this document, because it says that savings of $50 million, which was option 1, would not have involved cuts until the 1997-98 financial year—in other words, the start of the next triennium. Our election commitment was to maintain current levels of funding, which I have made perfectly plain.

Senator Robert Ray—That is not what you said on ABC television on election night.

Senator ALSTON—I am glad you raised that because I would have thought that even you, Senator Ray, would realise that at the time that interview was given the election had been concluded, so it could not possibly have been the basis for any elector's decision on how to vote on that day. In other words, if something is said after the election it clearly—whatever it might be—could not conceivably be a breach of an election promise. Let us just put that to one side for a moment.

The fact is our commitment was to maintain current levels of funding. I have made it perfectly clear that that related to the triennium, that there was one further year to go. If we had gone down the path of adopting option 2, then that would have been a breach of our election commitment because it would have involved an immediate cut in 1996-97—in other words, the third year, the last year of the triennial funding arrangement, and that would have been a breach of a commitment to maintain current levels of funding. But to make changes, as we did, in the first year of the next triennium—a $55 million reduction—is not in any shape or form a breach of that commitment.

I know you do not want to know this; we have been over all this ground time and again, but what I am interested in and what the Australian people are interested in are the facts. The fact is that we at no stage breached our election commitment. The fact is that we proposed to cut only $55 million, and the fact is that Mansfield has made it perfectly plain that the ABC can operate within those constraints. I do not know why you are so interested in ancient history. I suppose it is because you have not much better to do with the long, lonely hours over there. But get your facts right. That is what this debate is all

about. The facts speak for themselves. Read the submission and you will understand. *(Time expired)*

Senator FAULKNER—Madam President, I ask a supplementary question. The 'kerbside quote', Senator Alston, that you talk about is on page 1 of your own cabinet submission. It says:

> Options examined in the submission are inconsistent with government election commitments to maintain ABC funding levels but will assist achievement of the government's fiscal strategy.

Do you still maintain to the Senate that the cover of a cabinet submission is somehow separate from the rest of the submission and it is only someone else's shorthand of what they think the situation is? Who do you think you are kidding, Senator Alston?

Senator ALSTON—There is no point in trying to educate a mug. That is perfectly plain. What ought to be clear to you is that the facts speak for themselves. If you want to know whether options 1 and 2 were breaches of our election commitments, read them. What you will discover is that option 2 would have been and option 1 would not have been. That is why we went for option 1, so we did not breach our commitment. Anyone who wants to express an opinion to the contrary can do so but they are wrong.

Senator Schacht—Why did you put it on the cover?

Senator ALSTON—You will see what the facts are if you read the document, not just the cover. I know this is the Ros Kelly approach, which I thought might have actually taught you a few lessons but it seems it has not. It seems you are only interested in the cover and not the contents. That is the situation, isn't it? You are not interested in the facts of the matter but if you were you would read the whole document and you would understand that option 1 clearly is not a breach of our election commitments. Just go beyond the cover sheet, read the substance of the arguments, understand the basis on which cabinet considers matters and you will understand that precisely what I have said time and again is absolutely correct. *(Time expired)*

Unemployment

Senator CRANE—My question is to the Minister for Employment, Education, Training and Youth Affairs. I am sure the minister is aware of recent times statements by the Leader of the Opposition, Mr Beazley, that suggest that many of Labor's Working Nation programs were successful on the simple basis—and listen to this—that although people did not get jobs at the end of them, they were not out on the streets making nuisances of themselves. Minister, how does the Howard government's approach differ from that of the opposition and how will the government's policies benefit those in greatest need?

Senator VANSTONE—I thank Senator Crane for his question. It is a very important question. My attention has been drawn to remarks made by Mr Beazley on Howard Sattler's program on 6PR on 29 January. In that interview Mr Beazley said that unemployed were gainfully employed while they were on Working Nation programs and, as Senator Crane rightly said, 'they weren't around the streets bothering everybody else'. Let me make something perfectly clear: this government does not regard the unemployed of Australia as a bother to the government in a way that Mr Beazley apparently does.

Senator Bob Collins—Neither does Kim Beazley.

Senator VANSTONE—Mr Beazley's remarks only serve yet again to build on the very unfortunate stereotype of the unemployed as petty thieves and muggers. It was a disgraceful remark for a leader of the opposition to be making in any event. But when you consider that after 13 years of Labor—the party that created the mess—the Leader of the Opposition is in that circumstance so keen to stereotype young Australians in that way, it is political opportunism at its worst. You have to seriously question Mr Beazley's attitudes.

It should not be forgotten that Labor created the highest level of unemployment since the Great Depression. I noticed in previous questions Senator Crowley smiling away saying, 'Tell us about unemployment.' And with a smile on her face she says, 'Eight

point five and going up.' That is another bit of political opportunism at its best. The facts are that Labor created the highest level of unemployment since the Great Depression. Then they go on to say that the unemployed were on the streets bothering the rest of the community. It was a disgraceful remark.

The facts speak for themselves. Trend unemployment was at or above 10 per cent for 33 consecutive months between September 1991 and May 1994. For 32 consecutive months under Hawke and Keating, when you people were in charge, unemployment was at its highest since World War II. Jobs growth between 1993 and 1996 only just replaced the 420,700 jobs that Labor destroyed during the recession we allegedly had to have. In Labor's last five years, youth unemployment never got below 27 per cent.

Mr Beazley's comments crystallise the vast gulf between them and us. This government believes that the hard yards in making inroads into unemployment will be found, firstly, in targeting labour market assistance to those most in need and by tailoring individual assistance to the job seeker rather than trying to put a square job seeker into some triangular program designed in Canberra.

Secondly, and from the broader perspective, job growth will flow if we get the budget back into the black and create an environment where inflation and interest rates are at levels that will encourage investment and wealth creating activities—we all know that we have had three interest rate drops since the election of this government. We will also make inroads by delivering efficient and flexible workplace relations, reducing red tape for small business, giving school students the basic skills that employers want and expanding apprenticeship and traineeship opportunities—that is, entry level training.

There should be no doubt about the gravity of this problem. Unemployment has been so high for so long under Labor that it has become pretty well ingrained. It went up and down when Labor was in office, but they never had any real success. A lot of work needs to be done to fix this problem. It will not be solved overnight. We are making the proper moves. Australians will not forget which party created this problem—the Labor party. *(Time expired)*

Radio Australia

Senator SHERRY—My question is addressed to the Minister for Communication and the Arts. Will you give the Senate a commitment that Radio Australia's services will not be prejudiced or downgraded in any way?

Senator ALSTON—No, I will not, and it is not for me to do that. The fact is that the Mansfield report has spelt out the implications of maintaining the current service on Radio Australia. Mansfield suggests that the audience has declined by some 80 per cent over the last 15 years, that even Radio Australia itself is not clear about its objectives or effectiveness, that DFAT has significant reservations and that its principal source of transmission is short wave which is very much a declining technology. There are over 100 satellites in the Asia-Pacific region and there are a number of other services providing identical material.

Radio Australia was established in 1939. It now has an audience of less than five million, but no-one can really tell you the extent of the actual audience levels at the present time. Something like 2½ million people in Indonesia potentially could receive the service and perhaps another million in Papua New Guinea. But there are certainly a lot of expatriates who listen to the service.

Senator Carr—What about China and India?

Senator ALSTON—There are some in China. It might be 0.8 million, I think. But, as I recall it, Mr Mansfield told me that nearly all of the submissions he got expressed concerns from places like Europe and that, overwhelmingly, they were from expatriates. What Mansfield said was not that Radio Australia should be closed down—he made some comments in relation to ATV—but that if the ABC wanted to broadcast that service then it ought to be free do so but it ought to get its priorities right.

When the ABC has to find $55 million for the next financial year—it has already found $27 million as it announced on 9 December

last in its 'one ABC' policy—it has to find a balance. What Mansfield said was that Radio Australia currently cost $13.5 million for services and another $7 million for transmission. There has to be at the very least, I think he would say, a very big question mark over whether it ought to be a priority.

The ABC board is meeting today and it will consider the implications of the Mansfield report. It is clearly a matter of concern that we do not unnecessarily dispense with services and that other options are explored. I have no doubt that the ABC will be having a close look at the effectiveness of this particular service but, at the end of the day, the ABC knows that it has to find $55 million. We have made that plain.

Mansfield is suggesting that this is one of the ways in which the ABC could meet a revised charter which gives it a much clearer focus; in other words, to concentrate on being a domestic broadcaster. If it then has reserves or resources which enable it to maintain some level of international service, it ought to be free do that. He is not saying that Radio Australia ought to be closed down; he is simply saying that one ought to look at the cost implications and the effectiveness of a system which has changed dramatically since 1939.

Mansfield also makes the point that the BBC runs a similar service but it is maintained by the foreign office, and if the Department of Foreign Affairs and Trade in this country took the view that Radio Australia was particularly significant, then that department should consider whether they ought to fund it.

Senator Cook—Rubbish!

Senator ALSTON—Well, that is what he said. I am sorry to wake you up at such a late stage in the game, but that is what he did say. If you want to argue the merits of it, you can have that argument another time. I am simply telling you what Mansfield said. Mansfield made it plain that Foreign Affairs and Trade had that option. Now, they did not accept the invitation. *(Time expired)*

Senator SHERRY—Madam President, I ask a supplementary question. I ask the minister whether he remembers the plain content of the Liberal and National parties' policy *Better Communications*, dated January 1996, which said:

> Radio Australia has a proud place in the ABC. It has been providing overseas services for half a century benefiting not only Australian expatriates but also the nationals of many countries, particularly those in our region. The coalition is strongly supportive of Radio Australia's existing services and will ensure that they are not prejudiced or downgraded in any way.

Wasn't this your policy; did you remember to sign this one off; and will you reaffirm the commitment you made?

Senator ALSTON—Just because you signed off on cabinet submissions does not mean it is the only way to do business. All I can tell you is that we have different and better approaches. One of the things we were elected to do was to examine the effectiveness of government funding of a whole range of institutions.

We have made it very plain that we regard the ABC as a very important national cultural institution; therefore, it is deserving of very significant ongoing government funding. Mansfield has reaffirmed that, and I am very pleased that he did. Mansfield has also said that it can operate within a budget of virtually $½ billion a year.

It is incumbent upon us to continue to explore the various possibilities that emerge, particularly where technology is changing as rapidly as it is in this area. I would have thought that most of you would not have short wave radios and that most people in the region would not have them either. It would sitting on your hands to simply ignore those facts. That is why we commissioned Mansfield. That is why we will take a lot of notice of it. *(Time expired)*

East Gippsland Forests

Senator LEES—My question is directed to the Minister for the Environment. I refer the minister to the East Gippsland regional forest agreement and in particular to sections 16, 17 and 18. Section 16 says, 'Parties agree to actively investigate and participate in World Heritage assessment of the Australia-wide Eucalypt theme, including any potential

contribution from East Gippsland', while section 18 goes on to say, 'Parties agree that any potential nomination for World Heritage involving areas in East Gippsland could be achieved from within the CAR Reserve System.' That is, your new reserve system. I ask the minister: if World Heritage values are found to exist outside the reserve system, how will the government protect them; indeed, can you protect them; and could you possibly nominate them for world heritage listing under this agreement?

Senator HILL—Can I take the opportunity, in leading into the specific question the honourable senator asked, to say how pleased we are that we have been able to achieve already that which Labor could not, and that is complete our first regional forest agreement. You might remember that Labor, in fact, promised that there would be a comprehensive, adequate and representative reserve system on public land by the end of 1995. When they went out of office, in fact, they had not been able to complete one agreement.

We are pleased that we have now been able to implement agreement in relation to East Gippsland, making good progress in relation to Tasmania, and so on. I might say specifically I am pleased that in this case we have been able to ensure that all the conservation benchmarks established under the nationally agreed reserve criteria have been achieved in East Gippsland.

Senator Brown—Sold out, sold out.

Senator HILL—And in many cases, Senator Brown, overachieved. I would have thought that you would have applauded the fact that over 90 per cent of wilderness in the region has been protected in a reserve system, that at least 60 per cent of old growth forests have been protected and that it means that at least 15 per cent of the pre-1750 distribution of each forest type has also been protected. The outcome means that at least 25 per cent of the remaining distribution of each forest type has been protected, and that is a very fine achievement. Around 50 per cent of the public land in East Gippsland is now within the reserve system, Senator Brown. That is much better than the international IUCN standard of only 10 per cent—much better—and something that all serious environmentalists would applaud, Senator Brown.

Senator Sandy Macdonald interjecting—

Senator HILL—I am also pleased about 400 new jobs too, Senator Macdonald, but that is something that would not interest Senator Brown either.

In relation to the World Heritage listing area, studies have not yet been completed, that is true. We are confident that the eucalypt reference that is being pursued, if it is found to be of World Heritage value, could be adequately absorbed from forest within the area that is included within the regional forest agreement. We cannot, of course, state that in absolute terms. We cannot say that we would refuse to look beyond, because that would be outside of our commitments under the treaty. But we remain confident that such a community, if it is of World Heritage value and therefore should be listed, can be accommodated within the area that has been specifically reserved.

Senator LEES—As the minister took an opportunity to make a statement, in my one minute I will also. I would like to say that we do not have a comprehensive system within these agreements and, indeed, it hangs on very contentious—

Senator Alston—Madam President, I think we all understand that this is question time and the rules of the game are pretty clear. For a senator to stand up and blatantly admit that she is going to ignore standing orders is something you have to do something about. She should be directed to ask a question or not pursue it.

Senator LEES—It is a question, Madam President. It is just most unfortunate that the minister was able to make a statement and I cannot. Is it true, Minister, that, at a recent meeting, officials from your environment portfolio concluded that World Heritage values would be found outside your new CAR reserve system?

Senator HILL—A committee of my department? I am not sure, but I will check the record. The situation is, as I said, that we are confident that World Heritage values and a World Heritage listing can be achieved from

within the RFA and that there has been sufficient work done already to give us that confidence. Before I sit down, can I also mention with great pleasure that out of this process we were able to get an extra 13,000 hectares of reserve and I am very pleased about that.

Australian Broadcasting Corporation

Senator BOB COLLINS—My question is to the Minister for Communications and the Arts. Minister, can you confirm that paragraph 6 of your cabinet submission on ABC cuts, dated 2 July 1996, which apparently you lodged on behalf of the Department of Finance, reads:

> Option one will also give us the ability to influence future ABC functions and activities more directly.

What exactly did you mean by 'influencing more directly' and how does this square with your own terms of reference for the Mansfield review which called for 'particular regard to the need for independent news and current affairs services which are accurate, impartial and comprehensive'?

Senator ALSTON—It is an interesting question. Once again, of course, you need to look at the entire document.

Senator Schacht—Did you?

Senator ALSTON—No, no—

Opposition senators interjecting—

Senator ALSTON—The best place to start is at the beginning. What it says in the first paragraph is:

> The provisions of the ABC Act 1983 do not allow the government to direct the way in which the ABC charter is interpreted or the internal distribution of resources. In requesting the ABC Board to implement any funding cut, the government would need to rely on the ABC to restructure and refocus the organisation.

Against that background I think one also has to be aware—

Senator Bob Collins—Read the next paragraph. Read the next paragraph.

Senator ALSTON—I think Senator Collins would be acutely aware of the recent history of the ABC, and that is that there have been a number of events in recent times that have seen the ABC going off in a whole range of directions where it did not have sufficient funding: maybe pay television, where it only got $12½ million, or the international satellite television service, where it got $5.4 million, both of which caused it immense grief; going into BNA as a news-wireline alternative to AAP; or trying to run a D-Cart technology and market it around the world. All these are examples of where the ABC got itself into problems because it was not properly focused and where it needed to have priorities identified for it. That is what I was pointing out there, that it was very important, by being—

Senator Robert Ray interjecting—

Senator ALSTON—Just remember that this is addressing option 1, and option 1 is not an option that I endorse.

Senator Schacht—That is the beginning of option 1.

Senator ALSTON—It is clear from the beginning of the document that I have previously said that any approach where resources are targeted should follow an independent review, so I hope you will remember that. It goes on to say, 'Ministers have requested examination of two options, and this is one of them.'

Again, remember that. The words speak for themselves so you ought to be able to comprehend that this is my elaboration of two options which I was requested to present. Because it is in the public domain, we are able to go into a little more detail than we would otherwise. But the facts of the matter are that that submission can very much withstand the light of day, because the parliament has an obligation when it is deciding on the level of funding for the ABC to spell out what it thinks the ABC ought to be doing—not telling it how to run its programming, not telling it how to make a whole series of internal management changes but giving it a sense of priorities so it can understand that the public expect that domestic is more important than international, for example, that it ought to concentrate on news and current affairs ahead of infotainment programs, for example, or that localism, regional services to rural and remote areas are very important matters and probably more important than

identifying new technologies that you can get involved in.

That is the point that was being sought to be made here, Senator Collins: that there is a responsibility that goes with being the recipient of some half a billion dollars worth of government funding and that the opportunity was available to us in the context of cuts that might be made to at the same time cause the ABC to focus on what was really important. I think that is what will come out of the Mansfield review. I am delighted that the opposition has broadly endorsed Mr Mansfield's findings because—

Senator Schacht—He rejected most of your ideas.

Senator ALSTON—You can say that, but it is the last refuge of a scoundrel to pretend that somehow we had a hidden agenda. The fact is that the agenda was spelt out in the terms of reference. Mansfield made it perfectly clear that he did not receive a phone call from me except to return his calls. In no shape or form did we tell Mansfield what to do or how to do it. We gave him carte blanche; we gave him terms of reference, and he delivered the goods. *(Time expired)*

Senator BOB COLLINS—I ask a supplementary question, Madam President. It certainly is clear that Senator Alston has succeeded in talking himself into the proposition that this was the result of this submission. In terms of your advice, Senator Alston, that this quote was from the non-core part of the submission, are you trying to tell the Senate that in fact you were not trying to influence future ABC functions and activities more directly?

Senator ALSTON—The words speak for themselves and I have explained that it is part of the core document. It is under option 1 and options 1 and 2 are the guts of the document. That was what I was asked to bring forward—and I did and I was elaborating on it. I am making clear to you the extent to which we are able to influence decisions and the limitations that are imposed—limitations that we accepted. They are actually contained in the ABC Act. I have not heard you wanting to change them to somehow give the parliament more control or to give the government of the day more control. So we accept that—

Senator Schacht—You do!

Senator ALSTON—We do not. We have not quarrelled with it. That is why it is the very starting point of the document and that is why I am delighted that Senator Schacht in his press release of 24 January said:

> Mr Mansfield's report is a victory for all of the Australians who contributed to the submission. Mr Mansfield has accurately reflected the sentiments of the Australian people.

In other words, he is agreeing with Mr Mansfield that the ABC can well and truly cope with a $55 million cut in the next financial year. And I am very grateful to you for that endorsement.*(Time expired)*

Austudy

Senator HARRADINE—My question is directed to Senator Vanstone. I draw the attention of Senator Vanstone to the mounting public criticism and concern over the deemed means test for Austudy—which is perhaps misleadingly described as the actual means test. I point out to the minister that as far back as 27 September 1995 and 19 October 1995 I pointed out the anomalies and inequities in the deemed means test. I ask the minister directly: how many applicants have been denied Austudy on the basis of the deemed means test who would otherwise have satisfied the income and assets tests? How many rejected applicants have sought review of the adverse decisions under the deemed means test? How many primary producer families qualifying for the business assets discount in the assets test have been excluded under the deemed means test? Was it not the intention of this Senate that primary producers qualifying for the business assets discount would not be subject to the deemed means test?

Senator VANSTONE—Thank you, Senator Harradine, for that question. Senator Harradine, you rightly refer to significant concern in the community over the refinements made to Labor's actual means test. As you well understand, the actual means test was introduced by Labor in 1996, I believe, to try to ensure that those people who have

the capacity to rearrange their assets and income so as to bypass an ordinary asset or income test would not be able to nonetheless get Austudy. That was introduced by Labor and supported by us as it was perceived to be an effective means of getting at people who could so rearrange their incomes.

The stories are legion in universities around Australia of the sons of surgeons, for example, who might have incomes that you and I and others would regard as quite substantial, nonetheless being able to get Austudy. I would not imagine that there was a person in this place who has not heard of one Austudy rort or another. Nonetheless, having agreed, Senator Harradine, that the actual means test was a sensible thing to introduce and having decided to refine it to make it easier for applicants to fill in the form, there are still some difficulties—I acknowledge that.

There has been significant concern raised on the actual means test hotline and, as a consequence of that concern and the inability of some people to get through on that hotline, some time ago—I cannot give you the exact date—I asked for more people to be put on. There were originally 15. A further 14 had to be trained but they started today. I am advised through the process of the day that the hotline people can already say that those extra 14 are making a difference. I was nonetheless not satisfied last week that that would be enough and instructed that a further 10 people should be put on. They are being trained this week. So that should very substantially improve, if not get up to tiptop 100 per cent condition, access to the hotline.

Nonetheless, on the specific questions you raise, Senator, I cannot tell you at this time how many people have been rejected and how many are seeking a review. But I can undertake to get as much information on that as is possible thus far and come back to you with that.

I will also address the question of the primary producer families and should be able, within a very few days, to give you some further information on some other problems that you have not raised but that I have spotted. We have been trying to watch this very carefully. No-one wants to inflict any further hardship or difficulty in refining a test than is absolutely necessary. It does need some close watching. But there have been some problems and I am in the process of trying to fix them to the best of my ability. I will take the liberty, Senator Harradine, of not only coming back to you with the answers to the questions you have asked but also of highlighting at that time the other problems that we have found and what we have been able to do to address those problems.

Senator HARRADINE—Minister, I ask a supplementary question. You will appreciate that in 60 seconds I cannot raise all the problems. But I would like to point out that before the last election you and your colleagues promised that if elected you would review the deemed means test and its application. What has been done in respect of that review? How is the review going? Are we to see any results of that review? Are they going to be tabled in the parliament or has it been done internally by your department?

Senator VANSTONE—Senator Harradine, there was a review of the actual means test. That review encouraged the government to accept some changes to the test. We have not changed the point at which someone would be cut off from Austudy, but we have changed how we assess their means. I will get back to you, as I said, with all the information I possibly can. I was not meaning that you were not aware of the other problems. I realise you cannot raise them all in 60 seconds. For that reason I offered to give the answers to the questions you would have asked had you had more time.

Senator Woods

Senator FAULKNER—My question is directed to the Minister representing the Prime Minister. Minister, can you confirm the report in yesterday's *Australian* that the Prime Minister learnt about the police inquiries into alleged abuse of public office by Senator Woods when Senator Woods informed him of them 'about 10 days ago'? Are you aware of the practice of the police informing the Attorney-General of any investigations involving members of parliament? You will no doubt recall your colleague Senator Vanstone confirming this practice in answer to a ques-

tion on notice on 19 June last year. Was the Prime Minister informed of the police investigations involving Senator Woods by the Attorney-General, and, if so, when?

Senator HILL—You ask me as to the state of mind of the Prime Minister. I have to say that I know no more than what I have heard him say publicly, so you are presumably working off the same information base as I am. I heard him say publicly that he first heard of some allegations, I think, about 10 days ago—I am going from memory—and that he had been assured that there was nothing improper that required an answer. That is all I know of the Prime Minister's state of mind on this matter.

Senator FAULKNER—I do find that an extraordinary answer to the question. I do believe that the necessary information really should only require a couple of phone calls. I ask Senator Hill if he will give an undertaking to provide, by the conclusion of question time today or shortly thereafter, answers to the questions that I have asked. I think it is important that these questions, which are a matter of fact, be answered as quickly as possible. I ask the minister to give a commitment to ensure that occurs before the close of business of the Senate today.

Senator HILL—I will convey your request to the Prime Minister—in effect, as I understand it—asking whether he had been told by the Attorney-General of some allegations against a particular senator. I will report back his response to that.

Free to Air Television

Senator FERGUSON—My question is directed to the Minister for Communications and the Arts. Minister, can you advise the Senate why the viewing public will be unable to watch the forthcoming Australia v. South Africa cricket series on free to air television? Given that the anti-siphoning rules aim to ensure the widest coverage of listed sporting events possible, why is it that cricket fans will only be able to see one hour of highlights per day? Would we be in this position if the anti-siphoning provisions had been better crafted by the previous Labor government?

Senator ALSTON—Yes, it is true that the anti-siphoning provisions were put in place by the previous administration after there had already been some controversy surrounding the original provisions. It was thought at the time, despite some concerns that we had expressed, that the previous government had got it right. As it transpires, they had not. Although the rules currently require that a pay television licensee cannot acquire broadcast rights to a licensed event unless broadcast rights have already been acquired by a commercial television broadcaster, the rules do not distinguish between delayed and live rights. As a result, News acquired all the rights. They sold the delayed rights only to Channel 7, the live rights to Foxtel and the one-day rights to Fox Sports.

This has been a matter of very significant controversy over the last week or so. During the course of last week there were a number of newspaper headlines that made it clear that the public had very significant concerns about the matter. In fact, you can go back to 16 January when the *Daily Telegraph* had a headline saying, 'Television Test Blackout: no free coverage of South African tour.' On 29 January the *Sydney Morning Herald* said, 'Howzat? Live cricket will be on pay TV only.' The *Age* said, 'S Africa tour only on pay TV,' and on 30 January it said, 'Pressure mounts on Seven over cricket.' The *Sydney Morning Herald* editorial of 1 December says, 'It's not cricket'.

As a result of all that public outpouring, I made sure that a couple of newspapers, the *Age* and the *Sydney Morning Herald*, reported that the government had serious concerns about the turn of events, that we were taking advice and that, if necessary, we would change the rules. Not only did those reports appear I think on the Friday but I subsequently did radio interviews on 3AW and 2BL, and the 2BL interview was rebroadcast on *Grandstand* on the Saturday morning.

Against that background it is absolutely extraordinary—those people who were watching the coverage of the test on Saturday would have been amazed—that when Ian Chappell asked Mr Beazley about it saying, 'What are you going to do about it?' Mr

Beazley said, 'I know nothing about it.' Personally, I nearly fell off my beach chair because I could not believe that this bloke could be so ignorant. Where was he? Asleep at the wheel. He got a slow ball on the middle stump and he shouldered arms—the most ignominious political dismissal that anyone could ever imagine.

Here he was, your leader—all his own work—in front of hundreds of thousands of television viewers, the very sort of people that you are relying on to win at the next election, telling Ian Chappell that he had had a great January. He had been lying around on the beach for a month or so and he had been taking it easy. But to effectively tell Ian Chappell that he had not read one newspaper, he had not listened to any radio interviews and he had not received any briefings from his staff is just appalling.

Sure he is interested in cricket, but he is really interested only in getting his mug on television, so it seems. If he had any interest in cricket he would have known what was happening in South Africa. He would have known the problem that existed. He probably thought there was no point getting on to Senator Schacht about it—I can understand that—but at least you would have thought he would have been up with the game. But, no, there he was with the ball in line with middle stump.

If you reckon Shane Warne made Mike Gatting look a mug, I have to tell you that this was the most appalling performance. If you seriously expect that the Australian public are going to think that you are plugged into their concerns when your leader can go on national television and admit that he had not the faintest idea about a problem that had been raging in the media for days on end and of which he had been given a couple of weeks notice, you have a long way to go—back to the seconds. You really need to get out the ball and start practising much harder than you have been doing today. *(Time expired)*

Free to Air Television

Senator FAULKNER—My question is directed to the Minister for Communications and the Arts. Isn't it a fact, Minister, that the previous minister for communications, Mr Lee, did intervene in 1995 to successfully arrange for the West Indies test tour to be shown on free to air television? My question to you, Minister, is: are you going to intervene? Are you going to use whatever limited influence you might have to ensure that all Australians, not just the ones like you who can afford a holiday in Honolulu, get to see the forthcoming test tour of South Africa? Or do you so lack credibility in your own portfolio that any representations you make would just be ignored?

Senator ALSTON—I suppose it is better to be late than never. At least you realise this is a very important issue in the public arena. You are prepared to jump on the bandwagon even though Mr Beazley is still fast asleep. The fact is that Mr Lee managed to have some last minute discussions with Channel 10 about telecasting—because your rules were not adequate. We have already had discussions to explore the possibilities. It is beyond our control. Because of the statutory brief which you provided, the government does not have the ability to control the way in which those rights are allocated. But it is certainly possible to explore the possibilities—and we are doing that. If we are not able to fix up the problem, as clearly Mr Beazley and now Senator Faulkner want at long last, I hope you will be supporting amendments, if those are required. Otherwise, we will be looking at the licence provisions to make sure that this sort of fiasco, created by your good selves, does not happen again.

Senator FAULKNER—Madam President, I ask a supplementary question. I am interested to hear that you have had last minute discussions. In fact, in February 1995 you insisted, 'Lee must act on Windies cricket deadlock.' Lee did act and Lee delivered. That is the truth of the matter. What we are asking you is: will you deliver and ensure that all Australians have an opportunity of seeing the cricket in South Africa? I must say that I assume—I will be very generous in assuming this—that in the position you take on this matter you are not wired up to Foxtel and can enjoy the cricket while the rest of us are

dependent on free to air television. The question to you, Senator Alston, is: will you deliver like you demanded Minister Lee deliver on the Windies tour in 1995?

Senator ALSTON—If you want I can take the hat around—the cost is $20 a week. I understand that it is not a high priority for you.

Senator Faulkner—Are you wired up?

Senator ALSTON—No, I am not. I do not have time, I confess. I am more interested in watching it on free to air, if you must know. If we have the capacity to do something about the issue we certainly will but it is no use your making sure we do not have a bat or any pads and then saying, 'Get out on the ground and hook him for six.' You made the rules; you are the ones who put this regime in place. It has now been shown—

Honourable senators interjecting—

Senator ALSTON—Blank screen—you are dead right. The red light is not on here yet, Senator Ray. We can assume that when the light comes on it will be green. We will be doing whatever we can to address the issue. We can only do so much. It is a great shame that you were not able to identify the problem before it arose—not afterwards.

Youth Unemployment

Senator STOTT DESPOJA—My question is addressed to the Minister for Employment, Education, Training and Youth Affairs. I draw the minister's attention to the January ABS figures, which show that 30.4 per cent of 15- to 19-year-olds are unable to find full-time work in this country. Is it the case that the places provided under the government's much heralded green corps program will number 240 in 1996-97 and only 1,260 in 1997-98? Given that in 1995 alone the LEAP program placed 14,930 unemployed young people aged 15 to 20 years and that over three years the LEAP and REEP programs were expected to place 75,000, what will happen to all those young people now that this money has been re-allocated away from the LEAP and REEP programs and to the green corps?

Senator VANSTONE—I thank Senator Stott Despoja for her question. It is true that the full-time unemployment rate for youths aged 15 to 19 in December 1996 was 30.4 per cent. That is a very worrying figure. No nation should have that level of unemployment.

I will just make a minor correction to your question. You may not have meant to make this inference. I think you said that that was the percentage of people who could not get a full-time job. You of course meant to say that that was of those looking for full-time work. As you are probably aware, the total unemployment rate for 15- to 19-year-olds is much closer to 20 per cent. I am not referring to a different unemployment rate that members of the now opposition used to use frequently, which is the percentage of all 15- to 19-year-olds, including those in school. I am simply pointing out to you that, when the figures are released for some considerable time, we have focused on the total unemployment rate for all Australians. For some reason, you have concentrated on the full-time unemployment rate of young Australians.

There is another mistake you have made. If you want to equate the former government's LEAP program, a most unsuccessful labour market program, with the green corps, you are making a very big mistake. The green corps is not a labour market program. It is a program designed to combine two things: young Australians' natural desire to improve, restore and enhance the environment with an opportunity for accredited training in that area. We all know—I suspect that you know it as well; the Labor Party did not recognise this—that the surest way to get someone a job is to get some accredited training. That is the big difference between the two.

Senator West—What do you think LEAP did?

Senator VANSTONE—I hear people opposite asking questions to which Senator Stott Despoja probably knows the answer. They are asking, 'What did LEAP do?', as if everyone who went on a LEAP program got the opportunity to have accredited training. That is not true; they did not.

So there is a big difference between the former government's very ineffective labour market program, LEAP, and the new

government's green corps program. Yes, the numbers are very small in the beginning. But I will tell you this: we would rather trial it, get it right and make sure that we have not made a mistake and then build it up beyond what you might now expect than to just pour millions of dollars into things and come back three years later and say, 'Gee, that was not very effective', which is what the previous government did.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. I thank the minister for her answer. I really wonder whether the minister thinks the 99,000 young Australians who are seeking full-time work appreciate the distinctions between labour market programs and education and training programs. Further, I ask the minister: for a program you consider unsuccessful, are you aware that under LEAP, out of its 14,930 placements in 1995, 6,000 young people got jobs as a result? I do not consider that unsuccessful. I am curious to hear whether you still consider it an unsuccessful labour market program. I ask again: how can you suggest that around 1,500 places under the green corps in two years can compensate for up to 75,000 places that were expected to be provided under LEAP and REEP over a three-year period?

Senator VANSTONE—I have already answered your question. I have told you that they are not one and the same thing. Green corps is not a labour market program. It was never intended to be a labour market program. So do not bother standing up here and saying, 'How can you say this?' when I have never said it at all. It has been a misunderstanding that you have been labouring under. I have tried to clear it up for you. I have tried to make the point that we are not pretending that green corps is a labour market program.

Let me also say that I often hear from young Australians that they would like to do something. They would like to not simply be unemployed. They would like the opportunity to get involved in one way or another in the community. That is something that we might look at. But do not make the mistake of saying that LEAP and the green corps are the same, because we have never said they were. They were never intended to be and they never will be.

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

Australian Broadcasting Corporation

Senator SCHACHT (South Australia) (3.08 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Communications and the Arts (Senator Alston), to questions without notice asked today relating to the Australian Broadcasting Corporation.

We have seen an extraordinary performance here today, with this minister trying to explain away his own cabinet submission regarding his plans for the ABC. His defence is that the front page of the cabinet submission was not written by him but somebody else. He said that the front page of the cabinet submission is not contrary to the Liberal Party's policy at the last election.

In the Melbourne *Age* of 24 January, Senator Alston is quoted. I presume that if the quote were not correct, he would have taken legal action or issued a writ. It states:

Senator Alston said he did not write a part of the submission that says: "Options examined in the submission are inconsistent with Government election commitments to maintain ABC funding levels but will assist achievement of the Government's fiscal strategy."

He said, 'That was the cover sheet. I don't know who drafts the cover sheet. It's someone's shorthand on what they think the situation is.'

The minister says that he does not know who drafts his cabinet submissions. Even if he claims that it is an options paper, he still does not know who has drafted it. This is typical of this minister. He now has a track record. Whenever he is caught out being deceptive or misleading over his policy towards the ABC, what does he do? He blames somebody else, usually either the staff in his office, by implication, or the department. I want to know, Minister, whether the person who drafted the cover sheet is a senior member of your staff and who it is. Have you attempted to find out? Is it Mr Neville Stevens, the head of the Department of Communications and the Arts?

Is it Mr Tony Shaw? These are the people you have not named but are blaming for putting in a cabinet submission.

This has been the consistent track record of the minister. I remember in estimates committee last year, when an answer signed by him about numbers of employment in Telstra came forward, he actually said that that was something he had not seen, that it must have come from his office and he would chase it up. This is a minister who put back a formal answer to a question on notice and said he had not seen it. He is now using the same defence for his own cabinet submission. This is really an astonishing performance. It means that this minister is not on top of even the material that goes to cabinet. This is a minister, clearly, who does not draft his cabinet submissions and he does not read them. Then he attempts to blame the people who cannot defend themselves, namely, either his staff or the department.

This leads one to the conclusion that, at the next estimates committee, this minister should sit at the table surrounded by his senior staff so that they can answer the questions which he is incapable of answering. This cabinet submission has now been on the Internet. What does it mean when something on the front page of a cabinet submission talking about cutting up to $130 million a year from the ABC is a curb-side quote? That is ridiculous, but that is the level to which his credibility has sunk. He has to rely on disparaging his own cabinet submission.

Then, as he said in the answers, he started to pick parts of the cabinet submission which he agreed with. He used the phrase, 'That's a core part of the submission.' Other parts of it, by implication, are not core. Again it gets back to him blaming somebody else for writing his own submission. I believe we have a minister here who is just incompetent in handling his own submissions to cabinet, handling the material and the promises he made as a shadow minister. This minister's time has run out and, particularly regarding the ABC, he cannot be believed on anything he says because what he may say publicly has subsequently proved to be absolutely wrong by documents which have come to light like this cabinet submission. This minister has been exposed today absolutely.

Senator TIERNEY (New South Wales) (3.11 p.m.)—I listened with great interest to what Senator Schacht said. When he started, he indicated that he was raising matters relating to a number of questions asked of Senator Alston. So he is broadly canvassing recent changes to the ABC, including recommendations from the Mansfield report, which has been mentioned several times this afternoon. The truth of the matter is that, after 13 years of Labor government, the ABC was left in a terrible mess. It did not really understand the directions it was following. It had a top heavy management structure and something very drastic had to be done. Given that the board is full of appointees under the last Labor government, this certainly was not done. The whole show was left to go on without very much direction at all as to the way in which the ABC should operate.

What this minister did was create the Mansfield inquiry to look into matters relating to the activities of the ABC, the way in which programs are produced and the way in which management practices are carried out in the ABC. The series of submissions that went to the Mansfield inquiry were incredibly comprehensive in the range of matters which they covered. They were considered very carefully by Mr Mansfield. He has come up with a number of very sensible recommendations that actually follow on from what the minister has already done in relation to changes in the last budget. Basically what the Mansfield report is saying is that the minister should continue in those directions and consolidate the focus of the ABC, improve the management structure of the ABC and improve the production process of what is shown on the ABC. These are very sensible changes and are ones that the previous government was not prepared to undertake.

It is interesting to note that the media, in its response to the Mansfield report, really only locked onto one issue. So they were, broadly, pretty happy with the direction of that report. That is quite a contrast to what happened under the last Labor government. Along with Senator Alston, I was on the committee which

looked at the ABC. Senator Schacht was there as well and he heard all of this. He heard about an organisation that had seriously gone off the rails. It had gone into pay TV and into ATV overseas.

BNA was another failed venture. They got into all sorts of trouble over the 'infotainment' programs. It was an organisation that had lost direction. Quite rightly, through the Mansfield report and the actions of this minister, we are getting it all back on track again. If you look at the effects of the changes and the changes that are coming on the ground at ABC studios—and I have been to ABC studios—there are a number of minimal changes that they have had to make to the operations of the ABC.

The ABC staff there are reasonably happy with the changes. These are tightening up the procedures, the production process and the management structure, and that is very necessary because what we have in the ABC is a unique institution. I have had a look at the approach to public broadcasting in the United States, and we are absolutely streets ahead. We have a great institution in the ABC.

After 13 years of mismanagement by the Labor government it does need some changes in focus, some changes in its procedures and some changes in its management structure. That is what is going to happen under this government. It should have happened under the last government. As you were not prepared to make these changes, the coalition government is, and I think the changes that are coming up under the Mansfield report are most welcome in refocusing what is really a great Australian institution.

Senator ROBERT RAY (Victoria) (3.16 p.m.)—I will make a great prediction here: given the answers given by Senator Alston today, he will come back into this chamber at some stage in the next week and recant some part of his answers. If ever I have seen a minister not willing to own up, it is today. There are about four issues that he should have owned up to. First of all, he was very active on 23 June and 6 July denying that there was any prospect of over $100 million in cuts when his own cabinet submission in one of the options canvassed those particular cuts.

The reason he was put in that position has not been revealed today. Senator Alston was going around the country telling all the ABC people, 'I don't favour a cut in the ABC funding.' What that did was send the finance minister and Treasurer spare so they started leaking out stories about how tough they were going to get with the ABC. So if Senator Alston wants to know how the stories about the $100 million cuts got into the paper, his own colleagues put them in the paper, which forced Senator Alston to come out and describe them as ratbag suggestions, utter fabrications—not that much an utter fabrication that a submission with his name on it had a $125 million cut.

The second issue is when he gets caught out after this submission is leaked and there is an admission in this submission that there is a breach of an election promise. What pathetic weasel words do we get out of this minister? 'Oh, I didn't write that part of the submission. Some bureaucrat wrote that part and it is their iconoclastic view of the world.' And when he is asked today whether he signed off the submission, note his answer. He said he could not remember. He did not say yes; he did not say no; he said he could not remember. And when put under further pressure all he can do is indicate, 'The procedures aren't the same as when you were in government.'

You have the opportunity now, Senator Alston, to come out and tell us. Did you sign that submission when it went to the cabinet office, or did you not? And if not, who put the submission in? Surely cabinet procedures have not changed to the extent that you do not read every word in every submission you put in, because that is the iron law of being a good minister. Every word that goes in becomes your words and your views, and the only area where you have room to manoeuvre is to say, 'I had the choice of one of the two options.' That you did have. But the cover sheet, the content and those paragraphs are your words. That is why the word 'I' appears so much through it—because they are your words. The moment the submission goes into

cabinet or ERC, they are the property and the views of the minister and anyone who puts one in when those words are not theirs should not be a minister.

But of course, we have had the Nuremberg defence: 'I am not really guilty; I followed orders. I didn't really want the ABC cut but they ganged up on me, Senate. The finance minister and the Treasury forced me to bring in a submission. They humiliated me into bringing in a submission arguing for a $50 million cut or a $125 million cut. All I was doing was obeying orders from above. I am not guilty.' You cannot work both sides of the street. You cannot go out to the Friends of the ABC and their supporters and say secretly that you oppose cuts when a cabinet submission with your name on it gives you two options for major cuts.

Senator Faulkner—You can if you are a doormat.

Senator ROBERT RAY—But what did he say today, Senator Faulkner? He said, 'We only promised on the triennium before the election and it does not matter what answer I gave on election night; it cannot be an election promise because the election was over.' That is what he said. But if you take that argument to its logical conclusion and what is said before the election is inviolate, then what about his views on Radio Australia which were stated before election night? I have the quote here from the policy that he wrote:

> The coalition is strongly supportive of Radio Australia's existing services and will ensure that they are not prejudiced or downgraded in any way.

Not a core promise. Run away from that promise that you made before the election.

Senator Alston, did you actually sign this document off before the election? Did you read it? Or once again are you going to pass the blame to your own department or, more likely, blame your poor old office workers for mucking it up? Is it their fault? Will you ever accept responsibility for communications policy in this country? Will you ever accept responsibility for your own submissions? Come out and admit it. We will at least admire you for saying, 'This is my view.'

Senator FERRIS (South Australia) (3.21 p.m.)—This government has a clear commitment to responsibility in the financing of its public institutions, unlike those opposite. The ABC, as well as all other Australians, are paying the price now for that lack of responsibility by the previous government. Surely it is not unreasonable to examine the funding and direction of this very large public institution—one of our larger publicly funded institutions. Surely this applies to all publicly funded institutions. I think specifically of one of my former employers, the CSIRO. It is frequently reviewed and Senator Schacht was part of some of those reviews and outcomes that followed.

So why is it any different for the ABC? The ABC began in 1932. The Dix report was in 1981, and we have now had the Mansfield report—two reports in 60 years. I do not think that is unreasonable. Of course, the Mansfield report also gave people—staff of the ABC and listeners of the ABC, thousands of them, 11,500 of them—the opportunity to express their view on the new direction that the ABC might take to reaffirm its current direction and to look at other options.

I can tell you that many of my friends who work in the ABC welcomed this review. They saw it as a chance to upgrade outdated, broken down technology. How many of us have gone up to do interviews with the ABC only to find D-Cart has collapsed, the line's fallen out, the equipment's broken down or the tape recorder did not work. Those staff could not wait for the opportunity for a review of the ABC that might, once and for all, address the need for new technology and a clear direction.

It is something that staff say they want for motivation, for job security and, in the long term, for more security for their ABC funding. That was something picked up by Mansfield—that is, the need to reaffirm once again triennium funding for the ABC.

Senator Forshaw—Which your minister suspended.

Senator FERRIS—Can I go on? The Mansfield report has reaffirmed this government's commitment to high quality public broadcasting, to rural broadcasting

services, to children's services, to youth, to the radio networks, to Radio Australia. A review of Radio Australia? Who has ever said that Radio Australia did not have a commercial opportunity? Why does the ABC have some ownership of Radio Australia?

A great number of people in the ABC were worried about Radio National and we were able to hear every morning that Radio National was under threat. I was delighted to hear this morning that one of the Radio National broadcasters said with some pleasure in his voice, 'And we're safe.' Mansfield reaffirmed the role of Radio National. With the Mansfield inquiry, we have sought to maximise the efficiencies of the ABC while trying to contain costs, something our friends opposite lost sight of.

In conclusion, my view is that the ABC has been provided with a very valuable opportunity to review and to refocus. For an organisation with very strong foundations which were set in all our communities, and that has been recognised and reaffirmed, there is absolutely no doubt that as a result of the recommendations flowing from the Mansfield inquiry we will have a better quality broadcaster.

Senator BOURNE (New South Wales) (3.26 p.m.)—Saying that the ABC should be watching its costs is just an extraordinary statement. The ABC has been watching its costs, particularly under the last government. Now under this government, the way its costs have been diminished is just absolutely extraordinary.

Let me go back to Senator Alston's responses to some of those questions. He gave a wonderful rap to Mr Mansfield's report and he gave a wonderful rap to all the recommendations in that report. In particular, the one I took note of was where he belittled Radio Australia and its impact in our region. So who agrees with him? Let us have a look at the list. I cannot find anyone who actually agrees with him, but who disagrees with him?

In the papers today the Minister for Foreign Affairs (Mr Downer) is reported to have said that he will argue in cabinet for the retention of Radio Australia. There is one person who does not agree with him. It is certainly not the Department of Foreign Affairs and Trade. They argued in their submission to the Mansfield inquiry that in Indonesia Radio Australia still has a strong following from a generally well-educated audience. It is highly valued. It helps create an image of Australia in the Western countries most interested in and expert about Indonesian affairs.

One submission also claims that Radio Australia's programs are extremely popular in China where he says that they have very little audience, while in the South Pacific it is the only source of news in the region available to Pacific countries. So it is not DFAT. It is not the Nobel Peace Prize winner Jose Ramos Horta, whose name must not be mentioned by members of their government, I understand, who says that Radio Australia is the only source of real news to many in Indonesia, particularly in East Timor.

It is not the listeners who Senator Alston says do not exist, but who have been writing to Radio Australia saying it is their lifeline with the outside world—and they are the people in southern China, the people in Burma. The people in Burma are not going to tell us. They are not going to write to the Mansfield inquiry. Senator Alston said he did not get any submissions from Burma, did not get any submissions from southern China—or very many from southern China—and did not get any from Indonesia. I am not actually surprised. That does not amaze me. It is just extraordinary.

They came from Europe. That is where people do these sorts of things. They do not write submissions from Burma. They are too scared for a start. They do not write submissions from East Timor; they are too scared too, but they like to hear what is going on in the outside world and they would like to know what the real news is. Radio Australia is one of the very few sources of that news, and you want to cut it off.

It certainly was not the PNG government, who I understand are very upset about the possible closure of Radio Australia. So Senator Alston does not think Radio Australia has many fans. I can assure him Radio Australia does have many fans. They are not just people outside Australia; they are not just people who do not vote. They are people who

need the news. They are people inside Australia as well. If it is closed down, he will discover at the next election that they are very powerful.

Senator ALSTON (Victoria—Minister for Communications and the Arts) (3.29 p.m.)—I just want to deal with a few matters which, presumably, will not involve my going over the same ground on the MPI in a few minutes. Just for Senator Bourne's benefit, I did not say that Mansfield and I had not received any submissions from places like Indonesia and Burma. I said, as I recall it, Mansfield told me—and I do not think it appears in his report—that the great bulk of submissions had come from Europe.

Quite rightly, the implication of that is that very few came from the region, but I do not want anyone suggesting that somehow there were no submissions from any country in the region. There may well have been some, but the point was—and I hope you understand the point I am making—that the great bulk were not from there. I did not belittle Radio Australia. In fact, if you read pages 41 and 42, I was substantially repeating what Mansfield had to say and Mansfield also reports significant reservations on the part of DFAT. He said:

> DFAT clearly shows shortcomings in the current services, stating in its submission, 'While it is clear that RA and ATV have a key public affairs dimension in our region, in a changing broadcasting environment neither service is presently meeting its full potential and restructuring is necessary to address these shortcomings.'

He was quoting there in part from the DFAT submission. He said:

> I have some difficulty in identifying the extent to which the ABC plays such a role and, if it does, the extent to which it is effective in doing so.

These are Mansfield's reservations which I am simply putting before the Senate in saying that these are matters for judgment down the track. The government has not made a decision on Radio Australia and, in many respects, it is not our decision to make. It is a matter for the ABC and I am sure the board will be addressing these matters right now.

But I think the onus is on those who argue that somehow the status quo ought to prevail to find where the money is coming from—and I would be very interested to hear Senator Schacht say that the ALP is committed to providing an extra $20 million, that is, their budget commitment, to fund Radio Australia—or alternatively to spell out how effective it is and whether it is doing the job that it was originally designed to do.

We would all say, in a perfect world, 'Wouldn't it be great to have Australia's voice in the region', but you have to look at whether it can be delivered in various other ways, and that is the critical issue in relation to Radio Australia. I hope that that debate will proceed, but Mansfield is the starting point and I think the onus is on those who want to argue to the contrary to refute the propositions that he puts forward.

If what you do is pick out a few newspaper articles and say 'There you go. There are enough people around saying we ought to hang on to something,' then you would simply be ruled by public opinion on the issue without assuming any additional responsibilities which you have as law-makers to look at how the ABC ought to deal with scarce resources and have a view along those lines.

Moving on, and I want to make this clear, I was asked earlier whether I had signed that document and my answer was that I had not signed the document. We do not sign the documents. I did not put my signature on that document.

Senator Schacht—Did you read it before it was lodged?

Senator ALSTON—Of course you read documents.

Senator Schacht—Well, why didn't you change it then?

Senator ALSTON—I am simply saying to you—

Senator Schacht—Well, who wrote the cover sheet?

Senator ALSTON—I did not sign the cover sheet, no. I did not sign the cover sheet and I did not sign the body of the submission. You approve of a document going forward. If you want to ask me, 'Did I sign a document,'

I am telling you that I did not. But the important thing is that it is not expressed in the first person, which is what Senator Ray seemed to think was so important. The cover sheet is expressed in the third person. The cover sheet is expressing an opinion which is demonstrably and transparently wrong.

Senator Schacht—Who wrote the cover sheet?

Senator ALSTON—If you think Tony Shaw did, you have no idea what Tony Shaw does in the department. It is not his area. I do not know who drafted it. I am simply saying to you that it is not a matter of significance to know someone's opinion when it is transparently and demonstrably wrong.

Senator Faulkner—Did you raise its inaccuracy in the cabinet? Did you amend it in the cabinet?

Senator ALSTON—At all times I have made it clear that to go down the path of option 2 would be a breach of our election commitments. To go down the path of option 1 would not, and that is what the submission itself makes perfectly clear. So the cover sheet is wrong.

I have made it clear. It is simply an opinion and it is not an accurate reflection of the facts. If you cannot understand the difference between opinion and facts, you have a very big problem. The cover sheet said it was a broken promise. What everyone ought to be interested in is the facts, and the facts are that option 1, which is the one that the cabinet ultimately chose, was not a breach of our election commitment. Option 1 was simply one of two options that I had been asked to bring before the cabinet. *(Time expired)*

Senator CARR (Victoria) (3.33 p.m.)—The opposition has raised very grave concerns about this government's response to the ABC and its deliberate, protracted and quite conscious efforts to undermine and destroy the ABC. We have seen here today a further example of that. It is a classic case of the way in which this minister presents the guile, the evasion, the double speak and the deceit, and ultimately, as I said, a very classic case of the weak and sneaky approach that this government has to defending itself when it gets caught out.

The minister urges us to read the document. We have read the document. The document is quite clear. Minister, I draw your attention to clause 19 of the document, for instance, where you say:

> I consider that there is a need in the first instance to review the ABC functions to enable expectations of the ABC to be more clearly focused and articulated.

'Enable "our" expectations' is the key emphasis here in the way in which this government presents their concerns about 'their ABC' as they see it. It is not an ABC that belongs to all Australians. When they say 'our ABC', they mean a Liberal ABC.

What they make quite clear in this cabinet submission is that their intention is a prolonged political campaign going back to the days of Fightback to implement a program of action to undermine the ABC and destroy the ABC's independence and its capacity to represent the views of all Australians. That is what they do not like—an independent ABC that has the capacity to represent views that they do not like.

Essentially, what this is all about is producing an ABC which is more in the image of what they consider to be their expectations of what the national broadcaster should be. Quite clearly, that is in conflict with the existing charter and it is in conflict with the existing legislative framework. What this government is about is ensuring that the ABC is brought to heel, to that view of what it should represent.

Question resolved in the affirmative.

CONDOLENCES

Hon. Charles Robert Kelly CMG

The DEPUTY PRESIDENT—It is with deep regret that I inform the Senate of the death on Friday, 17 January 1997 of the honourable Charles Robert (Bert) Kelly, member of the House of Representatives for the division of Wakefield, South Australia, from 1958 to 1977; Deputy Government Whip from 1964 to 1967; Minister for Works from 1967 to 1968; and Minister for the Navy from

1968 to 1969. I call the Leader of the Government in the Senate.

Senator HILL (South Australia—Minister for the Environment) (3.36 p.m.)—I move:

That the Senate expresses its deep regret at the death, on Friday, 17 January 1997, of the Honourable Charles Robert Kelly CMG, member of the House of Representatives for the Division of Wakefield, South Australia, from 1958 to 1977, Deputy Government Whip from 1964 to 1967, Minister for Works from 1967 to 1968, and Minister for the Navy from 1968 to 1969, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

Bert Kelly was born on 22 June 1912 at Riverton, South Australia. He was a farmer in South Australia before entering federal politics. Even then he was making a significant contribution to the state's rural industry. He was a member of the South Australian Soil Conservation Committee from 1940 to 1958 and served on the South Australian Advisory Board of Agriculture.

In 1951 Bert was awarded a Nuffield Fellowship to study farming in Britain. This was the first time farming fellowships had been awarded in Australia. He became a member of the House of Representatives in 1958 when he won the South Australian seat of Wakefield for the Liberal Party. Although his interest in primary production and in related issues, such as soil conservation, was to remain with him throughout his parliamentary career, his overwhelming concern and the single issue which he championed fearlessly and tirelessly in his political life was tariff reduction and free trade. At the time when he was given his first ministry in the Holt government he was already characterised by the press as a 'crusading dissenter'. Indeed, a *Canberra Times* article reporting on his appointment said:

They may have to put an extra layer of green sound-proofing . . . on the doors of the Federal Cabinet room when South Australian Bert Kelly is called in to give the Government advice.

For Mr Charles Robert Kelly, Federal Minister for Works, as he will become, is one of the bluntest, straightest talkers ever to sit in Parliament.

Bert was very good at articulating his strongly held views with wit, courage and gentle self-deprecation, which endeared him to many both inside and outside politics, regardless of whether they agreed with him. He was, of course, author of the long running 'Modest Member' column and later the 'Modest Farmer' column.

The Prime Minister (Mr Howard) recalls himself being on the receiving end of that sharp wit in 1976 after a New Zealand horse won the Melbourne Cup. Mr Howard was the Minister for Business and Consumer Affairs at the time and Bert took the opportunity at question time to ask whether he would consider putting a tariff on New Zealand horses to stop them from running faster than Australian horses. It should come as no surprise that Bert Kelly's speech from the back bench always attracted a good attendance in the House.

Bert faithfully represented the rural electorate of Wakefield in South Australia for 19 years. He served as the Minister for Works in the Holt government and as the Minister for the Navy in the Gorton government. Not surprisingly, he served on a number of parliamentary committees, including the House Select Committee on Grievances of Yirrkala Aborigines, Arnhem Land Reserve; the Joint Committee of Public Accounts; the Joint Committee on Foreign Affairs; the Joint Committee on the Northern Territory; and the Joint Committee of Public Works, of which he was chairman for some years.

His departure from federal politics in 1977 was marked by many tributes. Perhaps it was best summed up by a *Bulletin* article which said:

Bert Kelly is almost a legend. He is one of those rare politicians who actually manages to see the importance of consistent, long-term policies over immediate party advantage.

I think most people on both sides of the chamber would agree that reductions in protection have contributed to a more competitive domestic industry and international trade reform. Whilst there may be differences over the pace and management of change, the general direction of change is due in part to the likes of Bert Kelly, who consistently and passionately articulated a position which has been adopted not only domestically but now

internationally. Bert's remarkable contribution was recognised in 1980 when he was appointed Companion of the Most Distinguished Order of Saint Michael and Saint George for his parliamentary service.

For those of us privileged to know Bert, he will be sadly missed. As a distant relative of mine, I will particularly miss him. He was one of my parliamentary heroes because of his determination to stick by a cause no matter what and the skilful way in which he was able to sell his message with wit and humour. He will be remembered by all with great affection, regard and admiration. On behalf of the government, I extend to his wife, Lorna, and his children—Tony, Kim and Roger—and their families, our most sincere sympathy in their bereavement.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.42 p.m.)—On behalf of the opposition, I support the condolence motion that has been moved by the Leader of the Government in the Senate (Senator Hill) on the death of the Hon. Bert Kelly, who was a very distinguished former Liberal minister. I can say that all Labor senators express their sincere regret at his death and offer their condolences to his family.

I personally did not know Bert Kelly—of course, I knew of his reputation. He was a man known for his strong conviction and his courage. He was a man who fought very strongly indeed for economic reform in Australia and who often challenged the orthodoxy of the day. He relentlessly pursued economic reform and he did have some considerable success in changing government policies. I think he was a man that all Australians can be proud of.

He was first elected to parliament in 1958 for the South Australian seat of Wakefield. He held the seat for 19 years, during which time he developed a, I think, well-deserved reputation for very effectively representing his constituents. I think that those who knew him argue strongly that he was a person who never lost the close touch he had with rural Australia, particularly the real feel he had for those he represented when he first came into the parliament.

Bert Kelly was appointed Minister for Works in 1967 in the Holt government and Minister for the Navy in 1968 in the Gorton government. He will be remembered not only for his time as a minister in Liberal governments but also as a member from one of the smaller states with a huge determination and will who was very influential in terms of government policy on tariffs and trade. He was the 'Modest Member', as he styled himself in the newspaper columns that he wrote on his retirement from the parliament.

Bert Kelly was a strong voice behind the call for less government regulation and he fought relentlessly against higher levels of tariff protection. The truth of the matter is that he fought with both sides of politics for the causes in which he believed. We ought to recognise that it does take fortitude to stand up on issues like that in the parliament. It takes real fortitude when you are a member of a major political party and you are willing to stand alone on those sorts of issues.

There is no doubt that Bert Kelly was a man of strength and character; there is no doubt that Bert Kelly was a man who made a significant contribution to public life in this country. On behalf of the opposition in the Senate, I offer our sincere condolences to his family and friends.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate) (3.46 p.m.)—I rise to associate the members of the National Party in the Senate with the condolence motion moved by the Senator Hill for the Hon. Charles Robert Kelly, who passed away last week at the great age of 84.

He was a federal parliamentarian for almost 20 years and a man who served with distinction as the Minister for Works under Harold Holt and John McEwen and as Minister for the Navy under John Gorton. Bert Kelly will be remembered for his lifelong campaign to wind back tariffs and promote free trade.

He was born in 1912 in Riverton, South Australia, to a prominent farming family and was educated at Prince Alfred College. His early years were spent on the family farm and he was on the Advisory Board of Agriculture before being preselected for the rural South

Australian seat of Wakefield in 1958. His strong views on the economic costs of blanket protectionism were shaped by his father, Stan, who had served for many years as a distinguished member of the Commonwealth Tariff Board.

Bert Kelly's first speech clearly signposted the direction that he would pursue in the parliament. He spoke of the great need for Australia to improve its terms of trade and he raised the question: If primary industry had to feel the winds of competition why should not secondary industry? History repeats itself when we see the sugar tariffs going and some debate on car tariffs to come before this parliament. Bert Kelly served as Deputy Government Whip from 1964 to 1967 before his elevation to the Ministry for Works in 1967. As Minister for Works he oversaw the completion of Australia's then biggest underwater cable laying operation which stretched across Darwin Harbour to supply power to the Radio Australia station on the Cox Peninsula. As Minister for the Navy from 1968 to 1969, Bert Kelly presided over a service that had to work hard to keep its members from the increasingly attractive salaries and conditions of private enterprise.

Bert Kelly will certainly be known as a person who brought to this parliament an opposition to protectionism and for his complete endorsement of free trade. He did that at a time that would not have been fashionable to do so, and I can understand that he would have been unpopular in some areas for his persistent announcements of the reduction of protectionism. But he did it, and his name lives on. His name will be remembered in parliament as the person who led the charge on the reduction of tariffs.

I acknowledge that he was successful in pursuing what was very close to him and what politics in Australia has adopted: more free trade policies. He pushed those well before his time. I extend my sympathy to his family and offer them the condolences of the National Party.

Senator MINCHIN (South Australia—Parliamentary Secretary to the Prime Minister) (3.50 p.m.)—I have been an admirer and supporter of Bert Kelly since I got my economics degree over 20 years ago and became a disciple of Bert's great passion free trade. One of the great pleasures in moving to South Australia some 12 years ago was that I was able to become a personal friend of Bert and enjoy many moments with him. I am also very proud to be a member of the Society of Modest Members, which was of course named after Bert Kelly.

Bert was 84 when he died, so he had had a very long and successful innings. We should really celebrate his achievements in contrast to the tragic condolence yesterday for John Panizza. Bert was a man of no pretension whatsoever; a man of considerable humility, self-deprecation and great wit. He was, as we all know, very dry in his economics but he was also very dry in his humour.

When I was elected to the Senate in 1993, I asked Bert to write a column for the first newsletter that I produced. He wrote a column which was published called 'Unseating the armchair critics'. There is a passage in that which I think is an example of his approach to life. At that time, of course, the Liberal Party was licking its wounds from one of its most difficult electoral defeats. Bert said in this column:

> The other day, at bowls, a chap said to me, "Bert, Australia is getting in an awful mess and so is the Liberal Party. You were in Parliament for 19 years, you ought to be able to tell us what we should do to make things better". I thought for a while before I answered because that is a trick I learnt in politics, it makes people think you are wiser than you are. Then I replied, "Yes, you are quite right. And if things get any worse I think you will have to start going to Liberal Party meetings". His startled reply was, "Oh cripes, things surely aren't as bad as that!"

That is probably a sentiment being felt in the Labor Party at the moment. But that was an example of Bert's very funny and humorous approach, and the way he was able to use humour to convey his message so effectively.

Bert was proof for all of us that you can make your mark in public life without being a powerful orator, without being an aggressive politician, without being machiavellian in any way or obsessed by ambition to climb the political tree. He did reach the dizzy heights of minister, albeit for only a couple of years.

He did not reach it as a result of ambition but I think as a result of his obvious policy conviction. But without being any of the things one might normally associate with political success, Bert Kelly probably had more of an impact on public policy in this country than most of us have or ever will. His commitment to free trade was remarkably resolute. It was very strong and unwavering in the face of the sort of opposition under which most of us would wilt.

I guess, as the Leader of the Opposition (Senator Faulkner) alluded to, much of the opposition to Bert came from within his own ranks, particularly John McEwen. We are now delighted that the National Party has changed its stripes—

Senator Sherry—Are you sure?

Senator MINCHIN—I am quite sure that they are now, as Ron would testify, great supporters of free trade. But there were some very powerful, protected industries and industrialists in this country who fought long and hard against Bert Kelly and his views. His views were most unpopular in certain quarters of his home state of South Australia, as is evident at the moment with the difficult issue of car tariffs.

Paradoxically, it was a Labor Prime Minister, Gough Whitlam, who in public policy terms was the first to take real notice of Bert Kelly's advice. I do not think any of us will forget the day on which we learned about Gough's very dramatic 25 per cent cut in tariffs. I certainly will not forget that day because it was one of the most dramatic actions of a dramatic Prime Minister. I was very impressed with the fact that Gough took the trouble and effort to attend Bert's funeral in Adelaide. I thought that was very significant and I know it was valued deeply by his family.

Australia is immeasurably better off because we are now, in a bipartisan manner, pursuing a policy of reducing and ultimately eliminating all tariffs in this country. Much of the credit for that must go to Bert Kelly. I think Bert, almost single-handedly and in his own inimical fashion, made Australians aware of the massive cost to Australia of protection. He was a very great Liberal, a great South Australian and a great credit to this parliament.

Senator CHAPMAN (South Australia) (3.55 p.m.)—I first got to know Charles Robert Kelly—better known to all of us as Bert Kelly—as a secondary school student. His longstanding electorate secretary, Flo Jukes-Heley, reminded me after my election as member for Kingston in 1975 that I had occasionally visited his office—as she described it—'in my school cap' to discuss politics and economics with him. I had been introduced by my father who was a friend of Bert and, indeed, my father was also a friend of Bert's original mentor, C.A.S. Hawker.

Those occasional discussions continued during my years at university in the context of my seeking advice and information on economic issues, especially trade and tariff issues which, as a then Young Liberal, I wanted to raise from time to time in Young Liberal policy discussions. I especially remember him giving me the voluminous Vernon report to digest on one occasion. Of course, 'Dave's Diary', his column in the South Australian *Stock Journal* which ceased when he entered the ministry, become required reading. Quite simply, despite his not being a particularly eloquent speaker in terms of fluency, Bert's speeches, laced with logic and wit, together with written articles, were an inspiration to a young person interested in economics and politics.

Most important of all, however, was his unswerving courage in tackling McEwen and others wedded to protectionism—courage which included eschewing political preferment. Although twice recognised with ministries—as Minister for Works under Prime Minister Holt in 1967-68 and as Minister for the Navy under Prime Minister Gorton in 1968-69—as well as serving as Deputy Government Whip, during his 19 years as member for Wakefield, it was and in his role as backbencher pursuing the tariff issue for which Australians really owe him a great debt of gratitude. He clearly showed that Australia's high tariffs were detrimental to the interests of our wealth creating exporters, especially farmers, and ultimately detrimental to the community at large.

There was strong and powerful opposition to his then unfashionable stand on tariff protection and government regulation—I have already mentioned John McEwen—but he withstood criticism from both the opposition and his own government parties with his customary humour and clear argument. Australia was pricing its exporters out of world markets through its tariff protection, and he put that argument very clearly.

When he published his biography *One More Nail* in 1978, Bert stated at the beginning of that work:

> It is almost as if Australia has a death wish . . . We have built a wall around our Australian home so high that most of our Asian neighbours think we are a world apart. Indeed we are, because that wall—invisible as it is—is very real in economic terms as it represents the high tariff barriers we thrust into the faces of those 2,250,000,000 people we supposedly call our friends.

After being dropped from the ministry at the end of 1969, Bert began in earnest to put pen to paper, writing the 'Modest Member' articles for the *Australian Financial Review* and again for the South Australian *Stock Journal*.

As a man whose heart was in the country, Bert's colourful speech was spattered with rural and homespun analogies. He managed with simple words and humour to very ably get his point across. Of governments that mean well but do badly through excessive interference in the economy, on one occasion he said:

> An economy is like a bucket of worms. It is changing and turning all the time, and if it isn't changing it dies, and the smell is awful.

Bert's great grandfather came to South Australia from the Isle of Man in 1838. His grandfather Robert was briefly a member of the South Australian parliament, before being appointed chairman of the Land Board. His father, Stan, was a member of the State Advisory Board on Agriculture, and then the Commonwealth Tariff Board. To say the Kellys get involved is obviously an understatement.

Bert Kelly himself was born in 1912 at Tarlee, about 80 kilometres north of Adelaide and was educated at Prince Alfred College in Adelaide, before returning to his beloved family farm, Merrindie, in 1929. He was appointed to the South Australian Advisory Board on Agriculture and then to the South Australian Soil Conservation Committee, before winning the inaugural Nuffield Farming Scholarship to study farming in the United Kingdom.

On his return, he became a reluctant political starter, but won the seat of Wakefield in 1958, fulfilling the wish of his mentor Charles Hawker, who held Wakefield from 1931 until his untimely death in a plane crash in 1938. Charles Hawker had told Bert that he wanted him to enter the political arena. I would like to quote Bert, as he recalls that demand by his mentor:

> But then he gradually became more pressing and one day said, 'Look Bert, I want you to prepare yourself to take over from me when I can't go on, when I resign from Wakefield.' By that time,

> Bert reflected, I was a member of the Advisory Board of Agriculture, I loved my farming, and I had kids at foot, and I said, 'Look, I'd rather be dead than in politics.' And then he said, with that understanding look, 'I'm not asking you what you want Bert, I'm just telling you where your duty lies.' And that shut me up. Oh it shut me up. And I never went to a political meeting from then on, never. I said, 'I'm not going to do it. I'm not going to be tricked into bloody politics.'

Of course, eventually he was tricked into 'bloody politics' and met that demand of Charles Hawker.

Charles Hawker himself had been a persistent critic of tariff protection. In 1961, Bert went to the United Kingdom to speak to the Oxford Farming Conference and returned via Nepal, where he was the Australian government's adviser on a sheep grazing project, under the Colombo Plan. On his return to Australia, the tariff battle began in earnest. Bert described this time as lonely and sometimes bitter, but always interesting.

Bert was amongst those who encouraged me to seek election to this parliament. Given my association with him, I was especially pleased after my election in 1975 that the then government whip, John Bouchier, allocated me a seat in the House of Representatives chamber right next to Bert. Whether Bert had a hand in this I never knew, but perhaps he wanted to keep a fatherly eye on

his young South Australian colleague. I only know that during the next two years he would regularly occupy his seat whenever I was speaking, often proffering helpful and witty interjections with his typically dry humour. I certainly appreciated his long-suffering patience in that regard.

Needless to say, I and many of my colleagues—I am sure that Jim Short, who was then a member of the House of Representatives, would recall this—were always in the chamber when Bert spoke. Bert was a welcome source of information, advice, opinion and, most importantly, inspiration during those final two years of his meritorious parliamentary service.

It was during 1977 that Bert suggested to me that if, in his words, 'Kingston went bad on me' at the next election—as might well be expected, given its history as a predominantly Labor seat—I should consider following him as the member for Wakefield at the following election, as he intended to serve only one more term. I was honoured by this encouragement but, in the event, held Kingston at the following election, and also the one after that.

Sadly, it was Bert who was denied the opportunity to complete his parliamentary service as he would have wished. The 1977 redistribution reduced South Australia's representation, with the seats of Wakefield and Angas being amalgamated. Bert lost the ensuing preselection for the new Wakefield to Geoff Giles, the member for Angas. Despite my friendship with and fondness for the late Geoff Giles—and my respect for his own contribution to this parliament—I would not be alone in concluding that his contribution to Australia's welfare did not match that of Bert. But such are the peculiarities of preselection: it was Bert's voice which was lost in this parliament.

However, his voice was not silenced, as his 'Modest Member' column became the 'Modest Farmer' column in, successively, the *Financial Review*, the *Bulletin* and the *Australian*. He continued to be much in demand as a speaker right across Australia, travelling, inevitably, with his small weathered case, which bore the initials C.R.K in roughly handpainted white paint. Bert also remained prominent as the patron of the Society of Modest Members, of which Senator Short and I were foundation members when in 1981 it was established among members of parliament to foster discussion of the benefits of a freer economic system. Bert kept a fatherly eye on the economic rectitude of a number of us remaining in the parliament, right through until his unfortunate stroke last year. It was a harrowing experience for me, when visiting him after that, to see him struggle to converse.

Politics and economics were not Bert's only interests. Sport was an important part of his life. He was a regular on the tennis courts at Old Parliament House, and—well into his 70s—on tennis courts in Adelaide on Saturdays with some of his mates. Later on, he was a regular on the bowling green. Football and cricket were also high among his interests, and especially the fortunes of his grandson Craig in his football career with Prince Alfred College, Norwood and, latterly, with Collingwood in the AFL.

His old school, Prince Alfred College, featured high amongst his interests too. He was a foundation member of the school foundation and a regular at its old scholars' dinners and annual old scholars' church services, and, from the late 1980s, the old old scholars' assembly. He often went to watch the current students of that school's senior sporting teams play on Saturday afternoons.

Bert was given a great send-off at his funeral last Friday week at the Kent Town Uniting Church, where he would have spent considerable time as a PAC boarder. His sons, Tony, Kym and Roger, paid wonderful tributes to their father. The Reverend Don Catford, who conducted the service, spoke of Bert's time at Prince Alfred College, and Ray Evans of Western Mining likened Bert to Mr Valiant for Truth in Bunyan's *Pilgrim's Progress* in a wonderful eulogy, which I now seek leave to incorporate in *Hansard*.

Leave granted.

The eulogy read as follows—

Charles Robert Kelly: 1912-1997

In John Bunyan's great epic "Pilgrim's Progress" we read of the encounter between Mr Great-heart and Mr Valiant-for-Truth;

> Then they went on; and just at the place where Little-faith formerly was robbed, there stood a man with his sword drawn and his face all bloody. Then said Mr Great-heart, Who art thou? The man made answer, saying, I am one whose name is Valiant-for-Truth. I am a pilgrim and am going to the Celestial City. Now, as I was on my way, there were three men did beset me, and propounded unto me these three things:-
>
> 1. Whether I would become one of them.
>
> 2. Or go back from whence I came.
>
> 3. Or die upon the place.
>
> To the first I answered, I had been a true man for a long season, and it could not be expected that I should now cast in my lot with thieves. Then they demanded what I should say to the second. So I told them that the place from whence I came, had I not found incommodity there, I had not forsaken it at all; but finding it unsuitable to me, and very unprofitable for me, I forsook it for this way. Then they asked me what I said to the third? And I told them. My life cost more dear, far, than that I should lightly give it away. Besides, you have nothing to do thus to put things to my choice; wherefore be at your peril if you meddle.
>
> Then these three, to wit, Wild-head, Inconsiderate, and Pragmatick, drew upon me, and I also drew upon them. So we fell to it, one against three, for the space of above three hours. They have left upon me, as you see, some of the marks of their valour, and have also carried away with them some of mine.
>
> Great-heart: But here was great odds, three against one.
>
> Valiant: 'Tis true; but little and more are nothing to him that has the truth on his side: Though an host should encamp against me, said one, my heart shall not fear: though war should rise against me, in this will I be confident.

Dear Friends, we have come to this service to give thanks to God for the life of Bert Kelly, and to share with Lorna, Tony, Kim and Roger and the grandchildren, and with Bill, Winifred and Marion, their loss in their bereavement.

I began these reflections with some lines from Pilgrim's Progress, because I know of no more apt description of Bert's life and work than the description "Valiant-for-Truth". Further, he had some close comrades in his pilgrimage and, in particular, it seems to me to be entirely correct to describe Alf Rattigan as Mr Great-heart. And finally, how appropriate it is to describe the foes which Bert encountered on his epic pilgrimage as Wild-head, Inconsiderate and, above all, Pragmatick.

Charles Robert Kelly was born on 22 June 1912. His father was W S Kelly, known as WS or Stan. His mother was Ada May nee Dawson and their infant son was named Charles after her father, and Robert after his father, in that order, because Ada was not going to have any R C Kellys in the family. The Kellys were Methodists from the Isle of Man who arrived in SA in 1838. The Dawsons were Anglicans from Kent, who arrived the same year.

Bert was the second of four children and they grew up on Merrindie, the family farm. Their lives at Merrindie are delightfully described in the book entitled Merrindie, jointly rewritten by several members of the family and which Bert organised and published in 1988. One vignette, from Bert's pen, must suffice for this occasion.

> Looking back on my youth at Merrindie, I suppose the aspect that I appreciate most now, with the benefit of hindsight, is the memory of the family sitting around the big table in what we used to call the dining room, with a big kerosene lamp in the table centre. Dad was not always there as he did a lot of reading and writing in his little study, warmed by a smelly kerosene heater in the winter.

A vital part of their lives was the Methodist Church at Giles Corner. Methodism was implanted by John Wesley in the Isle of Man in the 1780s, and the Kelly pioneers brought it with them to South Australia. The Methodist Church of Australia is no more, and other surviving churches seem distressed by heresies, but Methodism is important in understanding the life of Bert Kelly. The tag "Methodist zeal" was applied to Bert as recently as 1991 by Sir Paul Hasluck when I was asking the former Governor-General about his close relationship to Sir John McEwen, and his perspective on the battle between the much-feared Country Party Chief and Deputy Prime Minister, and his antagonist, the modest member from Wakefield.

It will take a carefully written book to do justice to the closely interconnected fabric of family, farm, church and school which surrounded Bert during his childhood and young manhood. That book, I should add, has been in progress for some time and will I trust, when complete, describe fully in all its richness, this rich culture of early C20 rural Australia which produced so many great men and women.

Bert attended Prince Alfred College and returned to the farm in December 1929 to serve an apprenticeship under a manager. Three months later he was appointed to teach in the Sunday School. WS had left Merrindie to take up his Tariff Board duties in Melbourne. Lorna Hill came that year to

Merrindie School to housekeep for her brother Victor, who was taking charge at his first school. Very soon Bert was courting Lorna with the aid of a primitive Fordson tractor, which he used to work over the school corner paddock far more than any economic calculation could possibly justify. In 1935 they married and no politician or public figure could have been more fortunate than Bert, in having Lorna as wife and sheet-anchor. How often has the story been told of Bert droning on to a virtually empty House, late at night, on the implications of the latest Tariff Board report, sustained only by the loyal presence of Lorna in the Visitor's Gallery. But those speeches became part of a public record which kept lobbyists and departmental advisers, at least from some departments, awake at night.

We can summarise Bert Kelly's claim to our admiration, and to his important place in the history of Australia, very simply. He arrived in Parliament, aged 46, in 1959, with no more formal education than he obtained at Prince Alfred College and then, with no parliamentary allies, sustained a long and often bitter campaign, lasting two decades, first against a very powerful Deputy Prime Minister, but always against the deeply held and strongly defended conventional wisdom of the day concerning protectionism. In the thirties, Sir Keith Hancock had written,

> Critics of protection, during the second decade of the C20, dwindled into a despised and detested sect suspected of nursing an anti-national heresy.

and in the fifties the climate of hostility towards such critics, under McEwen's influence, had become worse.

The influence of two men sustained him during this long and lonely battle. The first was his father, WS, whom Bert regarded with "awe and veneration". WS was still very much alive when Bert entered politics, and he maintained pressure on Bert to take up the battle WS was appointed by the Bruce-Page Government to the Tariff Board in 1929, and from that vantage point saw the tragic consequences of the "tariff-on-request" policy of the Scullin Government, a policy espoused by that Government in its woefully misguided response to the massive unemployment caused by the Great Depression.

The second man, Charles Hawker, was killed in a plane crash at 2 am on Oct 26, 1938 when his plane, en route from Adelaide, overshot Essendon airport in fog, and crashed into the summit of Mt Dandenong. Charles Hawker was crippled very badly by war wounds but won the seat of Wakefield in the 1931 election. Had he lived he would have most likely succeeded Joe Lyons as Prime Minister. Hawker and WS were close friends and Hawker was a frequent visitor to Merrindie. An important exchange took place during one of these visits, not long before Hawker was killed, and in retrospect Bert recalled it in these words

> But then he gradually became more pressing and one day said, "Look Bert, I want to prepare yourself to take over from me when I can't go on, when I resign from Wakefield". By that time, Bert reflected, I was a member of the Advisory Board of Agriculture, I loved my farming, and I had kids at foot, and I said, "Look I'd rather be dead than in politics" And then he said, with that understanding look, "I'm not asking you what you want Bert, I'm just telling you where your duty lies." And that shut me up. Oh it shut me up. And I never went to a political meeting from then on, never. I said, "I'm not going to do it! I'm not going to be tricked into bloody politics".

Hawker bitterly attacked the endemic corruption which attended the Scullin tariffs, and the settlement which was reached during the thirties on this issue was due to Douglas Copland who argued successfully for "economic and efficient protection". Protection would be accepted as a normal part of economic life, but the Tariff Board would be given the right to exercise proper scrutiny and control over procedures, free from immediate political pressure. WS served on the Tariff Board for many years and all of his work was directed towards implementing this truce. However McEwen, seeking for even greater power to implement his vision for Australia, and desirous of using the tariff and the import quota to achieve his ends, found his ambitions blocked by the Tariff Board. Within this power struggle, then, the ghost of Charles Hawker and the urgent and compelling voice of his father, propelled and sustained Bert in his early years in the Parliament.

The key events in this long battle were the Vernon Report, the resignation of Sir Leslie Melville from the chairmanship of the Tariff Board, and the appointment of Alf Rattigan to succeed him. During this intense power struggle Bert became a master of the parliamentary question which, seemingly quite innocuous, contained within it a potentially lethal trap for the Deputy Prime Minister.

Having appointed Bert as Party Whip, Prime Minister Sir Robert Menzies retired in January 1966. Not long after his successor, Harold Holt, drowned in December 1967, having appointed Bert to the most junior ministry of Works. John Gorton then gave him the Navy but later dropped him, and in this way launched Bert on his extraordinary career as the Modest Member. He had, much earlier, developed a unique style and a technique as a columnist with his Dave's Diary, written for rural papers, prior to entering politics. His characters then were Dave, his wife Mary, their politically ambitious neighbours the Clarksons, and Squatter the sheep-dog.

With Dave's Diary Bert had become a very skilled writer, and in the tradition of Steele Rudd and C J Dennis he created, from his experience of farming and political life, a series of characters for his column such as Eccles the ivory tower economist, Fred the farmer next door, and Mavis, the long suffering politician's wife. These characters, and the rural imagery Bert employed, captivated many thousands of readers in all walks of professional and business life. Those Friday columns came to exert great influence throughout Australia, and each successive Friday came to be dreaded by the Canberra lobbyists whose job was defending and expanding the tariffs which their industries enjoyed.

I was one of the Friday-only readers of the Financial Review of those days, a phenomenon which made Friday's circulation greater than on any other day. And I well recall the sense of anticipation with which I immediately turned to the editorial pages to catch up on the latest adventures of Fred, Mavis Eccles and the modest member. Self-deprecation became, in Bert's hands, an extraordinarily effective weapon. But we should not assume, because it became such, that Bert was not what he claimed to be—a modest member. Bert believed that modesty was an important quality which, if not innate, should be diligently cultivated, and he did so because it was a part of the fabric of values and strongly held beliefs which became part of him as he grew up at Merrindie, and married, and with Lorna, brought up their family there.

Similarly we should not think that Bert was opposed to protectionism because it was inefficient, or led to distortions in investment and trade—to use the language of economics. Bert was opposed to Protectionism because it was wrong, and it was wrong because it created a situation in which governments, in the person of ministers or officials, granted arbitrary and capricious favours to some, who were thus greatly enriched, at the expense of others, who were at best impoverished and at worst, ruined. Bert was not really an economic rationalist as that term is now employed. Bert was the great embodiment of Edmund Burke's dictum that "politics is morality writ large." and if the application of the moral principles which had been inculcated into him from childhood led to economically sensible conclusions, that was an additional benefit.

For the same reasons Bert never placed the prospect of political preferment above his mission, and he thus became an exemplar to a rising group of politicians who saw in Bert someone who achieved, in reality, extraordinary success but whose political career, in conventional terms, could only have been described as modestly successful. These political heirs of Bert's formed the Society of Modest Members, and have sought in their various ways to emulate him in their conduct and influence.

Bert instinctively understood the truth of Edmund Burke's observation that "all government is based on opinion". Bert set out to change opinion on protectionism, and first of all in the parliament, and then, in his column and in his speaking engagements all around Australia, he played an indispensable role in bringing about the nation-wide change in opinion, to which the Prime Minister referred in his tribute to Bert.

Bert was much loved by his companions in these battles. At the various conferences where the issues were debated, Bert's appearance, dressed as he usually was in shorts, open necked shirt, long socks with ruler and pencil tucked inside a sock, together with the battered case with the letters CRK emblazoned in unruly fashion in white paint on one side, was always cause for an immediate uplift of spirits. Bert was always good fun, but we all knew that underneath the wit and the charm there was a well-tempered core of steel; that he would always be true; and if we were to desert the cause, particularly for temporary advantage, his judgment would be stern.

> After this it was noised abroad that Mr Valiant-for-Truth was taken with a summons by the same post as the other, and had this for a token that the summons was true, That his pitcher was broken at the fountain. When he understood it he called his friends, and told them of it. Then said he, I am going to my Father's; and though with great difficulty I am got hither, yet I do not repent me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me that I have fought His battles who now will be my rewarder. When the day that he must go hence was come, many accompanied him to the river side, into which as he went he said, Death where is thy sting? And as he went down deeper, he said, Grave where is the victory? So he passed over, and all the trumpets sounded for him on the other side.

Senator CHAPMAN—It will stand as a monument to Bert that his proteges, to whom he handed the baton of his long, lonely, courageous fight against the folly of protectionism and, subsequently, other economic folly, are regarded as having won the day. Certainly, that was the view in the early 1990s when the previous Labor government, to its credit, put in place the current phases of the motor vehicle, textile, clothing and footwear plan.

But we should perhaps ask the question: is the fight won? When one considers the

ridiculous bile currently being poured out against the draft report of the Productivity Commission on motor vehicles, that question certainly needs to be asked. Indeed, one can validly ask whether some of its critics have even read the detail of the report. That debate can wait for another day, but I simply urge those to whom Bert left his legacy of acute understanding and commonsense concerning economic issues not to shrink from the fight and fail him on this issue.

I reinforce the earlier sympathy that I have offered to Lorna, to his sons, Tony, Kim and Roger, to his grandson, Craig, and to other members of his family. Bert's contribution to Australia's welfare will still be remembered when those of us here today are well and truly forgotten.

Senator SCHACHT (South Australia) (4.09 p.m.)—I want to say very few words. First of all, to the family of Bert Kelly, I extend my condolences and sympathy on his passing. Of course as a South Australian senator—and he was a distinguished Liberal Party member from South Australia—I think it is appropriate that I say a few words. I cannot claim that I was a personal friend. I met Bert Kelly once when I was a staffer in the Whitlam government and occasionally travelled backwards and forwards on the same plane. I remember that, at the time I did meet him and have a conversation, he was in an animated conversation with Richie Gun, the then member for Kingston, over these issues that other senators have mentioned here today: tariff arrangements et cetera.

I think that Bert Kelly did have some influence on Richie Gun and on other members of the Labor Party about tariffs—not to the extraordinary degree that we should get rid of all tariffs but he did point out some of the insanity of some of the extraordinarily high levels of tariffs that occurred. I think there was one famous case about plastic buckets when he said that the tariff on imported plastic buckets was so absurd that you would have been better off getting a gold-plated bucket made in Australia by comparison. He did point out those absurdities that tariffs had got to in Australia.

I must say that Bert was obviously one of those few people who had more influence when he was on the backbench than he did when he was a minister. I think that he was a victim of the second *Melbourne* incident when it collided with an American destroyer and sank it at the time when he was Minister for the Navy. At the time, he got some criticism, which I do not think was fairly dealt to him. But when he was dismissed from the ministry—or sacked, whichever way you wanted to put it in those days—he took it with considerable forbearance and just saw that as a another part of the passing parade of politics.

I remember that in the middle of 1974 there were major floods in Australia. We had heavy rain and floods in Brisbane and the Murray-Darling Basin. There were scenes very similar to what we are seeing at Charleville today where towns were being flooded, towns situated on the low-level areas of flood plains. The then Minister for the Environment, Moss Cass, put out a statement pointing out that flood plains are actually for floods, so if you build a house on a flood plain, every so often you have to expect to get flooded; it is all very well for people to say that this is terrible but that is the consequence of it.

Moss was being criticised by some people for not showing due sympathy for the people affected by the floods, and I remember Bert Kelly writing a letter to Moss. The letter, which I know Moss treasured greatly, said: 'Dear Moss, If you continue to tell the truth like this, you are going to put all us politicians out of business. Clearly, it is correct. Flood plains are for floods and we should all recognise that and not get carried away'. Bert wrote that letter in the Modest Member article as well in one of those very self-deprecating, humorous columns about Mavis, Eccles and the other characters.

I want to place on record—I don't think it should be ignored, irrespective of which side of politics or which side you are in the tariff debate—that his influence as a backbencher was very unusual in that he convinced a lot of people on both sides of politics that unnecessarily high levels of tariff actually retard the economy and do the opposite of creating

jobs. Of course, that was against the orthodoxy of both major parties of the 1950s, the 1960s and into the early 1970s. I notice that Senator Minchin in his remarks complimented Gough Whitlam on the decision, which created mayhem in the Labor Party in 1973, to announce out of the blue a 25 per cent tariff cut.

Senator Alston—It didn't do much for Jim Cairns's career either!

Senator SCHACHT—No, it did not. I do not know whether Bert had direct influence or not but he at least raised the issues.

I always thought it was a bit astonishing that in 1977 he lost preselection for Wakefield to a very distant relative of mine, Geoffrey O'Halloran Giles. And of course when he lost preselection the comments in Modest Member were again written in a self-deprecating style along the lines of 'Of course, he lost the preselection because he refused to go round to campaign for votes, and his opponent did'. It was all there—all the things you should not do in politics. And of course there was that great line about Mavis being upset that he might not get a state funeral or whatever—and all those sorts of things about offending the Prime Minister. I was one who always read Modest Member, whether it was in the *Stock Journal* or the *Financial Review*.

I just place on record that I wish I had known Bert better. I notice one of his grandsons played football for Norwood and was pinched to play for Collingwood—I do not know whether Bert was a Norwood supporter or not. Bert came from a distinguished family in South Australia and was a distinguished member of the South Australian community. Above all else, he made a contribution as a backbencher that in my knowledge of history is not surpassed by any other backbencher in influencing the course of policy which, despite the argy-bargy about it, overwhelmingly has probably been for the benefit of most Australians.

Senator FERGUSON (South Australia) (4.15 p.m.)—I wish to briefly associate myself with this condolence motion for Bert Kelly. I listened carefully to what Senator Schacht had to say and it followed along the lines of what many other people have said today.

Bert Kelly was the first federal politician I ever had the opportunity to vote for. I suppose that is probably not quite true. I probably did have the opportunity to vote for a Labor candidate, but in the seat of Wakefield that would not have made a lot of difference. I must also say that it was in those early days when there was not always a Labor candidate. When Senate elections were out of sync, it was quite often the case that Liberal members for Wakefield were returned unopposed. The same thing happened in some state elections in the 1950s when elections were out of sync.

I first had the opportunity at the age of 14 to meet Bert Kelly when in 1957 he came around on his preselection trail to visit my father, who at that stage was one of the approximately 8,000 Liberal Party members in the seat of Wakefield who had duly paid their guinea to belong to the party and were allowed to vote in a voluntary plebiscite—an issue that is very close to the heart of one of my colleagues. I do clearly remember him being brought around by another member of the Kelly family, a very respected farmer on Yorke Peninsula, who was well known to us and whose family still farms at Urania there, which Senator Schacht well knows.

Bert Kelly impressed everybody that he spoke with even then. I can still remember my father saying to me, 'There, boy, goes our next federal member.' I was not that worried at the time because I could do two or three extra rounds on the tractor on my own while Dad talked to Bert about his preselection process. It was the first time I met Bert.

Some time after that my father entered state parliament and in the early 1960s when I was going to travel overseas he happened to be talking to Bert Kelly and said, 'Well, if your lad is going overseas, Jim, I think there is something he ought to read before he goes.' So he handed my father a copy of his son Tony's diary, which Tony had written while he himself as a young man was overseas for a period—I think it was a couple of years. I wish I still had a copy of that diary because it was written in the same inimitable style as

Bert had when he was writing his various columns for the paper.

I never had the opportunity to meet Tony until the day of Bert's funeral because he moved to Western Australia and farmed successfully over there. I said to him that, although I had never met him before, I knew of him quite well because of the number of times I read his interesting diary which Bert thought I should read before I travelled overseas for some nine to 12 months.

The column 'Dave's Diary' must have boosted the sales of the *Stock Journal* immensely because whenever anybody picked up the publication it was the first article that they read. It would not matter what crisis had evolved in the primary industries. It would not matter what the headline of the day was. People used to get the *Stock Journal* and open it up to 'Dave's Diary', such was his ability to enthuse his readers. He was always straight to the point. I had only just left school at the time and gone back on the farm. 'Dave's Diary' was well read and well thought of by everybody although many people disagreed with the things that Bert was writing about.

Not long after Senator Minchin and I had come into this place, three very wise old heads decided that it was time that they taught the young boys a thing or two. I still remember a very pleasant luncheon at the Norwood Hotel with Bert Kelly, John Macleay and Jim Forbes, who over a period of 1½ or two hours decided that they could impart a lot of knowledge to us on what we ought to know if we were going to serve this parliament well. I only hope that at some stage during our careers we can put some of those things into action that were said to us because certainly they were said with feeling and with much thought. At the end of that luncheon, both Senator Minchin and I were very proudly presented with a signed copy of Bert's book on Merrindie, the family farm, a well-written and very readable book about the life of the Kellys in South Australia throughout the hard times and then the good times until the farm was sold.

I am also a member of the Society of Modest Members which was formed at that time and am proud to be associated with that society because it does remember a lot of the things that Bert stood for and was proud to stand for. It has been said by many people today that Bert was not an eloquent speaker. I would beg to differ with some of those remarks. You might not have called him an orator in the classic style but, whenever Bert Kelly stood up to speak in any forum, whether it was in this parliament or just a gathering of Liberals, people hung on every word that he said. Senator Schacht would probably agree that it did not matter whether it was a Liberal function; whatever function he was at, people hung on every word that Bert said because it was always thoughtful and it was always witty. Whether people agreed with him or not—as I said, in many cases many of his Liberal colleagues did not agree with what he said—they all appreciated his earnestness, his style and the manner in which he put forward his case.

Bert Kelly will long be remembered in South Australia for his contribution to the Liberal Party and to politics in South Australia and in the federal parliament. I am very pleased today to be associated with this condolence motion and certainly would pass on my sympathy to the members of his family, knowing that they can remember Bert's record in public life with a great deal of pride.

Senator SHORT (Victoria) (4.22 p.m.)—I, too, would like to join my colleagues on both sides of the house in supporting Senator Hill's motion of condolence on the death on 17 January of the Hon. Charles Robert Kelly CMG, known universally as Bert Kelly. I would like at the same time to extend my sympathy to his wife, Lorna; his sons, Tony, Kim and Roger; and their families at his passing.

Bert entered the federal parliament in 1958 and retired in 1977, as we all know. I was privileged to be a colleague of his, along with Senator Chapman, in the House of Representatives during Bert's last two years there. Very regrettably, as Senator Schacht mentioned, his defeat at a preselection contest in 1977 robbed the parliament of a member who I think had many more potential years of very valuable contribution to make.

Bert was a unique person in many ways. The Prime Minister, John Howard, in his tribute to Bert on 19 January this year made a couple of points that I think are certainly correct. He said:

> Bert Kelly was almost certainly the first and definitely the foremost parliamentary advocate in the post World War II period of lower tariffs and freer trade.
>
> At a time when it was unfashionable to do so he, almost single handedly, argued in Parliament for less government regulation and other economic policies now commonly described as economic rationalism.

The Prime Minister also said:

> In time he—
>
> Bert—
>
> was to see the ideas he championed almost alone for so long enjoy much wider political support.

Former long-term friend of Bert's and himself a long-standing Liberal politician and, indeed, a federal President of the Liberal Party, Dr Jim Forbes, said on Bert's death:

> . . . in his time Bert Kelly achieved more as a member of Parliament than any single other member of Parliament.
>
> . . . . . .
>
> He almost single-handedly changed the whole climate in Australia from a high protection climate to one in which free trade prevailed.

The excellent obituary in the Melbourne *Age* by Ray Evans—and I am delighted to see that Senator Chapman today has had incorporated in *Hansard* the eulogy from Bert's funeral—described Bert as 'one of the most influential politicians of his generation'. At Bert's funeral, which many of us attended a couple of weeks ago, former Prime Minister Gough Whitlam said to me—and I am sure he will not mind my repeating it here; and indeed some of my colleagues may also have heard it—that during his period as Prime Minister there was no backbench member on either side of the parliament for whom he had more respect. I would certainly fully endorse the words of Jim Forbes and Ray Evans.

In my view, Bert Kelly was one of the most influential members of parliament, including ministers, of the last 40 years. That was not because of his three-year ministerial record as Minister for Works and as Minister for the Navy in the period 1966 to 1969; rather it was because throughout his entire period of almost 20 years in the parliament he was a constant, tireless, courageous and extremely forceful advocate for a change in our way of thinking towards international trade and our balance of payments.

Bert came into the parliament in 1958, at a time when Australia was heavily protectionist. His maiden speech was devoted entirely to Australia's then—and I might say still—balance of payments problem. As he said:

> I make no apology for doing this because the problem is vital to our whole economy and it simply must be faced.

He also said:

> This is not an academic problem.
>
> . . . . . .
>
> Unless we can correct this balance of trade position, our whole economic health will suffer now and our future advancement as a developing nation will slow down.

Bert did not just leave the problem exposed without proposing any solution. He said, again in his maiden speech:

> It is of no use my standing up here and prophesying disaster if I cannot make any suggestion.

His solution was to increase exports by making exporting easier and the key to that was the reduction in tariffs on imported goods because tariffs impose added burdens on exporters. That was said at a time, I repeat, when the whole mind-set of the manufacturing sector was for high tariffs as the only way to enable manufacturing in Australia to survive. Fortunately, that mind-set has changed dramatically over the ensuing years, thanks to the courageous persistence of Bert Kelly and some like-minded public figures, including in particular former Tariff Board chairman Alf Rattigan in the 1960s and 1970s.

Many years before I entered parliament I spent a couple of years with the Tariff Board as a project officer—from 1961 to 1963. Bert Kelly's father, Stan Kelly, had been a very notable board member 30 years earlier. But at the time I was at the board as a project officer—the early 1960s—the board reflected the views of the very heavily protectionist manufacturing sector. During my two years

there I undertook 13 tariff inquiries. On 12 of them I recommended a reduction in tariffs and on the 13th I recommended no change in the existing level. Of course, the only recommendation I ever got up and had accepted by the board in those years was the one for no change in tariffs. So I got rolled monumentally.

I guess that when I came into the parliament at the 1975 election and took my seat in February 1976 I already had a generally similar attitude towards tariffs to Bert. That may well have been because for many years previously I had been an avid reader of his wonderful Modest Member newspaper articles. Those articles have been referred to here and there is no doubt that they came to exert a great influence throughout Australia during the period.

Getting to know Bert as a colleague and, as I would like to believe, a friend during his last two years in parliament certainly focused my mind and attitude much more clearly on the essential correctness of Bert's basic position. Like Senator Minchin, I became in many respects a disciple as well. We were by no means the only ones to be so influenced by Bert. Nor was I by any means the first. Several of my colleagues during the late 1970s and early 1980s came increasingly to speak publicly in support of his approach. I think particularly of John Hyde, Jim Carlton, Ross McLean and Murray Sainsbury. There were others as well.

After many years a lone voice in the parliamentary wilderness, Bert was no longer alone. Since then, the debate has been won. Many of the implications of that victory have been implemented. The tariff wall has been reduced considerably. As a result, Australia has become a more vigorous, internationally competitive, lower cost producer of high quality goods and services. Our export effort has been enhanced enormously and our living standards have risen. It is absolutely essential that we maintain the direction and that we continue the revolution or perhaps progressive evolution that Bert Kelly, amongst others, was so courageous and successful in igniting. That is the only epitaph that Bert would regard as fitting.

A couple of years after Bert's departure from parliament, a group of his parliamentary supporters determined to work towards continuing the course on which Bert had been embarked for so many years. As has been mentioned, we formed the Society of Modest Members, with Bert as our patron. That society has continued and grown over the ensuing 15 years or so. Throughout the 1980s and 1990s, it has been an important and influential forum for those advocating free market policies as against extensive government regulation.

Bert Kelly as a man was a wonderful fellow. He was very humble. He was a very kind person. As has been said, he was a self-deprecating person. He was always an extremely courteous person. With all those qualities, he added to them great resolve, courage and determination. He had a great wit, and he used it with style and effect in his speeches and writings. I would like to take the liberty of quoting a couple more instances of that wit to those that have already been mentioned today. Bert, after his departure from parliament, was writing an article about the virtues of a good, well-timed question. He said:

> For instance, in September 1964, the Government was contemplating imposing a levy on hens. I asked the Minister for Primary Industry, "Is he aware that most of the eggs produced in SA are produced by flocks containing less than 50 birds? Is the levy to be paid on all flocks containing over 20 birds? Will this mean that each flock will have to be counted by an inspector? Will the Minister tell me how this will be done in my case, as most of my fowls live either in the header or in the trees?"

He went on to say:

> That broke the House up. I thought Sir Robert Menzies would fall off his chair. But the difficulty exposed in the question led to the scheme's being rethought in a minor way.

That is a good example. Perhaps another more significant one is from April 1975, when he asked the following question of Jim Cairns, who was the then short-lived Treasurer. Bert said:

> My question is directed to the Treasurer. Last week the Treasurer told us about his policy of using deficit financing to lower the present level of unemployment. How is his solution of burying the

unemployment problem under a mountain of money actually working out? If printing money is a good solution to the unemployment problem why not print more of the stuff and get rid of the unemployment problem altogether?

Jim Cairns came in, took the bait and said:

We might do precisely that.

That is generally regarded as the start of Jim Cairns's downfall as Treasurer.

Senator Schacht—I don't think so. I think there were a couple of other things.

Senator SHORT—There might have been a few other things. He had a go at both sides. I have mentioned the hen levy. The final example I want to mention was mentioned by Senator Hill briefly in his remarks today. This was Bert's question following the win by Van Der Hum in the 1976 Melbourne Cup. After the race, he asked this question of the then Minister for Business and Consumer Affairs, John Howard:

Because of the consistently strong competition from New Zealand, will the Minister see what can be done to put a tariff on New Zealand horses in order to prevent their running faster than our home produced horses?

Bert then goes on to say in his article:

The Minister floundered so much that the Speaker—

who was Billy Snedden—

accused him of weighing in light.

They are some examples of the wit of Bert Kelly, which very much reflect on him as a man. The funeral for him a couple of weeks ago reflected all of that as well. It could not be said to have been a sad occasion. In many ways, it was a happy occasion. It was a real celebration of the life of a charming man who had contributed a great deal to the wellbeing of our nation. Bert Kelly will be very sorely missed, but his spirit will certainly live on very strongly for many years.

Senator FERRIS (South Australia) (4.37 p.m.)—My humble offering today celebrates the life of a quite remarkable man. He was one of South Australia's great characters and was certainly one of the icons of Australian primary industries. It is appropriate that we are speaking about Bert Kelly here today during the week of the Outlook conference. Those of us who have attended many of the Outlook conferences over the years remember very well Bert Kelly wandering around, chatting with people, making sure that everybody had their line right and imparting his usual sense of wit and fun. As the Prime Minister said yesterday, Bert Kelly was a policy trailblazer, he was a trailblazer for freer trade and he worked tirelessly, often faced with formidable hostility. He was always ready to stand up to the pressure from special interest groups, and we have heard some very amusing examples of that here today. Anybody who opposed his very well-articulated views in his sometimes quite simple country style could never fail to get the thrust of his message.

During the years that I worked at the National Farmers Federation, his newspaper columns 'Modest Member' and 'Modest Farmer' were compulsory reading. He often weighed into the sometimes warm and robust philosophical debate between the National Farmers Federation and some of its community adversaries. You could never be exactly sure who was going to get the compliment, but the columns were required reading.

It was his status as the icon of primary industries in Australia that led to him being invited to launch one of the National Farmers Federation's first books that detailed the history and current statistical information of Australian primary industries and, since Australia's farming history dates back to the years of Captain Cook, it was decided that the book would be launched on Sydney harbour in the sailing ship *New Endeavour*. It was a dreadful day. Bert turned up on time. The editor of the book, Julian Cribb, had caught the wrong aircraft and gone to Melbourne instead of Sydney. There was a storm raging. We piled into the below decks of the *New Endeavour* and set sail on a very stormy and rocky Sydney harbour, but Bert was undeterred.

He made a great speech. He managed to link in the history of agriculture with Captain Cook and half a dozen other very amusing anecdotes as we all heave-hoed. By the time the book was launched, many of us had faces as green as the cover of the book, but Bert was undeterred. He continued regardless.

Soon after my preselection, he came up to my office with a copy of his book *Economics Made Easy*, published in 1981, and said, 'Here, read this. If you like it, you can send me some money; if you don't, you can keep it anyway, but never forget what it says.' Last year at the Samuel Griffiths Society dinner, I was honoured to be sitting beside Bert. While he was clearly failing in health, he was nevertheless a very amusing dinner companion that night. I said to him, 'Do you have a message for me, Bert? Do you have something that I should remember?' He said, 'I'd like to talk to you about political paranoia. There's a lot of it about in the parliament, but just remember, those people who hear footsteps, they're finished.' It was probably the last thing he said to me that night and it has remained very clearly in my mind.

I have followed his ill health with the sorrow that others have shared today and I was very sorry that committee business in Darwin prevented me from joining the hundreds of people in Adelaide at his funeral. I would like to say my own special thanks to him. He was a very interesting person to talk to. He often brought his pencil scribble up to me in an office to be typed, wherever I happened to be working at the time, and said, 'Here, type this. I want 20 copies and get it in the mail tonight.' Sometimes it was 4 o'clock when he came in. Others have said how he dragged things out of his old briefcase with his initials painted in white—it was like a box of magic tricks.

I would also like to say, in conclusion, that his wonderfully supportive wife Lorna was a source of inspiration to him and those of us who had met her, albeit briefly, could understand the great partnership they had. She was as entertaining as he was. They were a great partnership and great characters.

The DEPUTY PRESIDENT—I ask honourable senators to stand in silence to signify their assent to the motion.

Question resolved in the affirmative, honourable senators standing in their places.

MATTERS OF PUBLIC IMPORTANCE

ABC: Funding

The DEPUTY PRESIDENT—I inform the Senate that, at 8.30 a.m. today, Senators Bourne and Schacht submitted letters in accordance with standing order 75, one proposing a matter of urgency and the other a matter of public importance. In accordance with the standing order, to decide which letter should be submitted to the Senate, the President determined the matter by ballot in the presence of the representatives of Senator Bourne and Senator Schacht and the Clerk of the Senate. As a result of that procedure, I now read Senator Schacht's letter.

Dear Madam President,

Pursuant to Standing Order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

The government's blatantly misleading and deceptive statements, in relation to:

(a) ABC budget cuts announced on 16 July 1996, and

(b) the purpose of the Mansfield Review into the ABC.

Yours sincerely

Senator Schacht

I call upon those senators who approve of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the Clerk to set the clocks accordingly.

Senator SCHACHT (South Australia) (4.45 p.m.)—On behalf of the opposition I wish to raise the following matter of public importance:

The government's blatantly misleading and deceptive statements, in relation to:

(a) ABC budget cuts announced on 16 July 1996, and

(b) the purpose of the Mansfield Review into the ABC.

Today, through a series of questions, we had some extraordinary answers from the Minister for Communications and the Arts (Senator Alston) as he tried to explain away his performance with cabinet submissions for the budget last year and how they clearly broke a whole range of promises that he had made on behalf of the coalition before the last election. He tried to explain away that his cabinet submission really should not be taken as his own document, that part of it was written by somebody else. I think he said it was a footpath quote. He said that part of it was not to be considered as a core part of the submission. These are quite extraordinary comments from the minister.

The opposition believes that this has been a standard practice of this minister now for nearly 12 months. Everything he has said on the record about supporting the ABC now has to be taken with a very large grain of salt. There have been misleading comments; there have been deceptive comments made by the minister. Anybody who supports the ABC, whether they are within the ABC or without or whether they are in the general community, will now always have to treat with considerable contempt any remarks he may make in support of a vigorous, broad based ABC.

The minister likes to keep ducking and weaving that he has not actually broken any promises. My own view is that he might have been a lot better off during much of 1996 and even today to have admitted that, yes, he had actually broken a promise.

Senator Alston—Why would you do that if you haven't?

Senator SCHACHT—There you go again, Minister. You think you have not broken any promises when, on any understanding of the common English language, you have consistently broken promises in every way possible. Not just the odd one, but a comprehensive list. I thought you would have been a lot better off to have said, yes, I broke that promise for the following reason. But you keep saying, 'I haven't broken any promises. What I am delivering to you with the ABC and the cutbacks et cetera is exactly what I promised before the election.' It is astonishing. On 18 January 1996—and I want to put it on record here—the coalition released its communications policy, Better Communications, when the minister was then shadow minister, which promised:

> The Coalition will maintain existing levels of Commonwealth funding to the ABC. . .

That is page 5.

> The Coalition will maintain the current prohibition on advertising and sponsorship on ABC television and radio.

Page 5.

> The Coalition is committed to maintaining the ABC's comprehensive radio network.

Page 6.

> We will encourage and support the ongoing expansion of ABC radio, including the extension of the highly successful Triple J network into regional Australia.

That was page 6.

> The Coalition will support the ABC's existing Internet and CD ROM projects and will further encourage the ABC to develop its expertise in this flourishing industry.

Page 6.

> The Coalition will maintain current levels of financial support for the orchestras.
>
> The government has announced an additional three year funding package for ATV. The Coalition will maintain this commitment and . . . ensure that ATV has a guaranteed long term place in the Asia Pacific region.

Finally:

> The Coalition is strongly supportive of Radio Australia's existing services and will ensure that they are not prejudiced or downgraded in any way.

That is not the complete list from Better Communications but it is a fair summary of what this minister, as a shadow minister, promised on 18 January 1996.

The minister has been sprung by the leak of his cabinet submission in July of last year to the ERC process on the budget. The first page of the submission says:

> Options examined in the submission are inconsistent with government election commitments to maintain ABC funding levels but will assist achievements of the government's fiscal policy strategy.

Clear-cut, black and white, cannot be walked away from. You would not have thought it could have been walked away from but not

with this minister: he is very slippery with the English language. Very slippery. I think that, with the practice he has had at the lower level Magistrates Court in Melbourne as a barrister in the past, he believes he can get away with it here. He has said today, in answers to questions, that this is a kerbside quote. I do not know whether it came out the way he intended—

Senator Alston—You haven't heard the expression?

Senator SCHACHT—Well, you have confirmed it. I find it extraordinary that a minister lodges a submission in the cabinet process for ERC and on the front page says, under the heading 'Relation to existing policy', that that quote is a kerbside quote and that he does not bear any responsibility for it.

I do not know what this means his view is of the cabinet process, of his own department, of his own office, or of his relationship to the cabinet office when he can dismiss something that he lodged as being a kerbside quote. Whatever he thinks that means, to the rest of us it is pretty black and white. I find it astonishing, Minister, that you just say, 'No, that ruling does not exist.'

In answers today, he has gone through this document and agreed with part of it and not with other parts of it. Even though it is in the first person, with 'I recommend this' and 'I say this', he says, 'I didn't really mean that. Someone else wrote it.'

Senator Alston—Well, that's right.

Senator SCHACHT—Minister, the question I will put to you—I do not think we will get a straight answer—is that, even allowing for this extraordinary thing that this quote about the breaking of government policy and its promises is not one that you take responsibility for, if you say this was lodged without you really agreeing with it, that it somehow slipped through the administrative processes of your department and your own office and it got lodged and you disagreed with it, when you got to cabinet with all the other ministers and found it was sitting there with a submission in ERC, did you take the opportunity to tell the other ministers, 'I disagree with this. There is a mistake. This paragraph is not what I meant to say. I am withdrawing it and I want it redrafted'?

You might claim cabinet confidentiality to get out of the mess you have got yourself into but, if you were fair dinkum, you would have actually explained to us, once you found out that you were dealing with a document that you disagreed with, that you slackly let through, that you had no administrative process to check what was being lodged in your name. The last step would be actually saying in cabinet, 'This is wrong. I don't agree with this'?

I bet you did not do that because you would have found Mr Costello, Mr Fahey and Mr Howard waiting there with baseball bats on this issue and saying, 'We want these options dealt with, Richard. You can't come in at the last moment and say, "This is wrong."' I bet you nowhere in the cabinet minutes—and, unfortunately, some of us will have to wait 30 years before those are released—

Senator Alston—I won't be waiting.

Senator SCHACHT—I know you won't be, and probably I won't be either. I have to say that this is astonishing. I have heard all sorts of defences about cabinet submissions, but we have a minister trying to get out of it by saying, 'I disagree with what I lodged.'

I said this in the very brief time I had today, five minutes, noting his answers: this minister now has a track record of blaming everybody else but himself. He will not take responsibility. He blames his staff. He blames the department. He blames somebody else. I point out that he did this in the estimates committee on 21 October. In response to a question on notice, the answer came back from him, in his name, lodged correctly, that, yes, the minister wanted to clarify information he had given about employment numbers in Telstra.

Senator Alston—This is so weak. You didn't even run it in the chamber, did you, at the time?

Senator SCHACHT—I have so much information, Minister. I did mention it briefly. Then what does he do? When he gets challenged about it by Senator Carr, Senator Alston says:

I presume it came from my office. I will consider it and tell you whether that is an accurate reflection or not. All I am saying to you is that I do not remember approving words in that form.

Okay, this minister has selective amnesia. He blames the staff. Why do we not get Ms Cameron to come and sit here and answer the questions? At least she would take responsibility. You just dump on her and all your other staff saying, 'It came from my office.' Why do you not say that you are responsible for your office? Why do you not admit that you were too lazy to read it before it was lodged?

Senator Alston—It wasn't shown to me.

Senator SCHACHT—There we go. Blame the staff. What are you running around there? What are you running with your staff that they do not show you an answer to a question on the *Notice Paper* before it gets lodged with an estimates committee? That is the answer you are using now for this cabinet submission. You are saying, 'The covering page is not mine. It's the staff. They didn't show me.'

I have to say that this is an extraordinary admission of administrative incompetence that you do not read your own cabinet submissions, you just say, 'My staff didn't show me.' We are going to have a good old time at the next estimates hearing because I want the staff to turn up, Minister, and sit at the table and you can go home early because these are the ones who are being made responsible. You are tipping the bucket on them. We will get an answer. If it was not the staff, was it good old Neville Stevens, the head of the department? Did he draft this?

Senator Alston—No, not that I know of. He might have, I don't know.

Senator SCHACHT—This drafting is by osmosis. We cannot find out who wrote it, who drafted it, but it turned up in the cabinet office. It got put in the ERC and, no, we do not know who wrote it. The minister has never even bothered to find out apparently, but there is some vague thing that someone else has to be responsible for it. We just find it astonishing that you would say, 'This is written by somebody else. I take no responsibility for it.' As I say, it is not the first time that you have considered bucketing or pushing off responsibility for your own shortcomings.

I remember in the last estimates committee we asked about Jim Middleton's questions to you on election night. Today you said, 'That actually wasn't an election promise because he asked me after we won the election. Therefore, it's a different context.' I just about fell over. At one stage you said you fell out of your beach chair when you heard something Mr Beazley said.

I have to say there is another astonishing answer. This minister says, 'When I say on election night after we have won the election, it is not an election promise anymore.' I would have thought that it would be even more important. You actually said, 'I didn't break the promise about funding.' When questioned by Jim Middleton on that night, the best answer you came up with, rather than admitting and coming clean saying, 'The government changed its policy. We broke our promise,' you said, 'The euphoria of the occasion meant that I didn't really know what I was saying—that is, the implication.'

Euphoria! Jim Forbes explained his performance one day in the parliament by saying, 'It was a bad back,' and that has become a euphemism for alcoholic content. Now Senator Alston's remark about being euphoric—a description for having a few drinks to celebrate a great election win for the Liberal Party—was the only answer he gave. He thinks the best answer to justify on election night breaking every promise of funding for the ABC is: 'I was euphoric.' There was the euphoria of the occasion; therefore, it can be discounted.

You would have thought, if he had been here in the Senate long enough—and he has been here now over a decade—even with a few champagnes in him and even with a bit of euphoria around, that he would have said, 'That Middleton's asking me a tricky question. I might just let it pass and say, "Speak to me tomorrow."' But, no, not this minister, not this Deputy Leader of the Liberal Party in the Senate. 'Absolutely,' he said, 'absolutely, we will meet that commitment.' This is typical of this minister. He tries to use legal

sophistry to get out of any suggestion that he has ever broken any of his promises.

I can imagine the gnashing of the teeth that this cabinet submission actually leaked. It has exposed absolutely all the lines he gave to the ABC, all the promises. One of the impressions this minister gave back in July last year when there was talk about cutbacks was that he was in there—*(Time expired)*

Senator ALSTON (Victoria—Minister for Communications and the Arts) (5.00 p.m.)—Well, really and truly, we have nothing new at all. All we got was a tired litany of suggestions that somehow there had been breaches of election promises, but not a skerrick of evidence to support them. The only one you addressed—you did not even address Radio Australia—was the statement that we made about maintaining existing levels of Commonwealth funding.

In relation to advertising and sponsorship, we have not introduced that. In relation to a comprehensive radio network, we have not done anything about cutting back on that. Extending Triple J—we actually did extend it in the last budget. Current levels of support for the orchestras—they were quarantined recently, as you would know. What is it all about?

Senator Schacht—In your cabinet submission you raise it, Richard.

Senator ALSTON—I have only got 10 minutes so I cannot afford to listen to your interjections, I am sorry. What it boils down to is this: if you had the slightest interest in attention to detail, and Senator Ray suffers from the same deficiency, you would make sure that you got your words right. One of the things that is said is that somehow, and it is only said by—

Senator Schacht—Ha, ha!

Senator ALSTON—You do not even know what I am going to say. How can you laugh? It was said only by Laura Tingle and the *Age* and followed up by the *Sydney Morning Herald*. It was not touched by the rest of the media, basically, so that tells you something. They got a leak and they thought they had to make the most of it.

What the *Age* has tried to suggest is that somehow we were saying one thing and doing another in terms of $100 million worth of cuts. The fact is that my words were chosen very carefully: 'Any suggestion the ABC will have $100 million cut from its budget is an utter fabrication.' I was not asked 'Could they?' In fact, the very thing I did not do, as Senator Ray said today, was deny any prospect of it. There may well have been a prospect. I do not think it was ever a high prospect and, as it turned out, it did not get up at all. At the very most it was a prospect, and that is the very thing I did not say.

Paul Daley in his article started off by saying, 'We were considering'. Others may well have been considering but I certainly did not say anything to the contrary. You have to look at your words. This is a game of words. I am saying what you are doing here today is trying to hang people on the strength of words. You have to accept responsibility for the detail of your words.

The tragic thing is of course that you did not attempt at any stage to demonstrate that the words were wrong. The words I used were right. It was a fabrication to say that the government 'would cut'. The government had not made a decision to cut. With two weeks to go, it considered the matter and rejected it. It had not made a decision. So the words are perfectly accurate.

We did maintain current levels of funding. I have said it many times. The fact is that none of this is, in any shape or form, a new contribution to the debate. You are going through the motions because you somehow think that you had better give this a run because there is not much else around. The fact is that at no stage did I say in the submission that I was in favour of a $100 million cut, a $25 million cut, a $55 million cut or a $50 million cut. I was simply asked to bring two options forward.

You cannot have it both ways. What you say on one hand is 'Hang on, you really had a secret agenda and you wanted to knock this mob off for a lot of money.' Then on the other hand you are basically saying, 'You had to follow orders; you got rolled.' The bloke that runs your show in this place managed to

get himself a headline. He is the minister for getting rolled. He has turned it into an art form.

You need to understand the way the system works. I am asked to bring a submission forward. It is, in effect, under protest because I have made claim up front in the document where it counts.

Senator Schacht—Where is the protest in the submission?

Senator ALSTON—It is quite clear. I have stated my position. How many times do I have to go over this?

Senator Schacht—Point it out in the document.

Senator ALSTON—All right. It says:

I have previously indicated my support for an approach where resources are targeted to fit a defined role for the ABC following an independent review.

In other words, paragraph 2 of the submission. You could not get much higher up than that.

The critical issue that you seem to be a bit excited about today is what is on the cover sheet? That is what you are excited about. Let us address that. You have not attempted to argue that in fact the cover sheet is right. That is what it is all about. Is the cover sheet right or not? In other words, is option 1 a breach of an election commitment? Well, it is not, so therefore that is wrong. I have said that to you time and again.

Let us worry about whether or not there was a breach of an election commitment. That is what you seem to be keen on establishing—that we breached our election commitments. I have told you time and again. Option 1 did not constitute a breach of an election commitment and you have not managed to demonstrate that it did. Ipso facto, that statement is wrong. That is all we are concerned about, and the outcome was very much to the benefit of the ABC because they did not suffer an immediate cut of $125 million. What they incurred was a reduction of $55 million in the next financial year—perfectly consistent with our commitments.

Let me just say this to you: if you get excited about what the *Age* had to say, at least you should have referred to what the *Age* said on Friday, 31 January. Mike Richards in his column said:

Beyond the report itself, there has been considerable media discussion about the recently leaked Cabinet submission from July last year by the Communications Minister, Senator Richard Alston, in which he canvassed savings options for the ABC. Much of the discussion has focused on Senator Alston's statement on 23 June last year that 'any suggestion the ABC will have $100 million cut from its budget is an utter fabrication' and the fact that, less than 10 days later, he took to Cabinet a submission that contemplated a $125.6 million cut.

I do not see anything particularly sinister about the submission itself, especially in light of the fact that Senator Alston explicitly supported the option involving significantly less savings—option one ($51.4 million in 1997-98) over option two ($125.6 million one year earlier, in 1996-97).

. . . . . .

He was proved right—given that the Cabinet outcome was a $55 million savings target for 1997-98.

What should be borne in mind is that Senator Alston succeeded in an environment . . . Treasury also seemed attracted to the idea of advertising and sponsorship on the ABC . . . So, far from being pilloried, with those sharks in the water, Senator Alston ought to be congratulated.

I am the last one to want to seek praise from those who offer it, but where it is put there, after calmly reflecting on all the evidence—in other words, from someone who actually read the submission, weighed it up and understood the implications of it, which were that at all times I argued for a review, I did not argue for costs and I was requested to bring forward two options, which I did—how can you then turn around and say that somehow I was in favour of big budget cuts? You cannot.

If you then address the issue of whether or not we breached election commitments, again it is perfectly clear from option 1 that it is not a breach and it is clear from option 2 that it would be a breach. You are so intellectually lazy that you have not even bothered to analyse it. All you have tried to do is run off the cover sheet. In other words, you are not interested in getting inside the document.

The submission itself, couched in the first person, is all in aid of the proposition that

option 1 or option 2 are under consideration. Spelling it out, on its face, option 1 is not a breach. Game, set and match! Who is interested? What you are interested in is whether there has been a breach of an election commitment. There has not been and you have not even attempted to make out your case.

If someone else has a contrary opinion—and I suppose you are all entitled to your opinion in a democracy—then you have got it wrong if you argued that that is a breach, because the facts do not support it. That is the position that we ended up with. That is why people like Mike Richards and everyone else, except those to whom this document was leaked just before Mansfield's report—in order to sabotage it, no doubt—understand that there is absolutely nothing in this whole campaign that you are trying to run to disguise the fact that you have not even got a position on the issue.

Are you now prepared to release your submission to the ABC? Are you prepared to release your submission?

Senator Schacht—When you release all the others.

Senator ALSTON—Are you? No, it is a matter of individual approval. Do you have any objection to your submission being released?

Senator Schacht interjecting—

Senator ALSTON—No, it is a simple proposition. You put your submission in some months ago. Some of us are interested to see what it says. I am sure the community would like to know how heavily you went in and argued the case and how intellectually and rigorously, as always, you spelt out chapter and verse what is important.

Do you have any problem with releasing it? Do you have an objection? I take it that you have no objection and we will proceed accordingly. If you do have an objection, please put it in writing to me and I will respect your privacy. Otherwise, we will proceed on the basis that you have nothing to hide. Do you have something to hide? If you do not, release your submission. Then we can see the depth of intellectual quality that has gone into your approach to the ABC, your commitments. No doubt, you are prepared to spend all sorts of amounts of money.

You cannot have it both ways. You thought Mansfield was good about a week ago. It is still a good document today. *(Time expired)*

Senator Schacht interjecting—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! Senator Schacht, you had 15 minutes prior to Senator Alston.

Senator BOURNE (New South Wales) (5.10 p.m.)—I do not generally believe in conspiracies. There was a rather good saying that went around the old Parliament House that went: 'If you want to know whether it is a conspiracy or a stuff-up, then 99 times out of 100 it will be a stuff-up.' In general, that is about right, but the government's treatment of the ABC is a really interesting tale so we should have a look at it.

The Mansfield review into the ABC was announced on 16 July last year, immediately prior to the release of the coalition government's first budget—we all remember that. The budget announcement of massive cutbacks to the ABC came as a shock to the Australian community, including to me. It came as a great shock to me and to most members of the Australian community when the coalition, which said it was not going to reduce funding to the ABC—in fact, promised it was not going to reduce funding to the ABC—did in fact make massive cuts to the ABC in the last budget and announced further ones.

The promise was made in the coalition policy statement Better Broadcasting and by Senator Alston himself in the famous interview with Jim Middleton on 2 March that we have heard so much about. In that interview he was asked, 'Do you maintain your commitment to the ABC continuing real funding over the life of this parliament?' to which Senator Alston replied, 'Absolutely'—which obviously does not mean absolutely. When Mr Middleton came back with, 'What if you find out that the budget is much worse?' Senator Alston replied, 'John Howard has made it clear that we are honouring all our commitments'—which obviously does not mean they would honour all their commitments.

It soon became very obvious that the coalition did not care about keeping its promises, about misleading the Australian people or about maintaining funding to the ABC. But was this merely about the coalition breaking promises or did they actually have a grand plan for the ABC? Those of us who have watched *Yes, Minister* will know what a grand plan is all about.

What it looks like to us is that the coalition government well and truly had designs on the ABC from a long time ago. Those designs were disguised by the Mansfield review, which was announced, as we said, in July last year. But they had been decided on much earlier. If we look at the cabinet submission tabled before 16 July 1996, when Mr Mansfield was asked to do his review, and if we have a look at the Warwick Smith letters dating back to 1991, we will see exactly what was going on.

The Mansfield review terms of reference, which guided submissions and provided the framework for Mr Mansfield to carry out his review, did not hide the government's true agenda for the ABC. In fact, they sought a 'redefined role for the ABC . . . by narrowing the scope of current ABC services and activities'.

The review was allowed to take into account technological advancement in the provision of broadcasting services, but it was not allowed to recommend that the ABC be provided with stable funding or with extra funding to enable it to upgrade to digital technology or to provide the types of services which it currently does. The 'need for consistency between the cost of future ABC operations and the government's broader fiscal strategy of achieving significant reductions' was ultimately the only consideration for the Mansfield review.

Why do I say that? It all has to do with a profusely bleeding vein that the *Age* journalist Laura Tingle has so effectively tapped into. On 24 January 1997, the *Age* newspaper printed extracts from a cabinet submission which quite clearly outlined the government's agenda for the ABC. That agenda was to decimate the ABC through massive budget cuts. But the cabinet submission contained more. It stated that simply reducing the ABC's budget to $135 million by the year 1999 would create such a public backlash that it could not be the preferred option.

No. To convince the public that the ABC's roles and functions should be limited would most convincingly come through an independent—and I use that term cautiously—review into the ABC undertaken by an eminent person with the full support of the incoming chair of the ABC board. The secretarial support for the review—not open, not public, not operating in an extremely tight time frame—would be provided by the Department of Communications and the Arts just to ensure that the flavour and content of the cabinet submission could be translated into the final report—just in case.

It does not matter that one year earlier in 1995 the chair of the Senate select committee into ABC management and operations, Senator Alston himself, found the ABC to be a sound organisation, an organisation whose funding should be maintained through triennial arrangements, and an organisation which should remain free from the so-called efficiency dividend. I do not know who invented that name. The ABC is now subject to annual funding. It is not guaranteed and it is not maintained at levels which enable the ABC to plan effectively and to deliver its services efficiently. It is also now subject to the dreaded efficiency dividend.

The government says that the ABC must incur these costs due to the size of its massive budget. But does it? Let us look. The ABC currently has a budget of about $500 million. Mr Mansfield, without even questioning that figure, suggests it is enough to operate a national broadcaster. But $500 million is about 0.4 per cent of the budget; it is about four-tenths of one per cent of the budget. Why then is the ABC being so concertedly singled out to meet the government's fiscal strategy? And it certainly is.

What it looks very much like is that the Prime Minister (Mr Howard), the Minister for Communications and the Arts (Senator Alston), the Treasurer (Mr Costello) and many cabinet ministers actually loathe the ABC. What the government is doing to the

ABC has nothing to do with proper, logically constructed or clearly articulated public policy. It has nothing to do with budget deficit reduction. It has to do with the ministers' hatred of the ABC. It has to do with the government having no power, except under funding, to direct the ABC in the way in which it fulfils its functions—for example, on whether it will show the gay mardi gras—and the way in which it carries out its daily programming.

The leaked cabinet submission clearly articulated the government's agenda for the ABC. That was to reduce its funding, to disable it from performing the functions and deliver the services required of it under the current charter. It is staggering to watch the arrogance of a government threatening the ABC board with further and larger cuts to its budget if it does not immediately implement the recommendations of the Mansfield review to sell off its real estate, to outsource the majority of its production and to divest Radio Australia and sell off Australia Television. It looks very much like a collective ministerial personal vendetta.

But selling ATV and getting rid of Radio Australia will have disastrous effects on Australia's overseas reputation. Already countries in the Asia-Pacific region are lobbying Australia not to rid itself of Radio Australia. In fact, we have just heard that the Prime Minister of Papua New Guinea, Sir Julius Chan, has offered to pay the Australian government one million kina per annum to keep that service operating. That is nearly a million Australian dollars. It is an extraordinary offer from a country that has a budget like Papua New Guinea's.

Evidently, our minister, though, is also strongly supportive of the changes to the ABC charter as proposed by the Mansfield review. I say 'proposed' because the report did not actually recommend that the charter be changed. Of course, the ABC charter can only be amended, can only be changed, by this parliament, by a vote of both houses of this parliament. The minister, in his haste to instruct the ABC board, has stated that the proposed charter 'should set the course the ABC will be required to follow in exchange for ongoing funding'.

Are we really surprised about this? The proposed charter recommended at attachment B in the leaked cabinet submission is exactly the same as the charter proposed by Mr Mansfield in his review. Is that a coincidence? I will let other senators decide whether they think that is a coincidence. It does not look like one to me, though.

Let me finish with a warning. Targeting the ABC will prove to be the most politically unwise move that this government has ever made. The Australian community loves the ABC. It is our ABC; it is not the government's ABC. It is all Australians' ABC. Australians want the ABC to grow. The Australian people will vote for that at the next election.

Senator FORSHAW (New South Wales) (5.18 p.m.)—The Minister for Communications and the Arts, Senator 'Tricky Dick' Alston, has a shameful record—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! I ask you to address the senator by his correct title.

Senator FORSHAW—I withdraw that, Mr Acting Deputy President. The Minister for Communications and the Arts, Senator Alston, has a shameful record when it comes to his handling of the ABC. This is a minister who promises one thing and does another. When it is demonstrated that he has breached a promise he tries, firstly, to argue that it was not really a promise and, secondly, pleads ignorance of the facts. He claims, for instance, that he never made certain statements or that he never signed certain cabinet submissions and so on.

There is no doubt that the coalition has, both in opposition, and now in government, been embarking on a course to get stuck into the ABC. We all recall the famous Fightback policy that the previous leader John Hewson took to the 1993 election which was going to rip $50 million out of the ABC's budget. Remember that—$50 million? Of course, after being resoundingly defeated in 1993, the coalition told us that they had thrown out

Fightback, that it had all been ditched and that they were embarking on new policies.

Then we came to the Senate select committee in 1994, which reported in March 1995, which was chaired by none other than Senator Alston.

Senator Conroy—Who was that?

Senator FORSHAW—Senator Alston. That committee, which was set up at the instigation of Senator Alston and supported by the Democrats and the Greens, certainly had a purpose as far as the coalition was concerned to once again get stuck into the ABC, to attack the ABC.

But Senator Alston was unable to come up with the evidence in the committee deliberations to carry out what he really wanted to do, what the coalition really wanted to do—to strip the ABC of many of its functions, try to politically direct its operations and, of course, reduce its funding. Faced with an inability to get stuck into the ABC in that way because of overwhelming support throughout the community for the ABC—once again recently witnessed in the Mansfield report—Senator Alston was forced to grudgingly accept the importance and the great record of the ABC but, more importantly, was forced to recognise that its funding should not be reduced.

I want to remind the Senate of what Senator Alston, who was the then shadow spokesperson on communications policy and the chairman of that committee which presented that report, said about ABC funding. When we recall what was said in that report only a couple of years ago and then look at what has transpired since, we see the real hypocrisy of this government. Firstly, Senator Alston at that time supported triennial funding. The committee report states:

> The effect of triennial funding has been to provide the ABC with stable and predictable funding over the last seven years.
>
> . . . . . .
>
> All major political parties support the triennial funding initiative.

The committee also went on to talk about the fact that the ABC was exempt from the efficiency dividend that all other departments were required to meet. Obviously, that exemption meant that the ABC was able to maintain its real funding by not having to meet that efficiency dividend requirement. I quote again from the report:

> The continued exemption from the efficiency dividend helps provide greater planning certainty for the ABC's capital works program and is therefore supported by the Committee.

I also quote what Senator Alston's report said about new initiatives of the ABC:

> The Committee therefore recommends that where the Parliament requires the ABC to undertake new Charter activities or to expand existing Charter activities, it should provide funds sufficient to ensure that existing activities are not adversely affected.

Those comments were made with particular relevance to the operations of ATV and of pay TV initiatives. Senator Alston was calling upon the then government to provide additional funds, if the ABC needed it, so that it would not have to dip into its overall budget expenditure. In its conclusion on funding, the committee—chaired by Senator Alston—said this:

> The ABC needs surety of continued funding in order to provide the range of services expected under its statutory obligations. It is therefore incumbent on both the ABC and Government to make very clear their intentions and requirements so as to ensure that all activities are undertaken on the basis of complete transparency and full accountability, without any diversion of funds from the Charter activities.
>
> The Committee supports the maintenance of ABC funding at least at its current level, the continuation of the triennial funding arrangements and the continued application of the Non-Farm GDP deflator.

That was what was in Senator Alston's own report. Those recommendations were supported by all the parties represented in this Senate—the Democrats, the Greens and the Labor Party—even though we put in a dissenting report with respect to other matters.

I remind the Senate that Senator Alston's words were that 'the committee supports the maintenance of ABC funding at least at its current level.' That is not very much different from the statement that Senator Alston made on election night in response to questions from Jim Middleton, when he said very clearly, as has been quoted by other speakers,

that the coalition was going to maintain current funding absolutely; but of course they did not.

The coalition came back with a budget which ripped $55 million out of the ABC's funds in its first year of this new triennium; secondly, they removed the exemption from the efficiency dividend which has gone for all time—at least under this current government, as we understand it—and, thirdly, they suspended triennial funding pending the review by Mr Mansfield. Yet this minister tries to argue that that was not a breach of an election promise and that somehow the words 'current funding' only applied for the period between March and the end of June 1996.

The minister knows, we know, and every single person in this country knows that that promise related to funding levels for the term of this parliament, not just for the last three or four months of the previous triennium. When a minister stoops to that sort of manipulation of words, that sort of sophistry, then, frankly, he is not entitled to remain a minister. If he is going to try to argue that a promise solemnly made by him and by the Prime Minister, but now broken, is totally consistent with what he had said only a few months before in his own report then, frankly, this minister is a disgrace.

The truth is now out. The cabinet did look at a proposal for a reduction in ABC funding of some $135 million. The minister comes back and says, 'What a success!' He only had one arm of the ABC chopped off by the cabinet rather than two because they only took $55 million out.

The coalition was hoping that the Mansfield report would come in and give them the okay to slash it even further and to do what they wanted to do as defined in those terms of reference. They wanted the ABC to have a redefined role and to have a narrower focus and have it get out of its international activities such as through Radio Australia and ATV. That is what they really wanted but at least in those aspects of the general propositions, although not in respect of Radio Australia, the Mansfield report did not deliver what this government wanted. Unfortunately, it did with respect to Radio Australia because Mr Mansfield had riding instructions, which were, 'When you do your inquiry remember that we are already committed to ripping $55 million off ABC funding. Then you are going to have to find services to get rid of, such as Radio Australia.' *(Time expired)*

Senator O'CHEE (Queensland)(5.29 p.m.)—This is an extraordinary attack in so much as it is not an attack at all. This is the attack of the lightweights; this is the B team.

Senator Patterson—The Clayton's attack.

Senator O'CHEE—It is the Clayton's attack that has been brought out here today. We have Senator Schacht running around like Michael Jordan in that movie *Space Jam* with all sorts of imaginary characters surrounding him as he weaves this conspiracy theory, and then we have Senator Forshaw, who is well known as only having a place in the B team as a substitute, coming here and alleging that there is some incredible conspiracy to destroy the ABC.

Now what we have here is, in fact, quite the opposite. We have had an allegation made that Senator Alston had lied to the parliament and that Senator Alston was favouring massive cuts to the ABC. Of course, by the time my friend Senator Bourne got up on her feet it was some sort of attack on the Australian people as well.

Senator Patterson interjecting—

Senator O'CHEE—I am being charitable, Senator Patterson. By the time it got to Senator Bourne it was some sort of attack on the Australian people. Yet the reality is that Senator Alston argued in cabinet for a retention of the funding of the ABC at its current levels for this funding triennium. That is fact. Everything—every single assertion that you heard from Senator Schacht and every single assertion that you heard from Senator Forshaw—was, in fact, fabrication. They cannot change the fact—

Senator Forshaw—On a point of order, Mr Acting Deputy President. I would ask that you request Senator O'Chee to withdraw that allegation. The fact is that for a large part of my remarks I quoted actually from the report of the committee chaired by Senator Alston and I cannot see how that can be a fabrica-

tion. But, of course, if it is allowed to stand, then presumably Senator Alston is guilty of a fabrication.

Senator Patterson—On the point of order, Mr

Acting Deputy President. I think under standing order 191 it is disorderly to interrupt a senator when he or she is speaking. If the senator thinks he is being misquoted, he has every opportunity at the end of the debate to address that.

The ACTING DEPUTY PRESIDENT (**Senator Ferguson**)—Order, Senator Patterson. Senator Forshaw does not claim to have been misquoted. Senator O'Chee, I hear what you said and I hear what Senator Forshaw says. If, by using the term 'fabrication' you are implying that the senator is lying, then I suggest that you should choose your words more carefully. But if you were not implying that, then the term 'fabricating', I think, can stand.

Senator O'CHEE—Thank you, Mr Acting Deputy President. What I said is quite clear.

The ACTING DEPUTY PRESIDENT—I think you need to make it clear, Senator O'Chee.

Senator O'CHEE—What I said is quite clear, that the assertions on the other side were fabrications as to the truth, because the truth is—and nobody can deny it—that Senator Alston said in the cabinet—

Senator Forshaw—On a point of order.

Senator O'CHEE—Senator Alston said in the cabinet that he did not want to have the cuts.

The ACTING DEPUTY PRESIDENT—Order, Senator O'Chee. Senator Forshaw has a point of order.

Senator Forshaw—Mr Acting Deputy President, Senator O'Chee is once again trying to mislead. But also he is making an allegation that what I said was a fabrication. I quoted specifically from reports of a committee chaired by Senator Alston. Those quotes have been given to *Hansard* and will, no doubt, be recorded. I ask once again that you ask Senator O'Chee to withdraw the allegation that it was a fabrication—that is no different to saying that it was a lie.

The ACTING DEPUTY PRESIDENT—I take the point of order. Senator O'Chee, I think it is sailing very close to the wind to use this term 'fabrication'. It implies that, in fact, the senator is lying or not telling the truth. I think perhaps that you should use another word.

Senator O'CHEE—I am happy to withdraw, Mr Acting Deputy President. Everything that you heard from Senator Forshaw and everything that you heard from Senator Schacht was totally and utterly lacking any foundation in reality. That makes Senator Forshaw much happier, because you see now he is happy to accept the fact that it lacked any substance in reality. The reality is that Senator Alston had, in fact, ensured that funding for the ABC would be maintained at its current level for this funding triennium. What we see at the moment is a repeat of the Senator Schacht performance—that is, you give two speeches, one in the time allocated to you and another speech by way of interjection, in the time allocated to somebody else.

Senator Patterson—They were listened to without interjection.

Senator O'CHEE—They were listened to without interjection. But, of course, if you are from the Labor Party and you bring these spurious allegations before the parliament, the best thing you can do is shout down people who want to tell the truth. The truth has always found it very difficult to find a home in the ALP. The truth has always found it very difficult to find a lodging on the benches opposite. The truth of this matter is very simple: Senator Alston went into cabinet arguing to maintain the funding of the ALP for the current funding triennium and he succeeded.

But, of course, there you have Senator Schacht thinking he is Michael Jordan. He has all these cartoon characters running around with him—you are probably Daffy Duck over there, Senator Forshaw. He has all these cartoon characters running around inside his head and what he comes up with is that there is some sort of conspiracy.

This is the claim: that there is some sort of conspiracy between Senator Alston arguing to maintain the funding of the ABC for the funding triennium and the creation of the Mansfield report. The Mansfield report, you see, is some sort of secret device to cut the funding of the ABC. This is the argument from the other side. Look, that may well have been how politics was conducted in the cabinets of Mr Hawke and Mr Keating, that may well have been the way in which those opposite were schooled in public administration, but that is not the purpose of the Mansfield inquiry. It has been stated so many times in this chamber that I would have thought even those opposite would understand that the purpose of the Mansfield inquiry is to ensure that the ABC meets the expectations of the community.

Mr Mansfield has made it perfectly clear that he believes that the role of the ABC is to ensure that the public's expectations about the importance of domestic free to air broadcasting are given a high priority. That is what Mr Mansfield has said; that is what the public believes. Mr Mansfield has argued in the public fora that he believes that the role of the ABC, especially in providing news and current affairs, and services to children, youth and regional audiences, is very, very important.

Yet, in spite of all these things that have been said, those opposite still want to find a conspiracy. The truth is—and I want those opposite to listen very carefully to this—that the ABC should not be above review, just like any other government department. It should not be above review, like organisations outside the government. Those of us involved in the private sector know very well that a well run private sector organisation is constantly under review. Yet the ABC and some senators opposite seem to think that it is some sort of terrible slight on the ABC that it should be subject to review. Every government operation should be subject to regular review. The ABC is no different and that is what this is about. More than anything else, it is contrary to the truth.

Senator PATTERSON (Victoria) (5.37 p.m.)—I want to quote from *Hansard* at the beginning of this speech, and I will indicate where this came from at the end of what I have to say:

> It is all very well for the Democrats to claim that the ABC is being reduced by funding. This government has to make tough decisions about priorities right across the board in the running of this country, providing money for many different worthwhile projects. It is no good for the running of this country if, to make oneself feel good, one says that the ABC will get another $100, the Commonwealth Scientific and Industrial Research Organisation will get another $50 million, et cetera. Once one goes through that list, sane economic management of this country will come to an end. In the end there will be no money for anybody because the economy will be wrecked.

The quote goes on to say that you need 'sound economic management so that the ABC can get a reasonable share and so that many other organisations, just as worthy as the ABC, can keep their place in the sun, too'. The person went on to say:

> There is a case to be made for governing the country on a balance of priorities.

That happens to have been Senator Schacht speaking on 24 February 1988 saying a very sensible thing: that you need to balance priorities; that if there are to be budget cuts they have to be spread across the board. We have Senator Bourne coming in here braying about some conspiracy theory—that it is our attempt to undermine the ABC. In fact, when the Labor Party in the same situation had to look at bringing the budget into balance—and they did not do it very well; in fact, they were appalling at it—and were trying to face that issue, they too had to address the fact that the cuts had to be taken fairly and squarely across all programs and that one group should not take an unfair and undue share of the burden.

Mr Evans—or as he was then, Senator Evans—in the same year, speaking to the ABC Friday Club, said:

> While there has been some decline in funding for the ABC over the past two Budgets, as compared with the peak year of 1985-6 . . . this does not reflect any loss of affection for the ABC or any decision to squeeze it harder than anyone else—the absence of new policy approvals has been a function of the pressure which has been applied universally to government departments and agencies.

It is amazing how the people on the other side had some road to Damascus conversion when they lost the election—so that suddenly anything we have to do to reduce funding is seen as a conspiracy; that we should not be cutting the budget in any sort of way; that suddenly they have changed their tune. Well, what you say in this place comes home to haunt you. And Senator Schacht has outlined the reasons why they had to cut funding to the ABC and also why they had to do it across the board to a number of programs. I have read from the *Hansard* how the government of the day justified that.

What staggers me is that in the first question time back after the Christmas break the opposition spent the whole of the time on whether the front page of a cabinet submission agreed with the inside page. I might have understood why they were carrying on if the second option in that cabinet submission had been addressed. But I fail to understand, given that the first option was chosen, why they have gone on, because the first option was in fact in line with our election commitment.

They spent the whole of question time on it and, when they had an opportunity to take note of ministers' answers, they spent the whole of that half-hour on this issue. Then, when they had a chance to address an issue of public importance, they spent the whole afternoon debating the issue all over again. So the only thing, other than the condolence motion, that has been dealt with in this chamber today has been Senator Alston's cabinet submission—the front page versus the other pages. I just find it staggering.

I did not have to be convinced but it confirms the reasons why they are sitting on the other side, why the Australian public decided to put them over there. It was obvious that they got no clue and no idea about—and no interest in—the whole of government. They have no interest in the economy; they focus on this little aspect of a government Cabinet submission.

Nothing misleading or deceptive has been done or said. Contrary to what Senator Schacht said or might think, there was nothing misleading or deceptive about the budget cuts to the ABC that the government announced last year. We said that we would maintain the funding for that triennium, and we have done so.

Had the people on the other side been more honest about the budgetary situation—and last week we saw Mr Costello display the sort of honesty that we should have expected from them—and had they done the same thing and put Australia in the picture, then it would have been clear to Senator Alston and to all of us before the election what some of the things were that had to be done. But we were led along, like the Australian public, to believe that the budget was going to be balanced.

So, of course, our policies were designed on that basis. But we found that we had Beazley's black hole. We found that we had $10 billion that was not accounted for. And we did not have that honesty, that decency that the Australian people expect and that we are getting from this government, of an honest approach to the handling of Australia's financial affairs. And this is what has led to this.

The government looked at all options with the ABC. Mike Richards in the *Age* last week said:

> . . . there has been considerable media discussion about the recently leaked Cabinet submission from July last year by the Communications Minister, Richard Alston, in which he canvassed savings options for the ABC. Much of the discussion has focused on Senator Alston's statement on 23 June last year that "any suggestion the ABC will have $100 cut from its budget is an utter fabrication"—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! The time for this debate has expired.

DAYS AND HOURS OF MEETING

Motion (by **Senator Brownhill**)—by leave—agreed to:

That on Thursday, 6 February 1997:

(1) The order of general business shall be:

(a) general business notices of motion; and

(b) consideration of government documents.

(2) The question for the adjournment of the Senate shall be proposed at 6.30 p.m.

MINISTERIAL STATEMENTS

Trade Outcomes and Objectives Statement

Senator BROWNHILL (New South Wales—Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy) (5.45 p.m.)—I seek leave to make a statement on behalf of the Minister for Tradey (Mr Tim Fischer) on trade policy and trade outcomes and objectives, to incorporate the statement in *Hansard* and to take note of the statement and a related document.

Leave granted.

The statement read as follows—

I am pleased to say that this represents the fulfilment of yet another of the government's core election commitments, and it is a key part of our trade strategy.

The government's trade strategy aims to create jobs by increasing the sustainable rate of economic growth in Australia. The government aims to secure the best possible conditions and opportunities for Australian businesses trading and investing overseas. With better market access and more opportunities for export, the benefits will be directly felt here at home through growth and more jobs in export industries. And there will be flow-on benefits to those domestic businesses that support export activity.

The *Trade Outcomes and Objectives Statement* sets out Australia's trade achievements in the past year and it provides, for the first time, benchmarks for the government's trade activities. It illustrates this government's commitment to openness and transparency.

We are not afraid to have our performance scrutinised. We see this as an important incentive to improve government efforts in strengthening Australia's trade and investment performance. And we see it as a way of improving communication between government and the business community—the traders of Australia.

On election to government, we realised that what was essential for Australia's future growth and prosperity was a more strategic approach to trade policy and performance.

As a result, Australia's first ever White Paper on Foreign Affairs and Trade is nearing completion and will provide a broad framework to guide our trade efforts over the next 10 to 15 years.

I have also established the Market Development Task Force to give priority and focus to bilateral trade efforts, a key part of our trade strategy. Prior to 1996 the bilateral component of trade policy was under-utilised. This resulted in Australian business missing out on potential market access gains.

The government has given priority to bilateral efforts, with the Task Force coordinating market access, market development and promotion efforts. The priorities identified by the Task Force will continue to be fed into the Statement each year.

The *Trade Outcomes and Objectives Statement*, in turn, is an important document against which to measure our trade progress. Each year it will focus on key and potential bilateral markets, identifying opportunities and barriers to trade, our priorities and our achievements.

This year we have chosen to focus on important markets in our region. In all of these markets Australian business still faces significant market access impediments. In all of these markets, too, there are exciting opportunities.

Next year the markets chosen will be different, so progressively over a two-year rolling period all our major markets will be scrutinised.

Industry consultation is a critical part of this process, and through this Statement we hope to get feedback from business on their major market access concerns and where assistance from government will be of most use. This feedback will then be incorporated in our day-to-day efforts and reflected in the next year's statement.

Each year we will report back to the Australian people on our progress against the priorities identified in the previous year. And by achieving our objectives it will become even clearer that trade with the world means jobs and a better standard of living.

Trade and the Australian economy

International trade and investment is now much more important to Australia's well-being.

In 1995, our exports of goods and services amounted to 15 per cent of GDP. In 1985 it was only 10 per cent. The government will work to increase net exports with consequent benefits both in terms of jobs and national income.

And international trade is not the sole domain of large firms. There are increasing numbers of small and medium-sized businesses participating in overseas markets, particularly in the services sector. More than 4,500 small and medium-sized Australian enterprises are actively engaged in export markets. They generate about 6.5 billion dollars a year in international turnover. Their pivotal role in job creation makes the further improvement of their international competitiveness imperative.

Trade is more important, too, for sectors which, in days gone by, were sheltered and could not venture beyond domestic borders. This is shown in our exports of elaborately-transformed goods. In fact,

they have been the fastest growing component of our exports, to the extent that they now account for 24 per cent of total merchandise exports.

Australia's place in the world economy

World markets have never been more competitive or more exciting, and our strategy for operating in this environment recognises that Australia has unique interests. We are unique in being a developed country with a strong comparative advantage in the rural and mining industries, but with manufactures and in particular the services sector rapidly becoming more competitive.

Our economic integration with Asia is continuing apace. Twelve of our top twenty export markets are in that region. Together, these twelve account for 62 per cent of our merchandise exports. This also sets us apart from other economies. The export growth rates to these markets are pleasing. For example, in 1995-96 our merchandise exports to China grew by 28 per cent, those to Korea by 26 per cent and to Indonesia by 32 per cent. The picture for services exports is equally encouraging. In 1994-95 they grew by 32 per cent to Indonesia, 31 per cent to Thailand and by 23 per cent to Singapore. Through our more targeted trade policy we will be able to build on these results.

Many of our top export markets also have high economic growth rates. This will in itself lead to further opportunities for Australian firms, but other suppliers are working hard to achieve sales in these markets.

I am pleased that Australian businesses have been particularly active in successfully penetrating the region's highly competitive markets—markets which collectively are around twice the size of the rest of the world's markets.

But as I have said previously, while Asia is an important market for Australia, we are a global trader and consequently should not lose sight of market opportunities elsewhere. In 1996 for example South Africa was one of our fastest growing markets, with exports increasing by 37 per cent.

We have designated 1997 as the Year of South Asia because of the exciting developments now occurring in that market. As elsewhere, continuing deregulation is opening up opportunities for Australian exporters. It is up to Australian traders to grasp these opportunities, but the government will do its share to help them identify and access new markets.

An example of this is the Australia India—New Horizons promotion. It has the core objective of building stronger trade and commercial ties with India. We will be examining closely the results of this campaign in terms of increased exports.

Trade performance highlights

Even though we were confronted with a number of challenges during 1996, the government was successful in gaining a range of market access opportunities for Australian business that I should like to highlight.

Bilateral achievements

The global markets for agricultural products are particularly difficult, and I am conscious that some industry sectors, such as citrus, are facing increasing levels of competition from imports. There is a need to take up their market access concerns to ensure that they have the best possible access to export markets. But despite these concerns we can point to some important achievements in agriculture:

- Mexico has decided to eliminate its 10 per cent tariff on scoured wool and wool tops from Australia
- Malaysia has reduced its tariff on liquid milk to zero. A new trade agreement with Malaysia has also been initialled
- Thailand, where Australia is a key supplier of powdered milk, now applies a zero tariff up to a quota of 88,000 tonnes of this product
- the progressive increase in the United States global tariff quota for sugar has allowed Australia to raise sugar exports to that market by almost 33,000 tonnes
- Australia has been able to preserve its 42,000 tonne country-specific share of the Canadian beef market
- Australians can now export kangaroo meat to France
- Korea has agreed to extend the official shelf-life of frozen sheepmeat, frozen beef and frozen chicken and other processed foods and beverages
- fresh Australian milk is now available daily in Hong Kong
- we have secured improved market access to the European Community for several agricultural products.

As part of Taiwan's prospective accession to the WTO, Australia has won a package of improved market access worth more than $30 million:

- we will be able to export 2000 Australian-built cars to Taiwan from this year. This will increase to 6000 when Taiwan joins the WTO. From then on it will grow by another 10 per cent a year
- Taiwan will cut its applied tariff on Australian beef by 10 per cent, and it will progressively make further cuts thus removing the discrimination our product faces

- Australia's quota access for apples has doubled to 2400 tonnes
- we now have first-time quota access for stone fruits of 1000 tonnes and citrus fruits of 600 tonnes.

And when Taiwan joins the WTO even more dramatic improvements in market access will become available.

Multilateral trade liberalisation

The first WTO Singapore Ministerial Conference held in December last year has also delivered on two core issues: progress towards further market access for our exporters and a commitment to prepare for another global trade round by the end of the decade. The new WTO work program covers all of Australia's market access and trade priorities. Among these are:

- a start in 1997 of the preparatory analytical work for the new round of agriculture negotiations in 1999
- agreement to prepare for another round of services liberalisation across all sectors from 2000
- agreement to a work program on industrial tariffs to equip the WTO better for further liberalisation negotiations
- agreement to negotiate a rules-based Information Technology Agreement (ITA) by April 1997 which will cover at least 90 per cent of world information technology trade. Already, twenty-seven economies, including our key major regional trading partners, have agreed to reduce tariffs to zero on a wide range of information technology and telecommunications products by 2000.

We have continuing opportunities to gain further market access as other economies seek to join the WTO. The government will exercise vigorously the leverage it has to secure direct benefits to Australian industry during these accession processes.

The regional level

The Manila Action Plan for APEC marks the beginning of the action phase of APEC's free-trade and investment agenda. The Individual Action Plans are promising considerable trade benefits for Australia:

- import restrictions on coal will be eliminated in the Philippines by 2000
- Hong Kong will relax import controls on rice by 1997 and meat and poultry by 2000
- Thailand will increase the number of licences for joint-ventures in the insurance sectors
- China will increase the number of licences for foreign banks, insurance firms and security organisations

The set of APEC trade facilitation initiatives will be of practical value to business in the region. And we have taken steps to ensure a more effective engagement of business in the APEC process.

The CER-AFTA work program on trade facilitation also remains promising. Its focus on standards as possible impediments to trade flows is likely to yield concrete trade benefits to industry and consumers in both of these free-trade areas.

The benefits of trade liberalisation

As I have said, Australian exporters are already capitalising on the expanding opportunities throughout the world. But we can do better—through actively taking up existing opportunities and through further trade liberalisation. And of course the benefits of liberalisation are maximised when we all participate.

Australia's tariff reform has played a major role in promoting the restructuring of Australian industry, promoting world best practice and competitiveness, and encouraging Australian firms to pursue export markets.

We remain committed to trade liberalisation within the region and throughout the world. We believe it will sustain economic growth which is essential to improved living standards and the creation of jobs both within Australia and the rest of the world.

Market access priorities

In addition to highlighting the trade achievements of the previous year, the Statement outlines our market access priorities in the Asia-Pacific region: China, Indonesia, Japan, the Republic of Korea, Malaysia, Taiwan, Thailand, the United States, and also India.

Each year's statement will also examine emerging markets: this year Vietnam, the Gulf States, Chile, the Mercosur countries and South Africa have been selected. Today's emerging markets will be tomorrow's established markets. The ones we have identified are particularly exciting new openings. At the moment, they account for a small share of Australia's exports, but all of them have significant potential.

The statement brings out very clearly where many of our future trade opportunities will lie. But we will benefit only if businesses pursue them aggressively, if we are able to secure better market access for them and their export products, and if our international competitiveness continues to improve through micro-economic reform.

Australia has many competitive strengths and our market access priorities reflect these.

I encourage you to examine the document carefully, where our full list of priorities is spelt out, but let me take this opportunity to highlight a few of our priorities for the next two years :

- gaining better access to China's markets for wool and other agricultural products and financial services
- securing tariff reductions by India for steaming coal and wool, as well as better access for insurance services
- pursuing opportunities in Indonesia for foodstuffs, mining equipment, technology and professional services
- in Japan, gaining expanded quota access and removal of discriminatory tariffs in agricultural and industrial sectors, as well as better market access for housing and construction exports
- in Malaysia: liberalisation of foreign equity limitations in financial services
- in Korea we will aim to increase our market share in agricultural markets, fast ferries, food and beverages, building materials and consumer products
- in Taiwan better access to the coal market in addition to building on the 1996 access package
- in Thailand we will be seeking increased access for Australian mineral and agricultural commodities, automotive components and financial services; and
- our aims for the United States include better access for dairy products, sugar, meat, citrus, wool, cotton and fast ferries.

Special reports

The statement contains four special reports on sectors offering scope for expanding the value-added components of our exports:

- the Supermarket to Asia Council initiative will result in a strategy aimed at achieving substantial increases in Australia's food exports to Asia
- the report on the Australian health industry highlights growing export opportunities, particularly in Asian markets, and it draws attention to market access impediments in the health sector
- the Information Technology Agreement when concluded will deliver significant new market access opportunities, especially in the markets of East Asia
- Australia is at the leading edge of the information and technological revolution which is transforming the way business is done at home and internationally. The report on the role of intellectual property in trade stresses the role of intellectual property as a tool for firms to maintain their competitive advantage.

The 1998 Statement

Because this is a dynamic process we are committed to, each year the markets examined will change.

In next year's statement we will look in detail at Europe. Its markets remain of considerable importance to us, and we value them. On the other hand, the Common Agricultural Policy of the European Community is still one of the main factors causing low returns to our agricultural producers. We will also look at a number of significant emerging markets.

In 1998, we will also report on Australia's trade performance for 1997 judged against the benchmarks in the *Trade Outcomes and Objectives Statement*. This is an important way in which the government can be more open and honest with the Australian people. It also illustrates our commitment to continue to improve our performance to bring the greatest benefits to the Australian economy.

Conclusion

The *Trade Outcomes and Objectives Statement* is an initial stocktake of the challenges facing Australia. It identifies significant trade opportunities. Among these are:

- the opportunities created by Japan's deregulation initiative
- the changing demand for health care in regional countries, and
- moves towards a more liberal trade and investment regime in Malaysia.

The statement also outlines the impediments facing competitive Australian exporters.

It explains clearly the government's vision for an enhanced trade performance, and it offers tangible approaches for ensuring the success of this aim.

It delivers on the coalition's undertaking before the election to make the formulation of trade policy more open, and to make the process more accountable.

Senator BROWNHILL—I table the statement by the Minister for Trade, together with a document entitled *Trade: Outcomes and objectives statement*, and move:

That the Senate take note of the statement and document.

Senator MARGETTS (Western Australia) (5.46 pm.)—I will not delay the Senate very long. I just wanted to point out that, when a report is issued that has been given a bit of a rah-rah by the government as to how open and free they are with their information on trade, you would expect a document on trade which is 205 pages long to be a document on trade—that is, about exports and imports, Australia's investment overseas and the level of investment of other countries in Australia. That is what trade is about.

In fact, it is not a document on that. It is mostly a document saying what Australia has done in exports and it is quite difficult, even with the tables at the back, to compare exports and imports, because the import tables and the export tables are different. So, despite the statement being lauded as the way the government is being fair and open in relation to Australia's performance, I have to say that it is not. Many people have concerns about what happens when you have an increased consumer confidence and how many of the items that you buy even in food, footwear and clothing shops are not made locally. Their concerns are about the difference between the level of overseas investment in Australian industries, and the number of those Australian industries now locating overseas and so on.

If we are going to have documents which really are about whether or not what governments are doing is a good policy and what the outcomes are, then I would not expect a document which did not have a chapter on imports. I would expect some sort of analysis on exports versus imports and the trends, but I cannot see that.

This is a brief statement. I think it basically is a very large assumption. If the government is indicating this is a hallmark of open government and good analysis of policy, I say that it falls a long way short. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported informing the Senate that His Excellency had, in the name of Her Majesty, assented to the following laws:

Health Insurance Amendment Bill (No. 2) 1996

Taxation Laws Amendment Bill (No. 2) 1996

Workplace Relations and Other Legislation Amendment Bill (No. 2) 1996

Taxation Laws Amendment Bill (No. 3) 1996

National Health (Budget Measures) Amendment Bill 1996

Child Care Legislation Amendment Bill 1996

Telstra (Dilution of Public Ownership) Bill 1996

Industry Research and Development Amendment Bill 1996

Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996

Social Security Legislation Amendment (Budget and Other Measures) Bill 1996

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—I present documents relating to the Senate as listed in today's *Order of Business*.

The list read as follows—

Questions on notice summary—19 March to 31 December 1996

Register of Senate Committee Reports (1996 Supplement)

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Report

The ACTING DEPUTY PRESIDENT—Pursuant to the resolution of the Senate of 23 August 1990, I present the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled *The implications of Australia's services exports to Indonesia and Hong Kong*, together with the transcript of evidence, submissions and minutes of proceedings which were presented to the President after the Senate rose on 14 December 1996. In accordance with the terms of the resolution, the publication of the documents was authorised.

Senator MARGETTS (Western Australia) (5.50 p.m.)—by leave—I move:

That the Senate take note of the report.

I was on the Joint Standing Committee on Foreign Affairs, Defence and Trade involved with this report on the implications of services exports to Indonesia and Hong Kong. Honourable senators might note that there is a very brief qualifying statement by me at the back which relates to some of my concerns, largely about the information that was available—some of those issues have been dealt with in the report but I needed to emphasise them—but also in relation to the political ramifications, which the committee really did not get to hear.

I would have liked to have had some political analysis of Australia and Australia's involvement with Indonesia and the likelihood of that changing in a post-Suharto environment, but it was not considered to be a priority of the committee. I think that is sad considering that there will be many things that we ought to understand about Australia's political and social relationships with countries like Indonesia and, of course, with China. In my opinion, that was a shortfall with this inquiry.

I would also like to mention some issues that came along the way. There is an assumption that export of service industries like education and health is necessarily a benefit. I would like to give some examples where there may be problems.

Educational institutions like universities become reliant on the export dollar. We have heard in budget speeches that basically the funding for universities will more and more rely on their ability to attract funding from other sources, including private funding. A lot of that means their ability to export services. So, instead of that being the ability for the universities to provide more services, sometimes there is a great danger that the tail will wag the dog—that is, the universities have no other source of extra funding. They find funding through export of their services and, when that is achieved, the federal government then uses that as the excuse to pull funding away.

In the end, those institutions become dependent on finding more and more funding through those sources. It could be private funding, it could be export funding. But then you have the problem of what happens when you are reliant on those export dollars. People have paid a lot of money and they expect to pass. What happens to the standards and the way you design those courses and, indeed, does the tail wag the dog in terms of the educational institutions?

Another, perhaps even more worrying, concern is in relation to health. You have the same sort of situation; that is, hospitals finding that they need to find sources of income through exporting of their services, attracting people for instance to come to Australia for quite complex operations that they cannot easily obtain in their own country. Once again you end up with a lot of the infrastructure of that hospital being geared towards attracting that export income.

I do not think it is a small concern. It is extremely important if we see hospital wards closed for patients who are in need, but we have resources brought into the hospital to try to attract export income from quite wealthy patrons overseas, to bring that trade to Australia. Once again, as soon as that funding seems to be attracted, that is the excuse for this current government to pull government funding out of that resource.

I think it is a very important issue and we have not yet addressed it. Maybe that is something we are going to have to come back to in the future. It is not just about exports and imports in the internationalisation of trade; it is about the interaction of internationalisation with privatisation policies and competition policy. My feeling is that inevitably we are going to have huge ethical problems and problems within the services of providing the kinds of services we really need and continuing to have a situation where the commercial prerogatives may become more important to an institution than the provision of health services and, in particular, the provision of preventive health services and those things within the community. So we might end up with crisis care or an export sector but a very poor health sector, because of the way the dollar is going. Because preventive health and community health are not necessarily immediately seen to be of benefit they are getting their funding taken away.

Those are some of my considerable concerns in relation to the inquiry and in relation to the kinds of messages we are getting. I am very sorry that I seem to be one of the few people on the committee who have those concerns but I do hope that those issues are brought up more often in the future and that it will not just be someone from the Greens who is interested in pursuing them. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Reports: Government Responses

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Pursuant to the resolution of the Senate of 13 February 1991, I present government responses to parliamentary committee reports as listed at attachment A of today's *Order of Business*, which have been presented to the President since the Senate adjourned on 14 December 1996. In accordance with the terms of the resolution, the publication of the documents was authorised.

The list read as follows—

Aircraft Noise in Sydney—Select Committee—Falling on deaf ears?—Government response, dated December 1996.

Community Standards Relevant to the Supply of Services Utilising Electronic Technologies—Select Committee—Classification (Publications, Films and Computer Games) Regulations: Statutory Rules 1995 No. 401—Government response, dated 9 December 1996.

Employment, Education and Training References Committee—Education and training in correctional facilities—Government response.

Environment, Recreation, Communications and the Arts References Committee—First and second reports on soccer—Government response, dated December 1996.

National Crime Authority—Joint Statutory Committee—Organised criminal paedophile activity—Government response.

Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—National Native Title Tribunal Annual Report 1994-95—Government response.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT—Pursuant to the resolution of the Senate of 13 February 1991, I present documents as listed at attachment B of today's order of business, which have been presented to the President since the Senate adjourned on 14 December 1996. In accordance with the terms of the resolution, the publication of the documents was authorised.

The list read as follows—

Administrative Appeals Tribunal Act—Administrative Appeals Tribunal—Report for 1995-96—Erratum. [*Received on 14 December 1996*]

Audit Act—Auditor-General—

Financial Statement audit—Aggregate financial statement prepared by the Minister for Finance year ended 30 June 1996 (Report No. 24 of 1996-97). [*Received on 20 December 1996*]

Performance audit—Customer service: Department of Social Security (Report No. 25 of 1996-97). [*Received on 20 December 1996*]

Performance audit—Recovery of the proceeds of crime (Report No. 23 of 1996-97) [*Received on 14 December 1996*]

Albury-Wodonga Development Act—Albury-Wodonga Development Corporation—Report for 1995-96. [*Received on 23 December 1996*]

Darwin—Report of the Committee on Darwin—Government response and statement by the Minister for Transport and Regional Development (Mr Sharp). [*Received on 23 December 1996*]

Department of the Treasury—Tax expenditures statement 1995-96. [*Received on 28 January 1997*]

Freedom of Information Act—Report for 1995-96 on the operation of the Act. [*Received on 14 December 1996*]

Human Rights and Equal Opportunity Commission Act—Aboriginal and Torres Strait Islander Social Justice Commissioner—Report for 1995-96. [*Received on 14 December 1996*]

International Monetary Agreements Act—Australia and the IMF—Report for 1 May 1995 to 30 April 1996. [*Received on 14 December 1996*]

International Monetary Agreements Act and the International Bank for Reconstruction and Development (General Capital Increase) Act—Australia and the World Bank—Report for 1995-96. [*Received on 14 December 1996*]

Landcare Australia Limited—Report for 1995-96. [*Received on 8 January 1997*]

Mid-year economic and fiscal outlook 1996-97—Statement by the Treasurer (Mr Costello) and the Minister for Finance (Mr Fahey). [*Received on 28 January 1997*]

Wheat Marketing Act—Australian Wheat Board—Report for 1995-96. [*Received on 8 January 1997*]

WESTERN AUSTRALIAN COMMISSION ON GOVERNMENT

The ACTING DEPUTY PRESIDENT—I present a letter from the Premier of Western Australia responding to the resolution of the

Senate concerning the Western Australian Commission on Government, together with related documents.

Senator MURRAY (Western Australia) (5.57 p.m.)—by leave—I thank the Senate. The Commission on Government inquiry into the prevention of corrupt, illegal or improper conduct in the Western Australian public sector and by politicians concluded that major changes were necessary to the structure of government. The Royal Commission into Commercial Activities of Government and Other Matters showed that the substantial misuse of public funds during the 1980s was not solely the result of improper conduct by elected and appointed officials. It was also the consequence of a governmental system which, to read from the Commission on Government report No. 5:

> . . . had three broad defects: the Parliament and the public were systematically denied detailed information about the conduct of government; procedures for holding governments, ministers and officials accountable for their actions were either non-existent or ineffective; and there was no clear and authoritative statement of the functions, duties or responsibilities of the key office holders of executive power in this State.

This also was the opinion of the Western Australian Royal Commission. In part II of its report it set out a series of criticisms of the operation of government and recommended the creation of a commission on government to consider that in detail.

In its reports, the Commission on Government rejected the Court government's persistent argument that the excesses of the state government in the 1980s were simply the result of bad men and bad women who held office during the period. In its final report the commission argued that the whole point of a well structured system of government is to limit the damage that improper or reckless conduct by politicians and officials can inflict on the public.

A system of government that is open and accountable to the people requires rules and structures that are designed explicitly to prevent corrupt, illegal and improper conduct. Much of the blame for the extent of the damage to the finances and reputation of government in Western Australia during the 1980s must be laid at the feet of a system of government that failed to prevent such events.

The Commission on Government, in its consideration of the 24 specified matters referred to them by the parliament, restated the findings of the royal commission and found that changes to the operation of the public sector to prevent a recurrence of the abuses of the 1980s were vital to the proper operation of the public sector. Establishing a system of government in a public sector that operates correctly is essential to safeguard the public interest. What is required is a structure of government that is open to scrutiny. Public officials must know that their conduct may be judged by the public. Lines of accountability need to be clearly set out so that every official knows the nature and scope of his or her responsibilities.

Parliament is the central element in maintaining the accountability of the public sector to the people. The lines of administrative accountability of government departments and agencies is through ministers who are answerable to parliament. In addition, parliament supervises the operation of the public sector through its control over legislation, finance and the monitoring activities of its officers and committees.

Many of the recommendations by the Commission on Government were designed to enhance parliamentary scrutiny of the administrative activities of the public sector. This scrutiny has the goal of preventing corrupt, illegal or improper conduct both directly by supervising the activities of government and indirectly by providing the public with information on which political judgments can be made. According to the reports and recommendations of both the royal commission and the Commission on Government, in its failure to implement vital changes which were recommended, the government would continue to put the system and the safeguard of the public interest at risk.

This is an unacceptable situation which I, as a representative of the people of Western Australia in the Senate, and the newly elected Australian Democrats in the Legislative Council of Western Australia will be fighting to rectify. Our new MLCs will be introducing

legislation in the Legislative Council after 22 May in an attempt to implement the Commission on Government recommendations.

The Australian Democrats view and take the accountability of government to the people very seriously. It is a fundamental element of our system of government which must be in place for democracy to work. The Court government must stop regarding accountability to the people of Western Australia as an optional extra to which they only arrive when they are forced to. They must begin a legislative program introducing the recommendations of its own Commission on Government. I thank the Senate.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator CONROY (Victoria)—On behalf of Senator Cooney, I present the first report of 1997 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table *Scrutiny of Bills Alert Digest No. 1 of 1997* dated 5 February 1997.

Ordered that the report be printed.

Membership

The ACTING DEPUTY PRESIDENT (Senator Childs)—Madam President has received letters from the party leaders seeking variations to the membership of committees.

Motion (by **Senator Brownhill**)—by leave—agreed to:

That senators be discharged from and appointed to committees as follows:

Environment, Recreation, Communications and the Arts Legislation Committee—

Substitute member: Senator Allison to replace Senator Lees for the committee's inquiry into the provisions of the telecommunications industry package of bills

Rural and Regional Affairs and Transport References Committee—

Participating members: Senators Abetz, Murray and O'Brien

Senator Abetz to be appointed a participating member of the following committees:

Community Affairs References Committee

Employment, Education and Training References Committee

Environment, Recreation, Communications and the Arts References Committee

Finance and Public Administration References Committee

Foreign Affairs, Defence and Trade References Committee.

ORDER OF BUSINESS

Government Business

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (6.04 p.m.)—I move:

That intervening business be postponed til after consideration of government business order of the day No. 3, (Customs Amendment Bill (No. 2) 1996 and two related bills).

The reason for moving this motion is that I am seeking further legal advice in relation to the Hindmarsh Island Bridge Bill 1996 that I am asking to be postponed. I have let the opposition know that I am doing that. I will report back when that is available. It has been impossible to get it this afternoon.

Senator BOLKUS (South Australia) (6.05 p.m.)—by leave—This morning in the debate on the Hindmarsh Island Bridge Bill 1996, I made the point that this legislation would come back and bite the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron) where it hurts him most, which is on his credibility. I think it has done that already. We have seen this afternoon an incident where a minister came into this parliament after months of this bill being on our *Notice Paper* and having been debated—this is its second time around—and said, 'On the fundamental point of whether the government had the power to do what we wanted to do with this legislation, we did not seek legal advice. We did not go to the Attorney-General's Department and ask them whether we had the power to act in the way that we have purported to act in this legislation.' Nothing could be more incompetent than a government taking a measure so far down the track without knowing the legal validity of what it was doing; that is, without knowing why and how they were acting and under what power of the constitution.

Consider the fact also that not just this side of parliament has made the point that was

made earlier. Some six judges of the High Court of Australia over 13 or 14 years have all made the same point. This point has not come out of the dark. It has been on the public agenda for quite some time. You would have thought that any competent government attempting to legislate in the way that they have would have taken legal advice quite some time ago. That is why I say that this is a great symbol of the incompetence of not just this minister but this administration.

It confirms our view that the government's advice this morning and for the last few months was inadequate. It confirms our view that the government had taken the wrong approach. It also confirms our fear that this government had embarked upon a political exercise without having done its homework. It was not concerned about rights or legal proprieties or what was constitutionally valid. From day one when it came into power, it was concerned about using the Aboriginal community of Australia as a political football. That was exposed even more by its opposition to accepting the amendment that we moved on this bill. It was an amendment that would make this bill subject to the operation of the Racial Discrimination Act. It is the same amendment which Minister Ruddock accepted for the social security legislation. This government would not give the same protection to Aboriginal Australians that this parliament has given to migrant Australians.

This has been a political exercise. This has been manipulated by all the Prime Minister's men who are hidden in a bunker in the office of the Prime Minister (Mr Howard)—Mr Morris and Mr O'Leary. Poor Senator Herron is the bunny. I am making this point because this government, in particular, has used this issue as a political point and it has been sprung at this last moment. As I say, that is not a novel point, it is not a new one; it has been on the agenda for some time.

Our view is—I have put this to Senator Herron both publicly and privately and I will put it to whichever government member wants to discuss it—that if you want to build the bridge, you do not have to legislate. It is quite apparent from the evidence that Senator Herron gave to the Legal and Constitutional Committee that you do not have to legislate. It is quite apparent from the advice that the Chapmans are getting from their lawyer, Mr Palyga, that you do not have to legislate. So why this legislation? Because you want to string out a sleazy little political game. That is the only purpose of it and you have been trapped. This exposes the incompetence of the minister and of the government.

This decision was taken by cabinet. We know how cabinet processes run—we know how they should run. When you put up a submission to cabinet, you normally read it, unlike Senator Alston, and there is normally input from other offices, in particular, from the Prime Minister's office. Where was the advice from the Attorney-General (Mr Williams) and from the Attorney-General's Department on this particularly critical matter? This minister, in a sense, has been hung out to dry because the Attorney-General's Department did not do their work.

Where were the comments of the Department of the Prime Minister and Cabinet? What was their advice on this particular issue? Why did they not pick it up? They have an indigenous peoples section in that department. This probably would not have happened under the previous Department of the Prime Minister and Cabinet secretaries Codd and Keating, but it has happened under Mr Max Moore-Wilton, a person who has been dragged out of the private sector with absolutely no background knowledge in terms of general social policy and machinery of government issues. Let us face it: the person who has got to take the rap for this is the minister himself. It is his responsibility.

We are talking about legislation which the government was prepared to go to the wire on. It views it as a great political issue. It tried to prop it through the media in South Australia and tried to paint the opposition and other parties in the Senate as being obstructionist to development. Six judges, including Chief Justice Brennan and Justice Stephen, who went on to become Governor-General, all raise that particular point. The point is that, under the constitution, particularly when it relates to Aboriginal Australians, you cannot just legislate; you have to 'legislate for the

benefit of'. That is why that referendum was carried in 1967. The people of Australia did not carry that referendum to empower governments to discriminate against Aboriginal Australians; it empowered governments to take special measures and steps to benefit Aboriginal Australians.

So it was an easy way out, Senator Herron. You will probably come back with advice from Attorney-General's Department saying this, that and the other—that it is not discrimination, whatever. You will be trying to argue that black is white and white is black. I say to you, when you go to them to ask for advice on that fundamental constitutional point, firstly, you should ask them why you did not get it before and, secondly, you should say to them, 'What is wrong with that other avenue that has been suggested by the opposition and by others to the government? Do we need this legislation?' I think, if they were being honest, they would say, 'You don't.'

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (6.11 p.m.)—by leave—Senator Bolkus did not understand the import of what I was saying. Senator Bolkus, the advice that I have sought is in relation to your amendment. I made a New Year's resolution that this year I would be quiet and listen to the other side, that the Senate is a chamber deliberating on laws that are going to come in and that I would listen intently to debate on the other side and be constructive in my response so that I would accommodate argument, as I have done today. I must say that I am very close to breaking my New Year's resolution, but I do not intend to do so in light of the statements that the Senator Bolkus has just made. He may be forgiven, I suppose, in the sense that he ran off on a tangent.

Senator Bolkus—You are seeking advice on that amendment now. It has been around for months.

Senator HERRON—Senator Bolkus, I think I pointed out to you this morning that a lot of advice has been sought. But in the light of, I suppose, the goodwill that comes with Christmas and everything else, I thought, 'Senator Bolkus has put forward a proposal. I ought to recheck.' That is what I am doing. I am seeking further legal advice in relation to your amendment. I think all of us here want to make sure that legislation that is passed is—

Senator Bolkus—You should have done that months ago.

Senator HERRON—It has been done, Senator Bolkus, but I listened to you this morning and took notice of what you said. I thought, 'He's an honest broker.'

Senator Abetz—Cut it out!

Senator HERRON—I accept at face value that all honourable senators are honest brokers. So I thought of my New Year's resolution and told myself, 'Just calm down. Don't get carried away with the bombastic delivery of some people. Don't get carried away with the sleazy legalese that I hear sometimes from those on the other side. Just listen.' I have done that.

Senator Bolkus—You are being provocative now.

Senator HERRON—No, I am not being provocative, Senator Bolkus. I listened carefully and I thought, 'The Hindmarsh Island Bridge Bill is an important bill. He might have something. I'll get them to recheck the legal advice. Let's go back.' I listened to you, Senator Bolkus. I heard you. I think so often in this chamber people hear but do not listen. I actually listened. So I took Senator Bolkus at good faith and now Senator Bolkus jumps up and says, 'This is an indictment of the minister,' and we wander off onto all sorts of things.

I stand by the advice that I was given but, in the light of the argument that was put, I think it is reasonable to seek further advice. I think that is in the best interests of legislation.

Senator Bolkus—You should have done it months ago.

Senator HERRON—It was done months ago, Senator Bolkus. Are you going back against your persuasive argument that you put this morning?

Senator Bolkus—No. I am saying you are hopeless.

Senator HERRON—Then he comes in saying I am hopeless, that I do not do this and that, and that I am the bunny in the spotlight. Senator Bolkus, an enormous amount of work has been done on this. We regard this very seriously. It is evident to me. Just think of that news release. I will not be provocative, Senator Bolkus. I just moved this motion so that we can get on with legislation and then we can come back to you with the advice.

Senator Bolkus—You'll show it to us?

Senator HERRON—I have not got it yet. Let us tell you what it is first.

Senator Bolkus—Will you show it to us?

Senator HERRON—You can approach that question when you come to it. I think there should be a spirit of goodwill shown, rather than this. Some people do not have a spirit of goodwill; some people do not have any generosity of spirit. I am not implying that Senator Bolkus should be that way, but let us approach the new year with a spirit of goodwill, a bit of goodwill to men and women. This is an opportunity to get further advice on it so that ultimately we might even include the environment and accommodate things—the migratory birds or something, whatever the matter might be.

Let us get the best legislation and ensure that we get the best outcome, which is for the bill to go through. That is what I am proposing to do, but let us get the best further legal advice—even though I am quite confident that it will confirm what I said this morning. Senator Bolkus, I accept the statements that you made. They were made in good faith and in a response in good faith I am saying that we will get further legal advice.

Question resolved in the affirmative.

CUSTOMS AMENDMENT BILL (No. 2) 1996

IMPORT PROCESSING CHARGES BILL 1996

CUSTOMS DEPOT LICENSING CHARGES BILL 1996

Second Reading

Debate resumed from 25 November 1996, on motion by **Senator Campbell**:

That these bills be now read a second time.

Senator COOK (Western Australia) (6.17 p.m.)—As has just been called, there are three bills here: the Customs Amendment Bill (No. 2) 1996, the Import Processing Charges Bill 1996 and the Customs Depot Licensing Charges Bill 1996. All three bills are being debated cognately, that is to say, at the same time.

The reason for these bills coming forward to this chamber is that in the budget the government announced a cost recovery regime that would apply in the case of customs charges and the bills together implement that cost recovery regime. They involve the imposition of 13 fees and charges for import related services delivered by the Australian Customs Service. Each of those fees and charges, and to what they refer, are outlined in the explanatory memorandum which accompanies these bills. I will not go into that in any detail, but they are there for the record.

The opposition broadly supports the idea of cost recovery, but I say broadly because in the case of these bills, which could be termed cost recovery bills, we will be seeking some amendments because there are important considerations in the application of the principle of cost recovery. We think these bills can be improved by the amendments that we will later move.

Our concerns, and the reason we will be putting forward amendments, are on behalf of Australian small business and on behalf of regional Australia—in particular, regional ports where small customs agents operate who currently enjoy a regime of no charges. They will be faced with quite significant new charges, particularly in small ports like Launceston and Hobart in Tasmania, or Bunbury and Geraldton in my own state of Western Australia. In those sorts of ports, where the traffic of goods necessitating customs charges is quite small, the normal thing is to find that customs depots too are quite small. They are usually diversified businesses and small businesses. The new fee that is being imposed

involves for customs depots' licensing charges an increase from zero to $4,000 for these small businesses each year plus, in the initial year, a $1,000 up-front charge—that is to say in the first year $5,000 and in subsequent years $4,000 thereafter.

If a new entrant were to seek to become a customs depot then the licensing charge upon the passage of this bill would be $3,000 up-front and $4,000 each year—a cost of $7,000.

Senator Parer—A big depot?

Senator COOK—A big depot? Let me accept that interjection from the minister. Nonetheless, from zero it is a significant hike in charges.

Our concern here is, as I have said, for the small businesses that operate in this field. There have been a number of them that have written to the minister on this subject. Some of them have favoured us with copies of their correspondence to the minister and indeed we have received some correspondence ourselves as well. One has to remember that this is a government that came to power claiming to have a mandate to represent the interests of small business. The type of correspondence that I see on this subject reflects a concern by small business that the government is not representing their interests, and that it is imposing, with little notice and out of the blue, quite significant—for them—charges that they will have to meet.

One also has to consider that on Monday of this week it was reported in the media that in the December quarter 1996 Australia suffered a record number of bankruptcies, many of which involved small businesses. It was, I think, reported by the Australian Bureau of Statistics last thing on Friday. That record number of bankruptcies reflects the flat economic conditions that are currently applying in Australia, whereas we have seen in the mid-term review of the budget released last week that the forecast of economic growth remains unrevised.

Most private sector economists believe it to be heroic and that the growth in the economy will not be 3.5 per cent over the year but more likely 3 per cent or lower and that unemployment will increase on the budget estimates from last August. Again, according to a survey conducted of consulting economists in the private sector by the *Age* newspaper, that figure too is heroic and unemployment is likely to top nine per cent by the middle of the year.

Of course, small business is a major employer and growth in small business is immediately translated into jobs. So it is against the background of a very flat economy—an economy in relation to which, at the time of the budget when the government decided on these charges, the government had stronger views about economic growth than the now revised figures show is likely to occur—that I think some review of the immediate impact on these charges ought to occur.

There is, of course, another concern. That is, if small businesses in regional Australia were to close as a consequence of these sorts of charges, obviously access by regional companies to goods coming through Customs and through the depots would be made more difficult. It would impose further cost constraints on those businesses. It would also be possible to see a scenario in which staff cuts in the Customs Service would occur in regional Australia too.

I obviously recognise that Customs have been assiduous in finding greater and more efficiencies, and they are to be commended for the fine work they have done in achieving that, but it ought not be, and never should be, at the cost of the types of services that aid business development in Australia. In support of the amendments that we are moving here, we believe that a loss of Customs services would detrimentally impact on small business.

I said that we had received a number of items of correspondence from small business people. Let me just refer to one of those. This is from a company called About Time, a company that operates in North Sydney. The author of this letter, Mr Andrew Bliss, in reference to these charges, heads his letter 'Government changes take another $2,500 from my pocket annually'. He writes:

By way of background, I will say that I import a range of spare parts for clocks from dozens of suppliers in various countries. The size of the

orders ranges from $100 to $2000 per order, and there would be about 50 orders annually. The goods are despatched by Post.

He is referring to the import entry charges that are to be imposed on postal items. Having said that, he goes on and talks about the status quo, but the real point of his letter is this:

AFTER JANUARY 1, 1997:

My agent advises me that the $1000 limit will REDUCE to $250, forcing me in almost EVERY instance to engage an agent to perform the clearance. Further, my agent will be charged $51.40 for the pleasure of paying my duty and sales tax. The ludicrous situation will exist where it will cost me $125 to pay a duty and tax bill of $75—far more than the sales tax and duty collected (and note, 99% of what I import is duty FREE).

He concludes his letter—and this is a letter to Minister Moore—by saying:

This is so far the only change the Howard government has made which affects my business. Rather than 'slashing red tape for small business', you seem to be creating more, and taking money from my pocket.

I look forward to your comments.

The opposition had a number of discussions with the Customs minister over this bill when it was first presented to us. I pay due recognition that the Customs minister, Mr Prosser, has been careful to listen to what we have said and has been prepared, and I commend him for this, to alter his position as a consequence. I acknowledge that. My view is, however, that he has not yet altered it far enough and there needs to be an amendment to this bill.

There are parts of this bill that I want to refer to in particular. The opposition is seeking a phase-in period of four years for all of the fees. That, I believe, would overcome the problem of the standing start where a nil fee applies now, and, upon carriage of this bill, a significant charge would be implemented. If it were phased in, it would cushion that impact. We believe the phase-in over four years and the reduction of the threshold of $1,000, at which the import entry fees are imposed for goods entering Australia via the post, should occur.

I have said a bit about that, and I do not think I need to labour that point any further, but we did make representations to the minister on this. Since then, and following our representations, he has suggested that it be delayed 12 months to enable Customs to provide an Internet facility for electronic lodgments—that is, lodgments at a much cheaper rate than the rate I am referring to. I still think this represents a substantial impost as those lodgments are as well currently free.

We will proceed with our amendments to phase in the charges over four years. However, the phase-in will not begin until 12 months after the commencement date of the bill. We think the government will oppose this, but we hope that they will change their mind and recognise that this is not a case of Senate delay. This is a case of improving the legislation and the impact the legislation has on small business.

In respect of fee 10, the licensing charge for section 17(b) customs depots, we wanted to see the establishment of a two-tiered fee based on the turnover of the depots to protect low turnover depots. What we have of course in small ports is small depots, and in large ports ones that are much larger and do a roaring business. But, in order to recognise the special needs of the smaller ports and the smaller depots, we believe that there ought to be a two-tiered structure.

The government has recognised that point and, to its credit, that is one of the areas in which it has been prepared to be a bit flexible. I do not think it has been flexible enough, however. It is my understanding that the government has proposed an amendment that defines smaller depots as those depots having less than 100 transactions a year and in their case charging them a reduced fee of $1,500 per annum, a saving of $2,500 on the higher fee.

We have sought information about what number of depots would be affected by the two-tiered system operating for 100 transactions a year. I am advised, and I think the source is customs, that around 15 per cent of depots have less than 100 transactions. On a state by state basis, six per cent of those occur in New South Wales and Victoria, but, significantly, 12 per cent occur in Western Australia, 17 per cent in Queensland—and

given the regional ports in Queensland that is obviously an important factor there—and 30 per cent in South Australia. Tasmania has 60 per cent of those companies and the Northern Territory has 73 per cent. These depots are mostly in regional centres.

Discussions that have been held, not by my office but by colleagues of mine, suggest that the number of small depots indicates that, if the figure were 500 to 1,000 transactions, we would arrive at a far better cut-off point as many of the small depots have up to 1,000 transactions a year. By contrast, just to make the distinction, the large depots in Sydney and Melbourne have up to 50,000 transactions a year. My understanding is that about 50 per cent of depots have more than 1,000 transactions.

In summary, if the cut-in point were at 500 transactions for the two-tiered system of charging, then we believe that a more equitable outcome would be achieved.

The government has recently circulated its amendments. One of them extends the settlement date by which the new screening charges must be paid from 21 days to 45 days. I think this appears, if one looks at the original bill, to correct a drafting error that occurred there. But, in any case, on behalf of the opposition, we would support that amendment. It does give more time to small business to meet the repayments.

If one looks at what current commercial practices are, it seems to me from my recent discussions with small business in the last couple of weeks that that seems to have crept down to a settlement time of 91 days. That is commercial practice. So this change by current commercial standing is less favourable but nonetheless is an improvement and therefore should be supported.

One of the other changes the government has proposed is to amend the transitional arrangements for the new customs depot charge as a result of not having the anticipated 1 January 1997 starting date. This bill was on the list before we rose for the Christmas recess. Obviously, now that we are considering it at this time, we have passed the operation date. I think it is important that the transitional arrangements ought not anticipate 1 January 1997, so we can support the change the government has made there.

The amendment as well defines a number of terms, particularly relating to the number of transactions for a customs depot. We have sought clarification from the minister about this—that he is not reinventing the definition of a transaction. So as no depots fall into the small category, and we have been assured on that point, and on that basis we would support what appear to be straightforward changes.

As I say, in broad principle, the opposition does support cost recovery for government services. That is not in every single case, because in some cases full cost recovery can damage growth in the economy or, if it is imposed suddenly, can, in an unanticipated way, throw into question the strategic planning of particular companies and push them towards bankruptcy and a flat economy. It is something that the government should move very carefully on and that is the reason for our position. I commend that to the Senate.

Senator MARGETTS (Western Australia) (6.36 pm.)—I will speak briefly in relation to the Customs Amendment Bill (No. 2) 1996. The intent of this bill is to further extend the concept of user pays to certain activities of the Australian Customs Service. The government seems determined to apply this concept to all sectors of the economy, with some notable exceptions.

The Greens (WA) have fundamental concerns with applying user pays to government services. It overlooks the fact that many services provided by government have a public interest component that outweighs their financial cost and that many essential government services are provided to sections of the community that are unable to pay the full cost of provisions. Ironically, the government itself has recognised this fact in the bill by exempting exporters from any cost recovery charges. The justification provided is that it is in the national interest not to hinder the economic competitiveness of exporters.

The specific section of this bill which we have problems with is item 12 of schedule 1. This section would lower the threshold for goods exempt from import entry from $1,000 to $250. The person lodging the import entry

would then be required to pay a processing charge. I guess we will need to find out later what that would actually cost to process, whether you are actually gaining much or whether it is eaten up by the processing charge of having to look at the forms in the first place.

The charge is proportionately quite high. The charge for an electronically lodged import entry via post for a good valued at $250 would be $22.80. The cost of a manual or non-electronic import entry via post for a good of the same value is $44.51. For a small importer, this is a significant additional impost. Perhaps we could assume that the people happiest with this might be the larger importers.

We are also concerned that the charge is a flat rate, which is regressive and takes no account of the importer's ability to pay. Perhaps in trying to a remove tax we are putting flat rates on people which is inequitable. A business importing goods worth $260 would pay the same charge as a business importing goods worth hundreds of thousands of dollars. Clearly, this amendment will hit hardest those who are least able to pay.

Questions also have to be asked about how much will actually be gained by this bill. The ACS estimates that there are approximately 29,000 imports in the range of $250 to $1,000 which would be subject to the import entry processing charge if this bill is passed. The vast majority of these import entries will be lodged electronically, thus attracting a charge of $22.80. The annual revenue gain for the ACS from lowering this threshold will be approximately $660,000. This is a relatively small amount. When compared with the burden it will place on small importers, it is then difficult to justify.

Honourable senators will realise that I have no personal or general problem with import fees or duties, but I have problems with the imposition of fees or duties which are inequitable. Often people will argue in the same way in relation to banking fees—'This is the cost of servicing.' But it is very inequitable when the people who are being charged such large servicing fees are least able to pay. We have seen people's small accounts being eroded.

The principle also applies sometimes to small importers. We, therefore, will be moving an amendment in the committee stage to look at or remove item 12 from schedule 1. I will deal with that more at the time and ask questions related to that. That basically is our concern in relation to this bill. I think it is important that we start to clearly put these issues on the table.

It is a problem when the government starts talking about the fact that somebody has to pay before the government provides services even if those people pay tax. I think that is not a principle which the Greens (WA) would generally support.

Senator O'BRIEN (Tasmania) (6.40 p.m.)—I rise to speak in this cognate debate, particularly in relation to the Import Processing Charges Bill 1996 and to the Customs Depot Licensing Charges Bill 1996. Firstly, in relation to the Import Processing Charges Bill, my interest in this matter was generated by correspondence I received from a constituent operating a business known as Celtic Southern Cross in Bracknell, a small place in northern Tasmania. Not many people around Australia would have heard of Bracknell—

Senator Abetz—It is a great place.

Senator O'BRIEN—It is a lovely little town in northern Tasmania. This business is operated by Beth Sowter and Mike Watts. Mike corresponded with me in relation to this legislation. I wanted to substantially put on record what he had to say because I think he is much more eloquent about the impact of this legislation on a small business than I ever could be. He says:

> Beth Sowter and myself have over the last five years established a small business that caters for folk musicians around Australia. It has been hard work developing our international Supplier contacts and building up our outlets around Australia. We have also developed a good rapport with folk musicians who are beginning to rely on our experience and knowledge. Though we work at the business part time we are hopeful that it will employ one of us full time within two years. Our growth of 30% per year justifies this prediction.
>
> What could be a good business is now in jeopardy due to the changes to Customs procedures,

moved in Parliament on Wednesday 6th November, 1996.

We import goods from England, Scotland, Ireland and Canada from Suppliers who previously could not make their goods available here due to the distances of the markets. Our import orders are not large because of the market size and the variety of interests of our customers. The value of an average import consignment is between $300 and $400. When goods arrive we do an Informal Customs Clearance which takes no more than five minutes. With this Clearance we inform Customs of the value of the goods, sales tax and duty payable and costs in Australian Dollars. This is then faxed to the Customs in Hobart and the goods are dispatched. All consignments under $1000 are imported by Post.

The cost recovery amendments moved by the Government have put a stop to Informal Custom Clearance. Their user pays/cost recovery system will now involve a $44.55 charge for manual lodgment (for us we will have to lodge in Launceston in person) or a $29.65 electronic lodgment charge. We have been advised that we would need a Customs Agent to process transactions to qualify for this reduced fee. Agents were charging us $60 per consignment before we started doing the Informal Custom Clearances ourselves. This fee will obviously rise with the more formal clearances and licensing fees. I have been told we could be charged a fee by a Customs Agent of $80 plus the electronic lodgement charge of $29.65.

On a consignment of $300 to $400 these charges will make our business unprofitable. These charges may be suitable for large consignments but the very nature of our business prevents us from placing orders larger than we are currently doing.

I also do not consider that a consignment of 15 song books worth $300 requires a charge of $44.55 to process. The Government should have looked at ways of reducing the book work involved before proceeding with this legislation. During the second reading of the bill it was stated by the Minister that "Customs has undertaken detailed activity based costing of its services to ensure that the costs recovered do not exceed the costs calculated to process import transactions". Obviously no attempt has been made to discriminate between $100 000 order and $300 orders.

I would like to recommend an amendment to the legislation "that Informal Custom Clearance be retained for goods valued under $1,000" (as is the current situation).

That small business will clearly be affected by the charge as those business proprietors interpret its impact upon their business.

It is curious, given the government's position in relation to freeing up a small business from the impost of charges, and it is ironic that the day this bill was being introduced into the House of Representatives on 6 November last year the Prime Minister (Mr Howard) was addressing the opening of the National Small Business Forum in Parliament House. He told it that government had 'placed an enormous amount of rhetorical emphasis on small business in the lead-up to the election. We also placed a lot of policy emphasis on it'. Mr Watts and his fellow proprietor are wondering what that emphasis is in the context of their small business and the impact of these charges.

The government and the Prime Minister has said that small business is the great engine room of the future economic recovery, so the question will need to be asked—and I am sure the Minister for Small Business and Consumer Affairs (Mr Prosser) will be keen to respond on this point: how does this particular measure assist small business to do what the Prime Minister has said, that is, be the 'great engine room of future economic recovery'? In this case we have business proprietors who are talking about a business which at the moment is not a great economic generator but which anticipates, with the history of business growth, that in a period of two years they will be able to employ one of them full time, which obviously is how small business works in terms of gradually building up a business over time.

In relation to this matter, the impact of these small transactions is prohibitive. If there is an option for small importers to access the lower charge—which I think is more properly described as the amount of $22.80 rather than the amount Mr Watts suggested it is—then there will have to be the ability to lodge without going through other agents who will charge fees. That may be the intention of government. I can say that in looking at Mr Watts' letterhead he is already on the Internet so he will be able to lodge himself, provided that is possible. But there is obviously a lot of concern in the community that there may be charges that are going to arise that are not foreseen in this legislation by the need to use

specialist customs agents for the processing of these small quantities of product.

Indeed, effectively something between eight and 10 per cent of the value of this business's input will be levied in import charges. I suppose the minister may say that this business should simply pass that cost on, but is that really desirable in these circumstances and is the real cost of processing these electronic fees $22.80? I would be interested to hear what the minister has to say about that matter.

Generally speaking, there is a concern about the Import Processing Charges Bill in relation to the imposition of these charges on the very small transactions. They do impact on small economies such as the Tasmanian economy, where we have businesses which do their own imports on a very small scale at no cost at present. So this is a total increase in the costs imposed by this bill where no costs exist at the moment.

In relation to the Customs Depot Licensing Charges Bill, Senator Cook has substantially placed on record matters that the Labor Party would rely upon. I have been advised, in relation to the Tasmanian situation—and you would have noted from the statistics that Senator Cook put before the Senate that 60 per cent of the small operation—

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Childs)—Order! It being 6.50 p.m., we turn to the consideration of government documents.

Australian National Railways Commission

National Rail Corporation Ltd

Senator ABETZ (Tasmania) (6.51 p.m)—I move:

That the Senate take note of the documents.

I wish to make a few brief remarks about the annual reports of the Australian National Railways Commission and the National Rail Corporation Ltd. I simply wish to make a few comments about the future of rail in this country and the approach that the government has taken.

It will be to the ongoing shame of those opposite that they presided over a 13-year period of government in which the railways in this country were basically run into the ground. As a result, we had millions of dollars worth of debt and subsidies being paid out to an extent that clearly was untenable. In fact, the people of Australia were denied the truth about the railway system within this country during the last election.

On coming to government, we found out about the mess that our rail system was in and, as a result, the government took it upon itself to commission the Brew report which would consider the future options for rail to ensure both its longevity and its role as a vital part of the transport infrastructure within this nation. I am delighted to say that everyone on the coalition side is absolutely committed to our rail system and to ensuring that it is a viable transport alternative for the businesses that rely upon it around this country.

However, if we had continued down the road of the previous government—where employment in the past decade went from around 9,200 down to 2,500; or, in my home state of Tasmania, where it went from about 1,200 employees down to less than 200 employees now—we would have seen that rail was headed for disaster and doom. We wanted to arrest that continuing slide. We have committed ourselves to trying to obtain a private operator to take over our rail system, to ensure that it is properly managed and that appropriate capital investment can be made to continue its ongoing role within Australian transport.

It is vital that our Australian rail network continues to exist within this country. The previous government's recipe was sitting back and doing nothing or, indeed, just changing the name—I think that was one of the most important decisions that was taken—as was so aptly put to the Senate Rural and Regional Affairs and Transport References Committee, which is inquiring into the Australian rail system, when we were sitting in Launceston just the other day. Might I add that view was put to us by one of the trade unions involved,

the Public Transport Union, who told us that that is all that had really been done by the previous government.

We were not prepared to see the rail industry in this country continue to slide down into oblivion. We have embarked upon a process which we are hopeful will allow for not only job security but also jobs growth, after a decade of jobs being lost in the rail industry under Labor. We want to arrest that slide. We want to see job security and jobs growth in that area.

Let me commend the workers in our rail industry and those that have been seeking to manage it. I indicate to the people of Australia that, basically, governments like playing trains but it is very expensive and they do not know how to run them. It is my hope that, in the years to come, there will be a very small report from the Australian track authority indicating how well the rail system is being run in this country and that the taxpayers of this country will no longer be burdened by the heavy losses that have been incurred as a result of mismanagement, especially under the previous Labor government.

Senator MURPHY (Tasmania)(6.56 p.m.)—I wish to say a few words on both of those reports—the annual report of the Australian National Railways Commission and the annual report of National Rail Corporation Ltd—particularly after listening to Senator Abetz who has stated his government's objective of selling our public rail system and has espoused that this will somehow deliver a panacea to Australians, both from a financial aspect and from a service aspect. In saying that, I would just like to point out to Senator Abetz that some other countries—such as the UK that has tried this exercise for some 12 years—are finding that it is not working.

I am not quite sure how you say the public will be better off from the point of view of having a private owner of a rail system when, indeed, the public operator is the provider of the service. What it comes down to is that if it is sold to private enterprise—as has been recommended and which is being pursued by the conservative government of this country—what you will end up with is an owner who will seek to maximise the revenue generated from that operation rather than the service provision. That is clearly the experience now being felt in the UK not only from their rail transport point of view but also from their bus services which have also been privatised in that country.

Senator Abetz, if you took the time to read some of the British newspapers from time to time about this issue, you might find that 1.5 billion pounds worth of investment has floundered because the British rail system, because they have regionalised the sale of it—and I assume that is exactly what your government is proposing to do—have not been able to get agreement from the private operators of the rail services. Therefore, the public are suffering as a result. Indeed, you know the very importance of the rail infrastructure in our own state from a transport point of view.

I would say to the government very seriously that you want to give great consideration to this issue. I will be very interested to hear our state minister, Mr Cleary, when he appears before the Senate committee inquiry on the Brew report tonight as to what he is proposing to do with our rail system, because rail is an important part of our infrastructure. It is critical that we maintain a service and not pass it over to someone who is going to look at it purely from a revenue point of view. That is one of the most important things.

As some commentators have said in the UK press, the taxpayers—the consumers of services such as rail and bus services—are now really feeling the pinch because the services are so bad. You talk about infrastructure being run down, but it is even worse under private ownership that is purely driven by revenue raising measures. I think your government, Senator Abetz, ought to take into consideration exactly what the objective is. You say it is important to provide a service, but I would be very interested to know how, at the end of the day, you intend to do that under private ownership.

Of course, there are few services of this nature. I am sure we are all for making them more efficient. That is why, with regard to the

rail system in this country, we sought change. Unfortunately, conservative state governments would not come to the party to bring the whole thing into being, to make sure that we ended up with a more efficient structure for the rail system per se.

It will be a sad day when we see the rail infrastructure of this country handed over to private ownership with no real capacity to obligate the private operators or owners to deliver a service to the public. We are such a large nation in a geographic sense we must have a service provided. If it costs the taxpayer something, then we ought to minimise that cost. But we ought to maintain the service, which is very important to the people and businesses of this country.

Senator COONEY (Victoria) (7.01 p.m.)—I note from this second report to which we are speaking—the annual report *National Rail Corporation Ltd*—that there was an after tax profit of $1.005 million, which was in line with budget. If that is so, it means that there is a basis for great hope that rail transport will take the position it should take in this country. As Senator Murphy has said, it is essential that it do so.

Senator Abetz pledged that the coalition government is dedicated to rail, although he says it should be in private hands. But there seems to be unanimous agreement that there should be rail transport. In deciding whether it should be privatised or not, what I say is that in the year 1995-96 there was an operating profit for the National Rail Corporation Ltd. To make it clear, revenue coming from freight amounted to $475.7 million, which was slightly down on the previous year. Other contributions to the profit outcome were interest earnings of $36.6 million and restructuring payments by shareholders totalling $25.2 million, in line with the 1991 shareholder agreement. The shareholders are the government of Australia and the states of New South Wales and Victoria.

Senator Abetz said across the chamber that things would be better if the unions were less hardline. I have talked to the Secretary of the Public Transport Union in Victoria, Mr Peter Bourke, and I can say that he is very much dedicated to the efficient running of the rail system. He is a man who grew up in the rail system. His forebears were in the rail system, and he is a man who has a love for the system. He has not only a love for the system but a deep understanding of it and a deep commitment to it. The only way in which he could be described as being hardline is that he is jealous of his union members' interests. That is his job.

That is what is needed to make this system work properly. This report makes clear that, unless there is not only agreement between the unions and the corporation but also agreement from the employees that all should work well and everybody should get a reasonable deal, the system is not going to work, and it will not work whether it is in private hands or in public hands. The way the workers are treated decides, to a very large extent, the way a corporation or an enterprise will operate. It is for that reason that I am very pleased to see, in the aims of this corporation that are on the back of the front cover of the report, a determination to increase productivity, to be competitive and to look to the safety of the people who do the work in the system.

It is quite clear that people like Mr Bourke and Mr Roger Jowett, the National President of the Public Transport Union, are the sort of people who should be consulted more often than they are. If they are consulted more often—and on a more gracious basis than at present—this system will grow to be what we all want to achieve: a very viable, very active and very productive rail system throughout Australia.

Question resolved in the affirmative.

Industry Commission

Report No. 53

Senator COONEY (Victoria) (7.06 p.m.)—I move:

That the Senate take note of the document.

This report needs to be studied. The Industry Commission is reporting on the effect of companies—which are now in Australia or which have been in Australia in the past—moving overseas to carry out their manufacturing and their work. A series of recommendations on pages xxvii, xxviii, xxix, xxx and xxxi of the report deserve study.

For example, recommendations 27 to 35 deal with the native title legislation, and that is a matter we should take very much on board. I notice that recommendation 27 reads:

> A lack of clarity about the property rights associated with native title, rather than native title per se, is the major cause of the current increased uncertainty about access to natural resources.

That is a very pertinent comment and a comment we should take on board. That issue of property rights has been clarified in the Wik case and that is in line with the thrust of this report as to what should happen.

If there is any disappointment to be expressed about this report, it is in terms of the paucity of recommendations about the level of employment in Australia and how that might be affected by Australian firms locating overseas. I notice that recommendation 11 says that 'Australian direct investment abroad is likely to increase the demand for skilled relative to unskilled labour' but it does not seem to take the matter any further. In this day and age when unemployment is the scourge that it is in Australia it would have been good if the Industry Commission had made some recommendations about that.

In locating offshore, Australian companies cannot simply say, 'Well, it is more profitable to do that'. I think Australian companies, indeed any companies that operate in Australia, do have an obligation not simply to the level of profit—and of course profit is not a dirty word; we need as much profit as can get in Australia. There should be other considerations besides that, and one of the main ones is what we can do about the level of employment in this country. If that could be helped by firms doing onshore what they propose to do offshore, that should be a matter that holds great weight in the decision made by the companies, because an Australian company, like an Australian citizen, has an obligation to the community.

Question resolved in the affirmative.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Senator Woods

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (7.11 p.m.)—I wish to speak tonight about matters relating to the resignation of the Parliamentary Secretary to the Minister for Health and Family Services. Firstly, let me say that the Labor opposition will not be trawling through matters relating to the police investigation into Senator Woods. At the end of the day, he will either be charged or he will be cleared. That is a matter for the police and, unlike the Liberals, who at times seem to have taken a different view on these matters, we will allow that investigation to take its course. Coalition senators have thought that it is not inappropriate to reflect in the chamber on matters which are subject to a police investigation; we do.

Secondly, I want to make it absolutely clear that Labor in the Senate will never reflect on personal matters. We have always considered those matters to be off-limits. The Leader of the Opposition (Mr Beazley) has already expressed that he was sorry for Senator Woods and that he hoped he gets through any of the problems associated with this. I can only support that sentiment in the Senate today. I hope that all involved get these matters behind them as soon as possible and that they proceed with happier lives.

Thirdly, there is another principle that we feel is important, and that is that parliament should not be used as a forum to improperly air personal grievances. We will never condone the sort of abuse of the forum of the parliament that happened recently in Victoria with the Smith-Harris affair. It is our strong belief that that issue went well beyond the bounds of political and parliamentary propriety.

But there is a lesson that senators on the other side of the chamber can well learn: that is, that sometimes—in fact, quite often—crass political opportunism rebounds. I refer to an interview that took place after the former Prime Minister, Mr Paul Keating, resigned on 23 April last year. That interview was on SBS TV, on the *Insight* program hosted by Vivian

Schenker, just two days after Mr Keating resigned. Senator Woods went on that *Insight* program and was asked a couple of questions. The transcript of that program reads:

Question: Bob Woods let's start with you, you think politicians should be forced to complete their terms, don't you? In most circumstances?

Bob Woods: I think being a member of Parliament is not just another job, it's not something you do while waiting for a position in private practice, you know a nice private lucrative job. It's not something you do because you can't think of something else you might do with your career, you make a commitment, and a contract and I believe very strongly you should fulfil that contract for the whole term of whatever that term might be.

Question: Well, you actually take it a step further than that don't you and say they should actually sign some sort of contract?

Bob Woods: Well I did that actually, I signed a contract which may not be legally binding, but there certainly is an appropriate contract with the director of the State Liberal party saying if I resigned, I would commit a certain amount of money towards the cost of the by-election which I caused. Now that's a bit easier as a Senator because it's a much smaller process, but I believe very firmly you should make a commitment or a contract for the whole term that you're there for.

The truth of this matter is this: if Senator Woods was to follow his own dictum, he would stay. In fact, if he was to follow his own dictum, he would pay for the joint sitting of the parliament in New South Wales. If Senator Woods firmly believed in that commitment, which was made publicly with Senator Woods all puffed up with self-importance and bombast and pomposity, he would serve a full term. He would serve out his five remaining years in this chamber.

When it comes to politics, these sorts of cheap gratuitous stunts mean nothing. They mean absolutely nothing at all. They catch up with you in the end. It is not as if this interview on SBS was anything other than a cheap jibe at the former Prime Minister Paul Keating. There are plenty of examples of former leaders of political parties who have been defeated in elections or in leadership ballots and who have resigned from the parliament. They have reached the heights of their careers and it is an accepted thing in Australian politics that those leaders bow out. It has not just been Paul Keating. Malcolm Fraser resigned after he was defeated in 1983; Dr Hewson resigned after he lost the Liberal Party leadership. More recently, Mr Andrew Peacock has resigned. The former Prime Minister Bob Hawke resigned from parliament and caused a by-election. This is not unexceptionable.

But Senator Woods is the only politician from any side of the parliament who I can recall being critical of a former leader who resigned. This is a very clear lesson to those on the other side of this chamber that hypocrisy never pays. Trying to get a bit of gratuitous political mileage out of the totally unexceptional circumstances of a former political leader resigning after he has lost an election or the leadership is part and parcel of political life in this country. It is not only true, I might say, in the federal parliament. It is also true in state parliaments. If you really try that sort of gratuitous stuff then, of course, it comes back to haunt you later. It has come back to haunt Senator Woods today.

Let me make it clear that I do not begrudge Senator Woods leaving the parliament, and the Labor opposition does not begrudge Senator Woods leaving the parliament. On his departure from this chamber, we will wish him a fulfilling retirement. But let me make it absolutely clear that we will never let hypocrisy of this magnitude go unremarked on in the parliament.

Senator Woods

Senator HILL (South Australia—Minister for the Environment) (7.20 p.m.)—I said that I would try to get some information from the Prime Minister (Mr Howard) in answer to a question asked by Senator Faulkner. I have been able to do so and this is the first opportunity that I can bring it to the Senate. The Prime Minister has informed me that late last year the Attorney-General (Mr Williams) told him that a complaint had been received by the Australian Federal Police concerning Senator

Woods and was being dealt with in the normal manner. On 21 January, Senator Woods informed the Prime Minister that a Federal Police investigation of a complaint against him had reached the stage of the execution of a search warrant against his premises. Similar advice was received from the Attorney-General on the same day. The Prime Minister had not recollected the Attorney-General's initial advice that a complaint had been lodged when he answered a question on this issue yesterday on *A Current Affair*.

Cricket

Senator WATSON (Tasmania) (7.21 p.m.)—In order that my colleagues do not think that, on our side of politics, only our leader John Howard has an enduring interest in cricket, I wish to use this occasion to make a few comments on the state of Australian cricket. Firstly, congratulations to the Australian cricket team on retaining the Sir Frank Worrell trophy. Also, I send congratulations to the ABC broadcast team led by Tasmanian Neville Oliver and thank you, Terry Alderman, for your astute comments in the final interesting session in Perth when Australia was soundly beaten.

The past 12 months have witnessed some mixed fortunes for Australian cricketers. Indeed, the fascination of one-day cricket is but a microcosm of the wider appeal—and frequently the unpredictability—of cricket results, whether the match is played in the test arena, on a local oval or even in the backyard.

Heroes there are aplenty. It is a tragedy when tempers and acid comments sour an otherwise good sportsperson's image. Thankfully, the umpires and the respective captains, Mark Taylor and Courtney Walsh, took the appropriate steps recently so that a great series did not end too much in unnecessary acrimony. While there have been some disappointing performances, the giving away by bowlers of so many no balls is a situation that when I played the game many years ago would not have been tolerated. I believe that certainly some stronger message must be sent to some of the younger players, like fast bowler Andrew Bichel.

It does appear that the selectors are prepared to tolerate endless failures by some players yet pounce on other young players far too readily. Australians do respond favourably to the aggressive play of the likes of Slater, Mark Waugh and Ponting. There was some chatter in Tasmania when Ricky Ponting was making his name as a brave and dashing young cricketer that two Tasmanians in an Australian team was really too much on an enduring basis for the Australian mainland cricket establishment.

While David Boon would publicly deny that his retirement from test cricket partly had this in mind, regrettably Tasmania now does not have a test representative. After a great knock of 88 runs in Brisbane, contributing to a great Australian win, Ricky Ponting, following a failure in a subsequent test, was dropped. This action undoubtedly took toll in relation to his confidence until recent matches. It is also interesting to note that Australia has lost two of the three test matches since Ponting's removal and most of the one day games. There are also other young Tasmanians such as Jamie Cox, Michael DiVenuto and Shaun Young who should be seriously considered for the English tour. I wish the Tasmanians well in their game against Canberra tomorrow.

Given the extraordinary money now flowing into cricket administration, perhaps our selectors should also be looking at choosing a different mix of one day cricket specialists, while reserving others for test matches. There is so much cricket played today that injury, tension and social pressures are with players as never before.

Finally, I would like to add my respect for and congratulations to Billy McDermott, who never gave less than his best in an inspiring contribution to the game. He recently announced his retirement. His safe hands, his strong arm in the outfield and his grit and determination as a bowler made him a hero to all of us as cricket lovers. I thank the Senate.

Australian Broadcasting Corporation

Senator BISHOP (Western Australia) (7.26 p.m.)—I wish to make a few remarks this evening on the recent report by Mr Mansfield on the Australian Broadcasting Corporation.

It is an organisation that is now accepted as an important information provider to Australians. No fact more clearly illustrates this than the number of submissions received by the ABC review headed by Mr Mansfield. Mr Mansfield records that 10,616 submissions were received. Clearly the ABC has become part of Australia. Few other issues would inspire over 10,000 individuals and groups to put pen to paper and send it to a review committee.

The review was an important one and this is true for several reasons. It was established for two reasons: firstly as an attempt to cut expenditure from the public sector; and, secondly, as an attempt to hobble an institution the Prime Minister (Mr Howard) and his cabinet believed to be biased against the conservative parties. Both views are wrong and short-sighted. The findings and recommendations by Mr Mansfield must have shattered Senator Alston and his Prime Minister. By and large, the report supports the past actions of the ABC, rejects criticism of bias and recommends few significant changes. Many of the changes that are recommended are as a result of the changing communications market and the new expectations the Australian people have. This is very different from the changes due to past incompetence of the ABC and its managers.

However, I do not believe that all the recommendations are necessary or particularly smart. This is especially true with regard to those programs which are broadcast to international consumers. In particular, I speak of Radio Australia. The issue of Radio Australia cuts right to the crux of the current debate in Australia. It is the argument of the bean counters versus the strategic thinkers, the ideologues versus the pragmatists.

The government argument, as I understand it, is that Radio Australia should be cut because, first, it provides no real service to domestic Australia and, secondly, it would be a cost cutting exercise to better support the government or the ABC bottom line. These are similar to the arguments run by the government with regard to the highly successful DIFF program run throughout South-East Asia by the former Labor government.

Institutions like Radio Australia provide an important link between Australia and our future in the South-East Asian region. It is an important and significant way of clearly expressing the view that Australia is a western nation most interested in integration with South-East Asia. It highlights that Australia sees its future in the region and wishes to educate the region about Australia and provide it with a source of information about Australia, its policies and its aims.

Australia currently needs this kind of strategic view. It requires this thought in all areas of government. This important strategic link cannot be underestimated. This week alone there have been many media reports of South-East Asian and other nations criticising the proposal to close down Radio Australia. This is where the real value of concepts like Radio Australia are realised. Their value lies in broadcasting not just to expatriate Australians but to policy makers in business and in government in nations where Australia seeks to further economically integrate itself.

These countries view the program as an important source of information on Australia and their understanding of our importance to them. This point cannot be more clearly illustrated than by the comments now coming from other nations themselves. Senior figures from China and Hong Kong have all made comment in the past 24 hours about the importance of Radio Australia as an information provider to their respective parts of the world. Essentially, they argue that Radio Australia has played an important role in Australia's economic integration into the region and, likewise, the region's understanding of the priority Australia places on its integration within the region.

As an educational tool about Australia to the rest of the region, Radio Australia is playing an essential role. It is a view that is also supported by the current Minister for Foreign Affairs (Mr Downer). Recent media reports place the Minister for Foreign Affairs at loggerheads with the Minister for Communications and the Arts, Senator Alston. The Department of Foreign Affairs and Trade realises the importance of programs such as

Radio Australia. It understands the value of this type of international broadcasting.

Whilst the submission from the Department of Foreign Affairs and Trade recognises that the current program is not perfect and changes can and should be made, it accepts and supports the notion of international broadcasting in the national interest of Australia. I am told that the submission from this department was personally approved by the Minister for Foreign Affairs, Mr Downer, before it was sent off to the ABC review. I am sure that it will make for an interesting discussion within cabinet over the next few weeks.

It is true that Mr Mansfield identifies the important role that Radio Australia plays. However, it is his contention that if the role it plays within the region is essential to our diplomatic effort, it should be run in the context of the diplomacy effort by the government and not by the ABC. Mr Mansfield compares this with the system which operates in other nations, such as the United Kingdom. On page 41 of volume 1 of the review, he quotes the relationship that the BBC has with the United Kingdom government. The review states:

"This is in direct contrast to the situation of the BBC World Service which is required to broadcast:

. . . to such audiences overseas and in such languages as are approved by the Secretary of State for Foreign and Commonwealth Affairs, in accordance with the objectives, priorities and targets which may from time to time be agreed with the Foreign and Commonwealth Office, or with such Departments of Her Majesty's Government in the United Kingdom as may from time to time be specified in writing by the Secretary of State."

The problem with this argument is that the national interest is not solely determined by the Department of Foreign Affairs and Trade. If it were, it would be an incredibly narrow approach to the national interest.

The national interest includes areas such as shipping, industry policy, information technology, agricultural development, defence, aviation policy and a wide range of other areas. The point is that all of these issues and their relevant debates are occurring in the Australian public, in the Australian parliament and, indeed, in the Australian community. The outcome of these debates and the role they play in our strategic positioning are equally as fundamental to our role in the region and beyond as foreign affairs and trade.

All of these areas need to be known and freely reported by the ABC into the region so as to inform Australians and international policy makers of our strategic direction and plans. A wide-ranging strategic perspective opens up many more doors for Australia than does a narrow focus on one or two areas. Essentially, the question that is not being answered by the review is why the national interest with regard to broadcasting services to regional and isolated Australia, such as Triple J and ABC Classic FM, is any different from the national interest overseas. The answer is that there is no real difference. The purpose is information production and its distribution for national purposes. If this, however, is not convincing enough, what is the difference between money spent by a department for information distribution purposes and money spent by the ABC for information distribution purposes? The answer is nothing except the independence and impartiality of the information provided.

The only other reason provided by the review for the cutting of Radio Australia is the decline in market base stemming from short wave radio. This, too, however, is a weak link in the argument. I have alluded to the reasons earlier. Much of the change facing the ABC stems from technological changes rather than past mistakes. Radio Australia is now involved in satellite broadcasts and digital audio broadcasting. Therefore, the decline in market radio for Radio Australia on short wave radio is not a result of a decline in interest in Radio Australia. It is, rather, a change in technology which has pushed Radio Australia into new areas. As a former chairman of the ABC, Mr Mark Armstrong, stated in the *Australian* today, the claim about short wave radio is like abolishing the postal service because telegrams are outmoded.

There are a range of reasons why Radio Australia should be kept. Much of the review into the ABC was positive. It did reject criticisms of bias levelled at it by the conservative government. However, in areas such as international obligations, it perhaps lacks the

vision needed for a nation such as Australia seeking to improve its ties with the region within which it resides.

Northern Territory: Growth

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Social Security) (7.35 p.m.)—I take this opportunity to comment on the Howard government's commitment to north Australian growth. Earlier today, a number of documents were presented and tabled in the Senate from the sitting of the last Senate. Those documents included the federal government response to the Committee on Darwin report, which was originally dated 29 June 1995. The response was tabled together with a statement by the Minister for Transport and Regional Development (Mr Sharp). I welcome both the response and the statement to the very important report of the Committee on Darwin, which was conducted and chaired at that time by Mr Neville Wran.

As Mr John Sharp, the minister, said last week in tabling the document, which he entitled *A northern focus*, the coalition's first formal response to the report was very important. My criticism of the original report is well known because, after much of the hype that surrounded it, the Labor government at that time failed to adequately address strategies for developing Darwin as an important gateway to the east Asian region.

We now have a response by the Liberal-National Party government which comprehensively addresses the 77 recommendations of the Wran report and objectively looks beyond the report, very importantly, to outline the federal government's future directions for development in north Australia. In fact, the Wran report of 1995 had some 17 or 18 special consultancy reports attached to it, most of which were not addressed in detail by Mr Wran in the conclusions drawn in the report at the time. That led to a lack of direction and focus by the then Labor government.

The federal government, since its election in March last year, has now gone through those documents in detail, conducted extensive internal discussions within the Commonwealth bureaucracy and various departments and had very open consultations with the Northern Territory government. The response that we now see highlights the importance of continued Commonwealth assistance in defence, communications, transport and health to advance development in the Northern Territory and, in fact, right across northern Australia. The $850 million expenditure on defence infrastructure over a 10-year period, the investment in the Darwin based QANTM, a special cooperative multimedia centre, and the future private construction of the Alice Springs to Darwin rail link are some examples of exciting areas for future growth in the Northern Territory economy.

I do not think it will be lost on senators that ministers like the Northern Territory transport minister, Barry Coulter, will be in Canberra taking these initiatives forward in discussions next week, and I am sure the Chief Minister, Shane Stone, and the Premier of South Australia, Mr John Olsen, will be meeting with the Prime Minister later in the month to again advance these important developments and projects. Future strategies will enhance the activities of the Northern Territory government in forging beneficial relationships with many Asian countries which have been described by the federal government in this response and statement as 'remarkable activity and leadership.'

The Commonwealth will, of course, as is outlined in the detailed response to the 77 Wran recommendations, pick up a lot of further support, particularly for initiatives of the Northern Territory government, for example, by appointing honorary consuls for trade promotion purposes; by providing policy advice through the Department of Foreign Affairs and Trade; by hosting a team Australia ministerial meeting to coincide with the Northern Territory's Expo '97 in June of this year and, of course, ongoing ministerial coordination; and by continuing to encourage visits by Asian leaders to Darwin.

The response to the Wran report itself is proof of the federal government's commitment to assisting the export potential of northern Australia and facilitating a special trading thrust into Asia. In the future, we will

expect to see expanding cooperation between Australia's northern states—there will be three of them in the not too distant future—and a special cross-border approach to economic development and domestic and overseas market penetration.

The federal government's budget strategy, both of 1996 and in the lead-up to 1997, is determined to establish a climate of security and stability for investment which will attract new enterprise to north Australia, for example, by reducing the provisional tax uplift factor, by reducing the fringe benefits tax on remote area housing, by retaining the diesel fuel rebate scheme and alleviating the many cost burdens that apply in such remote areas. By improving our image and promoting and marketing northern Australia as part of Australia's regional economy, the area will naturally flourish and I particularly welcome this detailed response and important statement which highlights the issues that will be, and that will continue to be, attracted to northern Australia.

Senate adjourned at 7.41 p.m.

DOCUMENTS

Tabling

The Parliamentary Secretary to the Treasurer (Senator Campbell) tabled the following government documents:

Advance to the Minister for Finance—Statement and supporting applications of issues—October 1996.

Advisory Panel for the Marketing in Australia of Infant Formula—Room for improvement: Industry and protection of infant nutrition in Australia—Report for period August 1995 to June 1996.

Australian National Railways Commission Act—Australian National Railways Commission (Australian National)—Report for 1995-96.

Equal Employment Opportunity (Commonwealth Authorities) Act—

Reports for 1995-96—

Equal employment opportunity program—Commonwealth Bank of Australia.

Equity and diversity program—Civil Aviation Safety Authority.

Industry Commission Act—Industry Commission—Report—Implications for Australia of firms locating offshore, 28 August 1996 (No. 53).

National Rail Corporation Agreement Act—National Rail Corporation Limited—Report for 1995-96.

Pooled Development Funds Act—Pooled Development Funds Registration Board—Report for 1995-96.

Provision for running costs borrowings—Statement and supporting applications of issues—October 1996.

United Nations—Report of the Australian delegation to the 50th session of the General Assembly, held in New York, 19 September to 23 December 1995.

PROCLAMATIONS

Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following acts and provisions of acts to come into operation on the dates specified:

Bankruptcy Legislation Amendment Act 1996—Schedule 1—16 December 1996 (Gazette No. GN 49, 11 December 1996).

CFM Sale Act 1996—Items 1, 2, 5, 6, 7, 8, 9 and 11 of Schedule 1—23 December 1996 (Gazette No. S 515, 23 December 1996).

Criminal Code Act 1995—1 January 1997 (Gazette No. S 534, 31 December 1996).

Workplace Relations and Other Legislation Amendment Act 1996—Schedules 1, 2, 4, 6, 7, 8, 9 (other than item 1), 11, 13, 14, 15 and 20 and item 1 of Schedule 12—31 December 1996 (Gazette No. S 535, 31 December 1996).

Workplace Relations and Other Legislation Amendment Act 1996—Schedules 3 and 18—5 December 1996 (Gazette No. S 472, 5 December 1996).

Workplace Relations and Other Legislation Amendment Act 1996—Schedule 17—17 January 1997 (Gazette S 18, 17 January 1997).

Workplace Relations and Other Legislation Amendment Act (No. 2) 1996—

(a) Item 2 of Schedule 1—31 December 1996; and

(b) Items 3, 4 and 5 of Schedule 1—1 January 1997

(Gazette No. S 535, 31 December 1996).

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Air Navigation Act—Regulations—Statutory Rules 1996 No. 340.

Airports Act—Regulations—Statutory Rules 1996 No. 341.

Aged or Disabled Persons Care Act—Determination No. 1996-97/ACC5—Guidelines 9BG 1 of 1997.

Australian Federal Police Act—Regulations—Statutory Rules 1996 No. 330.

Australian Horticultural Corporation Act—Regulations—Statutory Rules 1996 No. 289.

Australian National University Act—Statute No. 254.

Banks (Shareholdings) Act—Regulations—Statutory Rules 1996 Nos. 348, 349 and 353.

Census and Statistics Act—Australian Bureau of Statistics—Statement of

disclosure of information—1997 No. 1.

Child Care Act 1972—Childcare Assistance (Fee Relief) Guidelines (Variation)—CCA/12A/97/1.

Christmas Island Act—

Ordinance—

No. 10 of 1996 (Mining Legislation (Amendment) Ordinance 1996).

No. 11 of 1996 (Applied Laws (Implementation) (Amendment) Ordinance

(No. 2) 1996).

No. 1 of 1997 (Casino Control (Amendment) Ordinance 1997).

Regulations—Statutory Rules 1996 No. 301.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Amendment of section 40, dated 20 January 1997.

Directive—Part—

105, dated 21 November 1996; 12, 13[3], 16[3], 17[3], 18[5] and 19[2] December 1996; and 6[3], 14, 15, 16[13] and 23[2] January 1997.

106, dated 16 December 1996; and 6, 17 and 23 January 1997.

107, dated 15 and 23 January 1997.

Exemptions—

194/FRS/206/1996, 195/FRS/207/1996, 196/FRS/208/1996, 197/FRS/209/1996, 198/FRS/210/1996, 199/FRS/211/1996, 200/FRS/212/1996, 201/FRS/213/1996, 202/FRS/214/1996, 203/FRS/215/1996 and 204/FRS/216/1996.

1/FRS/1997-5/FRS/1997, 6/FRS/1997 and 7/FRS/1997

CASA 25/1996.

CASA 01/1997,CASA 02/97and CASA 03/97.

Instrument No. CASA 22/97.

Classification (Publication, Films and Computer Games) Act—Regulations—Statutory Rules 1996 No. 331.

Cocos (Keeling) Islands Act—

Ordinance—

No. 8 of 1996 (Mining Legislation (Amendment) Ordinance 1996).

No. 9 of 1996 (Applied Laws (Implementation) (Amendment) Ordinance

(No. 2) 1996).

Regulations—Statutory Rules 1996 No. 300.

Corporations Act—

Accounting Standards—AASB 1014, AASB 1032,

AASB 1033 and AASB 1034.

Regulations—Statutory Rules 1996 No. 343.

Currency Act—Currency Determinations Nos 6 and 7 of 1996.

Customs Act—Regulations—Statutory Rules 1996 Nos. 324-327.

Defence Act—

Defence Force Remuneration Tribunal—Determination No. 27 of 1996.

Determination under section 52—1997 No. 1.

Determinations under section 58B—Defence Determination—

1996/42-1996/46.

1997/1.

Director of Public Prosecutions Act—Regulations—Statutory Rules 1996 No. 287.

Employment Services Act—

Employment Services (Participants) Determination No. 1 of 1996.

Employment Services (Terminating Events) Determination No. 1 of 1996.

Export Control Act—Regulations—Statutory Rules 1996 No. 338.

Federal Court of Australia Act—

Regulations—Statutory Rules 1996 No. 321.

Rules of Court—Statutory Rules 1996 No. 308.

Fisheries Levy Act—Regulations—Statutory Rules 1996 No. 319.

Fisheries Management Act—Regulations—Statutory Rules 1996 No. 317 and 318.

Fisheries Management Act and Fishing Levy Act—Regulations—Statutory Rules 1996 No. 316.

Hazardous Waste (Regulation of Exports and Imports) Act—Regulations—Statutory Rules 1996 No. 285 (in substitution for documents previously tabled on 13 December 1996).

Health Insurance Act—

Determinations HS/5/1996 and HS/6/1996.

Regulations—Statutory Rules 1996 Nos. 322, 335-337 and 350.

Higher Education Funding Act—

Determination under section—

15—

T18-96.

T2-97and T4-97.

16—

T19-96.

T3-97 and T5-97.

24—

T13-96.

T1-97.

27A—

T17-96.

T6-97.

Guidelines under section 20A—No. G1 of 1997.

Guidelines under section 27A—No. G2 of 1997.

Income Tax Assessment Act—Regulations—Statutory Rules 1996 Nos. 320, 345 and 346.

Industrial Relations Act—Rules of Court—Statutory Rules 1996 No. 262 (in substitution for document previously tabled on 4 December 1996).

Insurance Act—Regulations—Statutory Rules 1996 No. 302.

Insurance (Agents and Brokers) Act—Regulations—Statutory Rules 1996 No. 303.

Insurance Contracts Act—Regulations—Statutory Rules 1996 No. 304.

Judicial and Statutory Officers (Remuneration and Allowances) Act—Regulations—Statutory Rules 1996 No. 352.

Lands Acquisition Act—Statement describing property acquired by agreement under section 40 of the Act for specified public purposes.

Life Insurance Act—

Insurance and Superannuation Commissioner's Rules made under section 252—Commissioner's Rules—

No. 27—Starting amount.

No. 28—Distribution of shareholders' retained profits (Australian participating).

Regulations—Statutory Rules 1996 No. 305.

Transitional Actuarial Standards for the calculation of paid up values and surrender values and calculation of the cost of investment performance guarantees, dated December 1996.

Migration Act—General direction under section 499—General Direction No. 3 of 1996.

National Crime Authority Act—Regulations—Statutory Rules 1996 No. 286.

National Health Act—

Declarations—Nos PB 1 and 2 of 1997.

Determination—

HIS 1/1997 and HIS 2/1997.

Nos 1996-97/ACC3 and 1996-97/ACC4.

No. PB 21 of 1996.

No. PB 3 of 1997.

Regulations—Statutory Rules 1996 No. 333.

National Residue Survey (Horse Slaughter) Levy Act—Regulations—Statutory Rules 1996 No. 299.

Navigation Act—Marine Orders—Order No. 8 of 1996.

Occupational Health and Safety (Commonwealth Employment) Act—Regulations—Statutory Rules 1996 No. 288.

Overseas Missions (Privileges and Immunities) Act—Regulations—Statutory Rules 1996 No. 334.

Petroleum (Submerged Lands) Act—Regulations—Statutory Rules 1996 No. 298.

Public Service Act—

Locally Engaged Staff Determinations 1996/43-1996/47.

Parliamentary Presiding Officers' Determination No. 4 of 1996.

Public Service Determinations 1996/219-1996/221 and 1996/224-1996/239.

Regulations—Statutory Rules 1996 No. 339.

Radiocommunications Act—

Australian Radiofrequency Spectrum Plan, dated 19 December 1996.

Radiocommunications Class Licence (Cordless Telecommunications Handsets and Other Radiocommunications Devices) (Variation No. 1).

Radiocommunications (Definitions) Determination No. 2 of 1993 (Amendment No. 6).

Notice under section 182—

Statutory Rules 1996 No. 294 and 309.

Standard—

Statutory Rules 1996 Nos. 295 and 310-315.

Remuneration Tribunal Act—Determination No. 17 of 1996.

Road Transport Reform (Vehicles and Traffic) Act—Regulations—Statutory Rules 1996 No. 342.

Sales Tax Determination STD 96/11.

Superannuation Act 1976—Regulations—Statutory Rules 1996 No. 297.

Superannuation Act 1990—

Declaration—Statutory Rules 1996 No. 296.

Deed to establish an occupational superannuation scheme for Commonwealth employees and certain other persons, pursuant to section 5—Amending Deed (Eleventh), dated 10 December 1996.

Superannuation Industry (Supervision) Act—Regulations—Statutory Rules 1996 No. 344

Superannuation (Resolution of Complaints) Act—Regulations—Statutory Rules 1996 No. 306.

Taxation Administration Act—Regulations—Statutory Rules 1996 No. 347.

Taxation Determination—

TD 96/45.

TD 97/1-TD 97/3.

TD 97/4.

Taxation Ruling—

TR 96/27.

TR 97/1.

Telecommunications Act—

Notice under section 267 and 280—Exemption of Broadcaster Equipment and Broadcaster Cabling from Technical Regulation.

Technical Standards—

TS001-1996, TS016-1996 and TS034-1996.

TS030-1997.

Television Licence Fees Act—Regulations—Statutory Rules 1996 No. 323.

University of Canberra Act—Statute No. 34.

Veterans' Entitlements Act—Instruments under section 196B—Instruments Nos 1-14 of 1997.

Wildlife Protection (Regulation of Exports and Imports) Act—Regulations—Statutory Rules 1996 No. 332.

Workplace Relations Act—Regulations—Statutory Rules 1996 Nos. 307, 328, 329 and 351.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Unemployment

(Question No. 116)

Senator Stott Despoja asked the Minister for Employment, Education, Training and Youth Affairs, upon notice, on 1 July 1996:

(1) Have the possible effects on the long term unemployed and other job seekers facing significant barriers to employment of the Government's decision to cut SkillShare funding by 20 per cent for the period to 30 September 1996 been formally or informally assessed; if so, what are the results of those assessments.

(2) Has any data been gathered, or has any formal or informal assessment been made of the impact on the unemployed and the providers of labour market programmes, of the Government's decision to freeze funding for all labour market programmes until the August 1996 Budget; if so, what is that data and what are the results of those assessments.

(3) Does the Government have a comprehensive strategy to address long-term unemployment.

(4) Will the Government support the continuation of labour market programmes; if so, in what form.

(5) When will the future of SkillShare and other existing labour market programmes be verified.

Senator Vanstone—The answer to the honourable senator's question is as follows:

(1) The effects of labour market programmes (LMPs) on job seekers are regularly evaluated by the Department. A recent evaluation of Working Nation LMPs demonstrated that some programmes and providers are less effective than others at helping job seekers get jobs. The cut in SkillShare funding and the independent review of SkillShare projects has meant that less effective providers have not been provided with funding and that the Commonwealth should obtain improved results for each dollar of expenditure.

(2) There was no freeze on LMP funding in the lead up to the Budget. When this Government was elected, some 90 per cent of the 1995-96 appropriation for LMPs was already committed. Prudent management of LMPs was required because of the very high level of commitment in a cash limited appropriation. This limited the number of new contracts which could be signed but LMP assistance continued to be provided to unemployed people during the pre-Budget period.

(3) The Government has a clear and comprehensive strategy for reducing long term unemployment.

Some of the major elements of this strategy are:

elimination of the budget deficit to take the pressure off interest rates and encourage business investment,

creating a low inflationary environment to encourage productive business investment,

results focused, targeted labour market assistance for the long term unemployed,

a flexible industrial relations system,

expanding and introducing greater flexibility into the apprenticeship and traineeship system,

reducing the burden on small business to encourage employment creation, and

a Cabinet Employment Committee to focus on the employment effects of Government policies.

The implementation of the Government's strategy will act to reduce the number of long term unemployed. The extent to which the implementation of the legislative elements of this program is delayed or frustrated by the Senate will of course impact on the Government's ability to reduce the number of long term unemployed.

(4) Under the reforms to labour market assistance, the focus will be on real job outcomes and assistance will be client driven, not programme-driven. Job seekers will benefit from higher standards of service and more flexible and customised assistance. Whilst employment service providers will be expected to tailor assistance to individual needs, some client groups and programmes have special requirements which can be met most efficiently by retaining a separate programme identity and funding. Some programmes will be retained to meet these needs.

(5) To pursue the best possible delivery of SkillShare services to unemployed people and having regard to the tight budgetary situation, I established an independent body, the SkillShare Services Review Committee to review the national SkillShare network. As a result of the Committee's recommendations and subsequent decisions, capacity to fund around 360 SkillShare projects was available to continue to provide training for job seekers across Australia in 1996-97. At the end of

the current financial year SkillShare sponsors funded to 30 June 1997 will have their contracts extended until 30 November 1997 subject to budgetary considerations, their performance and ongoing need.

Sydney West Airport

(Question No. 142)

Senator Bob Collins asked the Minister representing the Minister for Transport and Regional Development, upon notice, on 17 July 1996:

With reference to an advertisement in the Australian Financial Review of 3 July 1996, for the sale of 344 hectares of Commonwealth Scientific Industry Research Organisation land at Badgerys Creek adjacent to Elizabeth Drive, which stated that the land would suit residential development:

If the Government is still committed to Badgerys Creek as the site for the Sydney West Airport, why is it selling adjacent land which will become far more valuable if and when the airport is established.

Senator Alston—The Minister for Transport and Regional Development has provided the following answer to the honourable senator's question:

The sale of the land by the CSIRO is the responsibility of the Minister for Science and Technology.

I understand that the CSIRO has sold a 344 hectare parcel of farm land opposite the airport site at Badgerys Creek. The sale of the land was a commercial decision made by the CSIRO.

The land which has been sold is not required for the development of any of the three airport options for the Badgerys Creek site which were released on 6 November 1996 and are currently the subject of environmental assessment.

The possible future value of the land will be dependent on a variety of factors including the availability of other land in the area and future zoning, which is outside the control of the Commonwealth.

Royal Australian Navy: 'Lead-through' Exercises

(Question No. 304)

Senator Bourne asked the Minister representing the Minister for Defence, upon notice, on 11 November 1996:

(1) Did HMAS *Shoalwater* conduct a 'Lead-through' exercise with the submarine HMAS *Onslow* on or about 9 August 1996.

(2) Did HMAS *Shoalwater* take HMAS *Onslow* between North and South Heads in Sydney into the Pacific.

(3) Do 'Lead-through' exercises involve taking a vessel through a swept channel in a minefield; if so, what was the nature of the minefield in this exercise.

(4) Did HMAS *Shoalwater* clear the passage.

(5) Did HMAS *Shoalwater* know the location of the minefield (for example, between North and South Heads) in advance.

(6) How many 'Lead-through' exercises were conducted in each of the calendar years 1991, 1992, 1993, 1994, 1995 and 1996 to date, or as many of these years for which data is available.

(7) How many of the exercises referred to in (6) involved HMAS *Shoalwater* and/or HMAS *Rushcutter*.

(8) Where was each exercise referred to in (7) held.

(9) In each case referred to in (7), what was the sea state.

(10) In each case referred to in (7), how far beyond the relevant harbour did Minehunter Inshore proceed before returning to harbour.

(11) Are HMAS *Rushcutter* and HMAS *Shoalwater* considered deployable under their own power to ports and focal areas outside Sydney Harbour; if so: (a) up to what sea state; and (b) on how many occasions and for what purpose has each been deployed since commissioning and acceptance by the Navy.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator's question:

(1) and (2) HMAS *Shoalwater* conducted a Lead-through exercise with HMAS *Onslow* on 9 August 1996; the predetermined channel used in this exercise passed between North and South Heads in the approaches to Port Jackson.

(3) The aim of a Lead-through is to give navigation support to other vessels, to allow them to pass as close as possible to the centreline of a channel, or ordered track in an area, which as been subjected to Mine Countermeasures (MCM) in response to a mine threat. The objective for the customer vessel is to pass over the same ground as the Lead-through Unit and thereby minimise risk of damage from mine detonation. The 9 August exercise objective was to exercise Lead-through procedures exclusively, and involved a simulated minefield only.

(4) Since the minefield in this instance was simulated, HMAS *Shoalwater* was not required to clear the channel prior to the Lead-through.

(5) As is the practice with all Lead-through operations, the 9 August exercise was conducted along a predetermined route known to both participating units.

(6) Lead-through operations are routine activities for Minehunters and Minesweepers, with the former required to complete six annually to maintain minimum level of capability. At least 12 Lead-through operations are conducted annually in the course of Fleet Concentration Periods, Major Fleet Unit Workup, MCM Exercises, and on an ad-hoc basis as requested by other units.

(7) Minehunters are the preferred platform to provide Lead-through but Minesweepers are also capable of conducting the operation. The majority of Lead-through operations since 1991 involved Minehunter Inshore (MHI) augmented on occasion by Minesweeper Auxiliary (Large) and (Small).

(8) Lead-through exercises are routine operations which have been conducted on numerous occasions from Sydney, Newcastle, Jervis Bay, Port Kembla, Townsville, Cairns, Weipa, Darwin, and in the Torres Strait.

(9) MHI Lead-through have been successfully conducted in Sea States One to Four inclusive.

(10) Depending upon hydrographic dictates of the port or area in which the operation is conducted, MHI Lead-through have been successfully conducted along routes from 2 to 35 nautical miles in length.

(11) In the course of general operations, MHI frequently operate in the coastal waters between Jervis Bay and Newcastle. MHI transit in Sea State Three, during transit seek shelter in Sea State Four and above, and are considered deployable under their own power to ports and focal areas outside Port Jackson. These deployments enabled participation in general warfare exercises (eg Kangaroo '95), bilateral Maritime exercises (eg Kakadu), MCM exercises and support for Defence Science and Technology Organisation trials. MHI deployments are summarised as follows:

MHI Deployments Outside the Jervis Bay to Newcastle Operating Area

HMAS *Rushcutter*

From Commissioning 1 November 1986 to Accepted into Naval Service (AINS) in June 1994:

10 Deployments—including operations or visits to Eden, Coffs Harbour, Brisbane, Bundaberg, Gladstone, Mackay, Townsville and Cairns

From June 1994 to November 1996:

Five Deployments—including operations or visits to Weipa, Thursday Island, Cairns, Townsville, Mackay, Bundaberg and Port Macquarie.

HMAS *Shoalwater*

From Commissioning 10 October 1987 to AINS in June 1994:

14 Deployments—including operations and visits to Hobart, Devonport, Burnie, Geelong, Melbourne, Port Welshpool, Port Macquarie, Coffs Harbour, Brisbane, Mackay, Townsville and Cairns

From June 1994 to November 1996:

Nine Deployments—including operations or visits to Darwin, Gove, Thursday Island, Weipa, Cairns, Townsville, Mackay, Gladstone, Bundaberg, Brisbane, Ulladulla, Devonport, Geelong, Melbourne and Adelaide.

Royal Australian Navy: Malaya Emergency

(Question No. 316)

Senator Woodley asked the Minister representing the Minister for Defence Industry, Science and Personnel, upon notice, on 19 November 1996:

With reference to a letter dated 1 November 1996 received from B Gibbs of Lilydale:

Why does the department maintain that B Gibbs was not on active service in Malaya when he was part of a force which was engaged in operations against an enemy, in a country partly occupied by an enemy, and the Royal Australian Navy was the first service named and detailed in the Australian component of the Order of Battle.

Senator Newman—The Minister for Defence Industry, Science and Personnel has provided the following answer to the honourable senator's question:

B Gibbs served in HMAS *Quickmatch* from 21 February 1956 to 15 September 1957, which was attached to the Far East Strategic Reserve in Malaya from 13 March to 5 April 1956, and again from 28 September 1956 to 25 June 1957. The conditions of service for Service personnel who served in Malaya were considered by the government in 1956. Service by RAN personnel in Navy ships attached to the FESR was specifically excluded from eligibility for repatriation benefits, on the basis that the enemy did not have the capability to threaten naval vessels, while it did have an offensive capability against forces ashore.

In response to a question from a Government member as to why this was the case, Dr Donald Cameron, Minister for Health at that time, replying on behalf of the Minister for Repatriation, stated:

"They are not regarded as being subjected to additional operational risks. They are subjected to the risks of the service for which they engage,

and therefore their conditions are in accordance with the terms of their enlistment."

The use of the RAN in any Order of Battle does not necessarily denote active service, despite the fact that the term 'Order of Battle' is an historical term used to describe the manner in which the combat components of a fighting force were organised immediately prior to going into battle. As with many such terms, the meaning has changed over the years and its more modern usage is as a descriptive term when listing all the components, including administration, of a military force. As the RAN is the senior service in Australia, its name will be placed first in any such listing of Australian Defence Force services.

Royal Australian Navy: Malaya Emergency

(Question No. 317)

Senator Woodley asked the Minister representing the Minister for Defence Industry, Science and Personnel, upon notice, on 19 November 1996:

With reference to Royal Australian Navy members who were engaged in the Malaya Emergency 1955-60:

(1) Have Vice Admiral Sir Richard Peek (former Chief of Naval Staff), the Returned Services League, the Naval Association and other ex-service organisations recommended that this group be awarded Returned from Active Service recognition.

(2) Were Australian Army and Royal Australian Air Force personnel awarded Returned from Active Service recognition for service during the same period in Malaya.

(3) Were there casualties among the crews of Australian ships serving in Malaya during this period.

(4) Is it a fact that those killed aboard these ships are not listed on the honour roll at the Australian National War Memorial.

(5) Is it a fact that two separate divisions of the Federal Court found that the crews of these ships were 'allotted' for active service.

(6) Did the former Minister for Veterans' Affairs (Mr Humphreys) specifically introduce legislation to deny these service personnel Returned from Active Service recognition after the above Federal Court rulings; if so, when will this situation be rectified.

Senator Newman—The Minister for Defence Industry, Science and Personnel has provided the following answer to the honourable senator's question:

(1) Yes. The Minister for Defence Industry, Science and Personnel made arrangements for Admiral Peek to make a submission to an Interdepartmental Committee on this matter.

(2) 'Returned from Active Service recognition' is not a term which is commonly used by the Australian Defence Force. The term, however, may be equated to three distinctly separate areas applying to service overseas:

(a) Land based members of the Defence Force, regardless of Service, were eligible for repatriation benefits if they were allotted for service within the operational area defined in Schedule 2 of the Veterans' Entitlements Act 1986.

(b) Defence Force personnel, regardless of Service, qualify for the Returned from Active Service Badge if they served on the posted strength of a unit or formation in Singapore between 31 December 1955 and 1 February 1959 or in Malaya between 31 December 1955 and 31 July 1960.

(c) The term 'active service' is used in relation to discipline under 'military law' during the Malayan Emergency from 1955-1960. Military law does not apply to the Navy who were subject to the Naval Discipline Act.

(3) Yes. There were 2 deaths during this period, the cause of death being:

(a) one accidentally drowned in Singapore Harbour.

(b) one was accidentally killed by friendly fire when struck by a Star Shell casing fired by HMS *Cockade* during an exercise.

(4) Yes.

(5) In May 1990, the Federal Court (in the cases of DOESSEL and DAVIS) construed the phrase "allotted for duty" as being equivalent to "posted for duty". On this interpretation, any person who served in an operational area, but was not specifically allotted for operational service for the purpose of the Veterans' Entitlements Act 1986, would qualify as having had operational service, even though that service was not at a time when it involved increased danger. This was not the intended purpose of the term "allotted for duty".

(6) The former Minister for Veterans' Affairs, following the Federal Court decisions on DOESSEL and DAVIS, introduced amendments to the Veterans' Entitlements Act 1986 through the Veterans' Affairs Legislation Amendment Bill 1990. These amendments were introduced so that there would be no future misunderstanding of the intention of specifically allotting members to operational service in an operational area, rather than merely posting members to a vicinity for less than operational purposes.

GEMCO Oil Spill

(Question No. 321)

Senator Brown asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 20 November 1996:

With reference to the answer given to a question without notice by Senator Lees (Senate *Hansard* 17 October 1996, p4420) concerning an oil spill by BHP's GEMCO:

(1) What activities will the recovered diesel be used for.

(2) Will the recovered diesel be used in generators.

Senator Parer—The answer to the honourable senator's question is as follows:

(1) and (2) GEMCO advises it is using the recovered fuel as it was intended in its operations on Groote Eylandt, including generators.

Mining: Conservation Areas

(Question No. 352)

Senator Murray asked the Minister for Resources and Energy, upon notice, on 10 December, 1996.

With reference to the Minister's comments in the Senate on 9 December 1996 that mining would be excluded from International Union for the Conservation of Nature (IUCN) categories 1 to 4 for the national reserve system, and assuming by that statement that means the Commonwealth is now accepting responsibility for preventing mining in those category areas:

(a) Will mining ever be allowed in each of the following:

Alexander Morrison National Park (IUCN Category 2)
Avon Valley National Park (IUCN Category 2)
Badingarra National Park (IUCN Category 2)
Beedelup National Park (IUCN Category 2)
Boorabbin National Park (IUCN Category 2)
Brockman National Park (IUCN Category 2)
Cape Arid National Park (IUCN Category 2)
Cape Le Grande National Park (IUCN Category 2)
Cape Range National Park (IUCN Category 2)
Collier Range National Park (IUCN Category 2)
D'Entrecasteaux National Park (IUCN Category 2)
Drovers Cave National Park (IUCN Category 2)
Drysdale River National Park (IUCN Category 2)
Eucla National Park (IUCN Category 2)
Fitzgeral National Park (IUCN Category 2)
Frank Hann National Park (IUCN Category 2)
Geike Gorge National Park (IUCN Category 2)
Goongarrie National Park (IUCN Category 2)
Gooseberry National Park (IUCN Category 3)
Greenmount National Park (IUCN Category 2)
Hassell National Park (IUCN Category 2)
Hidden Valley National Park (IUCN Category 2)
John Forrest National Park (IUCN Category 2)
Kalamunda National Park (IUCN Category 3)
Peak Charles National Park (IUCN Category 2)
Porongurup National Park (IUCN Category 2)
Purnululu National Park (IUCN Category 2)
Rudall National Park (IUCN Category 2)
Scott National Park (IUCN Category 2)
Serpentine National Park (IUCN Category 2)
Shannon National Park (IUCN Category 2)
Sir James Mitchell National Park (IUCN Category 3)
Stirling Range National Park (IUCN Category 2)
Stokes National Park (IUCN Category 2)
Tathra National Park (IUCN Category 2)
Torndirrup National Park (IUCN Category 2)
Tuart Forest National Park (IUCN Category 2)
Tunnel Creek National Park (IUCN Category 3)
Walpole—Nornalup National Park (IUCN Category 2)
Walyunga National Park (IUCN Category 2)
Warren National Park (IUCN Category 2)
Watheroo National Park (IUCN Category 2)
Waychinicup National Park (IUCN Category 2)
West Cape Howe National Park (IUCN Category 2)
William Bay National Park (IUCN Category 2)
Windjana Gorge National Park (IUCN Category 2)
Wolf Creek Crater National Park (IUCN Category 2)
Yalgorup National Park (IUCN Category 2)
Yanchep National Park (IUCN Category 2)
Conservation/recreation or nature reserves listed in Western Australia in categories 1 to 4
Ningaloo Marine Park (IUCN Category 5)
Ningaloo Marine Park State Waters (IUCN Category 4)
Hamelin Pool Marine Park (IUCN Category 4)
Marmion Marine Park (IUCN Category 4)
Shark Bay Marine Park and World Heritage Area (IUCN Category 4)
Rowley Shoals Marine Park (IUCN Category 4)
Swan Estuary Marine Park (IUCN Category 4)
Shoal water Island Marine Park (IUCN Category 4); and

(b) Will exploration be allowed in any of the above areas; if so, which ones.

Senator Parer—The answer to the honourable senator's question is as follows:

The assumption in Senator Murray's question, that the Commonwealth accepts responsibility for preventing mining in certain conservation areas, is incorrect. As I indicated earlier in my comments to the Senate on December 9 1996:

> 'basically, land management is a matter for the States. It is not a matter for the Commonwealth, except in Commonwealth Government areas.'

Accordingly, management of the parks and reserves listed by Senator Murray, including decisions as to whether exploration or mining is to be permitted, is a matter for the relevant State government.

The IUCN Protected Area Management Categories constitute a classification system adopted by the World Conservation Union in 1994 as a framework for assessing the status of the global network of protected areas. The system provides for the collection, handling and dissemination of data about protected areas in different jurisdictions. The IUCN called on governments to consider the relevance of the categories to their national legislation relating to protected areas. It was stressed that the guidelines are to be applied flexibly and that, in assigning areas to the categories, the emphasis must be on clarifying the objectives of land management and ensuring that the conditions exist for their achievement.

The categories are:

Category Ia: Strict Nature Reserve: Managed mainly for Science

Category Ib: Wilderness Area: Managed mainly for wilderness protection

Category II: National Park: Managed mainly for ecosystem protection and recreation

Category III: Natural Monument: Managed mainly for conservation of specific natural features

Category IV: Habitat/Species Management Area: Managed mainly for conservation through management intervention

Category V: Protected Land/Sea Scapes: Managed mainly for conservation and recreation

Category VI: Managed Resource Protected Area: Managed mainly for the sustainable use of natural ecosystems

Currently, there are more than 50 types of protected areas in Australia managed by 19 different State, Territory and Commonwealth management agencies. In July 1996, the Australian Nature Conservation Agency released a Draft Australian Handbook dealing with the application of the IUCN Categories to existing Australian protected areas. As a result of the public consultation process, this Handbook is now being revised. While a start has been made in applying IUCN categories in the Australian setting, much work remains to be done.

This Government is committed to the concept of multiple and sequential land use, and as the Minister for Resources and Energy, I have actively promoted this. The Government believes that access to land, under clear and efficient processes which give due weight to protection of environmental and heritage values, is fundamentally important to the existence and competitiveness of the mining industry. I am keen to ensure that this country obtains the economic and social benefits of minerals extraction, while continuing to maintain a world class standard of environment protection and a world class conservation estate. Implementing these policies is a high priority for this government, in particular Senator Hill and myself.

AQIS: Inspection of Imported Food

(Question No. 355)

Senator Woodley asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 11 December 1996:

(1) Are Australian Quarantine and Inspection Service (AQIS) officers performing imported food inspection under the provisions of the Imported Food Control Act 1992 required to possess a base-level qualification; if so: (a) what is this base level qualification; (b) is the qualification mandatory; (c) is the qualification science-based; and (d) is it the Government's intention to retain a minimum mandatory science-based technical qualification for AQIS officers performing imported food inspection.

(2) Is AQIS to abolish the requirement for technical qualifications and competence for imported food inspectors; if so: (a) what qualifications are replacement administrative officers required to have in order to certify that imported meat will not contain contaminants such as salmonella, Listeria monocytogenes or E.Coli; and (b) will they be required to possess a base-level qualification; (c) will it be science based; and (d) will it be mandatory.

(3) If cooked chicken meat is allowed into Australia: (a) will this product comply with the Imported Food Control Act 1992; (b) will AQIS conduct a sampling program of chicken meat products arriving in Australia; and (c) can the Minister guarantee that AQIS replacement administrative officers will be competent to ensure that imported chicken meat does not contain Newcastle disease or infectious bursal disease.

(4) Is the motivation behind the trial proposed by AQIS of self-inspection in the meat industry purely to save money; if not: (a) what is the motivation for the proposed move to self-regulation in the meat industry; and (b) what is the attitude of the meat industry toward the proposed move to self-regulation.

(5) (a) Is AQIS aware that self-regulation in the meat industry has been tried in the United States (US) without success and that the US has now returned to use of Government-employed meat inspectors; and (b) given several recent food poisoning scares in Australia, can Australia afford to take risks with a new system of self-inspection

in the meat industry, particularly if cost-cutting is the main motivation.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) No. As with all other AQIS officers undertaking quarantine operations, staff undertaking imported food inspection duties will be appropriately qualified and trained to perform those duties. No mandatory qualifications are currently required and this will not change in the future.

(2) See (1). No qualification is capable of giving an inspector a capacity to certify that imported foods are free of Salmonella, Listeria monocytogenes or E.Coli. These can only be detected by sophisticated laboratory analysis and not by physical inspection by an inspector. Following this analysis any certification is a clerical task.

(3) (a) Yes; (b) Yes; (c) The Imported Food Control Act 1992 is concerned with human health. Newcastle disease or infectious bursal disease which are diseases of birds are controlled through the Quarantine Act 1908. Even if these diseases were covered by the Imported Food Control Act 1992 inspectors could not detect their presence visually. Sophisticated laboratory analysis would be required.

(4) No. (a) The introduction of company based inspection is a small component of a wider strategy to improve food safety and meat hygiene in meat production in Australia. Company-based inspection will largely transfer costs from the Commonwealth to meat processors. AQIS will maintain a veterinary presence at plants and meat exports will continue to be certified by AQIS based on rigorous auditing and quality assurance arrangements; and (b) the trial has extensive support. Significant numbers of companies have volunteered to participate in the trial arrangements. The trial is also being managed by a Steering Committee convened under the auspices of the Meat Industry Council.

(5) (a) The United States (US) is presently considering alternatives to government meat inspection. No analogous approach to the Australian trial has been conducted in the US; and (b) Regulatory standards for hygiene and inspection will be fully maintained at all sites participating in the trial.

Logging and Woodchipping

(Question No. 367)

Senator Brown asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 23 December 1996:

(1) How is the value of the levy contributed by companies to the Forest and Wood Products Research and Development Corporation (FWPR&DC) calculated.

(2) What amounts of the FWPR&DC's budget for the 1995-96 financial year (including the Commonwealth's $1 for $2 contribution) were derived from companies that grow or process, respectively, plantation softwoods, plantation hardwoods, or native forest wood.

(3) What amounts of the FWPR&DC's budget in the 1995-96 financial year were spent on projects relating, respectively, to the growing or processing of plantation softwoods, plantation hardwoods, or native forest wood and, of the expenditure on projects that cannot be categorised in this way, what amount related to plantation grown wood versus native forest wood or to softwood versus hardwood.

(4) What was the total value of applications for funding to the FWPR&DC in the 1995-96 financial year and what was the total value of applications for projects relating respectively to plantation hardwoods, plantation softwoods or native forest wood.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

The value of the levy on domestic timber is determined in accordance with the Forest Industries Research Levy Act 1993, which makes provision for the Governor-General to make regulations prescribing the levy, after taking into consideration any relevant recommendation made to the Minister by an industry body (as defined in Section 7 of the Primary Industries and Energy Research and Development Act 1989).

The Primary Industries Levies and Charges Collection (Forest and Wood Products) Regulations 1994 prescribe the current rates as follows:

Extract from Primary Industries Levies and Charges Collection (Forest and Wood Products) Regulations 1994 'The Schedule'

Rates of levy for different classes of logs

Class of Logs	Rate of levy (cents per cubic metre
Export woodchip hardwood pulplog	3.5
Wood panels pulplog	10
Plywood and veneer log	15
Softwood sawlog (other than cypress sawlog	18
Hardwood sawlog	15
Cypress sawlog	15

The value of the levy on imported timber is determined in accordance with the Forest Industries

Research Import Charge Act 1993, which states that the rate of levy is the same as that which would have been paid if the logs from which the imported products were derived had been produced and processed in Australia.

This requires a 'conversion factor' to be calculated, for each Import Tariff Classification, which is then applied to the rate of levy for the equivalent domestic 'Class of Logs' classification to produce the import charge for that class. The current rates of levy and related conversion factors are as detailed in the Forrest Industries Research Import Charge 1993, shown below:

Extract from Forest Industries Research Import Charge Act 1993, 'The Schedule'

Notice of import charge rates

Tariff Classification	Sawlog Class	Conversion factor	Domestic Rate of levy ($/M3)	Processed wood import charge ($/M3)
Wood in the rough . . .	Softwood	2	0.18	0.36
	Hardwood	2	0.15	0.30
Wood sawn or chipped lengthwise . . .	Softwood	2.5	0.18	0.45
		2.5	0.15	0.37
Veneer sheets and sheets for plywood . . .		2	0.15	0.30
Wood . . . continuously shaped . . . along any side . . .	Softwood	2.5	0.18	0.45
	Hardwood	2.5	0.15	0.37
Particle board . . .		1.5	0.10	0.15
Fibreboard . . .		1.7	0.10	0.17
Plywood, veneered panels . . .		2.5	0.15	0.37

(2) The levy is charged on the processors, so no FWPR&DC income is derived from the growers.

The Primary Industries Levies and Charges Collection (Forest and Wood Products) Regulations 1994 prescribe rates of levy for a number of classes of log. The following table lists the amounts received by FWPR&DC in each class in 1995-6.

Log Class	Income 1995-6
Hardwood	$563,359
Softwood	$894,382
Cypress	$40,017
Wood Panels	$122,122
Plywood & Veneer	$55,300
Hardwood Woodchip	$145,012
Total of above classes—	$1,820,192
Commonwealth	$1,014,208

(3) FWPR&DC invests in research Programs which are of relevance to the whole industry, rather than allocating projects by class of timber. Preference is generally given to projects which will benefit a number of sectors, and the industry as a whole. Therefore expenditures to any single sector or class of logs cannot be categorised.

Any categorisation that could be done would only involve assigning an arbitrary percentage benefit to a category, based on the number of benefiting categories. Further details of funded projects are available in FWPR&DC Annual Reports, available to all Senators.

Expenditure in each program in 1995-6 is given in the following table:

Research Expenditure 1995-6

Research Program	Expenditure 1995-96
Sustainability & Environmental Management	$239,343
Building and Structural Systems	$588,142
New Process and Product Development	$397,917
Plantation and Regrowth Timber	$282,319
General projects	$97,753
Total Project Expenditure	$1,605,474

(4) The total value of the applications submitted to the FWPR&DC in 1995-6 was $18,490,000. Of this, the amount sought from the FWPR&DC was $5,305,328 (FWPR&DC generally only contributes up to 50% of the total project costs). The amount approved for funding by the FWPR&DC was $3,306,089. It should be noted that, generally, this funding is to cover projects for up to 4 years of operations. The following table provides a break-up of total amounts sought from, and approved by, the FWPR&DC.

Any categorisation of the value of applications that could be done would only involve assigning an arbitrary percentage benefit to a category, based on the number of benefiting categories. Research program funding cannot be categorised to any single sector or class of logs.

Amount sought from, and approved by, the FWPR&DC 1995-96

Research Program	Total sought	Total approved
Sustainability & Environmental Management	$587,000	$162,000
Building and Structural Systems	$1,395,323	$1,176,593
New Process and Product Development	$1,056,105	$418,660
Plantation and Regrowth Timber	$1,685,980	$1,257,916
General	$580,920	$290,920
Total Project Expenditure	$5,305,328	$3,306,089

Logging and Woodchipping

(Question No. 371)

Senator Brown asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 23 December 1996:

With reference to the export woodchip licence issued to Mr P. Griggs for 1997: (a) from which specified land parcels can woodchips be sourced, and are they public or private land; (b) what is the destination of the woodchips and their end use; (c) what varieties of wood are permitted to be exported; (d) what assessments have been made of the natural environment, heritage values or other values of the forests from which the woodchips can be sourced; (e) who carried out the assessments; and (f) when.

Senator Parer—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(a) The transitional export licence issued to Mr Phillip Griggs for 1997 (MEPWOOD 1468) specifies that the wood chips must be produced from wood harvested in the Tasmania Region and prohibits utilisation of wood harvested in an Interim Forest Area or in an area not available for timber harvesting under a Regional Forest Agreement. However, in his application Mr Griggs advised that the area of intended operation would initially be on private property in the vicinity of 'Gallaghers Road' and 'Garden Island Creek Road' in the D'Entrecasteaux Channel area of Southern Tasmania.

(b) Not known.

(c) Refer to copy of MEPWOOD 1468, attached. The varieties of wood permitted to be exported under that licence are consistent with that allowed under the Interim Forest Agreement for Tasmania.

(d) These areas are covered by the Tasmanian Interim Forest Agreement, which seeks to protect areas which may be required for a comprehensive, adequate and representative (CAR) reserve system. That Agreement followed scientific assessment of forest conservation values to ensure logging during the period of the Agreement did not foreclose options for a CAR reserve system. Licence conditions referred to in (a) above re-inforce that protection. Also, on 28 August 1996, I designated Mr Griggs, along with other applicants for transitional licences, to the Minister for the Environment as a proponent under the Environment Protection (Impact of Proposals) Act 1974. Also on that same day, pursuant to section 30(3) of the Australian Heritage Commission Act 1975, I sought comments from the Australian Heritage Commission on the effects of a decision to grant export licences on places that are listed on the Register of the National Estate or on the Interim List of the Register of the National Estate. Further, Mr Griggs provided, as part of his application, the results of a digitised study of the Lymington forest area which provided a yield forecast and stand density assessment.

(e) and (f) The assessment undertaken prior to the signing of the Tasmania Interim Forest Agreement was undertaken by Commonwealth and Tasmanian Government staff and was published in December 1995 in the report: 'INTERIM FOREST AREAS TASMANIA Report of the Interim Forest Assessment Process'. The Minister for the Environment, Senator the Hon Robert Hill, provided his advice on 22 October 1996. The Australian Heritage Commission provided its advice on 16 October 1996. Mr Griggs provided information from the study (undertaken by an unnamed consultant) on 11 October 1996.

Licence Number: MEPWOOD 1468

COMMONWEALTH OF AUSTRALIA

EXPORT CONTROL ACT 1982

EXPORT CONTROL (HARDWOOD WOOD CHIPS)(1996) REGULATIONS

TRANSITIONAL LICENCE TO EXPORT HARDWOOD WOOD CHIPS

I, JOHN ANDERSON, Minister for Primary Industries and Energy, acting under sub-regulation 9(1) of the export Control (Hardwood Wood Chips)(1996) Regulations, hereby grant

PHILLIP GRIGGS

a transitional licence to export hardwood wood chips from the TASMANIA REGION

during the period commencing on 1 JANUARY 1997

and ending on 31 DECEMBER 1997.

Under Regulation 12 of the Export Control (Hardwood Wood Chips)(1996) Regulations, this licence is subject to the conditions and restrictions specified below.

John Anderson

Signature of Minister

1/11/96

Date of Signature

DEFINITIONS

1. In this licence—

'agricultural clearing' means clearing of native forest for the purpose of undertaking agricultural development excluding plantation establishment;

'Interim Forest Agreement' means the Interim Forest Agreement between the Commonwealth of Australia and the State (executed by the State on 16 January 1996), as amended and notified in writing by the Commonwealth to the exporter from time to time;

'Interim Forest Area' means the area that may be required for a future comprehensive, adequate and representative reserve system, as specified and referred to in the Interim Forest Agreement;

'Interim Forest Assessment' means the document entitled 'Interim Forest Areas Tasmania Report of the Interim Forest Assessment Process December 1995', a copy of which has been provided to the exporter;

'Department' means the Department which is responsible for advising the Minister in respect of administration of the Export Control Act 1982;

'exporter' means Phillip Griggs of 794 Sandy Bay Road, Hobart, Tasmania, 7005, or any other person including a company acting by, or on behalf of, or under the authority of Phillip Griggs;

'hardwood wood chips' means wood chips derived from trees of native Australian species that are botanically hardwoods and that are controlled wood chips within the meaning of the Regulations;

'Minister' means the Minister responsible for administration of the Export Control Act 1982;

'old growth forest' means a forest that is ecologically mature and has been subjected to negligible unnatural disturbance such as logging, roading or clearing;

'Regional Forest Agreement' means a Regional Forest Agreement within the meaning of the Regulations covering the region to which this licence relates, which has been entered into between the Commonwealth and the State;

'Regulations' means the Export Control (Hardwood Wood Chips)(1996) Regulations, as amended from time to time;

'residue wood chips' means hardwood wood chips derived from sawmill residues or silvicultural thinnings;

'sawlog-driven harvesting' means timber harvesting operations for which the primary purpose is the production of sawlogs or the maximisation of the sawlog production potential of a forest;

'sawlogs' means logs graded as sawlogs, or where logs are not subject to a grading process means logs that are suitable for economic use for sawing veneers, poles, girders and other products of higher value than pulpwood and wood chips;

'sawmill residues' means waste material resulting from:

(a) the production of squared timber in sawmill operations; or

(b) rejection by a veneer mill, sawmill or other processing plant (other than a wood chipping plant) of a log found to be defective for the purposes of producing a commercial timber product, where the defect could not have been found on any reasonable inspection of the log before its arrival at the plant for processing;

'silvicultural thinnings' means waste material resulting from the thinning of a regrowth forest for the purpose of improving the production potential of the forest;

'Tasmania Region' means the Tasmania Region as defined in the Regulations;

'State' means the State of Tasmania;

'tonnes' means green metric tonnes; and

'wood' means fibrous materials between the bark and pith of a tree or shrub.

QUANTITY

2. Pursuant to sub-regulation 10(1)(a), the annual export quantity of hardwood wood chips authorised to be exported under this licence in 1997 shall not exceed 30,000 tonnes of hardwood wood chips, whether residue wood chips or not.

COMPLIANCE WITH LAWS, ETC

3. The exporter shall:

(a) comply with all Commonwealth, State and Local government laws; and

(b) take all reasonable steps to ensure that all operations for the production of hardwood wood chips for export under this licence comply with the relevant codes of forest practice and management plans.

SOURCE MATERIAL

4. The exporter shall not export under this licence hardwood wood chips unless those wood chips are produced from wood harvested from the Tasmania Region.

5. The exporter shall take all reasonable steps to ensure it does not export under this licence hardwood wood chips produced from wood harvested in an area (including an area on the Register or on the Interim list of the Register of the National Estate) which is at the time the wood was harvested:

(a) in an Interim Forest Area (except for any areas in relation to which the Commonwealth has approved completion of timber harvesting pursuant to clause 6 of the Interim Forest Agreement); or

(b) in an area not available for timber harvesting under a Regional Forest Agreement.

6. The exporter shall take all reasonable steps to ensure it does not export under this licence hardwood wood chips produced from wood harvested in old growth forest, unless produced from sawlog-driven harvesting operations.

7. The exporter shall not export under this licence hardwood wood chips produced from wood harvested from agricultural clearing unless it has taken all reasonable steps to ensure that such wood is harvested in accordance with State and Local government laws relating to agricultural clearing.

8. The exporter shall take all reasonable steps to ensure it does not export under this licence hardwood wood chips produced from sawlogs, other than as sawmill residues.

9. (a) The exporter shall not export under this licence residue wood chips derived from areas of rainforest on Crown Land.

(b) The exporter shall not export residue wood chips derived from areas of rainforest on private land consisting of tall rainforest within Woolnorth IBRA region on acid igneous rock below 600 metres elevation, tall rainforest within Ben Lomond IBRA region on basic igneous rock below 600 metres elevation, rainforest on private land that is wholly surrounded by public land which is either an existing reserve or a Recommended Area for Protection in the study 'Interim Report on the Conservation Status and regional requirements for Rainforest on Private Land April 1996'.

(c) In this condition 'rainforest' has the same meaning as the term has, for the purpose of the 1996 harvesting operations, in item 6 or 7, which ever is applicable, in Schedule 1 to the Interim Forest Agreement.

10. Unless the Minister gives prior written approval otherwise, the exporter, in exporting wood chips authorised under clause 2, shall give preference to residue wood chips unless they are not of an adequate contract standard or not offered at the prevailing market price.

11. The exporter shall not source hardwood wood chips from private land for export under this licence from the following forest types: coastal Eucalyptus amygdalina, Eucalyptus amygdalina on dolerite, Eucalyptus amygdalina inland, Eucalyptus amygdalina on sandstone, Eucalyptus globulus-viminalis coastal, Eucalyptus pulchella-globulus-viminalis dry, inland Eucalyptus tenuiramis, Eucalyptus viminalis grassy woodland, and Eucalyptus viminalis-ovata-rodwayi other than in accordance with

(a) the Timber Harvesting Plan process described in Appendix 5 of the Interim Forest Assessment; or

(b) the relevant provisions of a Regional Forest Agreement; in effect at the time the operations are conducted.

12. Subject to clauses 2 and 4, but notwithstanding clauses 5 to 11, the exporter has the right to export under this licence hardwood wood chips produced from wood harvested before the commencement of this licence provided the wood was harvested:

(a) in accordance with then existing Commonwealth, State and Local government laws; and

(b) from areas outside any then existing Interim Forest Areas.

ENVIRONMENT PROTECTION AND ENDANGERED SPECIES

13. The exporter shall take all reasonable steps to ensure it does not export under this licence hardwood wood chips produced in operations not conducted in accordance with the requirements of the Interim Forest Assessment and Interim Forest Agreement or Regional Forest Agreement in effect at the time the operations are conducted.

14. The exporter shall ensure all of its operations for the production of hardwood wood chips for export under this licence do not threaten with extinction, or significantly impede the recovery of, a species listed in Schedule 1 or an ecological community listed in Schedule 2 of the Endangered Species Protection Act 1992, and that the operations comply with any measures in the Interim Forest Assessment and Interim Forest Agreement or Regional Forest Agreement in effect at the time

the operations are conducted, concerning such species.

PRIVATE PROPERTY OPERATIONS

15. If the exporter exports hardwood wood chips produced from wood harvested from private property the exporter shall ensure the property is subject to a re-afforestation program by regeneration and management or by plantation establishment as required by State or Local government laws.

16. Where the exporter extracts pulpwood from private land in a 'FORWOOD' zone for export as hardwood wood chips in accordance with this licence, the exporter shall:

(a) ensure the regeneration of a minimum area of that land calculated at the rate of four hectares for each 1,160 tonnes of pulpwood so extracted; or

(b) as soon as practicable establish a minimum plantation area in the State of Tasmania, calculated at the rate of one hectare for each 1,160 tonnes of pulpwood that has been extracted from private land by the exporter for export as residue wood chips under this licence; or

(c) agree to make other arrangements which have been approved by the Department and Private Forests Tasmania.

17. The exporter shall take all reasonable steps to ensure in respect of all operations on private property from which hardwood wood chips are produced for export under this licence, that pre-logging surveys are undertaken and harvesting plans are prepared prior to harvesting as required by State or Local government laws, and are submitted to the Department on request.

18. The exporter shall not, without the prior written approval of the Minister, export hardwood wood chips produced from wood harvested from private property which is on the Register or on the interim list of the Register of the National Estate.

DOMESTIC PROCESSING AND PRICING

19. The exporter shall as far as practicable give priority to domestic processors who seek to purchase the wood for export under this licence at a price that is not less than the export price nett of export handling costs and charges.

20. The exporter shall, if requested by the Minister:

(a) carry out a study of the feasibility of establishing facilities for the further processing in Australia of wood available to the exporter for export as wood chips under this licence; and

(b) submit the final report of that study to the Department within such reasonable time as is specified in the request.

21. The exporter shall not export hardwood wood chips except with the written approval of the Minister of:

(a) an agreed minimum price; or

(b) an interim or provisional price, and arrangements concerning the retrospective application of a price to be negotiated by the exporter.

INSPECTION

22. The exporter shall take all reasonable steps to facilitate the inspection by officers of the Department, and of the Government of Tasmania of any area where the exporter is carrying out operations connected with the export of hardwood wood chips under this licence.

CONSULTATIVE ARRANGEMENTS

23. The exporter shall participate as required in consultative arrangements with the Government of Tasmania and the Department with regard to the implementation of the Interim Forest Agreement or Regional Forest Agreement in effect during the period this licence is in force.

REPORTING

24.(1) The exporter shall provide the Department with a report in respect of the 6-month period ending on 30 June and 31 December for each calendar year during which this licence remains in force, as soon as possible after the end of that 6-month period and no later than 3 months after the conclusion of the said period, in relation to:

(a) compliance with the conditions and restrictions of this licence;

(b) the total mass of hardwood wood chips exported under this licence, and the prices received for those wood chips;

(c) value adding and domestic processing undertaken and to be undertaken under this licence; and

(d) the mass of sawmill residues, and silvicultural thinnings, and the average price and range of prices paid by the exporter for each class of material exported under this licence.

(2) The report for the period ending 31 December in any year in which this licence is in force shall report on activities for the whole calendar year and is to be accompanied by a report by a registered company auditor (the name of whom must be notified to the Woodchip Export Monitoring Unit in the Department prior to the commencement of the audit) addressing the following issues:

(a) whether the exporter has complied to the best of its ability with the conditions and restrictions of its licence in conjunction with the requirements of the relevant State Forest agency;

(b) whether the exporter's systems and procedures are adequate to ensure that the sawmillers supplying sawmill residue are also adhering to the conditions and restrictions of this licence;

(c) whether the exporter's systems and procedures in place have been subject to failure for the period covered by the report and whether in the auditor's opinion the exporter has taken reasonable steps to ensure compliance with this licence;

(d) whether the calculation of the quantity of sawmill residues, and silvicultural thinnings exported under this licence, and the average price and range of prices paid by the exporter for this material, has been correctly determined and is in accordance with the records maintained by the exporter and supplied by the sawmills.

MONITORING FEE

25. The exporter shall remit a monitoring fee for the monitoring of compliance with conditions of this hardwood wood chip export licence, in accordance with the terms of the Export Control (Hardwood Woodchips)(Monitoring FEE) Order No. HW1 as amended from time to time, or such other Orders relating to monitoring fees as the exporter is advised in writing by the Department.

NOTE:

Failure to comply with the conditions or restrictions in an export licence is an offence under the Export Control Act 1982. Under the Regulations the Minister may also suspend or revoke the licence in certain circumstances.