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Mr SPEAKER (Mr Neil Andrew) took the chair at 9.30 a.m., and read prayers.

HEALTH LEGISLATION AMENDMENT BILL (No. 3) 2000
First Reading
Bill presented by Dr Wooldridge, and read a first time.

Second Reading
Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (9.31 a.m.)—I move:
That the bill be now read a second time.

This bill amends the National Health Act 1953 and the Health Insurance Act 1973 to enable the private health industry to fund alternative models of health care delivery as a direct substitute to in-hospital care for admitted patients. This Health Legislation Amendment Bill (No. 3) 2000 also contains some minor amendments relating to Lifetime Health Cover.

The aim of the bill is to enable private patients in both public and private hospitals to receive the same equitable care choices available to public patients in public hospitals.

Medicare patients in public hospitals have been able to receive outreach care as a substitute for in-hospital care for some years.

This bill enables approved outreach services as a direct substitute for in-hospital care that is provided beyond the hospital that either shortens or prevents a hospital admission.

Under the National Health Act 1953, funds can only pay benefits from hospital tables for admitted patients. This means that funds have only been able to offer outreach services to their members from their ancillary tables, which are not eligible for inclusion in the reinsurance arrangements.

This bill will also allow the many older Australians who have private health insurance the option to receive a direct substitute for in-hospital treatment in the familiar and comfortable surroundings of their own homes.

The first amendment relating to Lifetime Health Cover ensures that all people who enter Australia on a humanitarian or refugee visa after 1 January 2000, or who were granted a protection visa after entering Australia on or after 1 January 2000, have 12 months after the day on which they become eligible for Medicare in which to take out hospital cover without their contributions being increased under Lifetime Health Cover.

The bill also clarifies the definition of adult beneficiary and hospital cover with respect to Lifetime Health Cover to ensure that spouses (including de facto spouses) of contributors are defined as adult beneficiaries and can have hospital cover.

This bill will allow approved outreach services to offer private patients improved hospital benefits, an innovative new private health insurance service, and funds to access the reinsurance arrangements.

I commend the bill to the House, and present the explanatory memorandum to this bill.

Debate (on motion by Mr Horne) adjourned.

TOBACCO ADVERTISING PROHIBITION AMENDMENT BILL 2000
First Reading
Bill presented by Dr Wooldridge, and read a first time.

Second Reading
Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (9.34 a.m.)—I move:
That the bill be now read a second time.

I am pleased to present this bill which highlights the government’s continuing commitment to minimising the harm caused by tobacco smoking in Australia. Tobacco consumption continues to be a major burden on Australian society. Tobacco is the single largest cause of avoidable death and disease in Australia. The use of tobacco costs the Australian community $12.7 billion a year and around 18,000 Australians die every year because of smoking related illnesses.

In light of the continuing impact of tobacco consumption on Australia’s health, the government believes the time has come to
end all association of tobacco sponsorship and sport in this country. Tobacco advertising and sponsorship have been banned from domestic sporting competitions since 1992; however, major international sporting and cultural events can apply for an exemption to this ban.

When the Tobacco Advertising Prohibition Act 1992 was introduced, some exceptions were specified to ensure a moderate introduction of tobacco advertising bans in Australia. One of the most well-known exceptions to the ban is the section 18 exemption, which allows international sporting or cultural events held in Australia to have tobacco advertising provided certain conditions are met. There has never been an application for an exemption for a cultural event, and only a handful of sporting events continue to qualify for the exemption.

On the international stage, Australia is considered a world leader in tobacco control. In June 1999, the Ministerial Council on Drug Strategy endorsed a National Tobacco Strategy which provides a framework for all jurisdictions, including the Commonwealth, to develop their own action plans for tobacco control. The government is committed to maintaining and improving on Australia’s excellent track record in tobacco control by consistently implementing new initiatives. In 1998, the European Parliament voted for a ban on tobacco advertising, including a ban to be placed on sponsorship advertising of events or activities organised at a world level. This bill before you today is consistent with the decision made by the European Parliament and introduces the same time frames.

The phase-out of all tobacco advertising in Australia also represents a major contribution to the National Tobacco Strategy.

Tobacco advertising at any sporting or cultural event after 1 October 2006 under any circumstances. There is a transitional phase-out period between 1 January 2002 and 1 October 2006. Prior to this phase-out period new events will be able to apply for a section 18 exemption. Any event to be held after the 1 January 2002 deadline will not be able to apply for an exemption. Between 1 January 2002 and 1 October 2006 events of international significance whose most recent application for exemption under section 18 was granted will be able to continue to apply for an exemption until the 1 October 2006 cutoff, provided that the event is completed before 1 October 2006. All applications received from events qualifying for consideration during the transitional phase will be assessed in the same manner as is currently provided for under section 18 of the act.

After 1 October 2006 there will be no tobacco sponsorship or advertising at any sporting or cultural event in Australia. However, I am confident that event organisers will be working towards securing alternative sponsorship prior to the 2006 deadline. In the meantime I will continue to strengthen the restrictions applying to each event to ensure the public’s exposure to the remaining forms of tobacco advertising is kept to a minimum.

This bill represents several years of negotiation with international motor sport, particularly the FIA—the Federation Internationale d’Automobile—and the international Grand Prix Corporation. Australia, because of its relative geographic isolation, was always subject to being held hostage or to ransom by losing such events, a condition that was not placed on European countries. We have been able to negotiate an arrangement whereby with these time frames international motor sport has given undertakings that Australia will not be placed at any disadvantage in future negotiations, because it gives them time to arrange alternate sponsors.

This bill deserves the support of all members of the House. It will break the few remaining links between international sport and tobacco in Australia. The bill has received strong support from the health community, and it will provide the opportunity for all Australians to enjoy major international events even more, since they will no longer be associated with tobacco.

I commend the bill to the House and present the explanatory memorandum to the bill. Debate (on motion by Mr Horne) adjourned.
NATIONAL HEALTH AMENDMENT BILL (No. 1) 2000

First Reading

Bill presented by Dr Wooldridge, and read a first time.

Second Reading

Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (9.39 a.m.)—I move:

That the bill be now read a second time.

The National Health Amendment Bill (No. 1) 2000 amends the National Health Act 1953 to implement miscellaneous measures arising from negotiation of the third community pharmacy agreement between the Commonwealth and the Pharmacy Guild of Australia. The five-year agreement will come into effect on 1 July 2000. To give the measures in the bill some context, I should outline key features of the agreement. The new agreement builds on the foundations of the first and second community pharmacy agreements and further develops a positive and cooperative partnership between the government and community pharmacy. Its integrated package of measures will:

- provide the basis for remunerating community pharmacists for their dispensing medicines under the Pharmaceutical Benefits Scheme;
- improve access to pharmacy services in rural and remote Australia;
- introduce an enhanced medication management service, which will extend and improve the assistance provided for elderly persons and allow improved management of the various medications they receive;
- introduce a Pharmacy Development Program, with financial incentives to eligible pharmacists, to promote the achievement of quality services in community pharmacy; and
- relax the degree of regulation applying for new pharmacies to be approved to supply medicines under the PBS and for existing pharmacies to relocate from one place to another for the same purpose.

A major emphasis of the agreement package is improving Australians’ access to pharmacy services, particularly by making rural Australia a more attractive place to start and run a pharmacy business. Therefore, the agreement includes an important initiative—totalling $76 million over five years—to improve access to pharmacy services in rural and remote areas, recognising that pharmacists are an important part of the rural health infrastructure. This initiative establishes a new rural pharmacy maintenance allowance to support existing pharmacies in rural and remote locations. Start-up funding is also being provided, which will target areas where there is a need for a community pharmacy and where it has proven difficult to attract one to date.

Funding is to be provided to encourage increased numbers of pharmacy graduates to take up rural practice and to introduce an Aboriginal pharmacist scholarship scheme. A proprietor succession program and a locum relief scheme are also provided to support existing pharmacists and ensure that pharmacy services are maintained in regional areas despite a significant proportion of regional pharmacists being near retirement age.

An extended medication management program—costing $114 million over five years—is also to be developed, in conjunction with the medical profession, to help older people in residential care and at home to get better access to expert pharmacist advice on the best management of the often complex array of medications they might use.

The Pharmacy Development Program will cost $188 million over five years and is a major innovation. Similar to arrangements already in place for remunerating general practitioners, the program will promote the enhanced involvement of community pharmacy in the pursuit of quality and cost-effective service delivery.

Most of the provisions in the third community pharmacy agreement do not require amending the National Health Act. Indeed, in terms of PBS and remuneration to pharmacists, section 98BAA of the act requires the Pharmaceutical Benefits Remuneration Tribunal to give effect to the agreement in any remuneration decisions it makes.

The bill therefore proposes minor changes to the act, where necessary, to give effect to specific agreement measures. These are:
amending from 30 June 2000 to 30 June 2005 the dates in the two sunset clauses relating to the life of the Australian Community Pharmacy Authority and related provisions governing the location of new pharmacies and the relocation of existing pharmacies;

removing provisions from the act that govern the payment of isolated and remote pharmacy allowances and professional allowances. The Rural Maintenance Allowance will replace the current Isolated Pharmacy Allowance and the Remote Pharmacy Allowance from 1 January 2001. The existing medication reviews in residential care facilities will also be replaced by new arrangements from 1 January 2001. Until then, the existing rural allowances and medication review payments will continue;

continuing the Australian Community Pharmacy Authority’s role for new pharmacy approvals and relocations but removing its power over allowances, consistent with the points outlined above;

modifying the functions of the Pharmaceutical Benefits Remuneration Tribunal. The tribunal will continue to issue a determination giving effect to the terms of the Agreement for Commonwealth Remuneration to pharmacists supplying PBS medicines. In the absence of an agreement, the tribunal would retain its function of determining pharmacists’ remuneration for supplying PBS medicines. Under the proposed amendments, it will also have functions conferred on it under part 1 of the agreement. Part 1 contains a dispute resolution mechanism which provides for a dispute to be referred to the tribunal by either party, but only as a last resort after attempts at direct negotiation and mediation have been exhausted;

making minor consequential amendments that are necessary because of these measures.

The bill also incorporates a regulation making power dealing with transitional or savings arrangements, should any be necessary. Existing regulatory powers in the act that will be relevant to the third agreement, such as the making of ministerial determinations under section 99L of the act to give effect to rules on the location of pharmacies for PBS purposes, will not be affected.

This third agreement is not just about paying pharmacists for their services. It is about better integrating pharmacy into the national health care framework, and it is about enhancing the quality of the pharmacy care that Australians receive and ensuring that all Australians have fair and reasonable access to essential medicines and pharmacy services.

These amendments will play their part in enabling the government to put in place a comprehensive package of third Community Pharmacy Agreement measures.

Cooperative arrangements about government and pharmacy have had bipartisan support through the first and second agreements, and I believe the third agreement should continue that tradition in the national interest. I also commend the Pharmacy Guild for the professional way in which they have carried out often difficult negotiations over a fairly long period of time.

I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Horne) adjourned.

NEW BUSINESS TAX SYSTEM (ALIENATION OF PERSONAL SERVICES INCOME) BILL 2000
Cognate bills:
NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 1) 2000
NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 2) 2000

Second Reading
Debate resumed from 13 April, on motion by Mr Costello:
That the bill be now read a second time.

Mr CREAN (Hotham) (9.47 a.m.)—The New Business Tax System (Alienation of Personal Services Income) Bill 2000, New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 1)
2000 and New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 2) 2000 are supposed to improve the integrity of the income tax system. They go some of the way to that but not all of the way. In not going all of the way, they have confirmed the lack of integrity of our Treasurer. These bills demonstrate that he has failed to honour in full a bipartisan agreement to crack down on tax avoidance.

I have noted that the Treasurer post the budget demanded that Labor pass his budget in full. The truth of it is that Labor will not be blocking supply. Only one party in the history of this parliament has ever done that, and John Howard was in it. But we do reserve the right to scrutinise the budget, to pursue the government to keep its promises and to hold it accountable. It cannot use the excuse of passage of budget to slip out from commitments made either to the electorate or to us, as part of an agreement to secure a longer-term strategy for business tax in this country. The truth is also that, with this bill, we could actually go further. We could go further than just passing the measures in his budget: we could give the budget an extra $700 million over the next few years—a no insignificant amount. In the last week or so we have already been highlighting the opportunity lost—the alternative expenditure that could be got from the outrageous expenditure on the government’s advertising and so-called information campaign. Over $420 million and rising—it is like a taxi meter: it keeps ticking over every day it is under investigation in the Senate. But here we are talking about another $700 million over the course of the next few years. Think again, in the context of schools, hospitals and apprenticeships, of what that money could be used for. This is no hard call because there is agreement to this on both sides of the parliament. We signed off on it. What the Treasurer has not been able to do is convince his party. So the budget, over the course of the next few years, is $700 million worse off. If he wants a commitment for passage of the budget, we will do more. All he has to do is honour the agreement that he made with us.

But I know he will not, because the truth of it is that this Treasurer has always been soft on tax avoiders. Whenever it has come to the hard decisions on tax avoidance mechanisms, he has dogged it. I want to go through a few examples of this from when he was in opposition and when he became Treasurer. In 1994 and 1995 he opposed root and branch Labor’s attempts to stamp out tax avoidance share schemes used by wealthy individuals that continued to flourish after 1996. We were trying to stop it in government; he opposed it. It involved at least $1,500 million. He knew they were dodgy—we have got his submission to his shadow ministry. I quote from that shadow ministry decision, a confidential submission that he took to shadow ministry at the time. It reads:

The government’s decision to impose the fringe benefits tax on employee share acquisition schemes is motivated by the desire to stamp out potential abuse of such schemes.

That was his identification of the intention of our legislation. But he then described potential abuses of the system and, with breathtaking opportunism, recommended that the coalition ‘vote against the entire bill’. So, even though he saw that we as a government were trying to do the right thing, he could not bring himself to support it.

In the 1996 budget, he dropped our bill on income alienation and junked our commitment to ongoing work in this area, stating: The Government has decided not to proceed with either of these proposals.

The Government has decided not to proceed with either of these proposals. In the 1996 and 1997 budgets, he watered down Labor’s trafficking in trust losses anti-avoidance measures and ever since has deferred cracking down on trusts. We then saw in May 1999 the special GST exemption for casino high rollers, and in April 2000 he walked away from a commitment on closing off abuses of the tax system in relation to tax shelters at a cost to the Australian taxpayer of $700 million. Understand the context of this, Mr Speaker. Here is a Treasurer who continues to want to slug ordinary Australians with a new tax, a 10 per cent tax on just about everything, a tax that yields up to $30 billion a year, but you do not see any mention of that in this ad campaign that they have running. They talk about tax cuts and they throw the chains off people, but they never mention the GST. It is like not mentioning the war. They
do not mention the fact that they are introducing a GST, and they do not mention the fact that that tax is going to yield up to $30 billion a year. Having imposed that and said that it is great tax reform, the Treasurer then passed up opportunities where he could have got bipartisan support that would have seen other people paying their fair share of tax. It is a totally inappropriate balance. That is why the government has lost touch. It is a government that is soft on the tax avoiders but hard on the ordinary punters. That is a contrast that we will continue to expose.

It is also worth noting that the recent Taxation Office scandal involving fringe benefits tax treatment of share ownership schemes is much the same situation that Ralph Willis tried, as Treasurer, to close down in 1994 in the face of root and branch opposition—the shadow ministry submission that I referred to earlier. Had the current Treasurer then supported the then Treasurer, Ralph Willis, and Labor’s anti-avoidance measures, the scams that have blossomed in the past four years and have featured so recently in the private binding ruling scandal might well not have flourished. This government is a serial offender when it comes to going soft on the tax avoiders.

Let us consider the background to the Treasurer’s dishonouring of the agreement that he reached with me. The Ralph committee examined the issue of the erosion of personal income tax base due to income alienation. It came up with recommendations. These were accepted by the Treasurer, because he incorporated them into his press release No. 74 on 11 November last year. Page 2 of attachment B of that release contained this statement:

The increasing avoidance of tax through the alienation of personal services income poses a growing threat to the income tax base. The use of interposed entities to avoid or defer income tax raises issues of equity between those that can take advantage of these arrangements and other providers of personal services, including wage and salary earners, who pay the correct amount of tax.

So the Treasurer has identified what tax avoidance is, and he has promised publicly to stamp it out. To seek further assurance from the Treasurer that he would keep his word when we reached this agreement, I required him to put in writing and read into the Hansard record his commitment to do so. My letter asked the Treasurer for, amongst other things, ‘an absolute and public guarantee that these measures, when details are known, will be implemented in full’. The emphasis is on ‘in full’. We also required the Treasury to sign off that the figures contained in his earlier statements would indicate the yield from introducing these measures and that the bill, reflecting those measures, would also sign off to the same extent on the figures. He read this commitment into the public record in the House—something which should put the matter beyond doubt. These are his words:

The government will introduce all the business tax changes in full.

There was no equivocation about that. He said he would introduce all of them and in full. I further reinforced the point in another letter to him on 24 November, where I said:

... I welcome your personal guarantee that the government will deliver, in full, all the business tax changes announced, recognising that any slip-page on these measures in the future could expose the government in terms of its commitment to maintaining the integrity of the tax system.

As I say, we also required the Treasury to sign off that the figures attached to the earlier commitment and the earlier agreement would be reflected in the measures in the bill.

This bill demonstrates that the Treasurer’s word is worthless. When I agreed to the business tax package, I had to take that package through my caucus, through the Labor Party caucus, with all of the potential difficulties that it held. It was not an easy package to get through, because you could dissect bits of it and say that there were elements that were not fair. But the truth of the matter is that we had committed to an agreement in the interests of giving certainty to business over the course of a cycle longer than a parliamentary term, and we also believed that it was important to demonstrate that tax reform could be achieved if there was goodwill on both sides of the parliament. I did the hard yards and the Labor Party responded by signing up to this agreement, but Peter Costello got rolled in his own party room. Peter Costello could have stood up to them and said, ‘I have
the Labor Party’s support on these measures. Therefore, it’s going through,’ but he was rolled in his party room, rolled presumably by the other pretender to the throne, Peter Reith.

We need to understand the dimension of this. We have a Treasurer who talks tough but, when it comes to the crunch, cannot deliver. The Treasurer did not have to win the numbers in his own party room because he had our support on this side of the parliament, yet he dogged it again, adding to the serial offender role which I have already outlined. So we have the continuation of this litany of going soft on tax avoiders.

John Howard, we remember, presided over the most infamous era of tax avoidance and evasion in our history. It was left to Labor then, when it came to power, to clean up the mess. It is Peter Costello who continues the record, but he goes one better. Instead of ignoring the problem like Mr Howard did, he acknowledges the issues, gets agreement to fix them and then squibs it when the crunch comes in his own party room. The Treasurer is not interested in developing a bipartisan position on anything. He was forced into the agreement with the Labor Party on this issue because he knew that it was the only way he could get passage of sensible reform through the parliament, but when he was having the difficulties in his own party room he failed to come back to me to explain the problem, to talk it through, to see whether we could not devise another mechanism. The first I knew that this deal was going to be dishonoured was when I read about it in the paper and confirmed with the party room meeting.

As a consequence, the bill will raise $440 million less than Mr Costello promised last year. That is a huge amount of money. At this stage, it is even more disgraceful in the context of that wasted GST advertising campaign, which we understand even Mr Joe Cocker is no longer prepared to endorse—some great strategy being organised on the Liberal Party side in advertising campaigns. If the newspaper reports today are correct, Joe Cocker did not know what his song was being used for and does not support the GST. That does not say much for those ads any more, dishonoured as they are in their dishonest portrayal of what is available for Australian consumers. They do not mention the GST. They do not mention the fact that there is a new tax coming in on 1 July which will raise up to $30 billion a year. The government buys the rights for the song and then misuses the singer’s name—continuing deceit by this government. The government has deceived about the GST all the way along; it is deceiving again through the advertisements. Yet we have a government which, when it is given the opportunity to actually raise some additional revenue through genuine anti-avoidance mechanisms, squibs it.

It is worth putting on the record what that extra $440 million could produce—not the ones from the ads, because we have already talked about those in a different context. The $440 million that the bill will raise could purchase 1,800 primary and secondary school teachers over four years or 120 new primary schools, almost 110,000 apprenticeships over four years or over 1,600 extra police for four years. These are just some of the possibilities that are being passed up by the government’s failure to honour an agreement with us. All of these services will not be delivered to Australians because the Treasurer is soft on tax avoidance—avoidance which he recognises and says he wants to curb. Yet when he gets agreement with us he squibs it.

The $440 million revenue shortfall is essentially related to timing. Treasury has signed off on the revenue forecasts in full, consistent with the agreement from year 4 onwards. That is important as to where we get to eventually with this bill, but essentially it is the issue of when we introduce the measures. We are exploring the effectiveness of the new definitions. We are pursuing that in the Senate because not all of it is readily apparent from the legislation and its explanatory memorandum.

The bill is about defining and catching people who are genuinely not carrying on their own businesses but rather are avoiding tax. It is not about interfering with people who are genuinely running their own businesses. We have made it clear that we are not
about trying to introduce measures that affect them. It is an objective that should be shared by all parties in this parliament, both in the House and in the Senate. The issue is whether or not the legislation effectively accomplishes that objective. The key to this is an examination of the thresholds that need to be crossed for the legislation to apply or to not apply. The Treasurer has said that he would implement the Ralph report measures in full. This bill is not doing that either in its timing or in the definitions of alienation. The key test under Ralph involved a notion of control of the employee, that is, broadly, if the person is acting under the control of someone else, they would generally be considered as an employee. Instead, in this bill we have the issue of a person having to satisfy the Commissioner of Taxation that they are carrying on a personal services business.

This is achieved either by satisfying one of three businesses tests where less than 80 per cent of personal services income comes from one employer, or by being granted a determination by the tax commissioner that you are running a personal services business where more than 80 per cent of the income is from the one employer. The rules for determining the personal services business contain three tests. If a person passes any one of the tests, they will be conducting a personal services business and hence not caught by the rules. The tests are, in order, these. First, there is the unrelated clients test. To pass this test, the person has to provide services for two or more unrelated clients during the year and the services have to be provided as a direct result of the individual entity making public offers—for example, through advertising. This is the area that we are concerned could be most open to manipulation. The mere placing of an advertisement, for example, in the Yellow Pages would be enough to pass this test if the person had another employer who would state that this is the reason why the person was employed. In addition, it is almost axiomatic that someone who earns less than 80 per cent of their income from one source will have an unrelated other source. So this also is considered a weakness in the legislation.

Second, there is the employment test. To pass this test, the person has to employ an apprentice for at least half of the year or employ someone who performs at least 20 per cent of the principal work of the business. Principal work here excludes answering the telephone and bookkeeping—that is, a computer programmer has to employ another programmer. This, to us, looks reasonable on a first impression.

Third, there is the business premises test where the premises must be separate from the person’s home and they must be used for producing the income. Simply leasing an office is not enough if it is not used. We were concerned at one stage about this test because the Treasurer went on the Neil Mitchell program—and we know that Neil Mitchell has been running this issue very hard—and pretended that a garden shed would suffice to meet this test. Fortunately, Treasury evidence in the Senate committee has confirmed that a garden shed will not be sufficient. So here we have a Treasurer prepared to say anything in the radio interview, but that information fortunately not confirmed by his Treasury officials nor the intent of the legislation.

Despite the problems with one of the tests I have noted above, the first test, these tests do represent a genuine attempt to distinguish the answer to what is a very difficult question—namely, the difference between an employee and someone genuinely conducting a business. However, the bill also introduces two other sets of provisions that can potentially override the general tests—the further grounds the commissioner may use to override the new rules and transitional arrangements. There is a further test which can be used if a person fails all three personal services business tests, which appears to potentially undermine the integrity of the original three tests. This is section 87-60(5) at pages 28 and 29 of the bill. It is covered in the explanatory memorandum at paragraphs 1.112 to 1.118, pages 32 to 33.

This further test comprises the following elements: is the income for producing a result; is the individual required to supply plant equipment or tools of trade; and is the individual liable for rectifying any deficit in the work performed? This provision has the po-
tential to be a major loophole in the new regime. The proposal has not been adequately justified to date by the government. The Senate inquiry process has raised the possibility of amalgamating the two tests and introducing a broader set of criteria for passing the amalgamated test. It has also examined the government proposal for a two-year transitional period. Because of the deliberate delay in keeping his word, the Treasurer has proposed a two-year transitional period. This blows nearly a half billion dollar hole in the revenue over the next few years. No justification for this proposal was provided by the government to the brief Senate inquiry on the bill. Other evidence did not support the length of time as necessary to achieve the transitional objective.

We note the evidence given that there is no reason for the proposed length of the transitional period. This is still a matter being investigated in the Senate. The timing could be changed. Certainly, there is an indication by Senator Murray of interest in that direction. I want to repeat that at no stage did the Treasurer consult me about any of these changes. So, whilst we will not be moving anything specifically in here, apart from the second reading amendment which I have circulated, I indicate that we reserve our position pending the outcome of the Senate inquiry. I move that second reading amendment:

“That all words after ‘That’ be omitted with a view to substituting the following words:

‘whilst not declining to give the Bill a second reading, the House condemns the Treasurer for his continued soft treatment of tax avoiders, specifically by failing to:

(1) fully implement the announced policies which he publicly committed to introduce; and

(2) reach the revenue projections promised in his announcements, thus breaching his commitment to revenue neutrality for the business tax package’.

The Treasurer has broken his word. He has not delivered to this House what he pledged to. He is a Treasurer who talks tough but fails to act. It is a bill that does address the issue and, in that sense, it will not be opposed by Labor in this House, subject to what comes back from the Senate. The questions raised about the full effectiveness of the proposed regime, however, are serious, and one possible way to address this question of effectiveness over time is to require a public reporting regime to this parliament. Regular reporting by the revenue authorities on the operation of this regime, including revenue collected, is another possible mechanism to monitor the ongoing effectiveness of the regime, thereby helping to ensure the integrity of the income tax base into the future.

I indicated before in this speech the propensity of the Treasurer to talk tough but then fail to introduce effective measures to back it up. That is also borne out by his position in relation to petrol. This was a Treasurer that promised that petrol would not go up as a result of the GST. We of course said it would, but the government went to the last election promising it would not. It has since been forced to spend $500 million to attempt to honour this promise. This was never mentioned of course at the time of the election. It just said it would not happen, that petrol would not go up when the GST came in, but it has been exposed on that deceit as well.

The Treasurer announced that there would be a $500 million rebate scheme for retailers and said this would ensure that petrol prices would not go up as a result of the GST. That is the Treasurer. Can you believe him or would you prefer to believe what the prices watchdog is saying in relation to this latest proposal? The Deputy Chairman of the Australian Competition and Consumer Commission, Mr Asher, was asked about this very issue yesterday in a Senate estimates hearing. The ACCC is the prices watchdog—the group that has authority to oversee it. Mr Asher said:

Can I guarantee that that will lead to the full flow-on of all those rebates? No.

If the prices watchdog cannot guarantee that the petrol rebate will actually flow on to consumers, how can consumers have confidence that it will? If the prices watchdog has not got the power and is admitting in Senate estimates hearings that it cannot do it, and admitting it under oath, who do you believe: it or the Treasurer? I do not think that there will be too many people out there that believe the Treasurer, certainly not in regional Australia. After all, this is a Treasurer that believes the
solution to unemployment in regional Australia is for people to take a wages cut. This is a person that is hardly ever seen in regional Australia. This is a person who has no understanding of the price impact in regional Australia and certainly no understanding of how petrol prices will react when the GST comes in. He says today that he will ensure that people are embarrassed into passing it on. The only embarrassment in this fiasco is the Treasurer, making another promise that he will not be able to deliver. (Time expired)

Mr DEPUTY SPEAKER (Mr Jenkins)—Is the amendment seconded?

Mr Emerson—I second the amendment and reserve my right to speak at a later time.

Mr BAIRD (Cook) (10.18 a.m.)—It is my pleasure to support these business tax system bills today. It was particularly interesting to hear the member for Hotham quoting much of Joe Cocker. I think, in terms of his performance today, it would be better if he took the advice of another one of Joe Cocker’s songs ‘to leave his hat off’ (sic). His speech really was a very sad attempt. At the end of the day, it was a whole lot of wind without very much substance. We waited and waited for his proposals—the substantive measure and how he was going to save this $500 million. His speech was based on two matters. One was related to the transitional arrangements. Transitional arrangements would be needed to suddenly change any arrangements which were established during the 13 years of your government. Then, of course, there is the question of how working for one company is to be defined, and in the current economy that is often difficult to estimate.

However, I recognise that the member for Hotham grudgingly accepted that this legislation will go a long way. He put forward the concept that the Treasurer was rolled. The Treasurer was not rolled by the party room. I was there in the party room when it was discussed. It was a very interesting and forthright discussion about the problems of small business. We talked about how employees who worked for one company and looked around for another company to work for were treated—particularly how the development of the information technology area has changed the dimensions of companies today—and how, when a lot of large corporations decided that they would just simply contract out their work, employees, often with many years service, would suddenly find themselves in a situation where they had to set up their own business, provide their own premises and pay all the costs associated with running their own business. So the days of being treated like an employee were over. They had to accept the insecurity into the future of being out there on their own, without any guarantee that the work would continue.

We looked at those issues, and the minor modifications that are there are as a result of discussions with the Treasurer. I commend him for listening to what was being said in the community. We have some tough legislation. We have some provisions which will sort out those who are genuine in providing personal services from those who simply for their own tax reasons want to avoid paying appropriate taxation levels. The tests that are provided in this legislation are appropriate. The integrity of the Treasurer is a very common line that the opposition throw out to desperately try to show that the integrity of the Prime Minister or the Treasurer is in question. Unfortunately for the opposition, despite their efforts, they cannot provide any dint in the integrity of either. We are very fortunate on this side of the House to have two people with their integrity in such key leadership positions.

The line from the member for Hotham is that the Treasurer is a serial offender in terms of the question of tax avoidance. We should look at the way tax avoidance flourished during the 13 years that Labor was in power. We had the great icons of tax avoidance: Mr Christopher Skase and Mr Alan Bond. They went around with tax avoidance that flourished in the wonderful halcyon years, as you saw them, of Labor in power. If you want to look at when tax avoidance measures flourished par excellence it was during the days of the Bond-Skase era. The Labor Party was so busy trying to get into bed with Alan Bond and Christopher Skase and have them attend all those wonderful $10,000 a head fundraisers that tax avoidance was very much on the agenda. It takes this government and this Treasurer to provide these avoidance meas-
ures to deal with the issue in the past of people simply rorting the tax system for their own benefit and reducing their income levels.

If the timing is the problem, your side should put up what you think the appropriate timing should be. Bear in mind that the arrangements that this bill seeks to avoid were flourishing during the time that you were in government. We are providing transitional arrangements to address that issue. Put up a suggestion. We are taking this issue from a situation where it flourished under your government to a new era. If you want tougher tests then put them on the table. Let us see what is required. These provisions came out of the Ralph report. Not only will we have the GST, which involves the most significant changes to the tax system since Federation and will deliver $12 billion in tax cuts to the Australian community and income earners throughout Australia and reduce the business tax from 36 per cent to 34 per cent on 1 July and then see it go down to 30 per cent on 1 July 2001; we will also have a number of significant changes as a result of the Ralph report recommendations—not the least of which is capital gains tax being reduced by half.

The member for Hotham comes in here and says, ‘They do not talk about the amount of revenue that is going to be raised by the GST.’ Where is this revenue that is raised by the GST going to go? It is all going to go to the states. It is going to go into building better schools, hospitals, police stations, railways, bridges and roads across each state. Instead of having the regressive taxes that they had in the past—the BAD tax, the FID tax, bed tax, et cetera—they will have a growth tax which will assist them to plan their economies. It is going to revolutionise the financial arrangements in each of the states. That is why the states rushed to sign up. Bob Carr, the Premier of New South Wales, was the first to sign up and put his name to it because he knew what a good deal it was going to be for the states. It is nonsense from the member for Hotham about how tough it is going to be. The real beneficiaries will be the people of Australia in terms of what infrastructure, services, assistance measures for disadvantaged groups, teachers’ salaries and police salaries will be delivered. It is not as though Treasury is going to collect it all. That is a nonsense.

This is about providing integrity in the taxation system. It is about fairness and equity, which are amongst the key criteria for developing a taxation system. In terms of fairness and equity, a person who is working for one corporation and has located themselves in their own home and, for all intents and purposes, is spending 100 per cent of their time working for that company and has managed to get all the deductions of a company, instead of paying 48½ per cent corporate tax if they are over the threshold will pay the considerably lower rate of 36 per cent. Clearly, that is inequitable and, I think, there is bipartisan agreement on that. I am sure the member for Paterson would agree that all of us in this House want to remove those anomalies of unfairness so that that person who is clearly working for one company pays 36 per cent tax. Under this government and the progressive reforms that were recommended by the Ralph committee report, that will go down to 30 per cent, which is the lowest corporate tax rate that we have seen in this country. At the moment somebody doing exactly the same work could be paying 48½ cents in the dollar. That is the inequity which the Treasurer is rightly attempting to address.

I understand the member for Hotham was saying that the Labor Party, on a bipartisan basis, wanted to support that. He said, ‘We came out and found it terribly difficult to get the agreement that we were seeking in terms of these proposals.’ What was the reality? The reality is that he had no choice in terms of the proposals. I saw him being interviewed on one talk show after another. He was told that the business community are saying that these measures that were recommended by Ralph are highly appropriate and that they are the types of reforms the business community want and was asked, ‘How are you going to address them?’ The fact is that he knew that he was in big trouble. If he said that he was going to support them, what would his colleagues in caucus say? If he said he was going to oppose them, what would all their supporters in the business community say? What would happen to all those fundraisers that
they love to have. He said, ‘We do not know. We did not know quite where to go.’ The weasel words came out: on the one hand we agree on this and on the other hand we do not. People asked, ‘What exactly is your position?’ The exact position is that he knew that the Labor Party had been arguing about it. They had not had the guts to implement it when they were in government. It took this Treasurer and this government to implement the measures and they are on the table.

So, despite all his handwringing—‘I went to caucus and it was tough to get it through’—the member for Hotham knew he had nowhere to go. He had been thundering on about the ‘integrity of the taxation system’ for a long time, and it was put to him on a plate. It was put there in terms of reducing the corporate tax and capital gains tax rates. Part of the tax package is the integrity measures in this bill which ensure that people who genuinely provide personal services and work for a range of companies get the benefits of lower corporate tax rates and are not disadvantaged compared to those who are simply rorting the system. We believe that the rorting has gone on for too long.

The member for Hotham spent some time talking about the tests. It is appropriate that no more than 80 per cent of the income of an individual who provides these personal services should involve only one company. If it is going to be more than 80 per cent, then a determination needs to be sought from the Commissioner of Taxation. That determination will be granted if the individual meets the circumstances that are outlined, such as if they have two or more unrelated clients. As was pointed out by the member for Hotham, where an individual can show that in the past they have had two or more clients, or alternatively where they are in the initial stages of setting up a corporation or a small company and they expect to have additional clients in the future, they would receive the exemption, but they would need to apply to the taxation commissioner. Where they have one or more employees, the member for Hotham had to conclude that the way the legislation is framed you have to do something more than just have your wife work alongside you occasionally. If you are working in the computer area the person who is deemed to be the employee has to have the appropriate computer skills. Right the way through, the mix of skills would have to be deemed appropriate by the taxation commissioner. Another provision is that an individual should have separate business premises. This is an important aspect. We were seeing individuals working for companies who would say: ‘I will put in my own computer link at home; I will set up one of my rooms at home and I will get the appropriate corporate tax cuts.’ To have separate business premises usually indicates that you have a very serious intent to operate a genuine, legitimate business.

Another provision required by the taxation commissioner is that, if an individual is contracted to produce a result, he supplies his own plant and equipment or tools of trade and is liable for the cost of rectifying defective work. In other words, subcontractors can fulfil this requirement by being liable for the effectiveness of their own work and in terms of the range of skills that they bring to bear with the tools that they use, et cetera. I would have thought the Labor Party would be supporting this approach: if the tradesmen of Australia who have their own businesses can claim they are working in a legitimate arrangement regarding their own personal services, they can operate a company if they can fulfil the business taxation requirements in terms of tax measures. I think that is appropriate.

We heard a whole lot of rhetoric from the member for Hotham. The member for Hotham talked at some length about the integrity of the Treasurer and the promises he had given. As I understand it, the Treasurer promised that the government would look at this question of the alienation of services and the alienation of business income in terms of trusts and separate private companies. This has been addressed. He talked about those people who were clearly working for only one company. This has been addressed. He talked about the GST in general at great length. One of the failures in this House has been the performance of the member for Hotham when it came to the crunch. He was asked to provide the document that said that,
as of 1 July, if Labor were ever part of a government that got into power they would rescind the GST. What could they do? They had to say that on 1 July if the GST was brought in they would simply implement it. So sincere are they about their objection to the GST, so bad is the tax that, come 1 July, they will keep the tax.

So all this rhetoric that comes from the member for Hotham is not really worth a pinch of salt. It has no validity. If the opposition were genuine in their overall criticism of a tax which is in every country around the world—certainly in virtually every developed country—they would have the sincerity to say: ‘We are going to roll back the GST. We are going to reintroduce the wholesale sales tax.’ But they did not do that. They would continue a GST. So all this rhetoric that we hear is a whole lot of nonsense. Suggesting that the Treasurer is a serial offender in terms of tax avoidance measures is a nonsense on two grounds. This bill is a legitimate attempt by the government to address those areas where tax avoidance has gone on to a significant extent, and to take measures, to introduce criteria, to ensure that this is avoided in the future. So all of those who work for one company are on notice. If they are claiming company tax they are on notice that ‘These are the criteria and if you do not meet them, you had better change quickly; you had better find some other clients; you had better diversify; you had better start employing somebody; and you had better change your office location.’

It is clear that if we want to see tax avoidance on a grand scale, then we only have to go back to those years of Labor because those were the years of Christoper Skase and Alan Bond where tax avoidance reigned supreme—and, of course, they all liked it. When we have genuine attempts to change the system and when we have genuine changes in the personal alienation of income as part of the overall tax measures, we will see real reform and real taxation changes that will make this country a much stronger economy.

Mr TANNER (Melbourne) (10.38 a.m.)—These business taxation bills are about tax avoidance. It is a problem that predates the former Hawke and Keating governments—I am sad to inform the honourable member for Cook—and has of course bedevilled governments of both political persuasions over the past 20 years—or 30 years is probably a more accurate period of time—and is always difficult to deal with.

The bills cover three areas of avoidance or three particular situations which have been leading to a significant loss to the revenue and which require major surgery to the taxation system in order to ensure that we can maintain the integrity of the system. The bills relate to the alienation of personal services income, or perhaps what may be better described as the use of artificial independent contractor arrangements to avoid PAYE taxation, and certain tax benefits arising from that; the use of non-commercial losses in order to artificially minimise tax; and, finally, the use of prepayments of interest and other payments in order to artificially alter tax liabilities and to take advantage of artificial tax shelter arrangements.

I will deal with each of these three pieces of tax legislation in turn. The first is on the major question of the alienation of personal services income and the use of artificial contract arrangements to convert a person who would otherwise be an employee into a contractor and thereby take that person into very different taxation arrangements. This question has been a problem for the law in both this country and countries such as Britain for quite a long time and there is an enormous amount of case law based around the distinction between the contract of service, which is an employee arrangement, and the contract for services, which is an independent contractor arrangement. There has been a considerable amount of litigation associated with this distinction over many years, and we have seen the evolution of a very substantial amount of precedent and case law arising from it.

What we have seen in recent years in Australia is a pattern of proliferation of arrangements which are designed to avoid the personal income PAYE system and to shift people artificially into the status of a company as an independent contractor in order that they can take advantage of the opportu-
unities of income splitting with a spouse and that they can obtain deductions for items that would not be deductible for an individual employee. A whole range of possibilities are opened up on the deduction front. It is a sad reality of income tax avoidance in this country that use of allowable deductions is probably the primary vehicle for the avoidance mechanisms that operate.

These are the reasons why these things occur. They have been widespread for a long time in the building and construction industry, with the conversion of people who are, in effect, employees into artificial contracting arrangements. But in more recent times we have seen these sorts of arrangements start to spread into other industries. Obviously, the building and construction industry does substantially depend upon quite legitimate contracting arrangements and, therefore, it is a natural area for the envelope to be pushed for tax avoidance reasons into very different arrangements. There are also, of course, motivations for contractors avoiding obligations such as workers compensation, superannuation and the like. The CFMEU, which is the union that covers that industry, has long been campaigning to deal with these problems and has put in considerable resources to try to tackle these issues, and I commend the union for that.

These problems, as I said, have spread into other parts of the economy. If action is not taken, there is a substantial risk that we will see over a period of a number of years the PAYE system and the whole concept of the employment relationship more or less wiped out or very substantially eroded by these tax avoidance arrangements. It was estimated in the Ralph inquiry that about $500 million per annum is lost to the revenue as a result of these avoidance arrangements and that somewhere in the vicinity of $3 billion could be lost eventually each year if action is not taken now.

Under the proposals in this legislation, the income that is earned is deemed to be an individual employee’s income, irrespective of whether or not there is a corporate entity interposed between the individual and the source of the income where 80 per cent or more of that income comes from a single employer and where the person concerned is not in a personal services business, which is defined as consisting of any of the following three criteria. The first exemption criterion is a business that provides services to two or more unrelated clients and advertises publicly. In both instances, we are concerned that that offers scope for simple avoidance. A public advertisement could consist of an ad in the Yellow Pages. It would not be that difficult to have a notional additional client who is paying a very small sum of money for a very limited number of services in an artificial arrangement in order to bring the individual within that particular definition.

The second exemption criterion for personal services business relates to a person who is employing an apprentice for more than half a year or who is employing another person to do at least 20 per cent of the primary business of the business—in other words, not ancillary activity such as administration or accounting but the actual work that the business exists to perform. The third exemption criterion is the existence of separate premises that are not the residence of the owner of the business, the individual concerned or the individual taxpayer where business is actually being conducted from those premises. That would probably be something more than a garage out the back of the person’s house where they go and do a few things once or twice—but whether it has to be much more is yet to be seen.

In addition to these particular exemptions that are open for the putative individual contractor to make use of, the commissioner also has a discretion to allow a person to be treated as an individual contractor rather than an employee if the income concerned is being produced in return for creating a fixed outcome—in other words, a specific job or task, if the individual supplies tools or plant or materials for the particular task, or if the individual concerned is liable to remedy defects that may have arisen in the work they have created. All of these things, of course, tend to go back to that case law with respect to the distinction between the contract of service, that is, employment contract, and the contract for services—the independent contract arrangements that I referred to before.
There are also transitional arrangements that provide that people in the prescribed payment system are able to be exempted for two years by the commissioner, and this is expected to cost revenue approximately $440 million over three years. It is important to note that this was not canvassed by the Treasurer, by the government, prior to the announcement of the legislation and that when the opposition announced its position of supporting the Ralph business tax reforms the particular change referred to here was not in contemplation. So the basis on which we announced our support for the reforms was that they would be revenue neutral, as was indicated by the figures supplied by the Treasurer, and that they would be implemented as originally announced in policy terms. What has happened is that the Treasurer and the government have reneged on that agreement and, to the tune of $440 million over three years, they have further eroded an already fragile fiscal position. So this has been one of the numerous backflips, back-downs and panics that have occurred in the first half of this year where money has been frittered away in order to respond to particular political pressures. This is an extremely unfortunate development for the budget and it also suggests that the Treasurer has very great difficulty in honouring agreements.

The second piece of legislation involved here relates to non-commercial losses, losses that are deliberately generated in order to be offset as tax losses against the income earned by high income earners. The legislation provides that these losses will be deductible only if there is at least $20,000 of assessable income involved or profits are made in three of the five preceding years arising from the activity or they involve property that is worth at least $500,000, or non real estate assets worth at least $100,000, or if the commissioner uses his discretion to allow the losses to be used for tax loss purposes. It is also significant to note that again the proposed reforms have been watered down by the Treasurer to make special provision for primary producers and, as a result of that watering down, we are seeing a reduction to the budget bottom line of $230 million over four years. So there is yet another erosion of the fiscal situation, yet another frittering away of the nation’s finances in order to respond to political pressures that could easily have been anticipated at the time when the reforms were first contemplated, at the time when they were first announced. But they were inevitably not anticipated by the government and, again, in a bout of panic, in a bout of blue funk, they responded by fiddling with their proposals at a cost to revenue of $230 million over four years in this case.

The final proposal contained in the legislation relates to the use of prepayments and tax shelters in order to obtain tax avoidance advantages. Particularly this relates to the practice of prepaying interest in a given tax year in order to get access immediately to the deductibility of that interest against that year’s income rather than against the income that is going to be generated by the economic activity that that interest relates to. Even here it is worth noting that the estimated amount that will be saved to the revenue is $30 million less for the 2000-01 year than was originally announced by the Treasurer—so yet another step back from the revenue neutrality originally promised with the Ralph reforms, yet another erosion of the fiscal framework.

In general terms, throughout the process I have supported the Ralph business tax reforms. We have had a robust discussion within the ranks of the Labor movement and a broad public discussion about the proposals that have been put forward by the Ralph review, and the stance I have taken throughout this discussion is that, although there are certain aspects of it that in isolation I have some concerns about, I believed that as a package it was reasonable and certainly contained some very important steps forward—one of which is involved in the legislation we are considering in the House today: the crackdown on the use of artificial contract arrangements to avoid PAYE tax and other obligations like workers compensations obligations, superannuation and the like. Provided that these initiatives were seen collectively as a package and that they were implemented as promised and that they were revenue neutral, they were worthy of support, which is the position where the opposition has ultimately ended up. It is unfortunate that the government has backed away from its
commitment on some of these particular issues, thereby reneging on its agreement and also undermining an already fragile budget situation. To the tune of $700 million over four years, there is a difference between the original figures announced by the Treasurer with respect to the business tax reform proposals and the reality that is now factored into the budget—$700 million of slippage is quite a substantial amount. That is revenue neutrality out the window, so we no longer can say that these reforms are effectively leaving the fiscal situation relatively untouched.

However, we cannot step away from the fact that these initiatives are important—they do involve a major streamlining of the system—and stopping tax avoidance is of fundamental importance to maintaining the integrity of government and the integrity of the system in this country. Particularly on the matter of contractors, the core reason that this issue has to be addressed is that the situation that is now prevailing and is gradually spreading is one where you have individual taxpayers who are in identical circumstances in all respects, earning the same amount of money, but one taxpayer is able to substantially reduce the amount of tax that they pay by entering into artificial contract arrangements that remove their employee status; whereas the other taxpayer, who is earning an identical amount of money, is unable to do so. That is grossly unfair and inequitable.

To those who might say, ‘Why not let both of them do that? Why not let everybody enter into these arrangements?’ the obvious answer is that you then end up with no PAYE tax system and a huge hole in the revenue, and you therefore have to find the money from somewhere else. Inevitably, where that will come from, particularly under this government, is the GST, a more regressive form of taxation which may leave people in the middle not greatly different in their circumstances—not hugely worse off or hugely better off—but which will very much disadvantage people in the lower income parts of the community. That is why these issues have to be dealt with. That is why we have to crack down these arrangements: to ensure that there is a level playing field and that, whatever the taxation arrangements are, they apply equally to all citizens according to their income and not according to their ability to enter into artificial arrangements that allow them to slip away from complying with their obligations under the law. That is the core issue at stake here.

It is worth noting that, whether we like it or not, tax all comes from the same place. A lot of the debate about taxation in this country proceeds under the assumption that any given particular form of taxation occurs in isolation and that in some way we can take action in one area of taxation without affecting the broader picture of the economy at large and the taxation activities have occurred with respect to that economy. Ultimately, all that tax is is the collectivisation of a given proportion of our economy. It is the Australian people together, through democratic decision processes by this parliament, making a decision to pool some of the proceeds of their economic activity for collective activities, for activities that make sense for us as a group to conduct—obviously, things like defence and foreign policy, Medicare, education and the like. That is all taxation is.

Although the form of the taxation and the way it is levied and who it is levied upon clearly influence the structure and the outcomes of the taxation process, ultimately it is all the same thing. When you restructure the business taxation arrangements, for example, you do get benefits at the margin from changing those arrangements—if you improve the efficiency and the cost of collection and the equity of the taxation arrangements—but ultimately it is all coming from the same place. For example, the commentary that you often hear about payroll tax and about what a disastrous tax this is, in my view, is perhaps a little inflated. It would be desirable to abolish payroll tax. There is no question about that. In some respects, the fact that that has been left untouched in the business tax reform process is disappointing.

Nonetheless, were payroll tax to be abolished, there would be some other form of taxation taking its place which would impose on companies and the individuals that work for them, own them, or own shares in them a burden roughly equivalent to the payroll tax
burden. That would end up in the economic system as an add-on to the cost base of creating and selling products. At the margins, there probably would be a difference: it probably would marginally improve the labour market by changing the relative situation in the demand for labour versus capital, by making labour a bit cheaper in relation to machines and the like. But we should not overstate these things, because ultimately there will still be a tax burden and it still will be borne by economic activity in some form or other. So it is important for us to understand these things: all of these taxes in a collective sense are all coming from the same thing. They impact differently on different individuals, and so tax decisions clearly have a critical impact on the relative economic well-being of individuals and their circumstances; but, in terms of the totality, they all come from the same place.

My final observation that I would like to make in response to the comments of the honourable member for Cook is on the matter of tax avoidance. It is fairly easy for political parties on either side of the parliament to point the finger at the other and to tell horror stories about tax avoidance, because the reality that we all face is that tax avoidance is something that is very difficult for governments to deal with. I believe that, in government, Labor has been more committed to, and has been more effective in, dealing with tax avoidance than have the conservatives: the record shows that. But it is clear that this is a difficult issue and has been a difficult issue for governments of both persuasions, and we should not deny it.

In response to the member for Cook, I would point out that the real upsurge in tax avoidance in this country occurred in the mid to late 1970s—courtesy of such people as the Chief Justice of the High Court, Sir Garfield Barwick—with extraordinarily convoluted legal interpretations designed to favour artificial tax avoidance schemes like the wet Slutzkins and the dry Slutzkins and various other things and, of course, the infamous bottom-of-the-harbour schemes which the then Treasurer and now Prime Minister refused to crack down on. These are problems for all governments. The record of the conservatives is not good, and they should not point the finger at us. (Time expired)

Mr BARRESI (Deakin) (10.58 a.m.)—The New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 1) 2000 presently before the House relates to the alienation of personal services income and will ensure that people will no longer be able to reduce their tax by diverting the income generated by their personal services to a company, even if they call themselves a contractor. It will also limit work related deductions available to these people. It is a bill aimed at protecting the interests of genuine micro and small businesses, whilst at the same time exposing sham entities created as tax avoidance mechanisms. It is about fairness.

Fairness is one of the main premises behind the new tax system. If everyone pays their fair share of income tax, then everyone’s share should be lower. It is this premise that led to the government being able to promise that 80 per cent of Australians would be paying 30 per cent income tax as of 1 July this year. The legislation before us today is just one more way the government is making sure that people pay their fair share of tax. It is legislation which is also a response to the changing nature of work in Australia. As you would be aware, it is no longer a given that people will work their whole lives in a nine to five job. Australia is becoming more integrated into the global economy, and the workforce has had to adapt to remain dynamic and internationally competitive.

More and more people are trying to find a niche for themselves in this changing global marketplace. To do that, quite a few of them are specialising in a particular area. This is evident by the increasing number of people who are establishing themselves as a micro or small business offering personal service or skills. The classic example is in information technology, and various consultancy services are currently up and running. After all, all you need is a computer, a scanner, a telephone, a mobile phone and a place to park yourself, even if it is not permanent. In fact, in some cases all you need is a car and off you go. These are the tools of trade—this is what you need to set up a business. It is a fact
that the technology which has taken over the running of many jobs has enabled more and more micro businesses to be set up.

Establishing their own business has real appeal for many people. It allows both flexibility and autonomy. It is a way for women to work their way back into the work force and juggle part-time work with family commitments. This legislation provides real support for the growing number of women who want to re-enter the work force. It is also a way to get into the workplace if you have been made redundant, and to continue using your skills. It is also appealing to a number of people just because of the flexibility that it can entail. If one accepts this current scenario and the changing environment, it is no wonder that we have a proliferation of micro and small businesses throughout Australia.

Unfortunately, it is becoming increasingly common that, as a result of businesses making whole sections in departments redundant and employing contractors in their place, people out there are trying to find their niche. Whether these companies are doing it under the guise of downsizing, rightsizing or workplace re-engineering, at the end of the day hundreds of people are being thrown out of companies. These people, who may have been offering an in-house service—whether it was in maintenance, in the IT field, in human resources or even in accountancy—are now having to subcontract their skills back to that employer. For example, I have seen in large companies where I have worked in the past—I do not say this with any great pride—particular in-house teams completely wiped away. These were companies that employed a maintenance team as part of their permanent staff. That maintenance person is now more likely to be re-employed as a contractor, even though in most cases the person will report to the same line management, use the same workshop and tools and do the same job they were doing a week earlier. In fact, there still may be a smaller team present, in most cases doing the same job as an employee of that company.

There are thousands of contractors and microbusinesses in my electorate of Deakin, and they will welcome this legislation. They offer a wide range of personal services: IT, consulting, human resources, family based services, maintenance, accounting, etcetera, as I mentioned earlier. They vary in size. Some of them are single contractors working from a home office. In Deakin, more than 1,000 home based businesses have sprung up. Some of these businesses may employ associates and work from home or they may work in serviced office suites down the road. The number of clients they have and their turnover varies dramatically. But, despite their diversity, they are all generally legitimate contractors. Unfortunately, there are those in the community who exploit the current tax system by creating tax avoidance entities; people who call themselves ‘contractors’ so they can enjoy lower tax rates and more deductibility. We have all come across them from time to time. It is a manipulative and deceitful practice that this government wants to see fixed. Unlike the contributions from the member for Hotham, this government is very serious about addressing the manipulation and the deceit that proliferates out there amongst some of these businesses. This legislation tackles that issue very well. I note the Ralph Review of Business Taxation identified this practice of alienation of personal services income as being a growing threat to the income tax base. They found it was clearly unfair that some people were reducing their tax or claiming excessive deductions while hiding behind the term ‘contractor’ when ordinary employees were paying higher rates of tax.

Families and their welfare have always been a priority of this government. We believe in rewarding people for hard work. People that are struggling to support a family should not be expected to support people who do not contribute their fair share of tax. By removing this loophole in the tax system everyone will contribute their fair share. This will benefit everyone, not just a few. By our cracking down on people who are illegitimately using the term ‘contractor’ as a tax dodge, revenue will increase by over $1 billion in the next three years. This has to mean lower tax rates are a reality for everyone.

To accommodate as much diversity as possible, contractors will be classified as a personal services business if they satisfy at
least one of the following criteria: the person has two or more unrelated clients; has one or more employees; has separate business premises; is producing a result by supplying their own tools of trade; and is liable for the cost of fixing any defective work. I want to take this opportunity to thank the Treasurer for the work he has done in defining specifically who this legislation refers to. He listened and he heard the voices of those concerned about the genuine micro businesses being caught up in this legislation. It was particularly important to attempt to define who is in and who is out and the various definitions of those criteria.

The legislation also takes into account that there are sometimes going to be exceptions to the definition of what we define as a legitimate contractor. For example, on the 80:20 criterion there may be a circumstance where a contractor may for one particular year be receiving more than 80 per cent of their income from the one source. This may not mean they are not legitimate. It could be that they were awarded a huge contract that ran for up to 12 months and brought in the bulk of their income for that year. To a lot of contractors and small businesses, getting a contract of that size would be a dream. In fact, they would probably think that their TattsLotto numbers had come in—all of a sudden they have got a job which guarantees income over a great period with very little need to be doing any more selling. The job is not accepted as a way of avoiding their fair share of tax but simply as a fortunate circumstance of being out there and having their skills in high demand. For example, it would be common for a contractor—be it in the building industry or the IT industry—to be working on a large number of jobs for a range of clients and in one year. But, as I say, they might strike it lucky and the job goes for months, if not years, and consequently accounts for more than 80 per cent of that year’s income. This legislation recognises that business as legitimate and is not avoiding liability to the Taxation Office. I believe we are creating a fair test, not the arduous test of fulfilling all or multiple criteria. Just one will be sufficient.

But even if an entity does not fulfil at least one criterion we recognise that there could be some genuine mitigating reasons. In those circumstances, if they are legitimate personal services businesses and do not satisfy at least one of the criteria for a particular year, they can appeal to the Commissioner of Taxation to gain an individual ruling. This is very fair, a fair system that is in place for those businesses. I doubt whether members on the other side would object to that level of flexibility which will be available to those genuine businesses.

This avenue of flexibility is important in supporting small business diversity but at the same time it eliminates the bulk of people using the term ‘contract’ as a tax dodge. It is also a far more efficient way of determining business tax levels for contractors. Because the laws are so flexible, most of them can be applied without the need to examine each on a case-by-case basis. This would be nearly impossible, given that there are 230,000 contractors affected by this legislation Australia-wide, including 120,000 subcontractors.

I would not be surprised to learn that there will be some larger businesses who would feel that their cosy arrangements with so-called contractors will be exposed. After all, many of these companies will be wanting to reduce their payroll liability by contracting out those vital services which were at one stage performed on an in-house basis. But in some cases I will concede that there will be those businesses who would be lukewarm because they have feared the possibility of anti-dismissal laws being inflicted upon them in the past. Therefore, when they have come to the situation of saying, ‘We have this increase in growth. We have these extra sales. We need more people to be able to do the work,’ they are asking, ‘Do I take that risk? Do I go out and employ that person, knowing full well that I could very well be liable to anti-dismissal laws?’

These businesses are likely to be the ones that, as I say, fear the anti-dismissal laws or find that it is a burden to employ people on a full-time basis. They are businesses that should take out their anger on the Australian Labor Party. The ALP are opposing reforms to our anti-dismissal laws. The ALP should
be taken to task for hindering business in their operation or in some cases stopping them employing people and expanding their business. The ALP have in the course of this debate accused the government of going soft in relation to this legislation. This is another one of their furphies. They are not happy with this legislation, alleging it is a breach of promise. In reality, I would say they are not happy about the concept of creating genuine microbusinesses. The proliferation of small business entities will be outside the control, outside the domain and the sphere of, and cannot be got at by, the union movement. Despite promising to put out a discussion paper on this issue in 1995, the ALP never acted on it. I suspect that is because the ALP has never stood for small business. Perhaps, as I mentioned, this is because it is seen as a threat to their union base.

This legislation is a direct result of the recommendations of the Ralph report. It is simply one of a number of integrity measures that have been introduced as part of the new business tax system. As a government we have always tried to be as supportive and encouraging as possible with small business. We have recognised the valuable contribution they make. We have removed a lot of the red tape involved in registering as a small business as well as cutting capital gains tax and business tax. As a result, small business in Australia is stronger than it has ever been. Even though we are being protective of small business and encouraging them wherever possible, we are also doing everything that we can to make sure that people do not rort the system and that they pay their fair share of tax.

One of the criteria for exemption in this legislation is the establishment of a separate office. This will no doubt be a criterion which will result in much defining, interpretation and possible challenge. I know that there are many local government authorities who already have local by-laws and regulations to control the proliferation of home based businesses. I am sure that their interpretation will be a vital element of this criterion. In my own electorate of Deakin, the Maroondah City Council has guidelines on a number of issues relating to home based businesses, as does the City of Whitehorse. I will be interested to see whether or not their guidelines will be acceptable by the tax office’s interpretation of that criterion.

There is a false perception in the community that, if you are a small business, you will automatically receive considerable tax breaks. So they think, ‘Let’s go out there and set ourselves up as a small business.’ Perhaps one of the problems leading up to this legislation and why there is need for this legislation is that there are so many people who believe they will be getting these tax breaks. The corollary of that is that they fear this legislation removes their ability to have tax breaks. If they look at this legislation very carefully, they will see that, while there may currently be lower tax breaks for businesses, these microbusinesses would need to earn over $80,000 net per year or in excess of $200,000 in revenue in order to achieve the benefits. For a business that is just starting out, that is often nothing more than a pipe dream. When I first started my consultancy business after I left the Repco Corporation, I would have thought that $200,000 in my first year would have been fantastic, and at best I would only get half of that. So what advantage is there to being on a company tax rate? It is one of those false expectations we have when we are setting up small businesses.

Often when a person starts out owning their own small business for the first time, they may have only one client, and they certainly do not earn anywhere in the vicinity of $80,000 net per year. As someone who ran his own consultancy business, I am more than familiar with this scenario. We who have had small consultancy businesses have a saying: ‘When you’re working you’re not selling, and when you’re selling you’re not working.’ It is only you; there is nobody else. It is up to you to do the cold calling to get that extra client. And, if you are cold calling, who is doing the work to earn the revenue from the company you have got a contract with? It is a hard life, and that is one of the reasons why we need to have some of those exemptions to the 80:20 rule and, as much as possible, allow there to be flexibility of interpretation by the Taxation Office. It is also a reason why we need to have the two-year
transition period for small businesses. I am pleased that the Treasurer has included and accommodated the need for the two-year transition period for those small businesses that are just starting out. These people may have only one client in the beginning. That could very well have been their last employer who went through redundancy, downsizing, rightsizing and the re-engineering process that I spoke about before. But if they can demonstrate that they are likely to gather more clients as they progress — that they are genuine about getting more clients — they have nothing to fear; they will be classified as a personal services business.

The transitional provision allows these contractors under the prescribed payments system who had payee deductions to be excluded from the new regulations until July 2002. It will remove any additional compliance burden from the new rules that contractors who are currently in the prescribed payments system face in transferring to the new tax system. The transitional phase will minimise the compliance burden. It is consistent with supporting small business.

The implementation of the new business tax system will mean a fairer system — and this is only a small part of it. Australians hold the principle of a fair go for all dear to their hearts. And this legislation will see everyone paying his or her fair share.

Mr EMERSON (Rankin) (11.18 a.m.)—I come to this debate as someone who, until I entered parliament, operated a small business for a number of years and, at the same time, was a member of the Australian Workers Union. So I think I can bring perhaps a more balanced and interesting perspective to this debate than some members opposite who believe that anyone on this side of the parliament must have no experience in small business whatsoever. Having said that, the New Business Tax System (Alienation of Personal Services Income) Bill 2000, New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 1) 2000 and New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 2) 2000 is one of the government’s so-called integrity measures, but in my view the Treasurer lacks all integrity when it comes to cracking down on tax avoidance.

I want to go through a couple of major examples. One is the abuse of employee share ownership schemes, about which the government has done nothing, and the second is the government’s continuing reluctance to attack tax avoidance through trusts. Firstly, in relation to the abuse of employee share ownership schemes, I am a member of the House of Representatives Standing Committee on Employment, Education and Workplace Relations that is preparing a report on employee share ownership schemes, and I think the intention of all committee members from both sides of the parliament was to examine whether there could be any improvements in the arrangements for employees who seek to own shares in the company in which they work. However, it has become evident through the various submissions that have been made to that inquiry, and most particularly through a submission from the Taxation Office, that more often than not, or at least in many instances, these employee share ownership schemes are not for the benefit of employees at all but for the benefit of company executives so that they can engage in contrived tax avoidance schemes. I refer in particular to a submission dated 30 April to the committee by the tax office. It says, in part:

The ATO has been undertaking a coordinated review of aggressive tax planning practices involving “employee incentives” over the past year or so.

In some instances promoters of these arrangements sought opinions or rulings from the ATO. We provided comfort to some of these arrangements on the basis of our understanding at that time as to the application of the law, and the features of the arrangements. However, when investigations were made into how the arrangements were implemented, the ATO has found that the arrangements were often not in accordance with the legal opinion and memorandum of explanation provided to the ATO. In some circumstances the arrangements appear to be no more than shams.

The submission goes on to say:

The ATO is currently reviewing the products of over 40 promoters involved in the “employee benefit arrangements” described above. On the data we have to date, we would estimate that the
total contributions made by the clients of these identified promoters will, on a conservative measure, amount to approximately $1.5 billion.

I took the initiative of requesting a recall of the Taxation Office to that inquiry when more recent events occurred in relation to the so-called Petroulias affair, which related to the issuing of private binding rulings. At the reconvened hearing with the Australian Taxation Office they confirmed that $1.5 billion of taxpayers’ funds are at risk through these blatant tax avoidance schemes. They expressed optimism that court action would recoup the $1.5 billion but then said that, if it did not, they would recommend to the government retrospective legislation dealing with this.

That was completely unnecessary and would not have happened if the government had moved on this earlier in the piece. In the previous government, Treasurer Ralph Willis announced in the 1994-95 budget that he would be acting against schemes in relation to the avoidance of fringe benefits tax liabilities. That announcement in the budget was followed through with legislation which naturally passed through the House of Representatives because Labor was in government at the time but was blocked in the Senate. We have heard from the shadow Treasurer today that the then shadow Treasurer, now the current Treasurer, took a submission to shadow cabinet saying, ‘We must oppose this. We must oppose the crackdown on these blatant tax avoidance schemes.’ That is exactly what the government did, and that legislation was blocked in the Senate by the then opposition, the current government. This government has never moved on it in a decent and comprehensive legislative way. As a result, $1.5 billion of taxpayers’ money is sitting out there at risk and this government again appears completely reluctant to do anything about it, leaving the tax office to its own devices to try to recoup this money. That is one very good example to support my claim that this government is soft on tax avoidance.

The second example relates of course to trusts. About a year ago or perhaps a little longer, when the government was looking at the possibility of taking action against tax avoidance through trusts, the then Deputy Prime Minister of Australia was reported in the media as saying, ‘We will kill this in cabinet.’ I have to say that it seems to have been pretty effective because we are still awaiting legislation cracking down on trusts. There is a perfectly plausible explanation for the government’s continuing reluctance in that area, and that is the number of members on government benches who operate trusts. Their hearts are not in it when it comes to cracking down on tax avoidance through those sorts of schemes.

This government is weak in taxing the strong and strong in taxing the weak. As a result of its risky tax scheme to be implemented on 1 July, the top 20 per cent of income earners will get half of the income tax cuts, and many lower and middle income earners, pensioners and self-funded retirees will get very little. I refer here to the most recent analysis by Professors Ann Harding and Neil Warren. It is reported in the Weekend Australian of 27 and 28 May. The assumptions behind that analysis are as follows. The consumption patterns for any particular household group are the same. For example, if a two-income couple with no children were earning $100,000, their consumption pattern would be the same as that of a two-income couple on, say, $20,000. That is plainly untrue. It is a statistical problem that they cannot overcome. It means that it leads to a bias, in the estimates of Ann Harding and Neil Warren, in terms of the impact of the tax changes from 1 July—a bias which overstates any benefits that go to low income earners.

The second assumption in all this—and this will affect people who are not on automatically indexed pensions—is that all indirect tax reductions go through immediately. That is, on 1 July, all the wholesale sales tax reductions and any other indirect tax reductions occur and flow straight through to the consumer. Again, that is very unrealistic. Thirdly, for any households that have a mortgage, there is no account taken of the four rises in interest rates that have occurred in relation to this risky tax scheme. The net result is that the figures, which I am about to quote from the Warren and Harding analysis, tend to overstate any benefits from the tax
package. In its $410 million publicity campaign, the government has said that everyone is a winner and they are going to go really well as a result of this tax package.

I will just refer to a few examples of the massive net benefits that the government is claiming for people. Let us take a single person on $25,000. According to this optimistic Harding-Warren analysis, the net benefit to that person is $1.67 a week. I have another couple of examples. If a two-income couple with no children were earning $30,000, they would get the princely sum of $1.69 a week. If they were on $45,000, they would get 77c a week. A two-income couple with one child on $45,000 are going to get—wait for it—$1.11 a week. So it goes on. Another example is of a two-income couple with no children where the income is split two-thirds: one-third. In this case, if their combined income is $30,000, they can look forward to 66c a week. I will go to some of the people who are on benefits. For example, an aged pensioner couple would get, as a result of this, optimistically $2.63 a week. A single age pensioner would get $1.74 a week. A single, self-funded retiree on an income of $10,000 would actually lose $1.15 a week. So much for the government’s repeated claims that there are no losers from this tax package! A self-funded retiree couple on $20,000 would lose 69c a week.

They are just some examples of this government’s practice of being weak in taxing the strong and strong in taxing the weak. The current Prime Minister is complicit in this softness on tax avoidance. In the mid-1980s, when Labor was introducing fringe benefits tax and capital gains tax to deal with the rampant tax avoidance at that time, the current Prime Minister in this place said, ‘I smashed the tax avoidance industry.’ He says that he smashed the tax avoidance industry when he was actually dragged kicking and screaming and did it only after about three telephone books worth of memos were provided to him by the tax office begging him to do something about the bottom-of-the-harbour scheme and the Slutskin schemes. He did not want to do it. He was dragged kicking and screaming and finally implemented measures such as part IVA, the general anti-avoidance provision, which he says smashed the tax avoidance industry. We find now that the government is proposing amendments to part IVA and new anti-avoidance provisions. I hope they go through, and I hope the government does follow through on those. But so much for his claim that he smashed the tax avoidance industry!

This is the same Prime Minister who, at that time, viciously opposed the FBT and the capital gains tax and threatened marginal Labor members with campaigns. He said, ‘I’ll be leaving here and we’ll be going out on the weekend to campaign against all you people for bringing in a capital gains tax and a fringe benefits tax to deal with tax avoidance.’ And now they come forward trying to pretend that they have credibility in dealing with tax avoidance. The current Prime Minister not only opposed Labor’s fringe benefits tax and capital gains tax but also opposed Labor’s foreign tax credits system. Up until that time, when that legislation did go through, all a company with interests overseas needed to do was be assessed for tax overseas, not to actually pay any tax. If you were assessed for tax overseas, then you had to pay no tax here. The Prime Minister thought that was a really terrific arrangement because, again, it provided massive avenues for tax avoidance for Australian companies with interests overseas. He did not want to do anything about that and, again, voted against it and said, ‘But I smashed the tax avoidance industry.’

In relation to this legislation, I want to make it clear that I have no problem with genuine contractors. Genuine contractors perform an important role in the economy. As I said, I was a small business person. That therefore made me a contractor in particular cases. I am not arguing that genuine contractors should be treated as anything other than genuine, but there is a whole range of sham contract arrangements going on, and that is what this legislation was supposed to deal with. Its purpose is to include in an individual’s assessable income and to restrict the deductions available where an interposed entity such as a company or trust is used to receive income which otherwise would be included in the individual’s assessible in-
come. Importantly, the amendments will not apply in a number of situations, mainly where the individual or entity is conducting a personal services business. That is what the legislation is meant to do.

Under current tax law, a person will be taxed as an employee where a common law employment relationship exists. In circumstances other than a common law employment relationship, the general anti-avoidance rule contained in part IVA of the Income Tax Assessment Act will be used to apply. The Ralph review identified a major avenue of tax avoidance and a major leakage from the revenue which was projected to grow dramatically as more and more people realised the tax advantages of getting into sham contractor arrangements. Those major advantages are twofold. Firstly, income splitting allows the contractor to split income with other members of his or her family, therefore availing themselves of two or more tax free thresholds and lower marginal rates of tax. The other big advantage is greater deductions. Most particularly, this applies to travel expenses to and from your place of work. If your place of work happens to be your home, then in a sham contract arrangement you get the benefit of any travel from home and to home, which is not available to ordinary PAYE taxpayers.

There is another advantage, that is, the deferral of tax. If a company is used as an interposed entity, then you can pay the company tax rate and defer distributing the balance of it to yourself, waiting for a year when perhaps your applicable marginal tax rate would be lower. That actually gives you an advantage of averaging income tax, which is not available to others, and also the present value advantage of being able to defer that tax.

As the shadow Treasurer said, on the Labor side we debated vigorously whether we could support the government’s business tax package. One of the key considerations in our decision to support it was taking at face value and accepting the word of the Treasurer that he would be genuine in dealing with this major and growing problem of tax avoidance. In response to a letter from the shadow Treasurer relating to conditions under which the ALP would support the various proposed changes to the business tax system, the Treasurer stated:

The Government will introduce all the business tax changes announced in full.

This is just another in a plethora of Peter’s porkies. Obviously, he had no intention of implementing those arrangements in full. The list of Peter’s porkies is getting very long because he reneged—

Mr DEPUTY SPEAKER (Mr Quick)—Order! The member should refer to the member by his official title.

Mr EMERSON—Thank you, Mr Deputy Speaker. He reneged on that arrangement. In fact, he has inserted a number of provisions in this legislation that were not discussed with the shadow Treasurer. Most particularly, he inserted a two-year transitional period so that a contractor who has made PAYE declarations under the prescribed payments system, as of the day of announcement of these measures, would not be subject to the new rules. Then there were the three tests. These two changes—the three tests and the transitional arrangements—amount to a very substantial weakening of the Ralph recommendations and amount to a reneging by this Treasurer on his undertakings made to the shadow Treasurer. The transitional arrangements are going to cost $440 million over three years. Overall there has been a leakage of $700 million from the government’s announced intentions in relation to business tax integrity measures in the budget, compared with the announcement that they made.

I am watching with interest the debate going on in the Senate inquiry on this because I remain gravely concerned about some of these tests. Some of them appear to be very weak. I am particularly concerned about the test relating to unrelated clients. A briefing from the Parliamentary Library, with which I agree, says:

The entity gains income from two or more unassociated parties during the year and that income is the result of offers or invitations to the public or a section of the public to provide the services (an example given is advertisement). However, only listing that the services are available with a business that arranges to provide services directly for clients of the entity will not be taken as an offer to the public.
I think this is a particularly weak provision. That is why I will be watching the debate in the Senate inquiry with great interest and concern. The briefing from the Parliamentary Library heightens my concerns. In its concluding comments, it says:

The Bill is not a complete implementation of the recommendations of the Ralph Report. It appears to mingle the Ralph criteria for whether an employee-like situation exists with the 80% rule, although under the Ralph recommendations these are separate issues. This has led to a substantial weakening of the original criteria, particularly regarding the 80% rule.

It says finally:

The business services test seems to encourage, rather than remove, opportunities for contrived arrangements to emerge to defeat the principles espoused in the Ralph Report.

These are very serious concerns. As the shadow Treasurer said, other than this second reading amendment, we will not be moving further amendments here, but we reserve the right to have a very good look at the report that is produced out of that Senate inquiry. This Treasurer appears, yet again, for base political purposes and for industrial relations purposes, to have squibbed his duty of office to crack down on tax avoidance. He has been rolled by the Minister for Employment, Workplace Relations and Small Business and the Prime Minister who are obsessed with smashing the building unions and are prepared to pay a very high price in order to achieve that objective. (Time expired)

Mr ANDREW THOMSON (Wentworth) (11.38 a.m.)—I am interested in this development in our tax law, especially because before being elected to parliament and for part of the time I worked in Australia I found myself in much the same position as the taxpayers at which this attempt to codify common law is quite obviously aimed. The term ‘alienation of personal services income’ sounds very dry but, if you think about it in real terms, it is what you see when you drive or wander around any of our large cities—people going from place to place pursuing opportunities to earn an income from their clients. They are the contractors, the men or women who work in a physical sense or, increasingly, who work in a more cerebral way, especially in the more vigorously growing sectors of the economy—information technology and so forth. There are changes in the way Australians are earning their income, and necessarily our tax law must adapt to meet those changes in order to ensure the integrity of the tax system. On the other side of that coin, there are some profound dangers of government inflicting damage on the necessary growth in our community if a government, via legislation, seeks to go too far and perhaps discourages entrepreneurial activity within the economy.

These business tax system bills deal with people who operate with their clients through an interposed entity—that is, a company or a trust. That is, they render some service and the invoice they provide to their client is not a personal invoice but that of a company or trust. There are many genuine reasons for doing this, not necessarily at all to avoid or take advantage of some aspect of the tax acts. There is an increasing tendency for large entities, whether government or private, to outsource work, and this has led to a number of people working on their own, in a sense meeting the needs of these large clients much more efficiently than if they were full formal employees of the company, the department or whomever the client might be. It also provides more flexibility. It reduces the oncosts of such entities. These all have very good flow-on effects for the economy.

The purpose of these bills is to remove any tax advantages that may apply where the actual working situation is employee-like. This is a very old distinction under common law. We learned in law school the difference between a contract of a service and a contract for services. There was many a sleepy afternoon in the lecture hall, and a lot of us here in the chamber have spent time getting a grip on the difference between the two. The old common law rule was that the difference really depended on the degree of control that the employer or client had over the taxpayer in that case—and, of course, the more control, the more likely that they were, in a sense, an employee or a servant, according to the old master-servant relationship. One good guideline to use in a modern context to try to draw this distinction is in section 87-60(5), which gives the tax commissioner the discre-
tion to make a determination, to declare somebody a contractor for the purposes of the act, and the test is that the taxpayer must actually be paid not on the basis of the hours worked but on the result. That is a very commonsense way of expressing the actual situation of an independent contractor.

There are advantages that a person might derive in a taxation sense were they to satisfy these tests. The previous speaker enumerated that there are things like income splitting where a company might take advantage of tax-free thresholds to be claimed—family members and so forth may be members of the company or beneficiaries under the trust and then they are assigned incomes split among them. In my view, ‘income splitting’ is not a dirty word. For example, in a family where one parent stays at home and does not earn an income, a sacrifice is being made for the benefit of children in that circumstance. Therefore, it is not just a black and white case to say that, where income is split between a husband and a wife where the wife may contribute in some fashion to the business, although not on a full-time basis, it is a terrible thing. I do not think it is. Secondly, there is the opportunity to deduct expenses—travel expenses, expenses of business premises or tools of trade. Of course, there is also the possibility of deferring a tax liability. So, where a company or a trust retains profits instead of distributing them by way of a dividend or whatever, tax is not payable in that year.

You have to weigh up those tax advantages against the economic disadvantages of earning income in this way. There is no doubt that outsourced work is more vulnerable to the economic cycle. A person working in these circumstances does not attract the protection that an employee does under some common law rules and certainly under a lot of statutory rules in Australia. So you have to balance the tax advantages with the reduced security of income. In the Ralph report there was an interesting expression of what they were trying to do in proposing these reforms. They said that economic transactions having the same economic substance should be taxed similarly, regardless of their legal form.

It sounds very fair; I think it is very fair. Certainly it sounds like a very sensible way to approach equity in the taxation system. But it seems to introduce a new concept to the debate about this aspect of tax law, and that is economic substance. What does that really mean? Is it the same as the common law rule where, if the employer has perhaps more control than less, the taxpayer is deemed to be an employee? Control, you might say, implies some obligation on the employer to provide security to the employee. If you take a dim view of the world, you might say that that is being a little too optimistic in these days with so much downsizing and so forth.

Very few employers appear to voluntarily bear any obligation to their employees. They seem to act sometimes, it is said, in a very ruthless way to satisfy the voracious demands of their shareholders. These are often superannuation funds that are fiercely scrutinised by consultants who make ferocious recommendations to the trustees of funds, and therefore fund managers compete with great pressure on management of corporations. Hence the old-fashioned feeling between employees and employers has perhaps gone the way of the draught horse. But that is not always the case. There are many businesses in Australia, large and small, where I think there is very good feeling between employer and employee. These obligations that provide security to employees are really quite real. There are many employers who will put away money, resources and profits in good times in order that they may keep on their employees during bad times. They value their loyalty, skills and so forth. I think there really are clear disadvantages, in a sense, to earning one’s income in the form of a contractor. The balance is quite real.

The Ralph report recommended that, in a sense, we try to codify more effectively the common law rules. They proposed various tests. One interesting one was this notion that, if 80 per cent or more of the income of a so-called contractor in a particular year was derived from one client, really they were acting in an employee-like manner and hence should not be allowed to alienate income, or be treated as alienating under the act. What
does ‘employee-like manner’ mean? There are other elements to the test for that—for example, the degree of control. Were the services contracted to the public, or were they really only available to one particular client? Does the entity have substantial income producing assets such that the income from personal services is really just incidental? Also, are there one or more personal service providers—that is, one or more people—working for the entity providing the services? A more general test is the degree of entrepreneurial risk. I would like to be in the court room when the judge tried to define that. Anyway, they are trying to help us, as a parliament, deal with their recommendation to codify these rules more effectively.

The general rule then under this bill is that personal services income is to be included in assessable income, even where it is earned through an entity, unless an exemption applies. How do you express the exemption? They say that, if the income is gained from a personal services business, it should be exempt and it can be treated as being allowed to be alienated. What is a ‘personal services business’? There are three tests under section 87-15: the unrelated clients test, the employment test and the business premises test. The unrelated clients test in section 87-20 says that, where there are two or more clients that are not associates of each other being provided services by the taxpayer, that satisfactorily proves that the taxpayer is a contractor. The employment test means that, if the entity employs other people who undertake at least 20 per cent by market value of the individual’s principal work for that year, likewise they will be deemed to be a contractor. Lastly, and in a more complicated way, under the business premises test, where the individual maintains and uses business premises which are physically separate from his or her private residence, private premises, or, also, if they are physically separated from their clients’ business premises, likewise they will qualify.

I think this is going to prove very difficult when the commissioner seeks to apply it. For example, imagine a house with many rooms on a fairly substantial piece of land in urban Australia. A person is doing contracting work for a particular client in, say, the information technology area. He or she may take a room within that house and set it up as a workshop, even having the electricity separately billed and separate telephone lines. They put a lock on the door to keep out the dog and the cat, and to keep out their hungry children who in the afternoon might come and ask mummy or daddy for biscuits or sweets and disturb the working atmosphere. Those business premises are obviously not physically separate in an ordinary sense, yet in reality they are business premises.

So, if that is not allowed, what happens if the person goes out to the garden shed, down the bottom of the garden, sets that up beautifully with different electricity and telephone services and so forth, and then conducts the business from there? That seems pretty obviously to qualify under this test. Yet, in reality, it is barely different from doing it in a front room which has all sorts of design features to very clearly make it separate—it may even have a different entrance on the side. That would fail and yet the shed would qualify. This is going to be difficult to deal with, but I think it is a genuine attempt.

Another interesting and quite useful attempt to introduce some reality into this whole legislative scheme is subsection 87, subsection 60. It provides further grounds for the commissioner to make a determination that a person should be allowed to alienate their income. It states:

(5) However, the Commissioner may make the determination if satisfied that:

(a) the individual’s personal services income is for producing a result; and

(b) the individual is required to supply the plant and equipment, or tools of trade, needed to perform the work from which the individual produces the result; and

(c) the individual is, or would be, liable for the cost of rectifying any defect in the work performed.

There was some concern among government members as to what plant and equipment or tools of trade would mean. For those members who are particularly interested to see the IT industry, in which there are many individuals often working for one client, develop, the question arose: does a laptop computer
constitute tools of trade? This is the device obviously by which software is designed, databases constructed and so forth. The answer was, yes, of course that would qualify as a tool of trade. It need not simply be shovels, chisels—the old-fashioned tradesmen's tools. The more modern instruments would likewise qualify. I think the scheme does go so far in that it allows the commissioner a discretion to include new forms of contractors to be included within these provisions.

One thing regarding deductions that are allowable for people who qualify under these exemptions which intrigued me is contained in section 85, subsection 15. It prevents deductions for the running expenses of a room in a private home that is used by a contractor to earn assessable income. The business premises test is very strict, very tough, that you have to be outside your home. You do not qualify even if you determine physically a part of it to be your working or business premises. The act does not prevent you deducting the cost of heating or lighting a room within your private home if you use it from time to time to earn assessable income. I do not know that this will cause such trouble in the future. It has always been the case in the past that a person who is behaving as a contractor and not an employee in earning their assessable income has been allowed to do this. Perhaps this is just a provision which saves that rather sensible aspect of the tax law that has always been the case.

Generally speaking, I think we can say that parliament must always take great care not to err too much to one side where there are two very important competing interests to be satisfied. In this case it is the integrity of the revenue collecting mechanism of this country. The other interest is the right of every red-blooded Australian to organise their affairs in whatever damn way they want, whatever the tax consequences might be. We must never allow those rights to be reduced other than by legitimate attempts to protect the integrity of revenue collection. We must not be overcome with jealousy, envy or resentment of people who, by dint of their daring, imagination, diligence, go out and seek to earn income by themselves.

There are a lot of unfortunate and profoundly wrong notions around these days in modern public debate about how private enterprise is damaging the planet—this David Suzuki rubbish you hear from time to time where people are warned against entrepreneurial activity because it is ruining the future for our children. This kind of rubbish has done terrible damage to parts of the Commonwealth in the past. I think the state of Tasmania has suffered particularly from this sort of rubbish. It should have been given the opportunity to develop more of its resources and earn more income for its people. The David Suzuki theory, as I call it, has done terrible damage. That aside, we have to stand up for the rights of people who want to work on their own. There is huge restructuring going on in the world economy. If Australia is to make its way and maintain its income standards, we need freedom and more freedom. At the same time, we must do what we can to protect our tax system so that the notions of fairness still obtain. (Time expired)

Mr RUDD (Griffith) (11.58 a.m.)—One of the critical dimensions to this debate on the New Business Tax System (Alienation of Personal Services Income) Bill 2000 is that it goes to the heart of the integrity of the Treasurer, the integrity of his tax package, both ANTS and Ralph, and the integrity of the entire budget on which it is constructed. If you put the elements together we get a very sorry picture indeed—one which stands in stark contrast to the triumphalism of the Treasurer in this place day in and day out as he pursues his own relentless campaign to become Prime Minister, to replace his friend and soul mate the member for Bennelong.

If I have learnt one thing in my 18 months in this place, it is that, when we in this parliament are treated to a daily display of rhetorical eloquence by the Carey Grammar School Debating Society, we must always bear two or three things in mind, and they are dissimulation, deception and double standards—dissimulation about the implementation of this tax package; deception about the true state of the budget; and double standards when we contrast what has been promised in terms of the integrity meas-
ures outlined in Ralph and what has been delivered in reality through this legislation.

The raft of integrity measures is clearly outlined in Ralph. The measures are crystal clear. They are not marginal; they are central to Ralph’s package. This was Ralph’s concept of how to preserve an effective revenue base—not the ALP’s concept, but Ralph’s concept. What was the Treasurer’s, the would-be Prime Minister’s, response to this? After ducking and weaving for six months, once Ralph had finally hit the deck, the Treasurer finally summoned up the courage to issue a statement on 11 November last year about the avoidance industry which he described—his words, not ours—as ‘a growing threat to the revenue base of the Commonwealth’.

Then, in order to secure passage of this piece of legislation, that is the Ralph package, through the parliament with the bipartisan support of the Labor Party, the Treasurer then writes to the shadow Treasurer, Mr Crean, and provides an undertaking that the integrity measures outlined in Ralph will be honoured. The Treasurer writes to the shadow Treasurer: ‘The government will introduce all the business tax changes in full.’ The language here is important—’All the business tax changes’, not some, not a few, not just the ones that happen to pass the National Party party room seal of approval. No—all the business tax measures outlined in Ralph, according to the Treasurer’s letter, would be implemented by the government.

Not only does the Treasurer provide this undertaking to the shadow Treasurer in correspondence, but he goes one step further. He commits that undertaking into the Hansard, into the record of this parliament, as well. But what does our Treasurer, our man of steel, tax reformer of the century, subsequently do—he who is in search of the keys to Kirribilli? He squibs it, he dogs it, he folds in a heap, demonstrating with clarion clear finality that his words, including his words to this parliament, count for nothing.

I came to this place only 18 months ago with a somewhat curious, old-fashioned, Edwardian view that we all have to be particularly careful about what we actually say in this place, the Parliament of the Commonwealth of Australia, that our words here actually count for something, that the parliament is somehow a unique institution where neither a minister nor a member should engage in language which is knowingly misleading. Well, thank you, Treasurer, for disabusing all of us of that antiquated notion. The new benchmark which the Treasurer has set in this place by his personal handling of the tax avoidance issue alone is that in this place, it seems, you can say anything, you can do anything, and get away with it.

I sometimes question whether those who sit opposite in this parliament, who come from the conservative parties in this country, quite understand the cumulative impact which they have on the institutions of this country, including the parliament. When you do Politics 101 at university one of the first things you are taught is that conservatism is all about the preservation and defence of the institutions of the nation and that it is only, supposedly, ratbag socialists who get into the business of tearing those institutions down. But the mob that we call the conservatives in this country have gone on a comprehensive institutional rampage. When you put it all together—the parliament, the Public Service, the other institutions of public administration across the country—we have seen a rampage of the sort which would make the Goths and the Vizigoths blush with underachievement.

It is not just the Treasurer—one of the highest office holders of the land—treating this parliament with contempt by welshing on an explicit commitment to those of us who are elected to this place and who form the parliament of the country; it is also his abuse of the national accounting standards of the country in the way the budget papers have been presented. It is his abuse of the independent office of the Auditor-General, who had the temerity recently to ask a question about whether the Treasurer had properly treated a loan to the states as a grant, or a grant as a loan, depending on which side of the argument you came out on in the end. The point I make here is not on the substance of the argument, as that has been made elsewhere. The point is that the Treasurer, reacting to the language used by the Auditor-General when he simply said, ‘Let’s have a
look at this,’ was, in today’s AM program, to summarily dismiss the views of the Auditor-General as if he were irrelevant to the entire process.

Again, I have this somewhat antiquated view that the office of the Auditor-General is one which we in this place and in this nation at large are supposed to respect; it is one of the independent parliamentary institutions, accountable to the parliament, which we are supposed to respect. But the Treasurer’s language, in response to the Auditor-General again having the temerity to ask some questions about whether the Treasurer’s treatment of that matter in the budget papers a couple of weeks ago was right, was to say this morning, ‘The Auditor-General is just wrong.’

But it does not stop with the Auditor-General. We have also had in this place most recently the illustration of political pressure on, and the attempted abuse of, the AEC to provide electoral roll information as a basis for executing the government’s party political GST advertising campaign. This assault on the independent institutions does not stop here. There is the $420 million advertising campaign itself—taxpayer dollars being used for party political purposes. I wonder whether the conservatives opposite have grasped what new benchmark they are establishing for future government, both in this place and around the country across the states, in terms of what will now be regarded as the acceptable use of public advertising campaigns for party political purposes.

The bottom line is that by the government’s action in funding the current extraordinary campaign we see on the nation’s television sets at the moment—a mark of the success of which, I suppose, is the Newspoll which has been released this week which shows where the government’s support out there in the community really lies—the conservatives in this parliament, who run the government of this country, have fractured yet another institution of this nation, one which says that when you engage in a public advertising campaign you are supposed to be in the business of providing factual public information, not one—

Mrs Draper—Mr Deputy Speaker, I rise on a point of order. The member for Griffith is supposed to be speaking to the New Business Tax System (Alienation of Personal Services Income) Bill 2000. What he is talking about is totally irrelevant to the bill.

Mr DEPUTY SPEAKER (Mr Quick)—I remind the honourable member for Griffith that the bills in focus at the moment are the new business tax system bills.

Mr RUDD—All these matters are germane to the debate before the House which goes to the question of tax avoidance because the integrity of the nation’s taxation system goes to the integrity of the revenue base; it goes to the integrity of a budget which is constructed on that basis; and it goes to the integrity of the institutions on which government and public administration in this country rest. If the honourable member in her intervention finds some difficulty in establishing the connection between those propositions, then I suggest that is a problem for the honourable member rather than a problem for the debate before the House. When you aggregate these factors, they come together in a seamless whole: the question of the independence of the Auditor-General, the independence of the AEC, the use and abuse of public advertising, the politicisation of the ABC and the destruction of Radio Australia, not to mention the independence of the Public Service itself.

But what we have had on this question of tax avoidance is a plain and flagrant illustration of the Treasurer of the Commonwealth, one of the highest office holders of this country, coming into the parliament, making a statement that he is going to honour and implement the undertakings which he gave both to the shadow Treasurer and to the parliament on the full implementation of Ralph—including all of the integrity measures—and welshing on them. The proposition I am putting to the parliament is that that is part of a pattern. It is part of a pattern which treats the public institutions of the country with contempt. It says to the country at large and to members of parliament in particular that you can come in here and say anything and then turn around and do completely the
reverse. That is entirely germane to the debate which is before the House.

So what we have here is no more than the Treasurer, in a most arrogant and cavalier fashion, simply having complete disregard for the importance of the explicit commitment—not a partial commitment—he gave to this parliament on the full implementation of Ralph’s anti-tax evasion measures. It is a sorry symbol of this Treasurer’s lack of integrity, and it also goes to the heart of the question of this government’s habitual debasing of the institutions of the Commonwealth, including most seriously the parliament itself. As I said at the outset, we are talking about not just double standards on the question of tax avoidance and the integrity of the revenue base of the Commonwealth but also other illustrations of dissimulation and deception which flow from it. We are not just talking about the difficulty which arises when we have a Treasurer saying one thing and then turning around and doing the other. We have not only the moral consequence of that—but also the direct financial implications arising from that. Welshing on this particular undertaking contained in Ralph has not been achieved in some revenue neutral fashion; it has a direct financial impact on the budget.

The bill before the House will raise $440 million less than the Treasurer, Mr Costello, promised last year. As the Deputy Leader of the Opposition and the shadow Treasurer said earlier in this debate, this is an enormous amount of money. It is money that could have been used for a whole range of expenditures by the Commonwealth in critical areas or, alternatively, been used to restore integrity to the effective budget deficit which this Treasurer brought down in this place two or three weeks ago. For example, if we look at the numbers again—and it is worth repeating to the nation what this additional amount of money, this money which could have been raised by a proper crackdown on tax avoidance, could have been used on—what could $440 million purchase? It could purchase 1,800 primary and secondary school teachers over four years; 120 new primary schools; almost 1,500 extra public hospital beds for four years or the treatment of around 140,000 extra public hospital patients; almost 110,000 apprenticeships over four years; over 1,600 police over four years. These are just some of the possibilities that could have been realised, as the deputy opposition leader outlined before, had this Treasurer had the integrity to honour his commitment to this parliament and to the nation on a full and comprehensive crackdown on tax avoidance.

This $440 million hole compounds the government’s overall budgetary predicament. The government, in this debate on the budget, announced to the markets and to the country at large that we have not only a cash surplus but also a structural surplus. As we know from the debate which ensued, that is not the case at all. We have in fact a cash surplus, artificially propped up by a one-off asset sale of spectrum. We have the unusual treatment of a particular Reserve Bank of Australia bank dividend, as well as the totally unorthodox treatment of a grant to the states as a loan in order to remove it from the government’s accounting books. We do not have anything resembling a budget surplus as a consequence of these measures. We have in fact a deficit. We have got not just a cash deficit but also—as Access Economics has recently demonstrated through its contribution to this debate—more seriously a structural budget deficit. All of this has occurred at a time of very high growth in the international economy. Why, therefore, was the government not able to bring about an effective budget surplus under these highly benevolent and highly benign economic conditions which have prevailed around the world? It was because of the government’s $12 billion bailout, necessary to fund and buy political capital to support the introduction of the GST. So, at a time when the government is cash strapped—not because of any adverse international economic factors, but because of its independent fiscal folly through the decision to cross-subsidise the implementation of the GST by $12 billion worth of tax concessions—it finds itself in a fiscal predicament.

But rather than addressing the fiscal predicament in which they have found themselves, taking a robust approach to tax avoid-
ance, and taking up the undertakings to this parliament by the Treasurer some months ago that he would crack down on tax avoidance through the measures outlined in Ralph, what did they do? They welshed it, and it is not a small amount of money which has been welshed on; we are talking about an amount which approaches one half of a billion dollars each year. That has an effect on all Australians, including rural Australians who are suffering declining services under the stewardship of this government.

In the handling of this entire matter we have seen evidence of double standards from this Treasurer on the whole question of the implementation of effective antitax avoidance measures. We have seen this Treasurer engage this parliament most recently in what could only be described as one of the most deceptive sets of budget papers that has been presented to this parliament since Federation. We have also seen the government’s continuing dissimulation and the Treasurer’s particular dissimulation on the impact of the tax package, both GST and the other elements of ANTS, which are currently before the parliament as well.

I do not refer again to the whole impact of the advertising campaign we have on the nation’s televisions at the moment. But just reflect for a moment on the role the ACCC is playing in the government’s attempt at dissimulating on the real impact of this tax out there in the community—that is, how can a Treasurer or government reconcile these two accounts? We have a statement from the Treasury, presumably in consultation with the Treasurer, that the reason for this yawning chasm between one set of price lists and another is that the ACCC ‘uses a model that provides more detailed price estimates’. I would have thought that the public of this country when approaching a package of this complexity would have liked a bit of detail rather than the sort of averaging which seems to have been artificially engaged in by the Treasurer early on in order to produce a maximally politically sensitive set of price rises.

In all, what we have is double standards, dissimulation and plain deceit when it comes to the question of the management of tax avoidance in this economy, when it comes to the question of how the budget is best presented and how it is presented most accurately. We see the continuation of this in the ongoing management of the GST in its impact on the economy. (Time expired)

Mrs DRAPER (Makin) (12.18 p.m.)—I rise to speak on the new business tax system bills. I would like to refute everything the previous speaker, the member for Griffith, has just said. I remind the member for Griffith that one of the most important achievements of the last four coalition budgets is that we have managed to pay the $13
billion deficit left to us by the Australian Labor Party in 1996. When you learn to manage money, please let us know, because one thing all Australians know is that the Labor Party cannot manage money.

Mr Rudd—On a point of order, Mr Deputy Speaker: I know the honourable member is only just into her speech, but this is not in any way relevant to the legislation before the House.

Mr DEPUTY SPEAKER (Mr Quick)—There is no point of order. The honourable member for Makin.

Mrs Draper—Thank you, Mr Deputy Speaker. As my honourable colleague the Treasurer pointed out in his second reading speech on 13 April 2000, the New Business Tax System (Alienation of Personal Services Income) Bill 2000 will prevent individuals reducing their tax by diverting the income generated by their personal services to a company, partnership or trust and limit work related deductions available in those cases—and to an individual contractor in similar circumstances. To be more specific, firstly, this bill seeks to prevent individuals reducing their tax liability by redirecting income generated by their personal services to a company, partnership or trust. Secondly, the bill seeks to limit work related deductions available in these particular cases.

Although these measures limit the deductions individuals or entities that are not operating a personal services business can make, those who are entitled to claim business related deductions under current tax arrangements will still be able to continue to do so. Personal services income is defined as income earned from the effort of a person, such as their labour or skill. An entity will be classified as earning personal services income if it earns income that is gained mainly as a reward for the personal effort or skill of an individual. Earnings from work will continue to be treated in the same way for all taxpayers, regardless of whether income is earned through a company or any other entity, or earned directly by the individual. The other side should indeed be pleased that these measures will not affect genuine independent contractors such as those who work in the building industry. It is with pleasure that I will refer to their public comments in a moment.

The recommendations of the Ralph Review of Business Taxation which this bill addresses specifically refer to alienation of income. As discussed in detail in the Ralph review, alienation can occur when income from personal services is paid to an entity rather than directly to the individual who has earned it. This therefore enables those entities to pay less tax than if they were taxed as individuals. This is because they have the ability to split income, access lower tax rates and claim deductions for a larger range of expenses.

In Australia, to deal with the issues of alienation of income we currently rely upon common law rules and on the general anti-avoidance rules in part IVA of the Income Tax Assessment Act This is generally applied on a case by case basis. Tax can be avoided by income alienation by redirecting income made to an individual for personal services through an interposed entity which is then income split amongst a number of individuals to reduce taxable income which would normally be subject to a higher taxation rate. This also enables the individual to have access to a greater range of business deductions. These measures which the bill implements are very important, as they will undoubtedly enhance the fairness, integrity and equity within the tax system. This bill seeks to make the tax system more equitable, as it is genuinely unfair that some taxpayers are able to reduce their tax liability by claiming excessive deductions by using interposed entities, whereas other taxpayers continue to pay the correct amount of tax.

Current practices also pose a growing threat to the income tax base. To reiterate, people in substantially the same financial and work situation are paying significantly different levels of taxation. Income splitting can also enable individuals who are in receipt of high remuneration to reduce their taxable income so they and members of their families can be eligible for a range of income tested government payments and avoid a range of other obligations, such as higher education contribution charges, Medicare levy, super-
Evidence of the erosion of Australia’s taxation base is indicated in the statistics from the Australian Bureau of Statistics of July 1997, which show that the number of owner-managers of incorporated entities more than quadrupled between February 1978 and February 1997, increasing from 110,700 to 465,900. By addressing this problem, a projected $915 million in taxation revenue will be raised over the next three financial years. These measures will protect the revenue base and are in line with the government’s commitments on revenue neutrality. They have originated from recommendations 7.2, 7.3 and 7.4 of the Ralph review of business taxation, and are the government’s response to these recommendations as announced by the Treasurer on 11 November 1999.

Income earned by the entity from the personal services of the individual will be treated as such and subject to the personal rates of tax. Entities that earn 80 per cent of their income from one source will require a determination from the taxation commissioner that they are a personal services business. This may be given for one of four reasons: they have two or more unrelated clients; they have one or more employees, including apprentices; they have separate business premises; or they are contracted to produce a result, supply their own plant and equipment or tools of trade, and are liable for the cost of rectifying defective work. Special arrangements will also apply to entities that earn 80 per cent or more of their income from one source due to unusual circumstances.

Another very important factor in this bill is that there is a transitional provision whereby the Commissioner of Taxation can make a declaration for a period of two years. This will have the effect that the regime will not apply to a class of contractors under the prescribed payments system who have payee declarations as of 13 April 2000. This declaration will apply for two years, ending in July 2002. Taxpayers under the prescribed payments system are subject to withholding arrangements and are specifically recognised as independent contractors under the tax laws.

This transitional arrangement will remove any additional compliance burden from the new rules that independent contractors currently in the prescribed payment system face in transferring to the new tax system. The Housing Industry Association has publicly welcomed this decision on contractors and I would like to take this opportunity to quote parts of their media release:

The HIA has applauded the government’s legislation to deal with the alienation of personal services income. The legislation puts a fence around genuine contractors who are running a personal services business while retaining the integrity of the tax avoidance measures. ...

The government at the outset gave HIA assurances that the housing subcontract system would not be jeopardised by the proposed measures. The government has honoured its commitment. The two year exemption to apply to contractors in the prescribed payments system, recognises very sensibly that the PPS has been identifying genuine contractors for nearly 20 years. ...

The legislation should provide a level of protection to contractors who might be at the margin on the substantive tests. The streamlined approach will enable businesses to stay focused on the implementation in their business of the GST and PAYG arrangements. For the housing industry it removes a dark cloud of uncertainty and preserves the highly efficient contracting system that has served the Australian home buying public so well.

I would also like to take this opportunity to pay tribute to Mr Bob Day, who is the former president of the Housing Industry Association in South Australia. He is from my electorate of Makin. He was the president for two years and is currently a board member of the national division of the Housing Industry Association, as well as chairman of the Membership Services Committee. I pay tribute to Mr Bob Day because not only does he encourage his members to put forward policy ideas to the Department of the Treasury and to the Hon. Mr Peter Costello but also he creates a lot of employment in my electorate of Makin in the building industry and has been a tremendous help for us in this area.

The bill outlines tests that will allow the commissioner to determine whether an entity is running a business. The bill clearly delineates that the measures will not deem an individual to be an employee for the purposes of other legislation or industrial awards and that
the legal status of the entity is not affected in any way. This bill amends the Income Tax Assessment Act 1997 to introduce rules dealing with the income tax treatment of the personal services income of interposed entities and individuals, and will not apply where the individual or entity is conducting a personal services business. I reiterate that it will also not affect the legal status of an interposed entity or deem an individual to be an employee.

The transitional arrangements will also be outlined in the provisions. Specifically, the entitlements to business deductions that can be claimed against personal services income for individuals will continue, as per the current tax provisions. For example, deductions that will continue to be allowed include expenses incurred in gaining work or earning your income, such as advertising; insuring against loss of income, earning capacity or liability; complying with workers compensation law; and meeting obligations under the GST. However, deductions will not be allowed for rent, mortgage interest, payments to associates—unless they perform the principal work of the entity—or home to work travel. The deductions for entity maintenance expenses, cars which are used entirely for business purposes, the expenses of one private car and the associated fringe benefits tax liability, and superannuation for those doing the principal work of the entity, will not be affected. Given these facts, it is with great pleasure that I commend the bill to the House.

Mr CADMAN (Mitchell) (12.30 p.m.)—A great class of people, a great hardworking group of people, have been branded as tax cheats by the Deputy Leader of the Opposition here today, and it is not the first time that he has done it. I refer the House to the speech he made in the parliament in the matter of public importance debate on 13 April when he accused the Treasurer of placating tax cheats. He said:

What has been revealed is plenty of losers except the tax cheats.

That is a disgusting term for hardworking Aussies. I would like him to come out on a few building sites and meet some of the people from my electorate who own their own truck, whose family are dependent on them day to day and who are not paid when it starts raining. Any circumstances of weather can put them off the job without pay. They pay tax from the first dollar they earn, not from $6,100 or whatever it will be with the new tax changes. These people are dependent on their skills and their capacity to move from employer to employer and from job to job. Owners of utilities and blue cattle dogs are the real strength of the working force of Australia. These are the people that are on the job day to day. These are the people who are not employees. These are the people who branded by the Deputy Leader of the Labor Party, Simon Crean—a former leader of the union movement—as tax cheats. They are not tax cheats; neither are the truck drivers, neither are the computer subcontractors. They are dependent on their own skills to get jobs. They are not employees and, as such, are not tax cheats.

The Treasurer has, in the tax legislation that we are debating today, carefully drawn the line between what is an employer and what is an employee. There are a number of tests to prove whether a person is taking advantage of tax concessions and calling himself an employer. I would contend that there is little tax advantage, when you add up all the factors for the people I have described, whether they are employers or employees. So often they are told to become subcontractors because the company that they work for is sick and tired of unfair dismissal claims and the oncosts that the union movement has dumped on employers, making it more and more expensive for them to employ anybody. They are reluctant to employ. They do not want to have additional people on their payroll if they can avoid it. How have they approached this? They have decided that the best way to solve their labour problems is to employ subcontractors. Who could blame them? The going rate in Sydney for an unfair dismissal is $10,000. What small businessman can unexpectedly meet a bill for $10,000 because some employee who worked for them some years ago suddenly feels that they are aggrieved and makes an unfair dismissal claim? That has been the way that it has worked. It is a tragic thing for relationships in the work place that the governments of Aus-
— but not this one — have provided an opportunity for those people who want to dream up, to invent, to feel put upon, and in that way make a claim against their employer. There are genuine cases of unfair dismissal — I acknowledge that — but the legislation in the state of New South Wales is so wide open you can drive a truck through it. That is why people with the capacity to employ others are reluctant to employ them. They are also concerned about the huge costs of Workcover, the huge costs that apply to superannuation and other commitments they must make. For every dollar that an employee takes home, the employer must find another dollar just to keep them in their job. The cost of employing somebody in Australia today, but particularly in New South Wales, is very high indeed.

I appreciate the assistance I am getting here in the House. It is making my life much easier. I am really surprised that Simon Crean, the Deputy Leader of the Labor Party, would come into the parliament and accuse these hardworking people of being tax cheats. Speech after speech by members of the Labor Party this morning have hinted at the same thing. And, if they have not hinted at it, they have been outright in their condemnation of hardworking subbies, hardworking people in the building and transport industries, hardworking people in the new technology industries, as being tax cheats. I will not stand for that. I think that is wrong. They have got to come forward with their facts. They cannot speculate about a group of people in that way and brand them as tax cheats when they are not. These people work extreme hours. They work under extreme conditions.

Mr Slipper — Is it any wonder small business does not support Labor?

Mr CADMAN — That is a fact. It may also indicate why Australia has one of the most efficient home building industries in the world. In fact, we are considered to be world class, a world leader, in our home building industries, and in our transport industries as well. One of the reasons is that we are dependent on the subcontractual process. People in Australia are encouraged to buy a large rig, a long-distance road truck, and to pull into Mayne Nickless or TNT or any of those companies, and drag their trailers around Australia, purely dependent on their own skills as drivers, purely dependent on their capacity to organise successive loads, purely dependent on their families to take the phone calls and back up the process that is in train for them to earn a living. They are not tax cheats; they are hardworking Australians. If there were more like them, Australia would be a better place.

The legislation deals with this difficult area of who is an employee and who is not. But there is no flow-on to the industrial relations area, although I notice within the last couple of days a report in the Australian Financial Review by Stephen Long entitled ‘Contractors gain employee rights’, something contractors do not want, which says: Thousands of workers previously regarded as independent contractors could gain rights to claim unfair dismissal following a key industrial relations tribunal ruling.

The article said that the Industrial Relations Commission found:

... that an owner-driver working for Mayne Nickless Express as an airfreight courier was an employee — and therefore entitled to claim unfair dismissal — even though the company regarded him as a self-employed independent contractor.

There is the Industrial Relations Commission inserting a reading on a person’s status that affects his tax paying capacity. His whole status — both in an industrial relations and a business sense — has been interfered with by the Industrial Relations Commission. I do not know the circumstances of this particular case; however, I do know that the TWU have for many years campaigned to sign on long distance road transport operators, even though they may own $½ million worth of transport equipment. Even though their trucks may be worth that much money the TWU has mounted campaign after campaign to sign on these people, even though they are small business people. I think that is a distressing situation. One only has to speak to those long-distance road operators, the owner-drivers, to find out how they reject the Transport Workers Union and what it claims it wants to do for them. An independent contractor is such, and it should be to the contractors’ opinion that we refer, rather than to
the opinion of somebody wanting to sign up
members for a union.

This legislation places a number of tests
on what is termed ‘alienation of personal
services income’. The measures in the legis-
lation address the situation where individuals
earning income from labour—that is, per-
sonal services income—escape tax by earn-
ing their income through an entity, for exam-
ple, a company, a partnership or a trust, and
thereby alienate their personal services in-
come. I think that is a very touchy area be-
because, as I have already said, many employ-
ers are sick and tired of the imposts and
overheads, the on-costs that they have to
meet. The uncertainties of dismissal claims
have forced their employees to form compa-
ies and have in fact dispelled their work
force, disposed of their work force, and
they have signed them all on as subcontractors.
And they are treating them like subcontract-
tors too. It is no longer the relationship of
master and servant but in fact that of head
contractor and subcontractor.

So the Taxation Office has sought to clar-
ify this issue and has made some rulings in
regard to this matter. It is a very delicate area.
I would like to see more people self-
employed. Young people in my area say to
me that is their goal. Self-managed employ-
ment is what they want. They do not want to
work nine to five for a boss any longer. That
sort of stability, as an older generation would
regard it, is something that is not challenging
enough for young people. They are seeking,
in fact, the challenge of providing personal
services for non-fixed income but also with
the additional attraction of making their own
decisions, making their own plans and,
thereby, being in control of their own destiny.

Personal services income is, by definition,
income earned from an effort of a person,
such as their labour or skill. Mr Deputy
Speaker Quick, I do not know what you are
like on computers, but my guess is that you
would not be too crash hot as a computer
programmer. I would not be either. I would
be the first to admit it. So the personal skill
that a person brings to what is now a highly
technical industry is something that has to be
regarded as an asset, a tool, a way in which
they are equipped to fulfil their task. So how
they use that skill—the skill of their brain
and analytical and logical powers—to put on
to a computer in electronic form a program
that will perform tasks is a matter, I think, of
a shift from a manual dexterity, trade skill
environment and society to one where
knowledge has become more important. So
the sale of knowledge in this instance has
become one of the pre-eminent factors. How
do we evaluate knowledge in an area where a
person is working? Do we say that they are
using their knowledge as a tool and, there-
fore, have become subcontractors? Or do we
say that they are using their knowledge as
part of the employment contract they have
with their employer and, therefore, are classi-
ﬁed as employees? It is a fascinating area.

I refer to the National Business Bulletin,
an excellent publication in which Phil
Ruthven from IBIS Business Information in
Melbourne has presented some interesting
charts. Phil has the capacity to look ahead in
these things, and he has been looking at
Australia’s fastest growing industry sectors.
Information and technology is No. 1; busi-
ness services, No. 2; wholesale trade, No. 3;
then tourism, finance and insurance, personal
services, education, health, hospitality, rec-
reation and entertainment services; and then
down at about No. 10 we have mining. So the
growth areas in the Australian economy now
and for the next five or six years are knowl-
dge-based industries. They have been
growing the fastest, and will continue to
grow the fastest. Therefore, the demand for
work to be performed is a knowledge-based
demand. Therefore, is it any wonder that the
new employees, the new contractors, the new
demand for services—for personal services,
in fact—comes in the area of information and
technology?

So those changes to our economy are very
obvious, and we have to deal with them in
this industrial tax environment. Phil Ruthven
goes on to discuss the fastest growing indus-
try sectors, examining the services and
knowledge era from 2006 through to 2040. In
his view, the fastest growing industry sectors
will be household services, knowledge in-
dustries—that is, databases and the Inter-
net—IT&T, business services, hospitality,
health, tourism, recreation and entertainment,
personal services, insurance, education, mining and agriculture. A radical new era in agriculture brings it on to the bottom of the chart for that period, which I think is terrific. Then again, one looks at the fastest growing industry sector of the services and knowledge era and one sees that the capacity of an individual to use the skill of their brain and the knowledge they have acquired will be the key demand in the workplace. Therefore, the relationship between those persons—whether they be employees or subcontractors—needs defining, and I am not at all sure that the personal services process that we are looking at completely accomplishes that. I have had people saying, ‘Alan, you have made some great changes to this legislation to accommodate the needs of people who are self-employed, but you need to think harder about the person who works in computer or knowledge industries because you have not quite met our expectation.’

As part of the definition, how does an entity know if it is earning personal services income? If an entity earns income which is gained mainly as a reward for the personal efforts or skill of an individual, ‘Income’ is not personal services. ‘Income’ is when the personal services are ancillary to the supply of goods or if the income is mainly from income producing assets. For example, the income gained by an entity, business or subcontractor from transporting goods in a semitrailer is not personal services income because the income is generated principally by the semitrailer. There we are saying that you have to have something other than your physical body before you are regarded as providing a personal service and therefore run the chance of being deemed an employee.

How is the alienation of personal services income achieved? Alienation can occur when income from personal services is paid to an entity rather than directly to the individual who has earned it. I read on:

Income paid to an entity provides individuals with the ability to pay less tax—I believe that is contestable, but I am quoting—than they would if they were taxed as individuals. This derives mainly from the opportunity to split income to access lower tax rates and the ability to claim deductions for a larger range of expenses. I have not spoken to many people who are self-employed subbies who say, ‘We do this because there is a tax advantage.’ They are businesses proud of being businesses, and they are operating effectively as businesses.

There are a number of tests, but I hear that the 80 per cent of work being done for a single entity is the main test. That is not the ultimate test. Special arrangements have been made for those people who earn 80 per cent or more of their income from one source due to unusual circumstances. A start-up business may be one. A person may have one long-term contract that runs over a period of a year or two, but they may be picking up or intend to pick up other clients. In the building industry we very sensibly agree that anybody currently classified as a subcontractor and who pays the prescribed payments tax is automatically included as an employer-subcontractor and not an employee. So the personal services test has made allowances for the building industry. I trust that the government, as it goes ahead in this area, will be able to adjust these tests to suit the circumstances of a knowledge based industry. There must be some flexibility and not tests of whether or not somebody else is employed, whether work is advertised or not, whether separate business premises are maintained or whether tools are provided. As I have indicated, knowledge industries do not rely on tools; they rely on skills and knowledge.

Mr IAN MACFARLANE (Groom) (12.50 p.m.)—Unfortunately—or perhaps fortunately, going by some of the comments made by the member for Makin about earlier speakers from the other side—I was unable to hear the first part of this debate on the business taxation bills. I had the fortunate and very rare occurrence of being granted a leave pass by the Chief Government Whip to attend a function last night hosted by the board of Telstra.

Mr Slipper—How did it go?

Mr IAN MACFARLANE—It went extraordinarily well. The attendance of the board of Telstra in my electorate not only signifies the importance of Toowoomba and the Darling Downs in a national context but
also gave an excellent opportunity for local people to meet and to hear the views of the board and, at the same time, to give the board some of their own views. It is important that local communities be given access to the nation’s industry leaders, and I took the opportunity while the Telstra board were visiting to ensure that the local mayors and local industry leaders had the opportunity to put their concerns across.

We as a government acknowledge that there are still concerns to be resolved with regard to Telstra, but it is very safe to say that there is a growing degree of support in regional Australia for the sale of Telstra. Anyone who doubts that needed only to spend some time at my table and listen to the chairman and CEO of Telstra as they discussed the hampering effect that continued government involvement in Telstra was having in the company’s ability to expand, to raise capital, to be competitive, to grow its market share and of course ultimately to secure the positions of its employees, which are so important. I did not get the opportunity last night to talk to John Ralph, who was there, to perhaps discuss a little further some of the business tax reforms that he was involved in and obviously that this government has put forward. That is probably the first reason that the member for Griffith misspent most of his time for the small part of his speech that I could bear listening to. I have to confess that I turned it off in the end and concentrated on other much more important issues. The other reason that he was unable to say much on the specific topic is that this is exceptionally good legislation. It is legislation which brings equity, fairness and, most importantly, stability to this very important area. Contractors and subcontractors are a growing breed in Australia. They are small business men and women who have taken up the challenges of going out there and doing it for themselves, enjoying the freedom that self-employment offers and aspiring to deliver excellent services, to ensure quality workmanship and to be able to grow their businesses free of the shackles of trade union impositions. Of course, employers have been keen to accept this format as well, and I think this legislation will make it clearer and easier to understand for all those involved.

Mr Slipper—Like the Sunshine Coast?

Mr IAN MACFARLANE—No, unfortunately, it was not the Sunshine Coast, member for Fisher. I think it is going to be somewhere down on the New South Wales—Victoria border; but, as I say, we make a bad mistake if we believe everything we read in the papers. I did in fact emphasise to the chairman of the Telstra board that I would be bitterly disappointed were it to be put on the coast. I thought the head of regional Telstra should be somewhere inland in regional Australia.

I go back to some comments that I have heard since coming into the House at about 11 o’clock this morning. I was particularly disappointed to hear the comments of the member for Griffith. I have known the member for Griffith for some time. In his former life, he played an important role in the Queensland state government. I have a great deal of respect for his intellect. But I guess the thing that stood out in his speech was that he really had nothing to say about this legislation. He probably had nothing to say for two reasons. I will not humiliate or taunt the opposition by holding up their tax policy as our Treasurer has done from time to time, but the simple fact is that Labor do not have a tax policy that has any meaning or respect out in the wider community. I am not sure why that is, but they have embarked continually on a process of tearing down all the positive alternatives that the current government has put forward. That is probably the first reason that the member for Griffith misspent most of his time for the small part of his speech that I could bear listening to. I have to confess that I turned it off in the end and concentrated on other much more important issues. The other reason that he was unable to say much on the specific topic is that this is exceptionally good legislation. It is legislation which brings equity, fairness and, most importantly, stability to this very important area.

I note the member for Makin’s comments about the HIA and the general support from the industry, which uses subcontractors and contractors. Having had a couple of meetings with the HIA, can I congratulate them on their strong advocacy of the subcontractors that their industry involves and the fact that they were prepared to sit down around the table with the government and in a constructive but forceful way ensure that this legislation was able to work well with their industry. I guess that is typical of the legislation
we have seen across the board with tax reform. It is a simplification. It is about making the tax system practical. It is about ensuring that we do have the support of the people who are affected by tax reform as we go about reforming the tax system in what is undoubtedly the greatest tax reform that this country has ever seen. It is tax reform that is well overdue.

I will go back to the subject of the dinner last night. Guests spoke quite freely about the difficulties that they thought they were going to have with the new tax system and how they were coming to terms with them and complying. Those who did suffer some difficulty and perhaps some financial cost were unanimous in their view that, regardless of those, tax reform in Australia is well overdue, and they welcome the reforms that this government is bringing in. Of course, out in the street the talk of $12 billion of personal income tax cuts far outweighs and drowns out the cries and scare tactics that are being mounted by those who sit opposite here. People are starting to understand that the introduction of tax reform and the GST will actually be good for them, that it underpins their families, that it provides added assistance and that it actually ends the tyranny of bracket creep and rewards the battlers and middle income earners who were almost taxed into oblivion by the Labor Party when they were in government.

Industry is accepting of good tax legislation, and this is a great example of it. The amendments will limit and clarify the reductions available to interposed entities and individual contractors against personal income. As well, they will ensure that, after allowing deductions to interposed entities, any income remaining is attributed to the individual. This means that people who are genuine contractors, people who are not interested in rorting the tax system, people who the member for Mitchell described as salt of the earth battlers—the people who get out there and have a go, who pick up their hammers or these days their laptops and set about earning an honest living and paying an honest rate of tax—will not be affected by this legislation. In fact, they can take a great deal of heart from this legislation because it is there to ensure that they will be able to continue to claim the tax deductions that they are rightfully entitled to.

There has been a great deal of misinformation, one might call it, about this legislation. Again I have no understanding of why that would be. I would imagine that we come to this House as both government and opposition to ensure that good legislation is carried. So it has been a bit of a job and a bit of a disappointment for the government to have to go out there and re-explain the criteria for this legislation. The criteria include the following. The test for personal services businesses is that they must perform work for more than one client to the value of 20 per cent; that is to say, they must have more than one client and that second client must be receiving at least 20 per cent of their work by value. They should have, as I say, two or more unrelated clients and their business premises must be separate from their residence. They must be producing a result; they must satisfy the commissioner that they can produce a result. They must be liable for the costs of rectifying any defective work that they have performed. They must supply plant and equipment or tools of trade.

In outlining just those few criteria, obviously you would understand, Madam Deputy Speaker, as do the many contractors in my electorate of Groom, that this legislation will not affect them and that what they have read in the newspaper, again a little inaccurate, and what they have heard from the opposition, again entirely inaccurate, is not the case. In fact, this legislation merely cements their position as contractors. It cements their competitiveness and of course for those businesses who run as partnerships the personal income tax cuts that will be coming on 1 July will make them only even more competitive. If you are a subcontractor and you are supplying tools of trade, your tools of trade are going to be cheaper. Your tools of trade are not always covered by the sales tax legislation—that incredibly complex sales tax legislation that we have at the moment. They are not always an aid to manufacture and, therefore, tradesmen find themselves paying 22 per cent to 32 per cent sales tax on day to day tools of trade.
An incredible thing I found when I was a farmer—and I have mentioned it before in this House—is: if I bought a spanner to fix a bolt on a header, a harvester or combine harvester, whatever you like to call it, it was tax deductible. But, if I bought exactly the same spanner and used it in exactly the same farm workshop to fix a tractor, it was not tax deductible. So complex is the current sales tax legislation. Of course, as I have said, tradesmen and subcontractors will be freed of that. They will simply go in, pay their GST and claim their GST. The burden of indirect taxes, whether on their utility, their tyres, their spare parts or their bits and pieces is immediately lifted off them.

The personal income tax cuts and drops in company rates of tax are all good news, but this is even better news. This legislation is going to ensure fairness and equity in the marketplace to ensure that those people who should be paying tax will be paying it at the right rate. For those people who have been trying to claim they are subcontractors and of course are not, this is bad news, but those people are the people who have been avoiding tax. Those people, because they are avoiding tax, because they are not meeting their obligations, are the ones who push the rate of tax up for the honest taxpayers. The alienation of personal services income will also end the overclaiming of income tax deductions by people who are not entitled to those deductions. Again the response that I have had to this is, 'If I am a genuine subcontractor and I am out there competing for a job and I know that I have got to build into my job a rate of income tax to ensure that I end up at the end of the day with a profit to live on, I don’t want to find that some unscrupulous person who is not making the commitment in plant or who is not set up in the proper way is able to undercut my price out there simply by avoiding income tax.'

This legislation is merely part of the many tax reforms that our government is introducing. It is, as I have said repeatedly, part of the tax reform system which is the greatest reform of the taxation system that you and I have ever seen. It is part of the reform of a tax system which is antiquated. It is the tax reform that, given time, clarity and experience, I have absolute confidence the businessmen and businesswomen of Australia and every man and woman in Australia will greet, enjoy and profit from. I commend the legislation to the House.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (1.05 p.m.)—I would like to thank all honourable members who participated in this debate on these three important new business tax system bills currently before the chamber. These bills are some of the business bills the government has introduced into the parliament to implement its broad ranging business tax reforms. The government is implementing these business tax reforms following 12 months of extensive consultation with the business community through the review of business tax headed by Mr John Ralph AO. In September and November last year the government announced its response to the recommendations of the review and since then has been consulting with business on implementation details of the measures as was foreshadowed in September.

The government’s business tax reforms contain a broad range of measures, including a number of integrity measures, some of which have already been legislated, and the one that we are debating here today. The government has already, for example, legislated important measures preventing loss duplication, preventing value shifting through debt forgiveness and the taxation of consideration received from assigning leases. As part of its business tax reforms, the government has also already legislated sufficient or significant cuts in company tax and capital gains tax rates which will give Australia an internationally competitive business tax system. The government has also introduced scrip-for-scrip rollover relief and additional rollover relief and exemptions from capital gains tax for small business. These business tax reforms complement the broader reforms that the government has introduced, such as cuts to personal income tax rates, changes to family assistance and reforms of Commonwealth-state relations and indirect taxation reform.
The bills being debated today implement an important business tax measure which will improve the fairness of the tax system. The measures are based on the recommendations of the review of business taxation. The bills will prevent individuals from reducing their tax by diverting the income generated by their personal services to a company, partnership or trust and will limit work related deductions available in those cases and to an individual contractor in similar circumstances. The provisions of this bill will apply where individuals and interposed entities receive at least 80 per cent of their personal services income from one source, unless the commissioner makes a determination that the income is from conducting a personal services business. The commissioner may make such a determination on one of four grounds: having two or more unrelated clients, having one or more employees, having a separate business premises or that the individual or entity is producing a result, supplies their tools of trade and is liable for the cost of rectifying defective work.

The government has also introduced in the bill a specific transitional provision to minimise the compliance burden associated with moving to A New Tax System. Under this transitional provision, the Commissioner of Taxation will be able to make a declaration that has the effect that the regime will not apply to a class of contractor under the prescribed payments system who have payee declarations with the commissioner as of 13 April 2000, the day the bill was introduced. The declaration will apply for a period of two years ending on 30 June 2002.

In designing this transitional provision the government has had regard to the fact that taxpayers under the prescribed payments system are currently subject to withholding arrangements and are specifically recognised as independent contractors under the tax laws. The government has also had regard to the logistics of the commissioner being able to process a potentially large number of requests for individual determinations for the 2000-01 income year. The transitional arrangement will remove any additional compliance burden from the new rules that independent contractors currently in the prescribed payments system face in transferring to the A New Tax System.

Before I go on to address some of those matters addressed by honourable members during the debate, I note that this bill deals only with issues of taxation; it does not affect the legal status of an interposed entity or deem an individual to be an employee for the purposes of any other legislation or industrial award. The honourable member for Melbourne raised the issue of some other integrity measures that are not part of this bill. I do not know whether he got mixed up as to what legislation we are actually debating. For example, he raised issues relating to non-commercial losses and prepayments. I would like to point out to the honourable member for Melbourne that, as with the measures that are part of this bill, these measures also aim to improve the integrity and fairness of the tax system. The honourable member for Melbourne and other honourable members will have the opportunity to speak to these measures when the relevant bill is debated in this place. The appropriate bill, the New Business Tax System (Integrity Measures) Bill 2000, has already been introduced to the parliament and the government hopes that it will be able to be debated and passed shortly.

A number of honourable members, such as the honourable member for Hotham, raised some concerns about the grounds under which the Commissioner of Taxation can make a determination. In particular, it was claimed that where an entity receives more than 80 per cent of its income from one source it will be easy to meet the unrelated clients test by having two unrelated clients. I would, however, like to note that in fact having two unrelated clients is not sufficient to meet this test. Where an entity receives more than 80 per cent of its income from one source it will be easy to meet the unrelated clients test by having two unrelated clients. I would, however, like to note that in fact having two unrelated clients is not sufficient to meet this test. Where an entity receives more than 80 per cent of its income from one source and seeks to rely on the unrelated clients test unusual circumstances would need to exist. For example, a business that takes on one long-term contract would be able to seek a commissioner’s determination if it had two or more unrelated clients in preceding years and reasonably expects to do so again in the future.

Alternatively, a business may be in its start-up phase and have only one client in the
beginning. A commissioner’s determination may also be able to be sought in these circumstances if they reasonably expect to have two or more unrelated clients in subsequent years. I am pleased to note that the opposition seemed satisfied with the employment and separate premises tests included in the legislation and that it intends to support the bill in this place today after the pious amendment is defeated.

The honourable member for Hotham and other members have claimed today that the government has not implemented the measures as recommended by the Ralph Review of Business Taxation and is not in line with the government’s commitments in relation to revenue neutrality. The facts simply are that the government’s legislation is in line with what was recommended by the Ralph review. The legislation raises revenue of $190 million in the year 2000-01, $290 million in 2001-02, $435 million in 2002-03 and $515 million in 2003-04.

As I noted earlier, the government has included a transitional measure in the bill to assist those affected by the bill that are involved in the transition to the A New Tax System. It is also in recognition of the potentially large number of determinations that might otherwise be requested prior to 1 July 2000. The honourable member for Hotham complained that the government did not consult him—he is being a bit precious, I think—in relation to the transitional measure. The government did not give a commitment that it would consult the honourable member for Hotham on such matters. Since it introduced the measure, the government has been consulting with business on the implementation details. One of the concerns raised related to the need to gear up for the A New Tax System and, in recognition of this, the government has implemented a transitional rule. Honourable members opposite might recall there have been Senate committee hearings into this legislation. I would draw to their attention the fact that even the CFMEU—no friend of the coalition government—recognised there might be a need for a transitional measure.

The honourable member for Hotham has moved a second reading amendment and it will not be of any surprise to the opposition that the government rejects it. The second reading amendment is grossly inaccurate. It claims that the government has in some way been guilty of soft treatment of tax avoiders, and in particular I reject that. In my earlier remarks I pointed out some of the integrity measures that this government has brought in. We do not resile from those. We do not apologise for the fact that we want everyone to pay their fair share. I think people are sick and tired of the kinds of pious amendments to bill after bill that are moved in this place by the honourable member for Wills, the honourable member for Hotham and other Labor members.

The government is implementing the Ralph recommendations on the alienation of personal services income. The government rejects what the opposition is saying. The Ralph report, at page 292, clearly identified the need for an entity conducting an independent trade or business to get a favourable determination from the commissioner. The further grounds referred to by the honourable member for Hotham identify those contractors. This legislation is important legislation. It is delivering on a commitment we have given to the Australian people, and I commend the legislation to the chamber.

Question put:
That the words proposed to be omitted (Mr Crean’s amendment) stand part of the question.

The House divided. [1.22 p.m.]

(Madam Deputy Speaker—Mrs J. Gash)

Ayes……………  73
Noes……………  59
Majority………  14

AYES

Abbott, A.J. 
Andrews, K.J. 
Bailey, F.E. 
Barresi, P.A. 
Billson, B.F. 
Brough, M.T. 
Cameron, R.A. 
Charles, R.E. 
Downer, A.J.G. 
Elsen, K.S. 
Fahey, J.J. 
Forrest, J.A * 
Georgiou, P. 
Hardgrave, G.D. 

Anderson, J.D. 
Anthony, L.J. 
Baird, B.G. 
Bartlett, K.J. 
Bishop, B.K. 
Cadman, A.G. 
Causley, I.R. 
Costello, P.H. 
Draper, P. 
Entsch, W.G. 
Fischer, T.A. 
Gambor, T. 
Haase, B.W. 
Hawker, D.P.M.
Hockey, J.B. Hull, K.E.
Jull, D.F. Katter, R.C.
Kelly, D.M. Kelly, J.M.
Kemp, D.A. Lawler, A.J.
Lindsay, P.J. Lloyd, J.E.
Macfarlane, I.E. May, M.A.
McArthur, S * McGauran, P.J.
Moore, J.C. Moylan, J. E.
Nairn, G. B. Nohl, G. B.
Nelson, B.J. Neville, P.C.
Nugent, P.E. Prosser, G.D.
Pyne, C. Reith, P.K.
Ronaldson, M.J.C. Ruddock, P.M.
Scott, R.C. Secker, P.D.
Slipper, P.N. Somlyay, A.M.
Southcott, A.J. St Clair, S.R.
Stone, S.N. Sullivan, K.J.M.
Thompson, C.P. Thomson, A.P.
Truss, W.E. Tuckey, C.W.
Vaile, M.A.J. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Wooldridge, M.R.L.
Worth, P.M.

**NOES**

Adams, D.G.H. Albanese, A.N.
Bevis, A.R. Bereton, L.J.
Burke, A.E. Byrne, A.M.
Cox, D.A. Crean, S.F.
Crosio, J.A. Danby, M.
Edwards, G.J. Ellis, A.L.
Emerson, C.A. Emerson, C.A.
Ferguson, L.D.T. Ferguson, M.J.
Gerick, J.F. Gillard, J.E.
Griffin, A.P. Hall, J.G.
Hatton, M.J. Hoare, K.J.
Hollis, E. Horne, R.
Irwin, J. Jenkins, H.A.
Kerr, D.J.C. Latham, M.W.
Lawrence, C.M. Lee, M.J.
Livermore, K.F. Macklin, J.L.
Martin, S.P. McChelland, R.B.
McFarlane, I.E. McLeay, L.B.
McMullan, R.F. Melham, D.
Morris, A.A. Mossfield, F.W.
Murphy, J. P. O’Byrne, M.A.
O’Connor, G.M. O’Keefe, N.P.
Pibesek, T. Price, L.R.S.
Quick, H.V. Ripoll, B.F.
Roxon, N.L. Rudd, K.M.
Sawford, R.W * Sciaoca, C.A.
Sercombe, R.C.G * Sidebottom, P.S.
Smith, S.F. Tanner, L.
Thomson, K.J. Wilkie, K.
Zahra, C.J.

**PAIRS**

Howard, J.W. Beazley, K.C.
Bishop, J.I. Kernot, C.
Schultz, A. Wilton, G.S.
* denotes teller

**Question so resolved in the affirmative. Original question resolved in the affirmative.**

Bill read a second time.

**Third Reading**

Leave granted for third reading to be moved forthwith.

Bill (on motion by Mr Slipper) read a third time.

**NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 1) 2000**

**Second Reading**

Consideration resumed from 13 April, on motion by Mr Costello:
That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.

**Third Reading**

Leave granted for third reading to be moved forthwith.

Bill (on motion by Mr Slipper) read a third time.

**NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 2) 2000**

**Second Reading**

Consideration resumed from 13 April, on motion by Mr Costello:
That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.

**SALES TAX (CUSTOMS) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000**

Cognate bills:

**SALES TAX (EXCISE) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000**

**SALES TAX (GENERAL) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000**

**SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000**

**Second Reading**

Debate resumed from 11 May, on motion by Mr Slipper:
That the bill be now read a second time.
Mr KELVIN THOMSON (Wills) (1.29 p.m.)—I move as an amendment to the motion for the second reading of the Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000:

That all words after “That” be omitted with a view to substituting the following words:

“whilst not declining to give the bill a second reading, the House:

(1) condemns the Government for its mismanagement of the sales tax regime; and

(2) notes that instead of simplifying the tax system the Government has made it more complicated.

These bills—the Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000, Sales Tax (Excise) (Industrial Safety Equipment) Bill 2000, Sales Tax (General) (Industrial Safety Equipment) Bill 2000, and Sales Tax (Industrial Safety Equipment) (Transitional Provisions) Bill 2000—amend sales tax legislation to overcome a decision of the Federal Court in the case of the Commissioner of Taxation v. New South Wales Cancer Council, 1999. The Australian Cancer Society markets, on behalf of the cancer councils in each state, a range of health products to reduce the exposure of the population to cancer. This is highly commendable work which members should be well aware of through the twin campaigns called SunSmart and Slip Slop Slap. It even runs TV commercials featuring that Joe Cocker hit You Can Leave Your Hat On to promote the virtues of wearing a T-shirt, hat and sunglasses when out in the sun. The long-term benefits of this campaign in terms of reduced skin cancer and eye problems will be much appreciated in the future. I will come to other Joe Cocker songs which have been used in advertising campaigns in due course, but it does seem to me that this song, You Can Leave Your Hat On, might have been a more appropriate song for the government’s GST advertising campaign because after the GST strikes on clothing it will probably be the only piece of clothing you can afford.

The Cancer Society have developed a successful marketing line in SunSmart products. They have been successful in marketing low-cost SPF 15+ protection sunscreens and they won a case in the 1980s to ensure that these were made sales tax exempt. The Liberal government’s original tax plan imposed a GST on sunscreens, but I am pleased to say that the government relented in this respect and that sunscreens are now to be GST free. The Australian Cancer Society have also been successful in marketing low-cost sunglasses which fully comply with Australian Standard AS1067.1. These glasses provide a high level of protection to the wearer because they are coated with special glare foil and have a special wraparound design. The society have been very successful with the sales of these glasses and have had quarterly sales of around $800,000 through their state cancer societies and the various anticancer outlets that stock these products.
The society received advice that these sunglasses should also be sales tax exempt under the provisions of the 1993 act and they took a test case to the Federal Court through the New South Wales Cancer Council. They won that argument. The Federal Court agreed with the arguments put on behalf of the New South Wales Cancer Council and it rejected an appeal by the Commonwealth and awarded costs to the New South Wales Cancer Council. The Commonwealth lodged a further appeal with the High Court but decided instead to overturn the decision by way of these bills. The opposition accepts that the Commonwealth faces a significant potential problem if the principles enunciated by the Federal Court in this case concerning sunglasses were to be applied to a wide range of other goods that have both special use as protective equipment and a general use. For example, ergonomic chairs provide benefits for the user through their design, but they also function as chairs. The explanatory memorandum suggests that this decision could expose the Commonwealth to a raft of other claims and a potential loss of $2 billion. There is no evidence provided for this very large figure, but the opposition expects and accepts that the losses could be considerable. Accordingly, we will support the passage of this bill, which in effect retrospectively validates a large amount of sales tax which has already been paid.

We do raise, however, whether it is possible to close the wider loophole without stripping from the Cancer Society the victory that they have had in court. I understand that claims for refunds of sales tax paid are limited to three years duration and that, on this basis, the amount of tax that the society would have been able to claim a refund for, except for the introduction of this bill, would be of the order of $2 million on sales of around $10 million over three years. I draw this matter to the attention of the government and ask them to give their consideration to the worthy cause that the Australian Cancer Society represents.

An objection to the payment of refunds to sales tax, raised in the explanatory memorandum, is that the ultimate beneficiaries, the retail purchasers who would have enjoyed a lower price for their goods, cannot practically be found to be compensated. In the case of a commercial organisation, this would result in a windfall to the seller because they would get a refund without any means to pass it on. However, in the case of the cancer councils, this objection is less valid. Because they are public benevolent societies, acting to promote a public good through the sale of these goods, they are able to return the benefit of the sales tax refund to the community in the form of an expansion of their activities. There is a well-established legal principle of ‘cy-pres’ which has been applied in both US and Australian cases, most notably the Household Finance Corporation case. This principle holds that, where it is impracticable to return funds to consumers, consideration should be given to directing the funds to a targeted use for the benefit of consumers generally in the field where the overcharges were originally made. In this case it may be appropriate to use this principle to argue that the sales tax concerned should be returned to the Cancer Council to further their work rather than being retained by the government, notwithstanding the court finding. I would like to put this case to the government and ask it to consider an amendment to this bill or an agreement to make an ex-gratia payment to the council in lieu of the statutory removal of the benefits of their court victory. I ask the government to consider and respond to this proposition either here or possibly in the Senate.

The opposition is also aware of representations to the Treasurer by the Institute of Chartered Accountants concerning the issue of retrospectivity. They come to the conclusion in their submission:

It is impossible to escape the conclusion that the proposed amendments are merely a means to eliminate revenue loss resulting from court decisions adverse to the Commissioner.

That may well be the case, but I would suggest that the parliament does have a right to do this. We make the laws here and the courts interpret them. If we think that interpretation is wrong or brings about a legal situation which is unsatisfactory, I do not think that there is any impropriety in moving to establish the law as the parliament believes
Wednesday, 31 May 2000

It should be. It is fascinating to note some of the Liberal Party hypocrisy concerning this issue. I do have some Hansard quotes that go back to 1995 from the proposed diesel fuel rebate amendments which were being debated back then. I quote Mr McGauran from 1995:

Companies have gone to considerable expense to contest decisions in the AAT and courts which will be overturned now by this legislation. In effect, industry is being asked to pay for the consequences of poorly drafted eligibility provisions and government inaction for nine years. Therefore, the Coalition opposes the retrospectivity elements of the legislation.

In the Senate, Senator Macdonald said:

What makes the government’s legislation even more offensive is the fact that it discriminates against the claimants according to the stage of their legal proceedings.

Senator Crane said:

It is the function of this parliament to make laws but, having made them, it is not our job—in fact, it is fundamentally wrong—to pass legislation to overturn the decisions of the courts. That is what I call a dictatorship; that is what I call anarchy. It is a total travesty of justice.

Then we had the now Attorney-General saying:

As a technique, the retrospectivity which this bill ... seeks to put in place is totally objectionable.

We also had Mr Fischer saying:

Does the Prime Minister agree that it is a fundamental principle of our legal and political system that retrospective legislation should be used only in the most extraordinary circumstances? ... Why did the government not act to clarify the operation of the scheme at some time in the previous nine years and avoid this unjustified retrospectivity?

Madam Deputy Speaker, I wonder whether we will hear those same views raised in this debate that were raised in that debate, thundering against retrospectivity? I very much doubt it. Hypocrisy and double standards on public policy are regrettably Liberal and, indeed, National Party trademarks.

I turn now to Labor’s amendment and raise the issues of the GST burden on 1.6 million small businesses, charities and clubs and the fallacy of the simplification of the tax system. Under the current taxation laws there are around 750,000 sales tax collectors whereas under the GST there will be in excess of 1.6 million tax collectors. That is a massive increase in administrative burden for the people of Australia. Far from simplifying the taxation system, the GST is complicating it. The processes involved in this change for small businesses, clubs and charities are enormous. One of the barrage of government advertisements illustrates what businesses must do to be ready for the change. Far from the new tax system unchaining small business this advertisement illustrates what businesses must go through. They are, first, get your ABN; second, register for the GST—a 42-page document; third, understand and manage your new cash flow changes—they give you an 81-page booklet to deal with that; fourth, review and update your record-keeping and they give you a 30-page booklet to deal with that; fifth, review your prices; sixth, understand the new PAYG system; seventh, update your stationery; eighth, evaluate all your contracts and agreements; ninth, train all of your staff; tenth, 30 June stocktake. Well, that is it; that is simplification. No wonder the recently released Yellow Pages Small Business Index says that there has been a collapse of confidence in the Australian small business sector. It has slumped to the lowest level in its seven-year history. Quite damning for a government that professes to be about helping small business and cutting red tape.

What about the clubs and charities of the world? How are they going to cope with all those steps I outlined? I received a letter recently from a local mum in Coburg in my electorate, Lucy Loprete, who is very heavily involved in fundraising for her kids’ school. She dropped into my office and wrote down:

I want to know how the GST is going to affect our school regarding fundraising: e.g. All totals raised at fete do we pay GST? Donations, raffles etc... e.g. If we also charge $1 for Bread and Sausage do we add GST? Our mums will refuse to do more fundraising if we have to share it with the government.

That was dated 17 May, a mere month and a half before the change occurs. It demonstrates only too clearly that this government has put its budget into political propaganda rather than properly informing ordinary
mums on how the GST will impact on them. I went in search of some information to help Lucy Loprete and I came across the ATO’s charity pack Taxation Guide for Charitable Institutions and Funds. This is a 70-page publication that seeks to simplify and clarify the operation of the GST. The pack covers important questions such as, ‘Are you a charity?’ It also adds another step to the process I outlined before—step 1(b), ‘Are you an endorsed charity?’ Once again a whole swag of questions to be asked, a set of different tests that charities have to pass, different arrangements depending on whether it was a charity before or after 1 July 1997, and some charitable funds being split into two separate trusts—the new trust and the old trust. Another great example of simplification of the tax system.

I recently got some correspondence as well from David Dwyer of Dwyer & Co. Certified Practising Accountants. Mr Dwyer demonstrates some considerable resentment towards the government about its so-called simplification. In an email to me he comments:

There will be resentment towards the Government about the extra time required by small business, individuals and accountants. Accountants will find it logistically impossible to really help given the 2-3 weeks timeframe between the end of the quarter and the 21st of the following month being the due date. To put the issue in perspective there is now talk for the need for accountants and tax agents to simply have some sort of strike or industrial action to stand up to the government and ATO and simply refuse to comply with unworkable tax collection systems. In practice this is very unlikely to occur as we are small businesses ourselves and do not have an organiser the way a union does. Our professional bodies are not effective as hard lobbyists compared with say the ACTU. The bureaucrats have taken over and they do not understand what they are thrusting on us.

A strike by accountants—that is a bit mind boggling really but it provides an indication of just how serious these problems are. Mr Dwyer also wrote an unanswered letter to the Treasurer in September 1998 making the same point. The last time the Treasurer used the word ‘simplify’ concerning the GST in this House was on 28 June last year. Even then that was concerning the Australian business number, simplifying the taxation arrangements for business. We are all some-what older and wiser now, including the Treasurer, who has stopped using the word ‘simplify’. He obviously realises that the public will not be taken in by such posturing concerning the GST.

The evidence about simplification really is alarming. I think all members were sent a copy of a docket from Woolworths indicating the steps they were taking to comply with the new tax system. Their sample docket lists a range of products and on the left-hand side there is an asterisk against those which are taxable items; that is to say, they have got the GST on them. Half the items in the Woolworths sample docket have the tax and the other half do not. To look at the docket indicates how complex in practice it is for retailers and, indeed, for consumers.

Then there are the recently simplified accounting measures for business. The ACCC has issued a simplified accounting methods booklet for food retailers and it sets out for food retailers a number of different options. They are given the business norms method, the snapshot method and the stock purchases method. If you find that you are eligible to use one of these simplified accounting methods, if you are registered for GST, if you are a retailer who sells both taxable and GST-free food at the same premises, if your annual turnover is lower than the $1 million threshold and $2 million in the 2000-01 financial year, if you do not have adequate point of sale equipment to identify and record your mix of taxable and GST-free sales, and if your eligibility is not affected by your accounting basis, that—is, whether you use a cash or non-cash basis—if, after you have made your way through that, you decide you are eligible to do this, you have got the business norms method which allows you to apply standard percentages to your total sales and purchases for every tax period to estimate your GST-free sales and purchases. I will give the House a few examples which have been supplied concerning this issue: for continental delicatessens that do not sell hot foods or prepared meals, on their GST-free sales they have 85 per cent for purchases, 90 per cent GST free; for cake shops, their sales are two per cent GST free and for purchases they are 95 per cent GST free; for health food...
shops that do not convert GST-free food into taxable food, 35 per cent of their sales are GST free and 35 per cent of their purchases are GST free.

Similarly, different percentages apply depending on whether you are a fish shop, a pharmacy, a rural convenience store, a hot bread shop, a convenience store which prepares takeaways, or a convenience store which does not prepare takeaways. There is also a distinction between converters and non-converters. Rural convenience stores can be converters if they prepare takeaway hot foods; for example, they can convert GST-free bread and filling into sandwiches or GST-free potatoes and fish into taxable fish and chips. What was it that Treasurer Costello said about this being the nightmare on main street? He was certainly right about that.

It is intriguing that a couple of days ago I was in the House when the member for Moreton gave the game away concerning the second-rate nature of the GST when he complained that we should have allowed the government’s legislation to pass in its original form rather than, in his words, ‘creating the necessity to hobble so much of what we promised before the last election’. The honourable member for Moreton gives the game away that this is a hobbled second-rate or even third-rate GST. It is all very well for him to blame us in relation to this, but the point was simply that we were determined to keep to our election promises. We had promised the people of Australia that we would not support a GST in this parliament and we did not.

The government, faced with that situation, should not have entered into the arrangement that it did with the Democrats. In order to get anything up and going, it came up with a half-baked proposal which even it considers to be second-rate and inadequate. The other point we ought to note about the comments made about this issue by the member for Moreton and other members on the government side from the Prime Minister down is that they want to roll the GST forward. In their heart of hearts they remain committed to the 10 per cent on everything.

The problems of implementation and lack of simplification surrounding the GST have caused business people to give up altogether. I mentioned previously in debate the Wheatsons in western Victoria, whose business in country western Victoria survived two world wars and a depression, but they decided to close down the business rather than try to meet the GST. Similarly there was a report in the Financial Review in recent days which quotes South Sydney newsagent Len Halvorsen, who was seeking to sell his newsagency before the new tax package takes effect on 1 July. As the article reports, thousands of small business people are doing their own ‘beat the GST’ sale. They are concerned that implementing the GST will put them out of business and many are trying to sell up in order to escape the hassles of the GST.

Mr Halvorsen had spent $17,000 on a new point of sale system so he could track the GST on sweets and soft drinks, but not cough lollies or orange juice, which are GST-free. He also bought a new software package so his accountant could pay his tax four times a year 21 days after the quarter. To quote Mr Halvorsen:

The GST was a good idea but it’s been poorly executed; we don’t know how the GST works, our suppliers don’t know, the tax department don’t know, and our politicians have no damn idea—they are his words. He continues:

And when you’re spending a sixth of your income to become a tax collector, it’s not even funny.

The same article quotes business broker Mr Gerry Quinlan, who is involved with one of the larger hospitality business brokers in Australia, saying his firm has been inundated with calls from business people desperate to sell. He says:

We are being inundated every day with inquiries to sell other businesses, from retailers to small manufacturers—people who are trying to sell their business and get out before the GST hits them. This sort of problem is even reflected in accountants and tax agents deciding that they do not need clients anymore. I have been given an
extraordinary piece of correspondence from the chartered accountants Lawler Davidson to one of their clients, saying:

We have spent some time reviewing the services we provide for you and it seems that our service and fee structure might no longer be best suited to your needs.

They go on to say:

As you know the introduction of the GST is much more than a change in tax systems. It introduces a whole new way of conducting business and, indeed, a whole new way of providing business advisory services ... It will also increase fees to most clients because of the amount of work and professional advice now required and essential for their continued success.

So they give their client of many years a list of other people to contact and tell them that they have notified the tax office that they are no longer acting in the capacity of registered tax agent. After many years they have decided they do not want his work anymore.

One of the things that I think is most unsatisfactory about the whole situation is that the government’s attempts at simplification have been such a failure that they have decided that they need to spend huge amounts of taxpayers’ money in order to justify the GST in what has been a most disgraceful advertising campaign. We found recently in estimates an additional $20 million on advertising featuring Joe Cocker’s song Unchain My Heart. That brings the total expenditure on promoting the GST with taxpayers’ money to in excess of $400 million, an absolute disgrace. In estimates we also discovered that the government has engaged five companies to prepare market research on the GST. Two of those five contracts are worth $200,000 each. The others they could not tell us about. They have employed Mr Mark Pearson, an advertising expert engaged by the Liberal Party on two federal election campaigns, to oversee the GST advertising campaign. The cost of that is $195,000. This is a pure political advertising campaign, with people with Liberal Party backgrounds being brought in simply in order to rort the system.

Some of the billboards that I have seen in Melbourne and, indeed, in other cities have nothing in the way of information, not even a contact number. They simply have chains and lines such as ‘Tax reform coming soon’. Well, Mr Treasurer, we all know that. It is a disgrace that the government could spend so much taxpayers’ money to provide so little genuine information.

Mr Crean—Not doing them much good either.

Mr KELVIN THOMSON—That is right. I have to say that this campaign is a disgraceful and utterly corrupt campaign. It is now outdoing the Liberal Party’s pre-1998 election performance as the most blatant and outrageous abuse of taxpayers’ funds for party political purposes in this nation’s history. When we hear from small business, churches, charities and community groups how the GST is chaining them to their desks, stopping them getting out and doing what they do best, with chains of GST, ABN and PAYG compliance, we really have to wonder whether the TV networks have made a mistake and applied those ads backwards. One ad shows an elderly woman bowling and the chain comes off her and her bowling ball, but down at the bowling clubs in my electorate, it is the other way around—the GST is putting the chains on them. I urge all members to support Labor’s amendment.

Mr SPEAKER—Is the amendment seconded?

Mr McClelland—I second the motion.

Mr SPEAKER—The original question was that this bill be now read a second time. To this the honourable member for Wills has moved as an amendment that all words after ‘that’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question. However, it being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Prices

Mr CREAN (2.00 p.m.)—My question is to the Minister for Financial Services and Regulation. Minister, do you stand by your statement in your press release of 15 January this year that:
No prices will increase by more than 10% as a result of the GST—that is our policy and that is the law.

Minister, are you aware that the ACCC admitted yesterday to a Senate estimates committee that the pricing guidelines are not the law? Have you not misled the Australian public on the powers of the ACCC?

Mr HOCKEY—No.

Fiji: Political Crisis

Mr JULL (2.01 p.m.)—My question is directed to the Minister for Foreign Affairs. Would the foreign minister inform the House of the government’s reaction to the overnight developments in Fiji? What do these developments mean for the restoration of democracy and constitutional government in Fiji?

Mr DOWNER—I thank the honourable member for Fadden for his question, and can I say I particularly appreciate the constant and enthusiastic interest that he shows in foreign affairs matters. In the first interim military government decree, Fiji’s military commander Commodore Bainimarama last night revoked the 1997 Constitution. This is unacceptable to Australia and is extremely disappointing. Commodore Bainimarama has confirmed the appointment of an acting prime minister and leader of the government, but he has not yet announced any other positions in an interim government.

The Australian High Commissioner in Suva, Sue Boyd, met with Commodore Bainimarama last night, and the High Commissioner stressed the government’s strongly held view that there must be a swift return to democratic rule, that it was unacceptable to overthrow the Constitution and, indeed, that it was unacceptable to grant the perpetrators of this terrorist act an amnesty. Commodore Bainimarama reiterated his hope that the interim political arrangements would be in place for as short a time as possible and that they would work towards a new or amended Constitution and prepare for fresh elections. We are concerned that Commodore Bainimarama said this morning that this might take somewhere between 12 months and three years. Commodore Bainimarama confirmed that President Ratu Mara is safe, but he has noted this morning that Ratu Mara does not wish to return as President.

It is important to remember that this military takeover has been in response to an extreme situation. The Fiji authorities have been under immense pressure and have been forced to take drastic action under great duress. Our first priority—and I think all members of the House would agree with this—must be to resolve the hostage situation. As long as the hostages, including the now former Prime Minister and the now Acting Prime Minister’s wife, are held by a terrorist, we recognise that the Fiji administrative authorities do not have much discretion in what action they can take. I have discussed this matter during the morning with New Zealand’s foreign minister, Phil Goff, and both of us agree that the wise thing to do for the moment is to withhold final judgments until the hostage situation is resolved. We will then do what we can, and of course very much hope, to see a return to democracy and democratic values.

Let me make this point: the inclusion of Speight and his immediate supporters in any future government would be completely intolerable. Our responsibility also inevitably lies with the Australians in Fiji. There are now 3½ thousand Australians there. The situation is being monitored on a 24-hour basis by my department. Australians in Suva continue to be strongly advised to leave Fiji or to relocate to a safer location. The situation is fluid, and I strongly recommend that all Australians in Fiji, or those considering travelling to Fiji, seek the latest information from my department.

Goods and Services Tax: Prices

Mr KELVIN THOMSON (2.05 p.m.)—My question is to the Minister for Financial Services and Regulation. I refer to two ACCC publications—GST Talk 3 and GST News for Business No. 2, both of which appear on the ACCC web site today—and ask: are you aware that in GST Talk 3 the GST price rule is defined as follows:

The GST price rule is that no price will rise by more than 10 per cent as a result of the New Tax System changes.
Are you aware that in GST News for Business No. 2 the GST price rule is defined as follows:

No price should rise by more than 10 per cent as a result of the New Tax System...

Which version of the price rule is correct? What will you do to ensure that consumers are not given misleading information by the ACCC?

Mr HOCKEY—The member for Wills is engaging in the semantics for which he is famous. In the price exploitation guidelines, which is a yellow and black book, it states at 2.20 that the price rule is that no price should rise by more than 10 per cent as a result of the new tax system changes. The member for Wills also referred in earlier comments today to a price guide for consumers, which I understand is very popular with them. It has been very warmly welcomed by consumers. It is an indicative guide for consumers of individual prices that may occur within a range after 1 July. It surprises us on this side of the House that every time we take a step forward to protect the interests of consumers, it is the Labor Party that comes back to hold up the process. If the member for Wills and the member for Hotham are really serious about protecting consumers, pass the bill before the Senate now that gives additional powers to the ACCC in relation to price exploitation. There is a bill before the Senate; the Labor Party is holding it up because it is not serious about protecting consumers.

Economy: Reform

Ms GAMBARO (2.09 p.m.)—My question is addressed to the Prime Minister. Is the Prime Minister aware of recent OECD comments on the Australian economy? Is the economy reaping any rewards from the government’s broad agenda of structural reforms, including reforms to the industrial relations system?

Mr HOWARD—As it happens, I am. My attention has been drawn to, and I have been heartened to read, the latest report from the OECD, which draws attention to one of the conspicuous features of Australia’s economic performance over the last four years, and that has been the very big increase in labour productivity over that period of time. In fact, over the last four years, labour productivity in Australia has risen by 2.8 per cent—that is double the rate of increase in labour productivity during the 1980s when the Labor Party was in office. This has been achieved, I am very pleased to say, consistent with a steady rise in real incomes under the coalition’s administration. One of the things that is enduringly to our credit and enduringly to the discredit of the Labor Party is that, when it was in government, the wages of ordinary workers fell.

Mr Crean—Rubbish!

Mr HOWARD—The Deputy Leader of the Opposition, the member for Hotham, did not think it was rubbish when, as President of the ACTU, interviewed on The World Today on 22 March 1988, he had this to say:

But even in regard to the wages policy itself, we’ve designed that wages policy so that the reduction in real wages was less for low income earners than for higher income earners.

In other words, you were boasting about the fact that you had reduced real wages. Of course, you were right—you did reduce them. You reduced them in a very significant way because, over the 1980s, real wages fell at an annual average rate of 0.2 per cent, and, under the coalition, real wages have grown at an annual average rate of 2.3 per cent. We have been able to achieve that consistent with rises in productivity. We have also been able to deliver to those same working men and women of Australia, who were burdened with high interest rates by Labor, significantly lower interest rates.

One of the reasons that we have been able to do this is that we have pursued a superior industrial relations policy. It is an industrial relations policy that has given to the workers of Australia a choice. They have had an opportunity of bargaining with the assistance of their union or collectively without union assistance, or individually. You get higher productivity when you encourage interaction between workers and their employers. You get lower productivity when you impose union domination where it is not wanted. That of course is one of the things that distinguishes us from the Australian Labor Party. At a time when only 20 per cent of the private sector work force in this country want to
belong to a trade union, we have an opposition party that increasingly believes that the rip of the union movement should run throughout the Australian workplace, whether or not individual workers want it. It is a very important policy difference between the government and the opposition. We are for choice in the workplace; the Labor Party is for union domination in the workplace. I am quite certain that my colleague the minister for workplace relations could well return to this theme at some time in the future.

Let me simply conclude my answer to the member for Petrie by saying that I know she is very experienced in small business and understands the importance of higher productivity. She understands the benefit of a workplace relations system based on the best possible relationship between the worker and the employer. She knows, as every member on this side of the House knows, that one of the great things that this government has done is to deliver a double benefit to the working men and women of Australia. We have delivered higher wages consistent with higher productivity, and we have also delivered significantly lower interest rates. That is a double that Labor could never achieve, and that is a double that the alternative approaches of the opposition will never be able to deliver in the future.

Goods and Services Tax: Petrol

Mr CREAN (2.15 p.m.)—My question is directed to the Treasurer. This morning on ABC radio you said in relation to your GST petrol rebate:

- We’ll make sure that it’s passed on. And I’m sure that the Australian Competition and Consumer Commission will also ensure that fact.

- Are you aware that the ACCC last night admitted to a Senate estimates committee that they could not guarantee your petrol rebate will be passed through to consumers, with the ACCC Deputy Chairman Allan Asher stating:

  Can I guarantee that will lead to the full flow on of all those rebates? No.

- Why should motorists believe your promise that no petrol pump price will rise as a result of the GST when your own GST watchdog cannot guarantee it?

Mr COSTELLO—The government has put in place a scheme of some $500 million to ensure that retailers, outside the metropolitan areas, get direct grants of either 1c a litre or 2c a litre or, in the event that there are extremely remote areas, possibly a contingency so that after the tax changes prices can be equalised back to consumers. I say ‘to consumers’ because after the tax changes to business petrol prices will fall by 10 per cent. In relation to diesel users in the transport industry, the price will fall from 44c to 20c. This money will be paid directly to retailers. It is not being paid for the benefit of retailers but is to be passed on to consumers. The government will make that entirely clear. What is more, in evidence to the Senate estimates committee last night, Mr Asher detailed an extensive program of surveys, samplings, inspections and complaints mechanisms that the ACCC would be putting in place to ensure that the benefits are passed on to retailers. In addition to that—and of course the Labor Party opposes this—the ACCC is advertising price exploitation lines—

Mr Crean interjecting—

Mr COSTELLO—You are opposed to that, apparently. Consumers will know where they can lodge their complaints. Any complaint that is lodged will be immediately investigated by the Australian Competition and Consumer Commission. As I said on radio this morning, I’ve never heard a business yet complain that the ACCC has too little power. I’ve never heard anybody in business saying that they are worried that the ACCC’s policing powers are not sufficient. I have heard a lot of criticism coming out of retailers and business that they think the ACCC may have too much power or may be too zealous, but I am yet to hear any business person in Australia or any retailer say, ‘Mr Costello, we think it is a toothless tiger.’ The ACCC has extensive powers. Consumers are our best
policemen. We will make sure that gets to consumers.

You hear these trick little questions from the Labor Party. What does it mean? They are against the grant scheme, are they? Is that what we take from this? Because you are attacking the GST, would we be entitled to think that you will be repealing it? No, no, no. Because you are attacking the GST, would we be entitled to assume that you are against it? No, no, no. Because you are attacking the GST, would we be entitled to think that you will be repealing it? No, no, no. You are so opposed to the GST you want to keep it. You are so opposed to a grant scheme you want to keep it. This is just mere politicking from a group of people who would not have a policy to rub together in a blizzard. Every day they count down to 30 June saying, ‘How can we waste 10 questions today and distract the press from asking us what the real issue in Australia is: why has the Labor Party not got a policy to rub together?’

**Industrial Relations: Workplace Bargaining**

Mr CADMAN (2.19 p.m.)—My question is directed to the Minister for Employment, Workplace Relations and Small Business. Minister, has the system of workplace bargaining improved living standards and job security for Australian workers? What current threats exist to these bargaining rights, including the right to make Australian Workplace Agreements? Are their alternative policies being developed at the national level which roll over to those threats? Whose policy alternatives are in the best interests of employees in my electorate of Mitchell?

Mr REITH—I thank the member for Mitchell for his question. He asked whether alternative policies are being developed. There is no doubt they are being developed in ACTU headquarters in Melbourne. It seems that the ACTU has very successfully imposed this policy on the opposition. In fact, so concerned was the Leader of the Opposition to deny a couple of press reports this morning that he scurried out for a doorstop and only confirmed what was in the press this morning, which also revealed the fact that he does not even understand the policy which is being imposed on him by the ACTU.

Mr Beazley interjecting—

Mr REITH—I do not understand your policy.

Mr Howard interjecting—

Mr REITH—This is sport, but it is serious. This is the policy you had in 1998. This is a better plan for industrial relations. We all know that in brackets it has ‘Written and authorised by the ACTU to be implemented by somebody without any ticker.’ This is what your policy said. The doorstop—

Mr SPEAKER—Minister, as impartial as I am, I do not recall having released a policy on behalf of either of the major parties.

Mr REITH—Mr Speaker, you would never release a policy like this, I can assure you.

Mr SPEAKER—You will refer to the government or the opposition as appropriate.

Mr REITH—The Labor Party’s policy at the last election was to abolish Australian workplace agreements but to keep a system of individual agreements within the formalised statutory system. That was your policy which he attempted to deny this morning. The policy said:

Labor will ensure that collective bargaining is given priority over all other forms of agreement making, including individual agreements reviewable by the commission.

So the policy they had in 1998 was to allow individual agreements. I did not think much of the policy because you would neuter the effect of those agreements by other changes. But the policy Labor then had was to allow statutory individual agreements.

If you can understand the doorstop this morning, the Leader of the Opposition has said, ‘We will not have Australian workplace agreements’; that is their policy. Fair enough; that is what you have said. You have also said that it will be your position to have, and to allow, individual contracts at common law. That is your policy.

Mr Beazley—Yes.

Mr REITH—Thank you; you have acknowledged that. Which is why your first sentence is untrue. Your first sentence says:

I notice in one of the papers today that it is claimed that the Labor Party intends to outlaw in
its industrial relations legislation individual contracts.

You will not allow individual contracts in industrial relations legislation. You are opposed to them because you have been told to oppose them by the trade union movement. Mr Speaker, in 1998 they were going to allow a statutory form of individual agreement but the unions do not like them. They have told the Labor Party that there will be no such agreements. That is why we see in the papers, confirmed in the doorstop today, that there will be no such thing as formalised individual agreements under the federal act. Brad Norrington is no supporter of ours, but he said this last week, on 25 May, in the Sydney Morning Herald:

Beazley’s problem, however, is that individual contracts of some sort have a legitimate place. They are a fact of life. Scrapping AWAs may please the unions, which despite their diminishing numbers still account for close to a majority of votes on the ALP conference floor and contribute much to party funding.

He went on to say:

But Beazley would send entirely the wrong message to business. In recent weeks Beazley has come under intense union pressure to scrap AWAs and replace them with nothing. He could still do this ... It would be stupid, however, not only because of the adverse reaction from business, but also because of the practical implications. Thousands of non-union workers on AWAs would be left high and dry, while the most zealous employers would simply switch to common law contracts, an option that was available to them and completely devoid of public scrutiny.

Mr Beazley—We would allow them—

Mr REITH—Yes, you will allow common law agreements. You could not stop them, anyway. But common law agreements will be subject to union awards and union agreements. Common law agreements will be the second-class agreement stream, which is what the unions want. They want their agreements, their awards, to predominate over common law agreements. In 1998 the Labor Party had the same request from the unions and decided, in face of opposition from the unions, that they would retain a formal system under the act because they knew that it would be simply untenable for this country to turn its face against a sensible set of reforms and further market deregulation making for a more flexible system. As Brad Norrington has said, and as you yourself assessed back in 1998, this is a policy position which is untenable and only forced on you because the unions require it. And two other things: the Labor Party says, ‘There are not many people affected by it.’ There are 100,000 people and it is growing by 3,000 a month—

Mr Howard—Don’t worry about them.

Mr REITH—Don’t worry about them. The fact that many of these agreements are family friendly is nothing to you. The other thing to watch is this. The spin doctors were out. They said, ‘Of course he will take a stand on non-union collective agreements.’ What a joke! We had non-union collective agreements when Labor was in before. They were called EFAs. Over three or four years we had 250 something of them, covering about 10,000 or 15,000 workers. We have introduced a decent system. Nearly 200,000 workers are covered. There are nearly 2,000 agreements. They are a great system for those 80 per cent of workers who are not in a union. You are basically going to scrap those because you will go back to the policy you had when Labor was in office.

Mr Beazley—What are you talking about?

Mr REITH—I am talking about the operation of the non-union collective system.

Mr Beazley—You don’t understand—

Mr REITH—you don’t understand it. You have been given a policy and you have just taken it holus bolus. This is a backward move by a Leader of the Opposition who does not have what it takes to stand up to a few union leaders and ensure that there is a policy that is to the genuine benefit of real workers.

Goods and Services Tax: Gas

Ms HOARE (2.27 p.m.)—My question is to the Treasurer. Treasurer, do you stand by your claim as set out in your original GST package that the price of gas will only increase by 3.9 per cent as a result of the GST? If so, why does Allan Fels’s GST shopping list state that the price of gas will increase by 9 to 9.5 per cent, almost a $50 increase on the annual gas bill for the average Australian
household? Treasurer, if Allan Fels does not believe your GST price promises, why should ordinary Australians?

Mr COSTELLO—The answer is as was announced when the ACCC put out its price guidelines with the explanatory notes, which I am sure the honourable member has read, and as I informed the House yesterday—namely, that the Treasury modelling in the A New Tax System document is based on 107 ABS classifications. They are obviously groups. As was made clear at the time, there are 107 classifications.

Two things have changed since that in relation to the ACCC price analyses. The first is that the ACCC has worked off individual products and not off classifications. In relation to individual products, once they are decoupled from those industry classifications they are the price changes which would be expected in relation to those individual products. Secondly, the package was substantially amended in the Australian Senate as a consequence of the exclusion of various items from the GST base, the consequent delay of the abolition of financial institutions duty, the consequent delay of the abolition of bank account debits tax, the consequent delay of the stamp duty on shares and marketable securities and the changes in relation to transport, in particular—the Labor Party was successful in jacking up the prices of transport by refusing to allow the government the opportunity to cut the price of diesel for all transport in Australia. As a consequence of those matters there were changes in relation to some individual items. They are essentially the changes between the two price classifications. The two have been fully explained in the notes, which no doubt the member has studiously read.

Employee Entitlements Support Scheme

Mr ROSS CAMERON (2.30 p.m.)—My question is to the Minister for Employment, Workplace Relations and Small Business. Has the Howard government’s Employee Entitlements Support Scheme delivered practical benefits to employees left high and dry without their entitlements when their employer’s business becomes insolvent? Is there evidence that employees in my state of New South Wales are recognising the value of the scheme? Has any government in Australia attempted to provide this kind of assistance in the past? Finally, what message are Australian workers sending their respective governments about this important social and industrial issue?

Mr REITH—I thank the member for Parramatta for his question. I am pleased to advise the House that today I have been in Scone at the local bowling club at a very well attended meeting of about 150 workers, their wives and families and people from the local community, to discuss with them the government’s Employee Entitlements Support Scheme. I want to acknowledge the work done by the AMIEU—the workers union—in both organising the meeting and representing the views of the workers. I also want to thank Senator John Tierney, who came with me. He has been a tireless supporter of these workers, campaigning on their behalf to make sure that they get a fair deal.

I was able to present a certificate to Mark Lawrence, who has also been very active on the committee for the campaign. That certificate marked the handing over of funds from the Commonwealth to Stephen Parbury, who is the receiver for the company that went broke back in January. That provided funds of just over $200,000 for 71 workers to ensure that they were given some assistance in the circumstances where the company was unable to meet its obligations to them. At the point of termination, the employee entitlements scheme provided, in this case, about 80 per cent of what the workers were entitled to. Sadly, they will not all get it because this is a scheme based on a fifty-fifty contribution.

Mrs Crosio—Why not?

Mr REITH—Because people like the members opposite, who are New South Wales Labor Party members, are not prepared to stand up for workers. That is why.
small amounts of a few hundred dollars to over $10,000 in some cases. Obviously, it depends on their length of service. Mr Parbury, by coincidence, is also the national president of the relevant professional association. He made the practical point, having been associated with many of these situations, of what a good thing it was that finally there was some real help for workers in this situation. There were three things that came out of the meeting, which I would like to relay to the House. The first is that people were genuinely appreciative of the fact that there is a scheme to give them some genuine and practical help. Secondly, the mood of the meeting was that they definitely supported tightening up the Corporations Law to chase up employers who do the wrong thing. I did not tell them that the Labor Party is making it difficult to pass that legislation in the Senate, but they were pleased to hear that the—

Opposition members interjecting—

Mr REITH—Do not look so blank. You people are responsible for your behaviour in the Senate, and that legislation ought to get through. Lastly, there is no doubt that the workers took the attitude that they would like to get a bit more. I reckon they are certainly entitled to a bit more and they are entitled to have the Labor Party in New South Wales put their hand in their pocket and match the Commonwealth dollar for dollar. I can tell you that people were genuinely bemused that a Labor government was not prepared to help workers who needed some assistance. I said to those workers that the coalition federal government will continue to campaign to make sure they get a fair deal. I made it very clear to them, as I make it clear today to state Labor premiers, that I will visit every state in this country and make the point that it is time that a few Labor premiers put their hands in their pockets and gave some assistance to workers in genuine need. Around the country there are over 500 employees who have lodged applications and, of course, most of those will be eligible. From this government there will be a helping hand; from the Labor Party, a closed door in their face. For those 500 employees from 69 companies, I can assure you that in each and every case we will do all we can to ensure that a fair deal is provided to them. Lastly, I said to the workers in Scone that I would make an appeal to the Leader of the Opposition to use the influence that he has to ring up Bob Carr, get him on the phone and say to him—just for once, if the Leader of the Opposition might stand up for workers—that it is time he matched us dollar for dollar.

Goods and Services Tax: Caravan Parks

Mr ALBANESE (2.36 p.m.)—My question is addressed to the Minister for Family and Community Services. Minister, do you recall producing, at taxpayers’ expense, a full colour, six-page newsletter for permanent park residents in your electorate stating that you are aware that “park residents are being treated differently than people renting outside parks”? Didn’t this newsletter also state: [Larry Anthony] has taken this message to the Prime Minister and the Treasurer. Most recently, he had a robust discussion on this issue with John Howard in his Canberra office.

Minister, what change did you manage to extract from the Prime Minister? Isn’t it a fact that you did nothing and achieved nothing?

Mr ANTHONY—Certainly, we did learn one thing when the member for Grayndler came up to Richmond. He said specifically to the residents at a number of meetings that he would much prefer to be in the Tweed than representing his own constituents in Grayndler. ‘I love it here; I wish I lived here,’ he said. Well, why don’t you spend some time looking after your own people? Yes, I bring many issues to the frontbench. The Prime Minister is very accessible, far more accessible than the Leader of the Opposition here or your previous leaders—and so is the Treasurer, Peter Costello. I will continue to bring issues, because this is a listening government, it is an open government. That very informative brochure—and I am glad you have tabled it in the House—has been specifically put out there to ensure that the misinformation and the scare campaign that you run is not given legs.

Mr Albanese—I rise on a point of order, Mr Speaker. In accordance with the minister’s wishes, I seek leave to table the document.
Mr Reith—We have no objection to quality material being tabled.

Leave granted.

Tax Reform: Intergovernmental Loans

Mr ANDREWS (2.39 p.m.)—My question is addressed to the Treasurer. Will the Treasurer advise the House about the treatment of the budget balancing assistance loans to the states as part of their inter-governmental agreement on the new tax system?

Mr COSTELLO—I thank the honourable member for Menzies for his question. As he knows, the Commonwealth has offered loans to the states to help them balance their budgets in the year 2000-01. This is a loan and, by agreement signed by all of the states, a loan which has to be repaid—a point I made on AM this morning. No sooner had I finished on AM this morning than somebody rang into the program. It was a bit of a spooky phone call.

Honourable members interjecting—

Mr COSTELLO—No, it was not Chris from Waramanga; Chris from Waramanga is sitting in the advisers box today. No, no, it was a spooky phone call from the member for Hotham, who rang in with his obligatory trade union bash about wages. Then he went on to this thing about loans. He said:

The second thing that the Treasurer said today is that one State agrees with him ... in terms of the payment to them is a loan. Not one State agrees. He quoted Queensland.

This is what he said. I am reading it out:

And they have come back and said that they treat it as a loan because their auditor-general in every State treats it as a loan.

That is what you said on AM this morning:

He quoted Queensland. And they have come back and said that they treat it as a loan because their auditor-general in every State treats it as a loan.

So in this spooky phone call he rings in to agree on the Queensland treatment. The second point I make is that it has to be repaid. I do not know if the Labor Party are campaigning to get the states out of repaying these loans but, if that is part of their campaign, they can actually put that in their costings. Not only are they going to roll back GST; apparently they are now in favour of giving a grant rather than a loan. This loan has to be repaid, as the states have covenanted. What is more, if the GST estimates bring in more than is in the forward estimates, the repayment of the loan has to be done notwithstanding giving the Commonwealth the opportunity to take some of the benefit of the upside risk. Whether they are given money or not they have to repay their loan.

Opposition members interjecting—

Mr COSTELLO—They are given GST revenue—of course, they are given money; they are given all of the GST revenue—and they have to repay their loan. The third point is that the cash balance which is shown on the government finance statistics is interpreted by the Australian Bureau of Statistics. The Australian Bureau of Statistics, which is responsible for the guidelines on the GFS under which we report the underlying cash balance, has not only written to this government and said it is a loan; it has written to each state government as well and told the states it should be treated as a loan. So here you have a written agreement, a covenant to repay, the deputy leader confirming it on radio this morning, the GFS and the Australian Bureau of Statistics. If the Labor Party policy is that they would sell the Commonwealth out and not require a repayment of the loan, then we ought to hear it, but we have actually protected the Commonwealth’s position. That loan must be repaid and, what is more, that gives the opportunity to the Commonwealth to benefit if revenue proceeds should be higher.

Tax Reform: Intergovernmental Loans

Mr CREAN (2.44 p.m.)—My question is to the Treasurer. Treasurer, today you claimed that Queensland agreed with you that your $1.6 billion budget fiddle ‘loan’ is not a grant. You also stated:

I have not seen any statement to the contrary since then.

Treasurer, isn’t it a fact that the Queensland Treasurer was interviewed on this very issue on the World Today program last week and that he stated:
The Auditor-General made it clear to Treasury that the proper accounting treatment of this is a grant, not a loan.

Treasurer, why should people believe you when every state Auditor-General and state government disagrees with you?

Mr Speaker—I would have thought the question had been answered in full.

Mr Costello—I intend to say it again, Mr Speaker. The reason it is treated as a loan is that, firstly, there is a loan agreement under which it is made and has to be repaid, signed by every state. Secondly—

Mr Crean—Mr Speaker, I raise a point of order on relevance. This could not have been answered in full, because my question went to him misquoting the Queensland Treasurer. That is what he has got to answer, and he should.

Mr Speaker—I recognise the point of difference made by the Deputy Leader of the Opposition, or else the question ought to have been ruled out of order; and for that reason I allow the Treasurer—

Mr Crean interjecting—

Mr Speaker—I have just indicated to the Deputy Leader of the Opposition that I recognise the difference from his earlier question.

Mr Costello—I am asked why a loan to the states is treated as a loan in the government accounts. I give the answer as I already have done. First of all, it is treated as a loan which has to be repaid, signed up to by every state. In the intergovernmental agreement, the states asked for and received a loan which they are obliged to repay. Secondly, this has the ability to protect the Commonwealth, because it gives the Commonwealth the opportunity to participate in any additional revenues if they should be got from a higher revenue take from the GST. Thirdly, the government accounts its cash balance on GFS standards, as laid down by the Australian Bureau of Statistics—not by a state Auditor-General but by the Australian Bureau of Statistics. The Australian Bureau of Statistics has written not only to the Commonwealth and said this is the required treatment but to all of the states and said the same thing.

In relation to Queensland, Queensland reported that in their midyear review, their last budget statement. The Deputy Leader of the Opposition went on radio this morning and said that Queensland treat it as a loan because their Auditor-General says it is a loan. But, regardless of that, the Commonwealth treats it as a loan for one simple reason: under GFS standards as required by the Australian Bureau of Statistics, which require reporting according to those standards, the Australian Bureau of Statistics has not only said it is a loan but also has written to the states and said that.

Mr Crean—Mr Speaker, I seek leave to table an extract from Hansard in the Queensland parliament today, which again reaffirms that the Treasurer has misrepresented the Queensland Treasury’s position on this.

Leave not granted.

Economy: OECD Report

Mr Tim Fischer (2.48 p.m.)—My question is directed to the Treasurer and it relates to different OECD matters. On this day when the Prime Minister, a former OECD delegate, passes the period of service of Paul Keating, I ask: would the Treasurer inform the House of the OECD’s latest report on the world economic outlook. What are the OECD’s projections for the Australian and world economies?

Mr Costello—I thank the honourable member for Farrer for his question and, on behalf of the government, I too add my congratulations to the Prime Minister for passing the period of time of the prime ministership of Mr Keating. May I say that Australia is much better for his prime ministership. Interest rates are lower, the budget is in surplus, unemployment has fallen, and many more Australians have been given an opportunity under the prime ministership of Mr John Howard.

As the member for Farrer has reported, the OECD released its latest report on the world economic outlook. Members of perhaps both sides of the House will be pleased to know that it has revised up its projection for economic growth in Australia. I am sure the Labor Party would welcome the fact that Australia’s growth prospects have been revised
The OECD has revised up the expectation of growth in the year 2000 to 3.9 per cent and in 2001 to 3.7 per cent. I am sure both sides of parliament would welcome the fact that the OECD has projected the unemployment rate to continue to decline to 6.4 per cent in 2001. That would be the lowest unemployment rate in a decade and, if it should go through six per cent, we would have the lowest unemployment rate in 25 years. I think all members of the House would welcome the fact that unemployment in Australia has fallen. The OECD also states that increase in the CPI due to the introduction of the GST is not expected to become embedded into core inflation. Again I say to trade unions and employee organisations that there is no need to seek wage claims to compensate for GST, because you have received tax cuts.

Mr Tanner—How long will they last?

Mr COSTELLO—I am interested that the Labor Party interjects, because it was a point that the Labor Party made in 1985. I will get the quotes, if the House wants them, of when the Labor Party supported the GST. In 1985 it made it clear to unions that it did not expect wage claims to chase the CPI. In fact, the point was made by the then president of the ACTU. When the Labor Party supported the GST—let us put this on the record—they made it entirely clear that employees should not chase wage increases on the basis of those price changes. There was no stronger supporter of the consumption tax in the Labor Party cabinet than the now Leader of the Opposition—as appears in the memoirs: supported through the cabinet by the Leader of the Opposition and, as I recall, the then member for Holt. In those days, the Labor Party had leadership, and he was a good follower. Today, he is still a good follower. The trouble is that it has no leadership. If he had any ability to lead, he would stand down there and join with us and say that tax reform is something that this country has missed out on for the last 20 years and it has to be done now. They have the idea that they are going to try to skate through the next 30 days, fill in 10 questions a day and attack the goods and services tax and then, on 1 July, they are going to say, ‘That campaign that nourished us for two years is all over. We, the Labor Party, are so opposed to the GST that we are going to keep it.’

This is a cheap, populist campaign against change by people who have no capacity to lead, only to follow. And, as has famously been said, the backbench may follow you, but only out of curiosity. The OECD also said that the budget will be in structural surplus in 2000 for the third time—1998, 1999, 2000—and will be again in 2001. So the OECD has independently confirmed a strengthening economy. Australia will be better off, will be stronger, for accomplishing tax reform. Notwithstanding the campaign of the Labor Party, they have failed. They have failed to defeat the introduction of a new tax system. Now all they hope to do is to benefit from it.

Mr Speaker—The Leader of the Opposition will come to his question or lose the opportunity.

Mr BEAZLEY—I ask a question of the Minister for Health and Aged Care. Minister, do you recall saying on the AM program on 11 May, and on a number of other occasions, that the Auditor-General had a ‘clear view’ of any impropriety in the MRI scan scam? Isn’t it a fact that the Deputy Auditor-General told last week’s Senate estimates committee: There is no such statement in the report. The minister has obviously drawn that conclusion himself.

Minister, will you now withdraw your false claim that the Auditor-General cleared you? Doesn’t this just show that you are willing to say anything and blame anyone to avoid your culpability?

Dr WOOLDRIDGE—I think you will find if you check the form of words I have used that the Auditor found no evidence of impropriety, and that is absolutely correct.

Mr ST CLAIR—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional
Representatives. Is the minister aware of the difficulties faced by the trucking industry's long-distance owner drivers? What is the minister's response to the road blockade in Albury-Wodonga organised by the Transport Workers Union?

Mr ANDERSON—I thank the honourable member for his question, and acknowledge his real involvement and interest in this particular industry. The trucking industry is of course very important to Australia, and it does have to be noted that owner drivers at the moment are facing some particular pressures. Operators are working for rates that are below break-even, and there is evidence of rates being driven down to levels that people simply cannot survive on and owner drivers going broke as a result. A series of roadblocks have been organised in recent times to draw public attention to the difficulties which long haul owner driver transport operators are experiencing.

The government does recognise some of the particular difficulties that owner drivers have been facing—there is no doubt about that. The very rapid rise in crude oil prices in recent times has in particular put some in the industry under real pressure, and the cutthroat nature of that industry does mean that some small operators are having trouble extracting a fair deal in terms of freight rates. The government is working with the industry to explore ways forward in areas in which we can help. I have discussed these matters with the industry and with Professor Fels. I have talked with owner operators themselves, as well as with the TWU. But I would want to make the point that, whilst I think there are some areas where the government can help, there are many which are best dealt with in the industry. I cannot for example—and I must state this quite plainly—envisage a circumstance in which we would be legislating to fix minimum freight rates, which is a proposal being put by some in the TWU. I understand that the industry are meeting the Australian Industrial Relations Commission this Friday, and that they are updating what is called the Australian Road Transport Federation TWU costing model. That will give them a platform on which to talk through some of these issues.

I have asked Senator Ron Boswell to work constructively through the issue. I understand that yesterday the TWU accepted that invitation, so it is with some regret that I learn today that, having yesterday accepted that invitation to work constructively, there are new blockades choking up key highways. I think that is regrettable. I do say that I think those owner operators, if they are serious, ought to get off those highways. I have just seen a statement put out by the Indigo Shire Council, which is in the electorate of the member for Indi, referring to the very real damage being done to roads and infrastructure as truckies look for alternative routes around the blockade, which is now quite extensive.

Having made those points, I say this: I think one of the key issues that is rapidly emerging as the government seeks to work constructively with owner drivers is to establish just who can adequately represent them, because we have got the TWU out there at the moment staking a very ill-founded claim that they represent the views of long-distance drivers. I do not believe the TWU has ever been a friend of long-distance owner drivers, and owner operators should not be conned by the TWU's claims.

Minister for Health and Aged Care: MRI Scans

Ms MACKLIN (2.58 p.m.)—My question is to the Minister for Health and Aged Care. Minister, isn’t it a fact that your departmental head provided you with advice to issue a public clarification about the defect in the statutory declaration you have relied on for your MRI defence and for you to correct the parliamentary record? Can you now confirm that you told Mr Podger not to take any action to correct the public record, as reported in the Australian on 12 May? Given that your department refused to table this advice last week in Senate estimates, will you now table it? If not, isn’t the Australian public entitled to believe that you are again not telling the truth?

Dr WOOLDRIDGE—As I recollect, I certainly did not say not to take any action. In fact, I think on the minute that the secretary had I physically wrote that I agreed, and asked for it to be tabled. So that completely contradicts what has been said.
New Apprenticeships Scheme: Evaluation

Mr WAKELIN (2.59 p.m.)—My question is addressed to the Minister for Education, Training and Youth Affairs. Minister, would you inform the House of any recent evaluation of the performance of the New Apprenticeships initiative? What alternative policies exist on this issue, and what is the government’s response to them?

Dr KEMP—I thank the honourable member for Grey for his question, and I know his dedication to helping young people in his electorate. In the recent evaluation of the Job Network the government’s new apprenticeships centres have received another vote of confidence from employers. Employer satisfaction with new apprenticeships centres was recorded as being at 82 per cent. Employers like the information the centres provide. They like the integrated service, and they like the assistance with incentives. They particularly like in the New Apprenticeships system the opportunity to choose those who will provide the off the job training, whether in a public or private training provider. As a consequence, we now have in Australia record numbers of new apprentices and strong support from employers who value the choice and responsiveness of the new system.

Yet what do we get from the Labor Party and the Australian Education Union? That they want to get rid of the very features that have made new apprenticeships attractive. They want to push off the job training back onto public providers. They want to get rid of private providers competing with the public providers, and they want to get rid of the right of employers to choose who is going to provide the training to the apprentice. This is the policy that the Australian Education Union has just announced. And we all know that the Australian Labor Party is the puppet of the unions. They sit there on Sharan Burrow’s lap—Shazza’s lap—while she manipulates the eyebrows, puts the words through the mouth, controls every movement, because they are nothing more than puppets of the union movement. If Sharan Burrow were taking a glass of water the Leader of the Opposition would not be able to say anything at all about education. Do you know what I would like to see, Mr Speaker? I would like to see the Leader of the Opposition stand up to the Australian Education Union. Their confidence must be sky high at the moment. The union’s confidence must be sky high, because the Leader of the Opposition has just rolled over on individual contracts.

Mr Wilkie—Sit down, you little grub!

Mr SPEAKER—The member for Swan.

Mr O’Keefe—Mr Speaker, I rise to raise a point of order. I draw your attention to standing order 85, which permits you as the Speaker to—

Mr SPEAKER—The member for Burke will resume his seat, please. The Leader of the House.

Mr Reith—I rise on a point of order, Mr Speaker. Everybody heard that interjection. That is not parliamentary, and he should be required to withdraw it.

Mr SPEAKER—The Leader of the House was making the point that the interjection—made, I presume, by the member for Swan, because he was the person that I then challenged to comment—was in fact unparliamentary. I ask him to withdraw it.

Mr Wilkie—I withdraw.

Mr SPEAKER—Thank you, member for Swan.

Mr O’Keefe—Mr Speaker, I am drawing your attention to standing order 85, which permits you, in the face of a member who persists in irrelevance or tedious repetition, to direct the member to discontinue his or her speech. I ask that you refer to the minister in these terms.

Mr SPEAKER—The minister is answering the question he was asked, and I call him.

Mr McMullan—Mr Speaker, I want to raise a point of order. I want you to rule how it is that you interrupted the member for Burke before he had completed what he was saying. The standing orders make it clear that the proceedings of the House are suspended until the member has concluded making his point of order. Yet he had not concluded, and you allowed the Leader of the House to interrupt.

Mr SPEAKER—The Manager of Opposition Business has made his point of order and will resume his seat. The Manager of
Opposition Business makes, as I freely concede, a valid point of order, and I was conscious of that. However, it seemed to me that the action taken by the member for Swan—as he has since conceded—was unparliamentary and I should deal with it, related to the fact that it had just been made and ought to therefore have been withdrawn. So I took what seemed to me to be a convenient action at the time and did not deny the member for Burke the opportunity to make the point he was making.

Mr Martin—Mr Speaker, further to the point of order—

Mr Tuckey—You’d be a great one.

Mr SPEAKER—The Minister for Forestry and Conservation, the member for Cunningham has the call.

Mr Martin—I knew how to deal with you, brother.

Mr SPEAKER—The member for Cunningham will find himself back in his seat.

Mr Martin—In the previous intervention by the Leader of the House I do not recall that in fact he was given the call by you, but the microphone became activated when he came to the dispatch box. On a number of occasions in this House people, including the Leader of the Opposition, have had to wait until getting the call before the microphone was turned on. We would like to make sure that that in fact is the procedure that is followed.

Mr SPEAKER—I will follow up the matter raised by the member for Cunningham, as he is almost as well aware as anyone in this House that there is a requirement that microphones be switched on when someone has been recognised and switched off when they have been denied the call. I did not notice the point he raised. I will follow it through. But I return to my original point, which was that there was no sense in which the member for Burke was disadvantaged by the action of the chair.

Dr KEMP—The Australian Education Union has just put out a policy which means that employers will in future, under Labor, be denied the opportunity to choose who will train their new apprentices. That is the AEU’s policy, and it will soon be the Labor Party’s policy because we know that, as soon as the Australian Education Union enunciates a policy, the Leader of the Opposition—trudging through the policy desert, looking for a drink of water, gratefully accepting anything the Australian Education Union offers him—will pick it up and put it into practice. We will wait for the July conference of the Australian Labor Party and we will see them pick up that policy.

Mr SPEAKER—The member for Burke.

Mr O’Keefe—Has the minister finished?

Mr SPEAKER—I was presuming he had finished because I had not denied him the call. He has, however, resumed his seat.

Mr O’Keefe—if he has finished, I will sit down. I want to take a point of order if he has not finished.

Mr SPEAKER—The member for Burke has the call.

Mr O’Keefe—I will take the point of order, Mr Speaker. If it were only today, it would be fine. But it is tedious repetition—

Mr SPEAKER—The member for Burke will resume his seat. I have already ruled on that matter. The minister has the call.

Dr KEMP—Let us be quite clear about the consequence of this policy of the Australian Education Union being picked up by the Australian Labor Party. It would lead to many of the 4,000 private training providers going out of business, it would destroy training opportunities for up to 350,000 young Australians and it would rip the heart out of the New Apprenticeships system. We know the record of the Leader of the Opposition when he was education and training minister: 20,000 apprenticeships disappeared in one year. Now the Australian Education Union wants the Labor Party to take out the whole New Apprenticeships system. The Leader of the Opposition, by his record, has shown that he is prepared to roll over, time and time again, to union pressure. Australian young people cannot afford to have 350,000 training opportunities lost, and I challenge the Leader of the Opposition to tell the Australian Education Union that, on this one occasion, he will stand up to them, refute what
they say and continue to support the government’s very successful New Apprenticeships system.

Minister for Health and Aged Care: MRI Scans

Ms MACKLIN (3.09 p.m.)—My question is again to the Minister for Health and Aged Care. Minister, why did you falsely claim on the ABC AM program on the morning of 12 May that you had been told for the first time the previous day about the defect in Penny Rogers’s statutory declaration? Is it not a fact that you were advised of this defect in a memo from your departmental head six months earlier on 18 November last year? Why won’t you now table the advice so that the public can see who is telling the truth?

Mr Pyne—Mr Speaker, I raise a point of order under standing order 76. At the beginning of the member for Jagajaga’s question, she said that the minister had ‘falsely claimed’, which is imputing improper motives to the minister. I ask you to ask her to withdraw that imputation. It is an improper reflection and it should be removed.

Mr McMullan—Mr Speaker, on the point of order: if it were not possible to say that a claim is false in this parliament in a question or otherwise, we would not have the specific provision that says you cannot say that someone deliberately misleads without doing so on a substantive motion. That is the point at which the standing order cuts in with regard to accusations of people making inaccurate statements—not this absurd proposition.

Mr SPEAKER—The Manager of Opposition Business has made his point of order and will resume his seat. The member should be aware that standing order 76 states:

All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

It is a standing order by which we would all want to abide. However, the statement made by the member for Jagajaga was, in my view, not attributing any more improper motives to the minister than I have heard made in other questions, and I will allow it to stand.

Dr WOOLDRIDGE—The full quote, which is always handy to have when the Labor Party is asking questions, is:

Well, I must say, I think I was told yesterday.

Ms Macklin—’I think’ is the problem.

Mr SPEAKER—The member for Jagajaga!

Dr WOOLDRIDGE—And when I checked my records later in the day, I corrected it later in the day. The Labor Party is very fond of using false quotes. The Leader of the Opposition said I had said in the same interview that the auditor had cleared me. I have actually looked at it now. I will read you the whole quote:

Yes, they’ve been nagging about it for a long time, but really they haven’t landed a punch.

Mr Beazley—What about the day before?

Dr WOOLDRIDGE—Well, Sport, I will read the day before:

Do you believe you’re now in the clear?

MICHAEL WOOLDRIDGE: I certainly am. The auditor found no impropriety on my behalf. So you are dead wrong in your question, as you usually are.

Ms Macklin—Mr Speaker, I seek leave to table the transcript of AM of 11 May, which says quite clearly and in response to the question ‘Are you in the clear?’ ‘I certainly am.’

Mr SPEAKER—The member for Jagajaga will resume her seat. I had anticipated that the member for Jagajaga was raising a point of order. In fact, the member for Sturt is raising a point of order and I will hear him.

Mr Pyne—On a point of order, Mr Speaker: in the light of what you said in your ruling and in the light of what the minister has just said in his answer, it is very clear that the member for Jagajaga was falsely imputing motives to the minister. Therefore, I would now ask you to ask her to withdraw her false imputation. It has been cleared up by the minister’s answer.

Mr Sercombe—Why don’t you look after Nick Minchin like that?

Mr SPEAKER—The member for Maribyrnong is warned! The member for Sturt has made a point of order. As the occupier of the chair, it struck me that, if the member for Jagajaga’s question had in any way attributed improper motives to the minister, he had the opportunity to respond to
that in the question. That is why I allowed the question to stand, and that is how I would respond to the member for Sturt’s point of order.

Ms Macklin—Mr Speaker, I seek leave to table the transcript of the minister’s interview on AM on 11 May where he was asked the question, ‘Do you believe you’re now in the clear?’ and he answered, ‘I certainly am.’

Leave not granted.

Rural and Regional Australia: Telecommunications Services

Mr Hawker (3.15 p.m.)—My question is addressed to the Minister for the Arts and the Centenary of Federation representing the Minister for Communications, Information Technology and the Arts. I ask the minister: will he inform the House what the Howard government is doing to improve the range and quality of telecommunications services in regional Australia? How will residents in my electorate of Wannon benefit from these initiatives?

Mr McGauran—I thank the honourable member for his question. His electorate of Wannon is celebrating today’s latest round of Networking the Nation projects, for the electorate of Wannon has benefited enormously from the strong and brash representation of the member for Wannon. He does not pull punches, the member for Wannon. As a result, the electorate of Wannon will share in $2.3 million of funding for three projects under Networking the Nation, including six new multimedia centres throughout the region and $1.5 million to localise STD phone calls within the region. The Prime Minister announced these projects this morning. There was $65 million in this round. That means that $200 million has been spent on Networking the Nation on 400 projects to date. Another $220 million is to come. This all opens up some $1 billion for information technology and telecommunications projects from the privatisation of Telstra to date, and that is not including another $1 billion for environmental refurbishment works. It is very significant.

Do Labor support these benefits to regional communities? No, of course not. Labor oppose Networking the Nation. It was their policy at the last election to oppose Networking the Nation. They are totally opposed to up to $1 billion for information technology and telecommunications. What do they have in its place? What is Labor’s policy to repair the dilapidated and depleted telecommunications infrastructure throughout rural and regional Australia? None. You allowed it to happen through your 13 years in government. We are repairing it, we are refurbishing it, and all we get is opposition from you. That is unfortunate. I notice that the electorate of Bendigo has received almost $200,000 for a youth web site that is going to assist young people with an online service framework across five municipalities in central Victoria, including the establishment of 10 public access kiosks. Do you oppose it? Are you announcing it? Are you supporting it?

Mr Speaker—The minister would be aware that he should address his remarks through the chair.

Mr McGauran—I am reminded, Mr Speaker, that the member for Bendigo a couple of weeks ago claimed on local radio that the government was reneging on a $2 million arts grant to the arts precinct of Bendigo at the same time as we were finalising the deed of agreement with the local council. Some might call that a barefaced lie. I call it a falsehood—

Government members interjecting—

Mr McGauran—What was the word—an inaccuracy, misinformed? You actually went on radio and said that government was not providing $2 million when the ink was not yet dry. Amazing! I do not know what you are going to say about this $200,000 benefit to your electorate. It does not matter whether it is country Labor, modern Labor, real Labor or new Labor—all terms that the Leader of the Opposition has adopted—

Mr Horne—Mr Speaker, I rise on a point of order. I was sure this question was about the residents of Wannon and how their lives had improved—

Mr Speaker—The member for Paterson will resume his seat. The question was about telecommunications services.
Mr McGAURAN—There are electorates all across Australia that are celebrating the commitment of the government to Network- ing the Nation. I am fascinated that ‘Country Labor’ was suggested by the Premier of New South Wales, Bob Carr, but adopted by the Leader of the Opposition. ‘Real Labor’, suggested by the Deputy Leader of the Opposition, was adopted by the Leader of the Opposition. I think ‘Modern Labor’ is his own term. ‘New Labor’ is used by Tony Blair or the member for Werriwa.

Mr SPEAKER—Minister, I am having difficulty relating this to telecommunications services. I advise you to come to the question.

Mr McGAURAN—Mr Speaker, it does not matter what you call this Labor. This is a Labor Party that neglects rural Australia.

Minister for Health and Aged Care:
Correction to Hansard

Mr BEAZLEY (3.20 p.m.)—My question is to the Minister for Health and Aged Care. Minister, isn’t it a fact that you were told in writing on 18 November last year that you needed to correct the parliamentary record in relation to the Penny Rogers statutory declara- tion, that this issue was again discussed by you and your department on 24 November but that you sat on this until 13 December, conveniently after the parliament had risen for the year? Why did you not correct the parliamentary record during any of the six sitting days that slipped away while the memo sat on your desk or on any of the 22 sitting days this year before this issue was exposed? Minister, didn’t you fail to table a correction because you were frightened it would cast doubt —

Mr SPEAKER—The Leader of the Opposition will come to his question.

Mr BEAZLEY—Because you were frightened it would cast doubt on the only fig leaf you have to hide the fact that you were the source of the unauthorised disclosure?

Mr SPEAKER—The Leader of the Opposition will resume his seat.

Mr Ross Cameron—Mr Speaker, on a point of order: I think that is the third time the question has been asked. It has been fully answered. The last part of the question is completely argumentative and should be ruled out of order.

Mr SPEAKER—The member for Parramatta will resume his seat. He will note that the chair did in fact require the Leader of the Opposition to resume his seat during the latter part of his question. I do not believe that the first part of the question asked by the Leader of the Opposition is out of order, and I have allowed it to stand. I call the Minister for Health and Aged Care.

Mr Tuckey interjecting—

Mr SPEAKER—The Minister for Forestry and Conservation is warned!

Mr Leo McLeay—Mr Speaker, I rise on a point of order. Do I take it from your state- ment just then that you are ruling out of order the second part of the Leader of the Opposition’s question?

Mr SPEAKER—I did not indicate to the House at any stage that I had ruled out of order the Leader of the Opposition’s question.

Dr WOOLDRIDGE—I do not think the dates are quite right in that the date a minute goes out of the department is not necessarily the date it arrives in my office, and the date it is signed by me is not the date it goes out. Allowing for that, they are broadly right.

Mr Crean interjecting—

Dr WOOLDRIDGE—As the secretary did say to me that something had to be ad- dressed, there was concern at the time that there might be other inaccuracies. My office wanted to check whether that was the case. The view was that this was an absolutely trivial matter that had no substance at all. In fact, the Auditor, in a letter of 12 May, said that he was aware of this and it did not change his analysis, his findings or his con- clusions. Nonetheless, I did believe the House should be given the courtesy of having it corrected.

Ms Macklin interjecting—

Dr WOOLDRIDGE—I asked for the department to do this in writing, as I recollect,
on 10 December. The department did not do this. The inaccuracy in Ms Rogers’s statement is, as I said, trivial. It does not change the substance of matters, and that was the Auditor-General’s view. You have to ask: why are the opposition going on and on about this? I think they are embarrassed. They were embarrassed that, when the Leader of the Opposition was Minister for Finance, there were only 18 MRI machines in Australia on which you could claim. Today there are 66. When the Leader of the Opposition was Minister for Finance, there was a five-month wait for these machines. Today there is a one-week wait. The Leader of the Opposition allowed an $800 cost to patients for these machines—it now costs around $50, and, as against none being in rural Australia, we have 17 in rural Australia. It has been very good for the Australian public.

**Job Network: Future**

Mrs ELSON (3.24 p.m.)—My question is addressed to the Minister for Employment Services. Is the minister aware of recent comments calling into question the long-term future of the Job Network? In light of these comments, what is the government’s position on the Job Network? What is the response to any alternative views on this issue?

Mr ABBOTT—I thank the member for Forde for her question and her support for the 11 Job Network sites in her electorate. When the government set up the Job Network, it invited some of the finest organisations in Australia to join in what has turned out to be a grand venture. The government would provide the money and organisations like the Salvation Army, Mission Australia and Centacare, as well as the private sector, would provide the professionalism and the expertise to give the job seekers of Australia a new deal. This is the new politics in action. This is the social coalition at work. These are social businesses enhancing the social capital of the nation—with government as partner, not as director; with government helping to rebuild the bonds between individuals and communities which the old style ‘Canberra knows best’ bureaucracies had done so much to weaken.

As the House knows, these community organisations have risen magnificently to the challenge, and the Job Network is outperforming the old system by about 50 per cent in getting job seekers into work. These organisations have done this only because they have invested massively, millions of dollars, into their operations and they have committed themselves in some cases for years in advance. Unfortunately, it is far from clear that the opposition has grown out of its traditional fixation with central planning and control. In a speech two weeks ago to the Jobs Australia Conference, the shadow minister for employment said that the Job Network would remain for the foreseeable future, but only given that there are contracts in place. At the very least, if the Job Network is to be completely refocused on training, that would require a major rewrite of those contracts.

She went on to say that the jury is still out on the role of the church and the charitable sector in for-profit service delivery. What did she mean by this? Did she mean that the Job Network should not be run on a performance basis, or did she mean that organisations like the Salvos, Mission Australia and Centacare should not be allowed to participate? Unfortunately, this is not the first time that the opposition has questioned the legitimacy of church-based agencies delivering these sorts of services. At the end of last year in this very House, none other than the Leader of the Opposition himself dismissed church agencies as ‘good-hearted amateurs’. He said they were nothing but ‘good-hearted amateurs’. In April 1998, he said:

But I’ve got enough knowledge of this to know that failure in this system that’s been established by this Government is virtually inevitable.

If he was looking into his crystal ball, he is completely wrong. He has been proven wrong by events. But, if he was predicting what would happen under a Labor government, he has to clarify exactly where the opposition stands. This week in the Senate estimates hearings, Senator Kim Carr, the factional warlord of the Labor Left, has raised the prospect of an incoming government simply cancelling Job Network contracts. This is a direct threat to thousands of Job Network sites, to thousands of jobs and to the millions of dollars invested in these opera-
tions by church and community organisations as well as by the private sector. It is a direct threat to the 700,000 job seekers of this country who are relying on these organisations for help. Unfortunately, it is typical of a feral opposition which regards any cooperation with government programs as some kind of fraternisation with the enemy. The Leader of the Opposition needs to say exactly what his attitude is to the Job Network. Does he stand by his comments of 1998, or does the follower-in-chief follow now the member for Dickson? Does he follow Senator Carr? Or is he, as always, simply following the union movement and more interested in supporting the union block vote than he is in giving the Job Network members of this country the security, the confidence and the tenure they deserve?

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper.

Economy: OECD Report

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Economy: OECD Report

Mr Howard (Bennelong—Prime Minister) (3.30 p.m.)—Mr Speaker, as is appropriate, could I add to an answer I gave to the member for Petrie?

Mr Speaker—The Prime Minister may proceed.

Mr Howard—I have discovered that, in the course of giving an answer to the member for Petrie, I misrepresented the Deputy Leader of the Opposition. I want to tender an apology to the Deputy Leader of the Opposition for misrepresenting him. The remarks about wages policy that I read out were in fact uttered not by the Deputy Leader of the Opposition but by the former member for Gellibrand, who was then the Minister for Industrial Relations.

Mr Crean—That is a big mistake.

Mr Howard—Yes, a big mistake. Before the Deputy Leader of the Opposition draws any comfort, I have discovered in the very same program segment an interview attributed to the then leader of the ACTU, Simon Crean, who is now, I believe, the Deputy Leader of the Opposition. In fact it makes the point that I was making earlier in my answer to the member for Petrie that the then government and their union supporters boasted of the falls in real wages that they had been able to achieve, because the Deputy Leader of the Opposition in his then capacity said:

I think that part of the problem that the Labor movement has faced ... is that we've almost made a virtue of the fact that what this system has produced is falls in real wages. It has produced falls in real wages ...

In other words, he made the point rather more powerfully. I am sorry I misrepresented him.

QUESTIONS TO MR SPEAKER

Questions on Notice

Mr Danby (3.32 p.m.)—Mr Speaker, under section 150 of the standing orders, I ask that you draw the attention of the Minister for Defence to an answer that is overdue to my question No. 1127. On indulgence, Mr Speaker, I ask—

Mr Speaker—I should indicate to the House that I am quite happy to extend indulgence to the member for Melbourne Ports. I understand that there are some complications with one of the questions that he has asked that he seeks to clarify, so indulgence is extended.

Mr Danby—Thank you very much, Mr Speaker. My question No. 1127 is based on an answer to an earlier question No. 957 to the Minister for Defence. In December, the Minister for Defence answered question No. 957 where, inter alia, he said that he had met General Shelton, the Chairman of the US Joint Chiefs of Staff. I immediately asked question No. 1127. In March this year, the minister changed his answer to question No. 957. He said that he had not met General Shelton; he had in fact met Lieutenant General Anderson. I ask that you apply standing order 150 equally to the minister’s amended answer and to the section of the answer to which he still admits.

Mr Danby—Thank you very much, Mr Speaker. My question No. 1127 is based on an answer to an earlier question No. 957 to the Minister for Defence. In December, the Minister for Defence answered question No. 957 where, inter alia, he said that he had met General Shelton, the Chairman of the US Joint Chiefs of Staff. I immediately asked question No. 1127. In March this year, the minister changed his answer to question No. 957. He said that he had not met General Shelton; he had in fact met Lieutenant General Anderson. I ask that you apply standing order 150 equally to the minister’s amended answer and to the section of the answer to which he still admits.

Mr Speaker—I will investigate the issue that the member for Melbourne Ports has raised and write, as appropriate, to the Minister for Defence.

PERSONAL EXPLANATIONS

Mr Gibbons (Bendigo) (3.33 p.m.)—Mr Speaker, I wish to make a personal explanation.
Mr SPEAKER—Does the honourable member claim to have been misrepresented?

Mr GIBBONS—Yes.

Mr SPEAKER—Please proceed.

Mr GIBBONS—In question time today, the Minister for the Arts and the Centenary of Federation indicated to the House that I was aware that a grant of $2 million had in fact arrived in Bendigo when I gave a radio interview calling for that money to come forward. The minister is well aware that that grant had been four years coming to Bendigo, and I was certainly not aware of it. This is a very scurrilous remark for him to make—

Mr SPEAKER—The member for Bendigo has indicated where he has been misrepresented and he must now resume his seat.

Mr McGAURAN (Gippsland—Minister for the Arts and the Centenary of Federation) (3.34 p.m.)—Mr Speaker, I seek leave to make a personal explanation.

Mr SPEAKER—Does the honourable member claim to have been misrepresented?

Mr McGAURAN—I do.

Mr SPEAKER—The Minister for the Arts and the Centenary of Federation may proceed.

Mr McGAURAN—Having listened to the member for Bendigo, I have been grievously misrepresented. His comment leaves open the question: if he did not know the money was coming, why did he assert that it was not?

Mr Beazley interjecting—

Mr SPEAKER—The minister will resume his seat. I asked the minister, as soon as it was possible for me to do so, to resume his seat. I do not believe any intervention is required from the Leader of the Opposition.

Mr CREAN (Hotham) (3.35 p.m.)—I seek leave to make a personal explanation.

Mr SPEAKER—Does the Deputy Leader of the Opposition claim to have been misrepresented?

Mr CREAN—I do.

Mr SPEAKER—The Deputy Leader of the Opposition may proceed.

Mr CREAN—The Treasurer today in answer to a question quoted from the transcript of an interview I gave earlier today. By not reading the full transcript, he misquoted the clear position that was made in that where I said:

...if the keeper of the accounts—in other words, the Auditor-General—says it’s a grant—it’s a grant. And the only person that’s saying it’s not a grant is the Treasurer.

It is also true that, at the same time as that transcript went out, I issued a correction to the specific point that he raised, but he chose to ignore that. What I am doing is correcting the record. The only person not correcting the record is the Treasurer, for this latest budget fiddle.

Mr SPEAKER—The Deputy Leader of the Opposition will resume his seat.

QUESTIONS TO MR SPEAKER

Yirrkala Bark Petitions

Mr SPEAKER (3.36 p.m.)—On 13 April, the member for the Northern Territory raised a number of matters relating to the reproduction of the Yirrkala bark petitions. The honourable member advised that the Yirrkala community views the clan designs represented on the petitions as indivisible from the people and that they do not believe they have relinquished their rights to them by adding the designs to the petitions. The honourable member also asked whether the parliament was charging a fee in respect of the use of reproductions of the material.

These historic petitions were presented to the House in 1963 and 1968. The bark petitions have a special format and unique significance, but in parliamentary procedural terms they enjoy the same status as other House documents. Under standing order 39, the custody of all documents laid before the House is vested in the Clerk of the House, and the Yirrkala petitions are covered by this.

In addition, standing order 320 authorises the publication of all papers and documents presented to the House. From time to time, requests are received for permission to reproduce one or more of the petitions—for example, in school textbooks, encyclopedias or art books. The House of Representatives has
consistently taken a very open policy with such requests and, with the approval of the Speaker or the Clerk, photographic negatives have been readily supplied. I must stress that no fee has been charged by the House of Representatives for the reproduction of this material.

In recent years, some requests for reproduction of the petitions were made directly to the Joint House Department art section, perhaps on the assumption that the petitions were part of the art collection. In his question, the member for the Northern Territory referred to correspondence from the Joint House Department art section. In an attachment to the letter in question there was a reference to a fee for the supply of a transparency and to a reproduction fee. When the Joint House Department supplies such a transparency of an item within the Parliament House art collection such fees are usually charged.

The Yirrkala petitions are not, however, part of the art collection, but most important parts of the original records of the House. I do not believe it appropriate that a fee be charged in relation to the petitions and I will be writing to the member for the Northern Territory, as the parliamentary representative of the Yirrkala community, advising of this. The Department of the House of Representatives will continue to assess requests for reproduction on their merits and to ensure the appropriate use of these images in accordance with the standing orders.

As well as being important and historic House records, I acknowledge that these petitions are of special and intimate significance to members of the Yirrkala community. The House has never delegated to those responsible for the petition of any record the right to approve requests for the use of the record. These petitions are, however, of unique significance. In recognition of this, I have directed that representatives of the community be informed, on a regular basis, of requests received and approvals granted in relation to images of the petitions and any related aspects.

With reference to the issues related to intellectual property and copyright, I have invited the Attorney-General to consider these broader matters and respond to the honourable member as and when appropriate. I thank the honourable member for the Northern Territory for bringing this matter to my attention and for allowing me to clarify the issues.

Treaties Committee

Mr SPEAKER (3.37 p.m.)—The member for Chifley asked me a question yesterday about the responsibility of the Joint Committee on Treaties. Paragraph 1 of the committee’s resolution of appointment provides for the committee to inquire into and report on:

(a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;

(b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:

(i) either House of the Parliament, or
(ii) a Minister; and

(c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.

Under paragraphs 1(b) and 1(c) of its resolution of appointment the committee could be asked by either house, a minister or the Minister for Foreign Affairs to look at any question related to a treaty or other international instrument, including treaties already presented. Also, in 1998 the committee completed, at its own initiative, a reference on the United Nations Convention on the Rights of the Child. This international agreement had been deemed to have been presented to the House on 6 November 1990 before the establishment of the committee in 1996. It would be a matter for the committee to determine whether it wished, under paragraph 1(a) of its resolution, to examine a treaty previously entered into and presented or deemed to have been presented to parliament.

AUDITOR-GENERAL’S REPORTS

Report No. 45 of 1999-2000

Mr SPEAKER—I present the Auditor-General’s Audit Report No. 45 of 1999-2000 entitled Performance audit: Commonwealth foreign exchange risk management practices.
Motion (by Mr Reith)—by leave—agreed to:

That:

(1) This House authorises the publication of the Auditor-General’s audit report No. 45 of 1999-2000 and

(2) The report be printed.

COMMITTEES

Family and Community Affairs Committee
Employment, Education and Workplace Relations Committee

Membership

Mr SPEAKER—I have received advice from the Chief Government Whip that he has nominated members to be members of certain committees.

Motion (by Mr Reith)—by leave—agreed to:

That Mrs Elson be discharged from the Standing Committee on Family and Community Affairs and that, in her place, Mrs Gash be appointed a member of the committee, and Mrs Gash be discharged from the Standing Committee on Employment, Education and Workplace Relations and that, in her place, Mrs Elson be appointed a member of that committee.

MATTERS OF PUBLIC IMPORTANCE

Minister for Health and Aged Care: Ministerial Responsibility

Mr SPEAKER—I have received a letter from the honourable member for Jagajaga proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The need for the Minister for Health and Aged Care to fully comply with the Prime Minister’s Guide of Key Elements of Ministerial Responsibility in responding to the Auditor General’s report on Magnetic Resonance Imaging

I call upon those members who approve of the proposed discussion to rise in their places.

More than the number of members required by the standing orders having risen in their places—

Ms MACKLIN (Jagajaga) (3.44 p.m.)—Three weeks ago in this House we debated a motion to censure the Minister for Health because of his responsibility for the largest medical scam Australia has ever seen. We had the Minister for Industrial Relations wheeled out to defend his beleaguered colleague with what we know has become his trademark—a combination of bully and bluster. He ended his speech with a pronouncement that the censure motion should be the end of the matter. How wrong he was. It was not over then and it will not be over today.

What we are debating today in this matter of public importance is the code of ministerial conduct and how this minister has breached it, and most importantly that ministers must be honest in their dealings and must not intentionally mislead the parliament or the public. Any misconception caused inadvertently should be corrected at the earliest opportunity. This minister has breached this code in every respect. The minister has falsely claimed that the Auditor-General’s report has cleared him. The minister’s disregard for the truth has been demonstrated by a succession of statements he has made about new matters that have come to light since the release of the Auditor-General’s report. The minister’s claim that he acted as soon as the problem about MRI rebates was identified has been shown to be completely false when we look at the history of this drawn out, two-year scandal.

The evidence continues to come to light about the sequence of events and the minister’s efforts to conceal—not be honest about—whatever has occurred. Let us go to the first place where this minister has not been honest in his public dealings. The minister has falsely claimed that the Auditor-General’s report has cleared him. When the Auditor-General’s report came out just three weeks ago, the minister was very quick to get out in the media putting his spin that the report had cleared him, that it had found no impropriety on his part and that he had been shown to act with the highest standard of probity. There is no evidence whatsoever in the Auditor-General’s report for any one of these claims. Nowhere in the report does it say that he has been cleared. Nowhere in the report does it say there has been no impropriety on his part, and nowhere in the report does it say that he has acted with the highest
standard of probity. There is no evidence for these claims. This minister has just made it up.

Veteran journalists saw the Auditor-General's report as one of the most stinging criticisms of a minister and the conduct of a sensitive budget negotiation that they could recall. The minister fooled no-one. This was probably best summed up in his appearance on the Sunday program with Laurie Oakes, which revealed just how weak his case is. Time and again the minister has denied the facts until presented with the proof. Then he tries to pass the facts on as someone else's fault. It is always someone else's fault. He is repeatedly trying to shift the blame. It is the radiologists' fault—'They misused my trust'—not the fact that he told them and then they went and took advantage of it. He blames the public servants. Of course, he would blame even his family dog if he could. On 11 May this year, the minister claimed during the censure motion in this House: The Auditor-General has found that I observed the highest standard of probity. That is what he said here in this House. Has anyone been able to find that in the Auditor-General's report? No. That morning, the same morning, on 11 May, the minister was asked on the ABC AM program whether he thought he was now in the clear. He replied, 'I certainly am.' This has been flatly contradicted by the Deputy Auditor-General when he appeared before the Senate estimates committee last week. Mr McPhee was asked whether the report had cleared the minister of impropriety. He replied, 'There is no such statement in the report. The minister has obviously drawn that conclusion himself.'

So much for honesty. So much for this minister abiding by the ministerial code of conduct that requires ministers to be honest in their public dealings. Since the last censure motion on 11 May the cover-up and the evasion have continued. On 12 May it was reported in the Australian newspaper that the senior departmental official statutory declaration was wrong. This is a stat dec that this minister asked for himself to defend himself against the charges that we were making. Where it was wrong was that she had not accurately remembered who was at the crucial 6 May meeting, the meeting you would all recall where word got out about the MRI rebate for machines on order.

This statutory declaration and another one by a member of the minister's own staff have been the sole basis for this minister's case that he did not let the cat out of the bag. The radiologists remembered it, they passed it on and they acted on it. Now we find that the recollection of both of these officers was wrong about one of the easiest things to remember—who was actually at the meeting. Of course, as a result of this, it calls into question the other recollections. Remember, the statutory declarations were made 16 months after the event. There were no notes to rely on from the critical meeting. When asked by Laurie Oakes on the Sunday program whether another person, Mr Les Apolony, was at the meeting, the minister initially looked blank and, when confronted with the evidence, finally admitted it. He claims to have a perfect recollection of what he did not say at the meeting but has continually hedged about who was there. He can remember what he did not say but, strangely, other people can remember him saying it. Why did the college representatives brief their new president the next day that the supply measures had been discussed if in fact they had not been discussed?

As if this were not bad enough, we have seen since 11 May further evidence of this duplicitous behaviour by this minister. Ms Penny Rogers was informed by a letter received by her on 8 November last year that Dr Brazier was not at the critical 6 May meeting. Ms Rogers met with the head of the department on 10 November and Mr Podger advised the minister on 18 November 1999 in a written brief about the mistake in the statutory declaration. We asked three times in question time today for a copy of this written brief. This minister continues to refuse to provide a copy of this written brief. He refuses to provide it—why, we still do not know. Eventually I imagine we will find out, just like we have with everything else in this scandal. Of course, all we can ask today is what is he hiding. What is he hiding this time? Then we will know why he is refusing to table this document.
In an article in the *Australian* on 12 May, we have it reported that Mr Podger passed the information on to the minister’s office, which then declined to make any public clarification—that is a polite way of putting it. In other words, the minister instructed that there be no comment. This was the report on 12 May in the morning, and 12 May—most of you would not be aware—turned into high farce. You might remember that the minister had also said that morning on *AM* that he had just been told about it the night before. By the end of the day we had discovered that there was in fact a memo that had left the department on 18 November—we do not know when it arrived on his desk. That, of course, was his defence in question time. We now know that what he said on *AM* that morning was a complete untruth, that he had known about the mistake in the statutory declaration for six months and that the head of the department met with the minister on 24 November and had once again told the minister that there was a mistake in the statutory declaration—and yet nothing was done. Absolutely nothing was done!

This minister has failed to do what is set out in the ministerial code of conduct: any misconception, even caused inadvertently, should be corrected at the earliest opportunity. Did the minister in fact do such a thing? No, he did not. Once again we see today the minister trying to blame someone else—trying to blame the department for his inaction. He claims now that he was told of the error in the statutory declaration and that he told the department to table the correction and that it is their fault that they did not do that. Once again, what are the facts? The minister had eight sitting days from 18 November to come into the parliament himself, as is his responsibility, to correct the record from the time he received the memo until the parliament rose in early December. He has had many opportunities since then while the parliament has sat this year. But of course he did not do so—and this is the critical issue—because he did not want his defence to crumble. Instead, he sat on the department’s advice until 13 December. We understand that that is when he annotated the minute, sent it back to the department and said, ‘I don’t want to fix it; you fix it. I want to get out of this. I don’t want my defence to crumble. I don’t want it to be plain that the statutory declarations that I have relied on for my defence are false. I’m not going to raise that in the parliament.’ He just hoped that that would be it and that it would never come to light. Of course, he was just hoping, as he has hoped right through these last two years, that this latest cover-up would remain just that: covered up.

The mistake was in fact tabled only yesterday. Once again, after the minister had been caught out—and, of course, it was not tabled by the minister—even at this latest stage he did not have the courage to meet his obligations and come in and make that correction himself. In question time today the minister said, ‘The mistake was immaterial. It was really only about who was there and that is why I did not bother to come in to correct the record.’ Of course, if it had been immaterial, he would not have been afraid to come in and correct the record when he was first advised that there was a mistake; but of course he did not do that. He did not come in and correct the record as soon as he was advised because he knew that that was the end of his defence and that these statutory declarations could no longer protect him. All that this latest round of cover-up does is show that he is guilty of an extraordinary amount of dishonesty and of not living up to the standards that the ministerial code of conduct requires. The minister has also claimed right through this saga that he acted at the first opportunity. This is continually contradicted by his record of denial, which we now see being continued. Another memo we got just in the last three weeks was a memo also from Penny Rogers dated September 1998 advising him that the department had discovered that a large number of orders had been misplaced. The minister wrote on top of that memo: ‘Thank you Penny’. He wrote it up there, which demonstrates that he had read and understood what it contained.

The opposition first raised allegations of a budget leak and insider trading on 8 February last year. Did the minister express concern and say that he might look into this serious allegation? No. Of course, he ridiculed the opposition and said we had fallen for professional rivalry ‘hook, line and sinker’. He was
asked a total of 48 questions on the scan scam last year, and he refused on every single occasion to acknowledge the extent of the problem. As recently as last week, we have seen him doing exactly the same thing. The minister has been in a state of complete denial and cover-up throughout this whole MRI scan scam. He has never taken the initiative to address the cause of the problem. He has done everything in his power to conceal and cover up the evidence of his culpability. The Prime Minister’s guide on the key elements of ministerial responsibility requires that ministers be honest. Honestly, minister, you have completely failed this obligation and you should now resign.

Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (3.59 p.m.)—That is the conclusion of 15 months work from the opposition. I have to say that is the reason we are polling the best numbers in health that we have for 20 years over this side of the House. As long as the Labor Party wish to concentrate on personalities and on matters that are of no importance to the Australian public, you will continue to be the shadow minister who can take the credit for doing the worst, in political terms, that anyone on that side of the House has done for nearly twice the time I have been here.

There are such a large number of inaccuracies in the opposition’s allegations, it is hard to know where to start. Let me take them one by one. The first is this continuing claim that I somehow falsely claimed that the Attorney-General cleared me. That is simply a misreading of what was said and it is one that does the Labor Party no credit at all. For a year now you’ve been battling allegations that you leaked sensitive budget information. Do you believe you are now in the clear?

I replied:
I certainly am.

Saying one is in the clear is fundamentally different from saying that the Auditor-General cleared me. So for the Labor Party to then go on and attempt to misrepresent quotations to bolster their arguments shows how thin their arguments in fact are and shows that they have been able to come up with absolutely nothing new.

The second allegation is that I somehow told the people what was in the budget. I would suggest you read para 2.27 of the Auditor-General’s report:

All College members who attended the meeting of 6 May 1998 agree that the Minister did not reveal Budget measures.

So, utterly, clearly and unequivocally the minister did not reveal what was in the budget to that meeting. You must remember that I was authorised by cabinet to undertake a negotiation with a professional group. It does cause me some distress to find that 204 members of that professional group are currently being considered by the Director of Public Prosecutions, and I hope it would cause some distress to that profession. I suppose I can be accused of being naïve; I can be accused of having dealt with the College of Pathologists previously and expecting that radiologists would observe the same high probity that the College of Pathologists have in their negotiations with government. But there is no evidence at all of a budget leak. In fact, I think the Auditor sums it up very well in para 2.32:

... when considered alongside the differing recollections of what happened at Task Force meetings—

and these are meetings, one must recollect, that happened over several months—

it is a reasonable judgement that negotiation and consultation with the College and open debate about supply controls probably created an environment where some participants may have deduced, or become aware, that the Commonwealth was giving consideration to inclusion of machines on order.
To say that someone may have deduced or become aware that consideration was being given to a matter is vastly different from saying that someone told them what was going on—utterly different; you cannot correlate the two.

If you then go back to the sequence of events in the report, the Auditor lists the discussions that took place over the February-March-April period. The notion of supply side controls was discussed openly and on many occasions—and that was proper. It was part of a formal negotiation with a college, it was an area that was highly technical and complex, it was an area where we needed to get the professional input of this group in order to try to make something that was cutting-edge policy work. In one sense, that has worked, because we have instituted restrictions on MRI ordering, we have instituted clinical audits, we have instituted an evidence base to this new item number on the MBS that has never been done for any item number prior to Medicare. We could have done what the Labor Party did with the introduction of CT scanning. Had we done that, there would not be a problem today at all, We could have just said, ‘Let’s put the new item on Medicare, let it rip and let the radiologists do what they want.’ That is one of the reasons we have one of the highest numbers of CT scans per head of population of any country in the OECD. Had I not attempted to put any supply controls in place, I would not have had a problem because there would be nothing to be judged by. So the Labor Party standard is ‘Have no controls. Try and have no evidence base to what you are doing. Just let it rip and you don’t have a problem.’ The only trouble is that the taxpayer has a problem—you have to pay for it. So it was quite proper; it was sanctioned by cabinet to go through a formal process of negotiation about the introduction of MRI.

The different meetings that occurred are set out in the report. At 2.6, it states that in late March-early April 1998, controlling supply through a site freeze was discussed. Paragraph 2.7 states:

On 14 April 1998, there was a particularly robust debate on the issue of site freeze.

Paragraph 2.8 states:

One radiologist recalls the issue of machines on order—what we actually ended up doing. Paragraph 2.10:

Subsequent to the 25 March meeting, a conversation concerning supply control options occurred between a departmental officer and a College representative.

Para 2.11:

The date of the announcement was known to be Budget night. Accordingly, the Department gave a clear signal of the possibility of a site or machine freeze effective from Budget night. ... the discussion had taken place in relation to a College proposal for a range of supply control options.

Para 2.12:

One Commonwealth officer recalls ... the possibility that eligibility for MRI benefits could be extended to include machines on order as at Budget night during the meeting.

So there are specific references, other than this meeting of 6 May, to two conversations—neither of which I was involved in— involving machines on order and numerous conversations involving a site freeze. This speculation is not improper. This speculation was part of trying to bring in a measure with appropriate controls around it.

The 6 May meeting is one that, with hindsight, I perhaps would not have gone to. But, in the end, I thought it was proper to try to explain to the radiology profession why we were presenting certain items in the budget paper as we did. The opposition claims that I have somehow misrepresented what the Auditor said. Well, in essence I have tried very clearly to say that the Auditor found no impropriety, the Auditor could not find that a leak had actually occurred, and that is in spite of the very great powers he had, all of which were used under oath or affirmation over a period of many months.

The opposition makes much—and one newspaper in this country only attempts to do the same—of a senior departmental official’s statutory declaration being wrong. This is the declaration of Ms Rogers, and it is over the putting of a Dr Brazier as attending the meeting rather than Les Apolony. Ms Rogers attended many meetings. Dr Brazier, in the note that was tabled yesterday, says he can
understand why she made the error. When people go to many meetings, it is understandable that some things get confused. Incidentally, the reason I can remember what happened at the 6 May meeting was that it was the only meeting I attended. Other people were attending many meetings; I attended one. It is not surprising that someone would forget Les Apolony, as his job was to get the tea and coffee. Other than maliciously leaking information to newspapers, he has had no role in this matter at all.

The second thing that the opposition makes much of is the statutory declaration of Dr Rachel David. Well, her statutory declaration has not been corrected. It is completely accurate. She makes no pretence of having an exhaustive account of everyone who was at the meeting. Again, her comment to me was exactly the same: 'Why should I remember the guy who got the tea and coffee?'

The opposition says my sole basis of defence is on the statutory declarations; but in fact it is not. There is something inherently inconsistent and illogical with that line. If you check Hansard, the member for Jagajaga also said that I told the radiologists and the radiologists passed it on. The opposition is saying that the radiologists' testimony is superior and to be believed. If you take that as accurate, you must believe all of their testimony. You must believe their testimony that occurs in paragraph 2.31 as well:

The College representatives attending the meeting have given evidence that the discussions were confidential and, to their knowledge and recollection, they did not pass information ...

It is inconsistent to say that somehow this is the leak and they have passed it on and you believe their testimony but that you do not believe their other bit of testimony in 2.31. The fact is that my defence has never solely relied on this, because it was proper for me to have the discussions. It was authorised by cabinet, it was in the public interest and we were trying to do something that simply had not been done before. I was authorised, and it was proper, to hold the discussions that occurred. My misfortune was to happen to bump into the College of Radiologists.

The opposition further goes on that supply measures were claimed to have been discussed when I claimed they were not discussed. I have to recall the date off the top of my head, but I think this was first raised in parliament on 9 February last year. If you check Hansard then, I actually said at the time that things were discussed but they were discussed in general terms. Again, that was right: they were discussed in general terms. These issues were raised by the College of Radiologists. They were worried that we were not going to have open slather as they had come to expect from the Labor Party—as they had had with the introduction of MRI.

Finally, the member for Jagajaga makes much of me originally claiming that this was driven by professional rivalry. Unfortunately, professional rivalry is a big part of this. Some of the information that has been passed on has been because of people who missed out on machines. Unfortunately, some honest people have machines and are hurting very badly. Other people who we believe have acted improperly we have not been able to actually catch on the backdating of orders, because the HIC believes that one supply company at least changed its computer systems early on to make finding that backdating impossible. In fact, the head of the HIC believes that many more orders were backdated than they were actually able to prove, and that in large part explains the rush of orders.

The opposition bases much of its attack on me on the Prime Minister's code of conduct. I have the relevant sections here. The fact is that we did seek to correct any misconception, and the misconception, as I said, was trivial and is not nearly as great a misconception as the Labor Party trying to falsely read out quotes that did not exist and which I note they have not yet corrected. The other part of the ministerial code of conduct that is relevant is on page 13:

That does not mean that ministers bear individual responsibility for all sections of their departments. When they neither knew nor should have known about matters of departmental administration, it is not unreasonable to expect the secretary or some other senior officer will take the responsibility. Ministers would properly be held to account where they were aware of problems and had not acted to rectify them.

If you examine the course of record, the fact is that, had I left it to the department, this
would have come out even more slowly. I sought to bring it to a conclusion by passing a regulation through the parliament that all machines had to have a close-off date. The instant I had the result of that, I in fact ordered an Auditor-General’s inquiry. We froze all machines that had come into the country since February 1998, and the actions, once I found out, have been swift and comprehensive. As I said, the Director of Public Prosecutions is examining a very large number of cases—although, in the end, we would never expect to get anything like that number of prosecutions, because criminal proof is a much higher standard of proof; but I suspect that we will get quite a few civil prosecutions.

In the end, what the Labor Party cannot accept is that we have introduced something that is of immense benefit to the Australian public. The Labor Party cannot accept that the Auditor could not find that there was a single dollar that had been inappropriately spent. In fact, if you look at the Blandford review, the number of scans we are having at the moment is just about spot-on with what we would expect, from the latest data. The fact is that we now have 66 machines in Australia eligible for Medicare, rather than 18 when the member for Jagajaga was advising Brian Howe. We now have 17 machines in rural and regional areas, whereas we had none when the member for Jagajaga was advising Brian Howe. The average wait for a scan is now one week, compared to five months when the member for Jagajaga was advising Brian Howe. The average cost to the patient is around $50, compared to up to $800 when the member for Jagajaga was advising Brian Howe. The fact is that these scans are of enormous benefit to the Australian public.

Mr McMULLAN (Fraser) (4.14 p.m.)—This is no small thing that we are dealing with today. It would seem that the minister and the government regard the question of whether something is done with propriety and in accordance with proper standards as not an important issue. What we are dealing with here is an extraordinary circumstance in which we have had, for the first time, a serious finding by the Auditor-General reflecting on the performance of a minister—and the minister pretends there is no problem. He claims, as he confirmed in question time in trying to deny it, that the Auditor-General cleared him when he clearly did not; and he shifts his ground every time the issue is raised and pursued—as he did again today.

I want first to pursue a couple of the contradictions that emerged today in his contribution—although I will not have time to pursue them all—and then try to get back to the essence of this issue and away from the obfuscation. It was very interesting today that the minister said, ‘There were a lot of meetings, but I only attended one. I only attended the meeting on the 6th.’ The problem with that being a ringing statement of his defence is that that is the very meeting at which the problem arose. That is the meeting about which the Auditor-General made the finding:

On the balance of probabilities, when the views of all participants are considered, whatever was said at the meeting of May 6th 1998 seems to have had some influence on the following surge in orders, either directly or indirectly between then and the six days to Budget night.

That means that at all the meetings he was not at there was not a problem, but as soon as he turned up there was. He actually read almost all of chapter 2 into Hansard today, but somehow or other he missed page 237 which said the one meeting at which the minister was present was the one which, on the balance of probabilities, led to the surge in orders.

Auditors-General do not make allegations lightly. They do not come to conclusions—particularly conclusions that are of profound significance to a senior minister—lightly. This Auditor-General, a very honourable man, is a very cautious man. I respect him, but he is very cautious. He would not say, ‘I have looked at the evidence, including all that evidence in the preceding paragraphs to which the minister referred in his speech. ...’ But the minister did not get to the conclu-
On the balance of probabilities, when the views of all participants are considered, whatever was said at the meeting of May 6th—the one the minister attended—seems to have had some influence on the following surge in orders, either directly or indirectly between then and the six days to Budget night. That goes to this question of the ministerial code of conduct, because the minister, in defence, said, ‘Ministers cannot be expected to take responsibility for things about which they did not know or which they could not have reasonably had knowledge of.’ But this is a finding about something that at the very least occurred at a meeting at which he was present; 75 per cent of the people who expressed a view said not only did it occur at a meeting at which he was present, he did it. The other person said, ‘Well, somebody did it; I am not sure who.’ So it is three nil with one undecided. He said, ‘Well, I could not reasonably be expected to know about this. How could I take responsibility for this matter? All the evidence says it was me that did it.’ That was the only meeting he attended, and it was the meeting at which the problem arose.

He continues also to put a lot of weight on the fact that the problem arose because the college misused his information. What information did they misuse? He also tries to tell us he did not give them any. What is it that they misused? Did they imagine what he might have said and then misuse it? Did they guess what he might have been going to say if only he had said it and then spent $100 million based on what he did not say? What a fluke. A small group of people do two things. One, the day after the meeting they advised the incoming president of the college that the minister did tell them this. Perhaps they made it up. Perhaps they invented it. But they did say that the next day. But just in case you think that this might be some small thing, they then invested, with their friends and colleagues, $100 million on the basis of this bit of information that the minister says they did not have. I know radiologists do pretty well in this country, but I am not aware that they regard $100 million as petty cash that you just put out on the odds that maybe something will turn up; $100 million based on matters about which the Auditor-General made the conclusion that it occurred at the meeting at which the minister was present and most probably on the basis of something which he said.

This issue can be made very complicated. There are a lot of facts, and the minister always tries to obfuscate with confusions. But at its essence it is very simple. There are a number of propositions that need to be judged. Did the minister behave in a way, or was there behaviour he should have been aware of, which contributed to the opportunity for some people to take advantage of prior knowledge of impending budget matters, impending budget decisions? The answer clearly is yes. The Auditor-General found that on the balance of probability the answer is yes. That in itself is a sacking offence. It does not matter about the code of conduct. If you read the code of conduct it is a sacking offence. But you do not need the code of conduct to know that participating in, or most likely doing something yourself, or behaving in a manner that contributes to the opportunity for some people to take advantage of prior knowledge with regard to an impending budget measure is a sacking offence.

Why do you think we do not have full release in advance of the budget legislation? If we did, people might take advantage of that prior knowledge. That is the entire reason. With all the other legislation we deal with in this place we get exposure drafts. They come in, we have a first reading and then they sit around on the Notice Paper for a while. We do not do that with the budget because people can take advantage of prior knowledge. It is a sacking offence. And, as the Leader of the Opposition said in an earlier speech, if a public servant had gained from the minister an indication of what might have been in the budget and told somebody who then took advantage of that, that public servant would go to jail. They would not just be told, ‘Well, maybe you ought to resign.’ They (a) would be sacked and (b) would be in jail.

The Auditor-General says on the balance of probabilities the minister either did it or
was there when it was done and he did nothing about it, allowed the budget measure to proceed, and was advised before the budget that there was a surge in orders and did nothing about it, allowed the budget measure to proceed. If a public servant had done it, they would go to jail. And we are supposed to say, ‘But it doesn’t matter, because it was the minister.’ It matters twice as much because it is the minister. He has taken an oath, which he has breached. That should be enough.

Let us go on to the second question: ‘Was the minister in all circumstances honest and open with the parliament and the public about this matter?’ That is what the ministerial standards require—not just the code of conduct; that is what any reasonable set of standards for any minister requires. What we have got is two versions of the proceedings: one contemporaneous and confirmed by two things—subsequent report by those radiologists to their president and their fiscal conduct as a consequence—and then the subsequent and proven to be flawed memory of the other people at the meeting.

That is the significance of this error endeavoured to be covered up in the disclosure we could not get from the minister today. He would not give us the departmental brief that says, ‘Minister, there is an error in the statutory declaration. You should correct the record.’ Do you think if the minute cleared him he would not table it? Why do you think he will not table it? Because it is too good for him? Because it would build his case too well? No, I do not think that is the reason. We have got another cover-up, and that is why the most misleading thing that has been said is the statement that this is the end of the matter. This is just the beginning of the next stage. (Time expired)

Dr NELSON (Bradfield) (4.24 p.m.)—Much of the debate that we have heard today and on the previous occasions on which this issue has been discussed has related to the negotiations between the government, the department in particular, and the working party from the Royal Australasian College of Radiologists. The everyday person who is looking for footy results in the Daily Telegraph today probably wonders what the debate is all about. It is about this: MRI stands for a diagnostic imaging modality called magnetic resonance imaging. It is a non-invasive imaging technique which produces a stack of virtual slices that are then stored in a computer. It measures the magnetic energy through different planes of the human body. It is especially accurate at providing information to doctors about diseases which affect soft tissues. It is especially important and useful as a device in providing information about diseases in the head, the neck, the brain and the neural system, the spinal cord in particular, and also musculoskeletal diseases.

But we have not heard too much about that in today’s debate, nor indeed in any of the other contributions, particularly those made by the member for Jagajaga and those on the other side of the chamber.

I do not know whether you, Mr Deputy Speaker, have ever had agonising pain in your back and been unable to get yourself from the bed or the place where you have fallen. I do not know whether you have ever suddenly suffered back pain and have been required to be removed from where you were in a stretcher. But there are people who have suffered from diseases of their spine, their discs, the nerve roots that come from their spinal cords and impression upon their spinal cords that have produced not only agonising pain but at times periods of temporary paraplegia. I do not know, Mr Deputy Speaker, whether you or other members of the House have ever had a procedure known as a spinal angiogram. But before the arrival of MRI, which this debate is about, there were people in this country every day who were required to be admitted to a hospital for a day—and in many cases overnight—to have a spinal angiogram, in which they would be required to curl up and have a needle put into their spine, a contrast agent or a dye injected into it, and then a series of X-rays taken to see whether they had a spinal cord tumour or something pressing upon their spinal cord.

But now we have a modality, a technology that is available, called magnetic resonance imaging. MRI. When it became available the Labor government under Mr Hawke and then Mr Keating decided that it would make this modality available only through public hos-
That meant that the very people that the Labor Party professes to represent—that is, low income battlers, many of whom come out of public housing estates, and single income families—would have to wait up to five months to get what most of us would consider today to be as essential as getting penicillin for your tonsillitis. The radiology profession and people who were being denied access to this important new diagnostic imaging were arguing all of the time that the Labor government should make this more accessible and affordable to everyday people. The people that I represent in the electorate of Bradfield on the upper North Shore of Sydney—certainly not all but I would suggest most—could afford to get an MRI scan from a private machine and pay the $500, $600, $700 or $800, as much as that is, to have that imagery made available to them. But how do you think the low income battlers of Australia fared under the system that was operated by the Australian Labor Party? I can tell you, Mr Deputy Speaker, they did particular badly.

The Howard government was elected in March 1996, and throughout the first year of that government the Minister for Health and Family Services decided, quite rightly, that he would negotiate—with the approval, the authority and the endorsement, if not encouragement, of the cabinet—with the Royal Australasian College of Radiologists, who are the experts in the entire field of X-rays, radiology, CT scanning, ultrasonography and, of course, MRI. The purpose of the negotiations was to achieve one outcome, and one only, and that was to see that we would come up with a mechanism that would ensure that MRI scanning was available to all Australians who needed it, determined by a set of guidelines negotiated between the medical profession and consumer representatives; that they would have it irrespective of where they lived—it would not matter how remote they were essentially from large capital cities—and, most importantly, and I wonder why it is us on this side that have to remind the Australian Labor Party of this day after day, that you would get it no matter how much money you had in your pocket. All of that seems to have been lost in all of this debate about how many machines may have been ordered before or, indeed, after the budget. The opposition seem to have forgotten what the real issue is in fact all about, as they have in so many other cases.

People not only have been suffering because they have not been able to get access to this technology but have had procedures done to them that they did not need. Today, if you injure your shoulder, as I understand the member for Cook may have done, you do not have to go in and have an unnecessary operation; you can have an MRI scan. If you injure your knee, instead of being on a list of up to 20 arthroscopies of your knee, many of which could be considered to be unnecessary at times, you can actually get an accurate diagnosis of your problem. If you suffer the agony of wondering whether you might have multiple sclerosis, instead of a whole range of tests being done to you, the outcomes of which are often indeterminate, you can now have an MRI scan and with much greater certainty know whether you are in fact suffering from multiple sclerosis or any one of a number of demyelinating diseases.

Before the government made this decision, there were 18 publicly funded machines in this country; there are now 66. The basis mathematics for the average person living in Australia is that it is obviously a heck of a lot easier to get an MRI scan today than it was when we had Labor in power. Importantly, the message that I get from a lot of this is that the Australian Labor Party want to roll back not just the GST and a whole range of other things that are going to actually fund essential social infrastructure like this but these kinds of modalities which have made it easier for a lot of people. I also notice that the member for Jagajaga, apart from being the shadow minister for health, is the shadow minister for the status of women. One other important area for which MRI scanning is particularly useful is in the diagnosis and treatment of carcinoma, cancer of the ovary and other diseases in the pelvis. To try to suggest that, in some way, the government has done the wrong thing by negotiating a process that means that all Australians—women included—have better access to this defies basic logic. It means that we again have the triumph of political opportunism and trying to argue a point to diminish the
to argue a point to diminish the importance of a significant government decision instead of doing what it can to see that Australians get better access to better care.

In regional Australia—I and I presume this is of interest to Country Labor or whatever they call themselves; I did not see many Country Labor banners on the Sydney Harbour Bridge on Sunday, by the way—there are now 17 publicly funded machines. Before we made this decision, there were queues for these machines for those country people who could even get to cities and to public hospitals to get access to them. The pressure on the machines has been relieved because the government has made a decision to bring MRI under the Medicare umbrella. Does the opposition have a problem with Medicare in not encouraging these sorts of things to be covered by Medicare? I thought the whole raison d’etre of the Labor Party’s health policy program was to be supportive of Medicare. What we have here is MRI covered by Medicare. It is something that, I must say, does not seem to make a heck of a lot of sense to me. Does the Labor Party also believe that the MRI scans that have been performed are in some way unnecessary? The Auditor-General, apart from finding no impropriety on the part of the minister, did not find that a single MRI machine that has provided a service to a sick Australian provided a service that was unnecessary. Surely, in the end, that is what the issue is all about, and the minister should be congratulated.

Mr DEPUTY SPEAKER (Mr Jenkins)—Order! The discussion has concluded.

PETROLEUM EXCISE AMENDMENT (MEASURES TO ADDRESS EVASION) BILL 2000

Main Committee Report

Bill returned from Main Committee for further consideration; certified copy of the bill presented.

Ordered that the bill be taken into consideration forthwith.

Amendment—

That all words after “That” be omitted with a view to substituting the following words:

“whilst not declining to give the bill a second reading, the House:

(1) condemns the Government for its inaction on the dangerous practice of fuel substitution and in particular, for allowing the Australian Taxation Office to cease random testing of fuel;

(2) notes that fuel substitution is a dangerous practice that reduces engine performance, leads to total breakdown of engines, defrauds the Commonwealth of millions of dollars in revenue and harms the environment;

(3) notes that the Commonwealth Parliament has a responsibility for ensuring that fuel substitution does not occur, including the testing of retail fuel; and

(4) calls on the Government to ensure that the activity of fuel substitution is really brought to an end”.

Mr DEPUTY SPEAKER (Mr Jenkins)—The original question was that this bill be now read a second time. To this the honourable member for Wills has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (4.35 p.m.)—I would like to thank all participants in this debate for their contribution. The Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 improves the government’s ability to address excise evasion occurring through fuel substitution. The bill facilitates prosecutions for fuel substitution offences by removing some technical difficulties with the legislation and allowing the use of evidentiary certificates in prosecutions. The bill will also amend the definition of ‘fuel’ to cover a broader range of imported products and requires persons dealing in these products to meet the record keeping provision of the act.

Existing provisions in the Excise Act 1901 allow changes to the excise tariff to be made by gazetting a proposal or tabling a proposal in parliament. Over time, specific tariff items have been included in a variety of legislation, and so changes to these tariff items require changes to the legislation. This bill removes the specific legislative references so that tariff changes can be quickly effected by gazettal or proposal. The initiatives contained in
this bill are part of the government’s ongoing strategy against excise evasion by fuel substitution. The opposition has indicated that it does not oppose the passage of this bill through the parliament, but it has moved a second reading amendment, which the government does not accept and which we reject, seeking to criticise the government in certain areas.

The contribution of the honourable member for Wills was regrettably not a positive contribution. It was a very negative speech, as we have become accustomed to hearing from the honourable member for Wills in this place. He criticised the Australian Taxation Office for allegedly ceasing random testing of fuel as a means of attacking fuel substitution. This legislation proposes a systemic response to the problem by amending tariff and other administrative measures and making them more effective than chasing individual service stations. There has been in the past a difficulty experienced by Customs in proving offences due to the need to track fuel back to its source. It indicated that random testing would not be fully effective. The current amendments will alleviate evidentiary problems, and random testing will become a viable option to address fuel substitution. The honourable member for Wills also mentioned toluene. The fact is that claims that toluene and toluol are the same product are not correct. The first specific information detailing misuse of a tanker of imported toluene was raised with the Australian Taxation Office in January 2000. The amendments to the customs tariff effective 10 March 2000 address this problem. Even if all the toluene imported after 15 November 1999 was substituted—and it was not—the maximum revenue lost would have been less than $10 million.

Labor members also referred to trucks purchased and fitted out by Customs and claimed that the government should come clean on this issue. There were seven trucks leased by the Australian Customs Service, and they were transferred to the Australian Taxation Office in July 1999. Five trucks are still available for use in Brisbane, Sydney, Melbourne, Adelaide and Perth. The truck in Darwin was returned as there were no staff there to use it. The additional truck in Sydney was returned as surplus to current requirements, and cost savings were made by returning it prior to the expiry of the lease. The honourable member for Wills also mentioned that paint manufacturers were seeking assurance that the changes made in this bill would not see paint manufacturers paying increased rates for toluene. It was interesting to see that the honourable member for Wills himself pointed out that in his view this would not be the case. I just want to reassure paint manufacturers that this bill does not in any way increase excise rates, including rates for petroleum products legitimately used as something other than fuel—for example, solvents used by the paint industry.

The honourable member for Grayndyer referred to the number of tests done by the Australian Taxation Office in comparison with the number done by Customs. I think he said that there have been 42 tests by the tax office, with eight positive results, and that Customs had done over 500, with 50 positive results. The evidence demonstrates that the legislation can be improved to allow prosecutions to be commenced when a positive test is found, and the bill currently being debated in the chamber does precisely that. It removes some constraints, and that will assist in the ability to obtain convictions. It is in the interests of the parliament to pass this legislation expeditiously.

The Labor Party has developed a practice of moving pious amendments to legislation which is not being opposed by the opposition. In this case, the honourable member for Wills has moved a second reading amendment which seeks to condemn the government ‘for its inaction on the dangerous practice of fuel substitution and, in particular, for allowing the Australian Taxation Office to cease random testing of fuel’. I have mentioned the situation as far as the random testing of fuel goes and how this legislation will very much improve the situation. The Labor Party has comprehensively failed since 1993, when it was in office, to bring about an acceptable situation. I must say that under the Labor Party there has not been one completed prosecution, and we believe that this legislation will be very much more effective. We reject any suggestion that there has indeed
been delay in this particular matter, and we believe that the government’s approach and the legislation before the chamber are a timely and appropriate response to a problem which has arisen. On that basis, I am very pleased to commend the bill to the House.

Question put:

That the words proposed to be omitted (Mr Kelvin Thomson’s amendment) stand part of the question.

The House divided. [4.47 p.m.]

(Mr Deputy Speaker—Mr H.A. Jenkins)

Ayes........... 74

Noes............ 61

Majority........ 13

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, P.E.
Barresi, P.A.
Billson, B.F.
Brough, M.T.
Cameron, R.A.
Charles, R.E.
Downer, A.J.G.
Elson, K.S.
Fahey, J.J.
Forrest, J.A. *
Georgiou, P.
Hardgrave, G.D.
Hockey, J.B.
Jull, D.F.
Kelly, D.M.
Kemp, D.A.
Liberman, L.S.
Lloyd, J.E.
May, M.A.
MCGauran, P.J.
Moylan, J. E.
Nehl, G. B.
Neville, P.C.
Prosser, G.D.
Reith, P.K.
Ruddock, P.M.
Secker, P.D.
Somlyay, A.M.
St Clair, S.R.
Sullivan, K.J.M.
Thomson, A.P.
Tuckey, C.W.
Vale, D.S.
Washer, M.J.
Woodridge, M.R.L.

NOES

Adams, D.G.H.
Bevis, A.R.
Burke, A.E.

Cox, D.A.
Crosio, J.A.
Edwards, G.J.
Emerson, C.A.
Ferguson, L.D.T.
Gerick, J.F.
Gillard, J.E.
Hall, J.G.
Hoare, K.J.
Horne, R.
Kerr, D.J.C.
Lawrence, C.M.
Livermore, K.F.
Martin, S.P.
McFarlane, J.S.
McMullan, R.F.
Morris, A.A.
Murphy, J. P.
O’Connor, G.M.
Pibersek, T.
Quick, H.V.
Roxon, N.L.
Sawford, R.W. *
Sercombe, R.C.G. *
Smith, S.F.
Swan, W.M.
Thomson, K.J.
Zahra, C.J.

Cotes, S.F.
Danby, M.
Ellis, A.L.
Evans, M.J.
Ferguson, M.J.
Gibbons, S.W.
Griffin, A.P.
Hatton, M.J.
Hollis, C.
Irwin, J.
Latham, M.W.
Lee, M.J.
Macklin, J.L.
McClelland, R.B.
McLeay, L.B.
Melham, D.
Mossfield, F.W.
O’Byrne, M.A.
O’Keefe, N.P.
Price, L.R.S.
Ripoll, B.F.
Rudd, K.M.
Sciacca, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Wilkie, K.

PAIRS

Howard, J.W.
Beazley, K.C.
Bishop, J.I.
Kernot, C.
Schultz, A.

* denotes teller

Question so resolved in the affirmative.

Original question resolved in the affirmative.

Bill read a second time.

Third Reading

Bill (on motion by Mr Slipper)—by leave—read a third time.

SALES TAX (CUSTOMS) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

Cognate bill:

SALES TAX (EXCISE) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

SALES TAX (GENERAL) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

Second Reading

Debate resumed.
Mr EMERSON (Rankin) (4.53 p.m.)—
These sales tax bills relate to the application of the wholesale sales tax to sunglasses—in the words of the Treasurer, the application of the 1930s Botswana style outmoded wholesale sales tax. It will be one of the last debates in this chamber on a tax that has been in force since the 1930s but will be abolished on 1 July. It will be replaced by, in the words of the Treasurer, ‘a streamlined new tax for a new century’. This rather historic moment gives me the opportunity to examine the sorts of claims that this government has been making in relation to the replacement of the wholesale sales tax system with the GST.

I find it rather ironic that, in respect of this legislation, we are dealing with the application of the wholesale sales tax and ensuring that it is paid on glasses, in this case sunglasses. The wholesale sales tax is supposed to be the complicated higgledy-piggledy outmoded tax that is being replaced with the streamlined new GST—a new tax for a new century. It is therefore ironic to note that, when the GST comes into force from 1 July, in relation to glasses the GST will apply to the frames but not to the lenses if the lenses are prescription lenses. So much for the streamlined new tax system for a new century. On something as simple as glasses, you would think that it would be a fairly straightforward treatment if indeed it is a streamlined new tax system for a new century, but of course it is anything but that.

The government in a $19 million taxpayer funded campaign before the last election made a range of misleading and completely untrue statements about the wholesale sales tax and the GST. True to form, the election has not seen any change in that sort of offence because the Australian people are being inflicted with a $410 million GST publicity campaign where those same sorts of statements are still being made, despite the fact that Labor, through the Senate GST process and subsequently, has exposed many of those assertions as completely untrue or at least highly misleading.

One of the pieces of propaganda that was funded unwillingly and unwittingly by the taxpayer before the last election referred to the so-called hidden tax system. It was a brochure that was put in the letterboxes of just about every resident in Australia and, as I say, it was at taxpayers’ expense. I will describe a few of the claims in this document. It says:

Countries with the Old Sales Tax—Australia, Botswana, Ghana, Jordan, Pakistan, Solomon Islands, Swaziland.

Then it contrasts that with countries without the old sales tax, but it fails to mention of course that the fastest growing and most successful economy in the world—the United States—is one of these countries with the outdated and old sales tax. It seems to have served the United States quite well, and over the years the wholesale sales tax has collected very large amounts of revenue for the Commonwealth. Further on, this document says:

Because sales tax is hidden you don’t know what sort of things are exempt.

How ironic. In this House, the shadow Treasurer has on at least three occasions moved an amendment to the GST legislation to require retailers to show the GST on dockets. That amendment, which I have seconded, has been defeated three times in the Senate by a coalition of government members and Democrats. So the whole basis of this document, which is the old hidden tax system, is spurious because the hidden wholesale sales tax is going to be replaced with a hidden GST. The government does not want people to know that they are paying GST. It is a pity that the government, after spending $19 million before the last election, did not indicate to people the truth, and that is that it would oppose with every tool at its disposal any disclosure of the GST on dockets. It wanted to replace the wholesale sales tax with a hidden GST. When the Treasurer was asked about this before the election, he said, ‘No, it would be embedded in the price.’ Fortunately, a number of retailers are voluntarily going to show the GST on dockets, and I imagine that a number of state agencies and government statutory authorities will also be showing the GST on dockets, much to the...
consternation of the government. This document goes on to say:

Wherever you go there’s hidden taxes. In the kitchen there’s tax on fruit juice, biscuits, flavoured milk, the fridge, the oven and the microwave.

Guess what? After 1 July there will be a GST on fruit juice, depending on the strength of the fruit juice—of course, this is part of the nightmare on main street. There will be a GST on biscuits, flavoured milk—but of course not on fresh milk—the fridge, the oven and the microwave. I do not see a lot of change except for some changes in rates. But here is a real beauty—the same document says:

Labor is the High Tax Political Party.

How about that? It was revealed in our analysis of the budget that it is quite clear that it is the coalition, under the leadership of Prime Minister Howard and the treasurership of Treasurer Costello, which is in fact the high tax government.

This chart shows that, when the net impact of the GST is added back in, Treasurer Costello is the highest taxing Treasurer in a decade. It peaks in 1998-99 and goes on at much higher levels than prevailed under the previous Labor government during the early- to mid-1990s. So much for the government’s claim in this taxpayer funded document that it is Labor that is the high taxing party. This shows conclusively that the coalition are the high taxing party. They tried to escape the truth by attempting to reclassify GST receipts as not receipts of the Commonwealth. People who believed the Treasurer and Prime Minister that the GST is not a Commonwealth tax will be astonished to find on 1 July that it is. That is why they tried the fiddle illustrated on this chart. They did not want to show the GST. The budget papers do not show the GST. This is yet another one of the Treasurer’s fiddles. When you put the net impact of the GST back on there you have it.

You do not need to just accept the analysis on that that has been prepared by the Labor opposition and the shadow Treasurer. I draw the attention of the House to a publication called The Taxpayer, produced by Taxpayers Australia and edited by Peter McDonald. He points out that a major GST fiddle has resulted in the government trying to show that it is a low taxing government when, in fact, it is a high taxing government. The publication states:

The Treasurer has produced Budget papers that show that the total Federal tax take will be $158,718 million—a projected 5.5% decrease in the tax take compared with 1999/2000.

The reality is very much different. The GST has been omitted from Budget revenue but the reduction in Wholesale Sales tax (of $13,520 million) has been included.

The inclusion of that revenue (which is Federal revenue collected under Federal legislation) turns a reduction in Budget revenue of $9 billion, into an additional tax take of $15 billion!

Whether we agree completely with those figures is beside the point. The analysis is correct: this is a high taxing government. More remarkable claims were made in another document produced by the government, in which it tried to get the community to believe that the GST was going to be good for them. This document was produced before the last election, yet again at taxpayers’ expense. It is entitled Tax reform: Not a new tax, a new tax system: Overview. Let us go through some of the claims. It says, for example:

Australia needs and deserves a new tax system because there are real national advantages that can flow from such a change.

Those real national advantages do not exist. As a result of the Senate GST inquiry, analysis was produced by Professor Peter Dixon which showed that there would be a small net reduction in living standards associated with the introduction of the GST, the other indirect tax changes and the reductions in personal income tax. So much for the national advantages. It goes on to say:

A new tax system is an important element of promoting a more prosperous, more egalitarian and fairer Australian society.

The government has been very critical of the wholesale sales tax which we are debating here today. It says that the wholesale sales tax is unfair. It has been joined remarkably by the tax office in this sort of rhetoric. The tax office is making the subjective judgment...
that the wholesale sales tax is unfair and the GST is fair. Obviously the government, and its friends in the tax office, believe that it is fair to remove a 32 per cent wholesale sales tax from a string of cultured pearls and replace it with a 10 per cent GST on school shoes. That is fair in the eyes of the government and its supporters in the tax office. The government considers it fair to remove the 32 per cent wholesale sales tax from diamond rings and replace it with a 10 per cent GST on tampons. The government considers it fair to remove the 32 per cent wholesale sales tax from fur coats and replace it with a 10 per cent GST on electricity and gas bills. The government considers it fair to remove the 32 per cent wholesale sales tax from video cameras and replace it with a 10 per cent GST on bus fares. Buses are used much more by low income people because they do not have the capacity to get around in fancy cars as do the people who wear the strings of cultured pearls, the diamond rings and the fur coats. That is this government’s perception of fairness and what it calls a more egalitarian society.

The government also considers it fair to remove the 22 per cent wholesale sales tax from spa baths and replace it with a 10 per cent GST on children’s haircuts. Children’s haircuts are not really an optional extra. I do not consider them a luxury. At present they are not subject to any tax because they are a service, but from 1 July they will be subject to the GST. This is something that this government considers to be particularly fair. It also considers it fair to remove the 22 per cent wholesale sales tax from office computers and replace it with a 10 per cent GST on McDonald’s and Hungry Jack’s. There are lots of low income people who, once in a while, think it is terrific if they can go out to McDonald’s or Hungry Jack’s and have a bit of a feed. Of course, the nutritionists of the nation, the Democrats, do not think that should happen or if it does happen they should pay a 10 per cent GST. That is the notion of fairness embraced by the government, the Democrats and the Australian Taxation Office.

As we go through this document, I will point out a number of other remarkable and misleading statements. For example, this document, which was produced at taxpayers’ expense before the last election, says in relation to pensions and benefits:

A four per cent increase in the maximum rate of all income support payments provided to social security and veterans pensioners, other social security recipients and students in receipt of Commonwealth income support ...

Further down it states:

Specific benefits for older Australians: a four per cent increase in aged and service pensions.

Is it not amazing that in a document of this size the government could not find the space to tell the truth, which is that half of that four per cent will be taken back on 31 March 2001. When people went to the ballot boxes at the last election they believed that they were voting for a four per cent increase in pensions, but they were not. Half of that four per cent is to be taken back on 31 March 2001 and this government did not tell them that in its $19 million taxpayer funded campaign.

The document goes on to say that there will a one-off, untaxed aged persons savings bonus of up to $1,000 per person available to retired people over 60 years of age, subject to an income test. What is not spelt out in this document is that you need to have income from investments in order to qualify for that bonus, or so-called bonus. It is not a bonus at all. It is a ham-fisted attempt to compensate people for the erosion in value of their savings as a result of the price rises caused by the GST. But, if you do not have any savings, if you do not have any investment income, you do not get any savings bonus; you do not get compensation. The pensioners of Australia thought that they were going to get $1,000 on 1 July. They are going to get a very rude shock. Thousands upon thousands of Australian pensioners will get diddly-squat; they will get nothing.

I have done a bit of research on the number of age pensioners who have absolutely no private income and therefore will not be eligible for this so-called bonus. More than 200,000 pensioners will not get any bonus. There are hundreds of thousands of others who will also either get none of this $1,000 that was promised to them or get a much
smaller amount than the $1,000 that they believed they were getting. So the government advertised, at taxpayers’ expense, the GST under false pretences. People went to vote at the ballot box for this GST and no doubt many of them believed what was put into their letterboxes.

In the same sort of documentation the government said that virtually all health, education and child-care expenses and charitable activities were going to be GST free. I do not really need to remind the House that a whole range of education expenses—school uniforms, books such as encyclopaedias, and public transport to and from school—are going to be subject to the GST, along with stationery and other essential education costs. So too will be a range of health expenses: bandages, first aid kits and so on.

So here we have again the government telling people that the GST will not apply to these things and then after the election it becomes evident that the GST will apply to these things. But the propaganda does not finish there. Under the $410 million taxpayer funded publicity campaign one of the documents that has been produced and made available to just about every Australian is a document called *The New Tax System Essentials*. It says here, and this is another remarkable statement:

The GST tax changes will mean more money in your pocket. From 1 July the biggest tax cuts in Australia’s history mean income earners will take home more.

Then it goes through a number of benefits: for example, a person on $35,000 a year will receive a tax cut of about $20 a week compared with the existing tax system. It talks about families benefiting: a single income couple earning $35,000 a year with two children and one child under five will gain more than $70 a week through tax cuts and an increase in family assistance.

Not once in this analysis, in this material, or on page 3 of this document when it is going through the benefits that Australians will receive under these tax changes, does it mention the GST. How convenient. The Prime Minister, the Deputy Prime Minister and the Minister for Workplace Relations and Small Business have been guilty of the same offence. The Prime Minister told this parliament just a few months ago that an average Australian family would be $47 a week better off after taking account of the GST. In making this statement the Prime Minister knew it to be untrue and he misled this parliament. He has been given an opportunity to correct the record and has not. He has made that statement many times since.

Mr McGauran—Mr Deputy Speaker, the honourable member made an allegation that the Prime Minister had misled the parliament. That can only be done by way of substantive motion. I ask that it be withdrawn.

Mr DEPUTY SPEAKER (Mr Andrews)—I ask the honourable member to withdraw.

Mr EMERSON—I withdraw that statement. The Prime Minister made statements in this parliament that were untrue. It is untrue that average families will get a further $47 a week after taking account of the GST. The $47 a week is before the GST. It is just like the *Fawlty Towers* episode. The Prime Minister refuses to mention the GST. I am sure that on some occasions he has gone back to his staff and said, ‘I only mentioned the GST once but I think I got away with it.’

The Deputy Prime Minister has said the same thing. He talked about the great benefits for a family at Collarenebri and again neglected to mention the GST. Whereas the Prime Minister started at $47 a week for the family at Collarenebri, according to the Deputy Prime Minister the family is going to be $65 a week better off. But the Minister for Employment, Workplace Relations and Small Business, not to be outdone, said that he had found a family that was going to be $71 a week better off. That is all terrific, just as long as you do not spend anything.

So we have example after example of the government spending taxpayers’ money—with no reference back to taxpayers that they should be able do this—on the *Unchain My Heart* ad campaign, misleading the Australian people and deliberately telling untruths. They will be brought to account on 1 July and in the months following when the Australian people realise just how bad this GST,
which is going to be inflicted upon them, will be. (Time expired)

Mr HAWKER (Wannon) (5.13 p.m.)—Having listened to the honourable member for Rankin, I found it extraordinary the way he spent the whole of his speech knocking this change, this tax reform. Anyone would think, listening to what he had to say, that he is totally opposed to tax reform. Talk about misleading! That must be one of the most misleading efforts I have ever seen. As we all know, come 1 July, guess what? The Labor Party is adopting a policy of supporting tax reform with a GST. I find it staggering that a member can come into this chamber and spend the whole time talking about how totally opposed he is to something, knowing that if the Labor Party were to win an election it would keep the GST. Talk about misleading. That must be the ultimate in misleading the House and in hypocrisy. The honourable member ought to have a long, hard think about the sorts of things he is saying.

He went on to make some more very misleading statements. He said that the Prime Minister and other ministers have identified the levels of savings that families can make. He then added a rider: ‘just as long as you do not spend anything’. What a load of nonsense! That is not the criterion at all. That is complete and utter nonsense.

He knows, as we all do, that those savings have been identified on the basis of normal, average household expenditure. That really is misleading, and one would have expected better from someone of his standing. He then talks about some of the issues in a comprehensive document that was, before the last election, put to all electors. I do not think you have ever seen a government put so much detail in front of people before an election, or be as prepared to be so open. I find it quite extraordinary for him to turn around and say that this is not telling people what is going on. You cannot have it both ways, fellas. The Labor Party have been complaining about everyone being told about this GST and about the money spent—those figures are misleading too, but I will come to that in a minute—but they then turn around and say it is hidden. You cannot have it both ways, fellows. Either you admit that the government’s campaign to inform all Australians about this tax reform is in fact being heard and is therefore being effective, or you come back to this argument of its being hidden and, therefore, apparently we are not doing enough. You complain about the money that has been spent, but then you say we are not doing enough. I find it all most confusing, and I think maybe that is the problem in the Labor Party right now.

Then we hear something about high tax. Of course, the honourable member, like all his colleagues over there, has great difficulty in recognising the fact that part of tax reform is all about getting lower income tax. I think that they ought to be a little more honest with Australians and say that tax reform does bring very substantial tax cuts—in fact, as the Treasurer has pointed out, the biggest tax cuts we have ever seen in Australia. We then had the question of the publicity campaign, about which the honourable member seems again to be trying to mislead people into believing that all of the funding is going into some advertising campaign. The Treasurer made it very clear in an answer in the House yesterday that, of the so-called $360 million that the Labor Party was trying to identify, $200 million is for assistance to community organisations to help them with their compliance as part of that campaign; $200 million goes to the GST Start-up Assistance Office, of which $150 million is directly delivered to organisations. The Treasurer named a few of
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those organisations: the National Catholic Education Commission, ATSIC, all sorts of industry organisations and so on. It is also important to note that the Labor Party somehow have lumped $100 million into this figure, which was not a yearly cost at all; it was a four-year program. Apparently that has been added together and thrown in. Whichever way you look at it, when the word ‘misleading’ is being thrown around this chamber, the honourable member and some of his colleagues ought to go and have a good look in the mirror.

I find the amendment that has been put forward to the Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000 quite extraordinary. The member for Wills has put forward an amendment which says in part that the House:

... condemns the government for its mismanagement of the sales tax regime;

When you look at this bill, what is it about? It is all about something that occurred with two Federal Court decisions that held that an exemption which was broadened in 1992 could potentially lead to some major refunds. In other words, this is correcting legislation that was brought in in 1992. Guess who was in government? It was the Labor Party. So here we are trying to correct a mistake that was due to Federal Court decisions on legislation brought in by the Labor Party. And here is the Labor Party condemning the government for its mismanagement. It cannot have it both ways. Again, I find the whole approach of the Labor Party quite extraordinary.

As has been pointed out, these are technical bills, and they do in fact correct what might have been a major hole in the revenue, due to the Federal Court decisions, had these amendments not come through. There could have been refunded up to $2 billion had these changes not occurred. The bills will ensure that from 5 October last year only goods which are of a kind used mainly for industrial safety purposes will qualify for the exemption from sales tax. So it is a fairly straightforward amendment to correct the sales tax legislation. Obviously, it has a fairly limited life because of the changes that will be occurring to sales tax—other than the retrospective question. So the amendment moved by the member for Wills does seem to be quite extraordinary.

I would like to come back to this question of tax reform. Some of the members of the Labor Party have gone to extraordinary lengths in their speeches to try to convince the Australian public that somehow it is all dreadful; it is all so terrible. They are doing everything to say, ‘This is bad news and we should not be having it,’ et cetera. Yet they have two major problems—and many others, probably—as I see it. I have touched on one, and that is this extraordinary problem that the Labor Party have that, if they were ever elected to government, they would keep it. It is hypocritical and misleading—or whatever word you want to use—to the nth degree when you have an opposition that are telling you that everything is so bad that they want to keep it.

The second point is that they have a real problem with their leader, Mr Beazley. When Labor thought it was a good idea to bring in a goods and services tax, guess what? The Leader of the Opposition was actually in favour of it. If we go back to the time Paul Keating was pushing for real tax reform—and he must be green with envy now, seeing that it is happening and he could not do it—we find that Mr Beazley was interviewed on ABC television in June 1985. I would like to quote what the Leader of the Opposition then said:

I, like all Cabinet ministers, support the thrust of the option that is being presented. I think it is capable of being implemented equitably.

That was Kim Beazley in June 1985. Not only that: just to make sure no one was under any misapprehension as to what his views were, he also said something similar at the Press Club that month. This is the Leader of the Opposition in June 1985:

There are very few such societies which operate with a tax system so heavily dependent on income tax as we do and very few which don’t have a substantial component of their tax system reliant on broadly based consumption taxes. Apparently in 1985 he thought it was all right; now he is telling us it is all terrible.
But, as we already know, his real problem is that if Labor were ever to be elected, he would keep it. So where do the Labor Party really stand on this? Are they going to finally have the decency and be man enough to say, ‘We think the government has actually got it right and is doing something very well.’? When they sit there and complain about what the Democrats have done, they have to remind themselves that it only happened because Labor were trying to oppose it in the parliament. They were so opposed that they want it now.

I conclude by again talking about what the Leader of the Opposition is reported to have believed. Paul Kelly recounts in his book The End of Certainty:

Keating emerged victorious with cabinet endorsement of his tax option as the preferred government position. It was an extraordinary event. Only Hawke, Gareth Evans, Kim Beazley and Susan Ryan supported Keating’s position. It was carried against the numbers.

Well, isn’t that extraordinary! He was not only prepared to speak about it; he was actually prepared to fight against the numbers in cabinet to make sure that the GST proposal got up. And yet now we have a Leader of the Opposition who just seems to be so wishy-washy that he spends most of his time trying to convince people that he is opposed to something; yet he really happens to think it is not a bad idea and if he had the chance to ever use it in government he would certainly keep it.

I come back to the question of the amendments. I find it quite extraordinary that the opposition are trying to criticise something that the government is doing which, due to Federal Court decisions, is required to rectify some legislation that was introduced into the parliament by the Labor Party in 1992. Therefore, I think that the sensible thing the opposition could do is withdraw these amendments and let us get on with it. By 1 July, sales tax will be condemned to the history books, and the vast majority of Australians, including the members of the opposition, will breathe a huge sigh of relief and say that these reforms are well worth it. The benefits, particularly with the massive income tax cuts, are going to mean Australia is indeed a much better and really competitive nation as we move into the 21st century.

Amendment negatived.

Original question resolved in the affirmative.

Bill read a second time.

**Third Reading**

Leave granted for third reading to be moved forthwith.

**Mr McGauran** (Gippsland—Minister for the Arts and the Centenary of Federation) (5.26 p.m.)—I move:

That the bill be now read a third time.

In moving that the Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000 be read a third time, I would make the point that the negative contributions by members of the opposition have done them and, I am sad to say, the parliament no credit. It is not good enough for members of the Labor Party to come into this chamber and just dust off the standard form or stump speeches, which simply attack the government and offer nothing in response. No concrete alternative has been put forward, to the best of my knowledge, by any of the opposition speakers on this legislation. This is a matter the government had to respond to, following court decisions rightly beyond our control, and to have the opposition use it as a platform on which to canvass in a very cliched way issues surrounding the GST, the new tax system, is just a shallow attempt to contribute to an important debate. Speaker after speaker on the other side used the opportunity only to attack the government and, again, their major problem is that they have no alternatives; there are no concrete or material policy initiatives emerging from the opposition. If they would only spend as much time thinking and planning policy choices for the Australian public as they do in summoning attacks on the government, we would all be better off. However, I will draw my comments to a close, because the behaviour and the contributions of opposition members are self-evident to anybody who witnessed the debate first-hand or who reads their contributions through the Hansard.

**Mr Slipper** (Fisher—Parliamentary Secretary to the Minister for Finance and
Administration) (5.29 p.m.)—I do apologise to the House. Our understanding was that the honourable member for Jagajaga was speaking, but she dropped off the list at the very last minute and thus the Parliamentary Liaison Officer did not have time to notify me that my presence in the chamber was required earlier than would otherwise have been the case. At this stage I would like to thank all participants in the debate.

Mr Martin Ferguson—You should have been listening to the debate if you were interested.

Mr SLIPPER—I was listening to the debate in my office. These four bills give effect to the government’s announcement of 5 October 1999 concerning industrial safety equipment and sales tax. Industrial safety equipment is exempt from sales tax. As honourable members have said in the debate, two Federal Court decisions have held that the scope of this exemption was broadened in 1992 when the sales tax law was streamlined. It is therefore possible that a wider range of goods could now qualify for sales tax exemption than has always been intended.

The measures in these bills will ensure that, to qualify for the industrial safety equipment exemption, goods would need to be of a kind mainly used to protect persons engaged in industrial operations. Refund claims lodged on or after 5 October last year which do not meet this criterion will be denied. To prevent windfall gains for retailers who have passed the cost of the sales tax law on to their customers, refund claims lodged before 5 October 1999 that meet the requirements of the law prior to amendment will only be paid where it can be shown that the benefit of the credit has passed to the end consumer. In these circumstances, I commend the bills to the chamber.

Question resolved in the affirmative.

Bill read a second time.

Third Reading
Leave granted for third reading to be moved forthwith.

Bill (on motion by Mr Slipper) read a third time.

SALES TAX (GENERAL) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

Second Reading
Consideration resumed from 11 May, on motion by Mr Slipper:

That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.

Third Reading
Leave granted for third reading to be moved forthwith.

Bill (on motion by Mr Slipper) read a third time.

SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

Second Reading
Consideration resumed from 11 May, on motion by Mr Slipper:

That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.

Third Reading
Leave granted for third reading to be moved forthwith.

Bill (on motion by Mr Slipper) read a third time.

WORKPLACE RELATIONS AMENDMENT BILL 2000

Second Reading
Debate resumed from 11 May, on motion by Mr Reith:

That the bill be now read a second time.

Ms GILLARD (Lalor) (5.33 p.m.)—In addressing the Workplace Relations Amendment Bill 2000 and industrial relations debates generally in this place, it is easy for the participants to become transfixed by the technical detail. It is my intention today to
address some of the matters of technical detail in this bill, but I want to start by actually painting the picture of some of the principles that drive this area of public policy and some of the basic principles which are offended by this particular bill.

Since 1904, since the Harvester decision which defined the basic wage in Australia, we have had a fundamental industrial compact in our society, and that compact has been built around the notion that labour is not like every other commodity. It is not the same as any other commodity, and should not be subject to the same free market rules as every other commodity. We have not allowed the price for labour—that is, wages—to be simply determined by the forces of supply and demand. Our society has recognised that wages were special for two reasons. Firstly, while wages are the price of labour, they are also the determinant of our standard of living; and we did not want workers to be condemned to living in poverty. Secondly, we recognise that in the market for labour, when individual workers try to bargain with their employers, the worker will always be in the weaker position. We were not prepared to accept that employers should be allowed to use their market power unfettered and exploit their workers.

Since Federation, we have been prepared to intervene in the market for labour and to ensure that working people have access to basic protections and conditions. Historically, this was done by a highly centralised system in which an industrial umpire prescribed minimum wages and conditions to create a safety net in the market for labour, to ensure that there was no rampant exploitation of workers. In the past few decades, as our economy has modernised and our world globalised, it has become apparent that some of the rigidities of this centralised wage-fixing system have been causing inefficiencies, and it was determined firstly by a Labor government to facilitate the development of an enterprise bargaining system with a safety net still in place. In making this move, Labor recognised that there was another way to facilitate the protection of working people in industrial relations other than simply central regulation, and that way was by facilitating collective bargaining in which the very combination of workers into a collective strengthens their hand in dealing with employers and means that the deals that they strike with employers will be fairer than the deals that an employer would have struck with a worker who was bargaining alone.

For an endorsement of those sorts of principles of the very special nature of the market for labour, one does not need to turn to the trade union movement or the Labor party or the churches or, indeed, any other of the progressive forces in our society or those interested in the social policy area. One can in fact turn to that well-known group of socialists, the National Competition Council, who have had cause to look at this area when reviewing the Trade Practices Act. When it was put to the National Competition Council that the Trade Practices Act, in ensuring fair markets, also ought to be applied to the market for labour—because there was nothing special about the market for labour, and indeed that submission was put to the National Competition Council by this current government—the National Competition Council rejected that submission and defined in its recommendations that there was something special about the market for labour which justified further interventions into that market than the National Competition Council would ordinarily see as appropriate.

In particular, the council said that its reasons for coming to that conclusion were the primacy of the industrial relations framework in labour market relations, the need for Australia to comply with its International Labour Organisation treaty obligations and the fact that there needed to be certainty in employment agreements and arrangements and that the course that the government was pursuing would not be one that would enable such certainty. So even institutions that are fundamentally concerned with the operation and nature of markets are saying to us, as a broad public policy principle, ‘There’s something very special about the market for labour and it needs to be treated differently.’ Yet since this government have come to office we have seen in each of their industrial relations initiatives—in both the ones that have succeeded in being translated into legislation and
the ones which have failed—that, at base, they really do not accept that there is something special about the market for labour. What they want to do, stripped away of all the rhetoric, is create a market for labour that is like any other market; a market in which individual workers deal directly with their employers and effectively would be price takers: they would take whatever price for their labour they could get. It would be too bad, from this government’s public policy point of view, if that meant exploitation or poverty. This government is not concerned about those questions; it is concerned about an ideological agenda applying a pure market form to the market for labour.

In order to achieve this end we have seen the government move to strip out from the current market for labour each of those social protections that have been put in there over the decades since Federation. We have seen the government move to attack each of the fundamental things that have been put in there to ensure that there is some fairness in our labour market. They have gone on an offensive against the industrial umpire—the commission in its various guises. They have done what they could to rip away the safety net, the product of years of centralised protection of workers’ conditions and entitlements, and now they are moving even further down the road of stopping workers from bargaining collectively. So, really, what we have heard is the government saying, ‘You can’t have centralised protection any longer. We’re going to take that away from you with a view to taking it totally away from you over time. We don’t want you looking after yourself in the marketplace by combining with other workers in effective combinations. We’re going to try to take that away from you, and we’re only going to be satisfied when we have achieved a system whereby each worker individually is left to their own devices, left to what they can get in an individual bargain with their employer.’

This bill is another step down that path. This bill purports to be about pattern bargaining. First of all, most people would not know what pattern bargaining was, and for good reason. Pattern bargaining is viewed as a circumstance where employers or unions pursue industrially similar objectives across a range of similar workplaces. When you say it like that it does not really seem in any way odd, does it? In fact, it seems to stand up to scrutiny that, with some site specific variations, workers engaged in similar enterprises, doing similar work, would by and large enjoy similar wages and conditions. That seems an intuitively correct proposition from our ordinary experience of life in the labour market. Or perhaps it is made clearer if you put it the other way round and say, ‘Wouldn’t it be a very odd result if workers doing similar work in very similar enterprises’—clothing machinists, say, who sew up ladies fashion wear—‘were paid wildly differently or treated wildly differently?’ Wouldn’t that be a very odd result? I think most people would look at that circumstance and say, ‘It’s not only an odd result; it’s also an unfair result. It’s a result that hardly seems right.’ And yet what this legislation is telling us is that from the workers’ side it is inappropriate, it is wrong, indeed it is unlawful, for workers engaged in similar enterprises, doing similar work, to bargain collectively for broadly similar outcomes, but it is all right for employers to do it. Interestingly, when you look at this legislation not one part of the prohibition against pattern bargaining is directed at employers; it is all directed at workers, at unions. Employers are left alone.

We know that employers pattern bargain. We know that there are employer industrial organisations. We know that employers in industries meet and confer and come up with broad strategies as to what they want to industrially pursue across their workplaces. And that is okay—that kind of pattern bargaining by employers is okay. One of the great pattern bargainers in Australia—and I feel that we should mention it, given that the state of Victoria comes in for a lot of discussion in this place by the current Minister for Employment, Workplace Relations and Small Business; the Victorian industrial relations scene is something that he often is heard talking about—was the Kennett government. Let us talk about the Victorian industrial relations scene when the Kennett government was in office. The Kennett government used to produce identical individual employment agreements, distribute them throughout the
public sector—different departments, different agencies, different workplaces—and then say to the workers who received those agreements, ‘Sign it. The only thing that’s variable is the schedule at the back.’ And when you looked at the schedule at the back, that was where you filled in your name, your address and your classification. That was the only thing that marked one agreement from another. One would say ‘Fred Smith’ and one would say ‘Jill White’. That was the only variation. A great pattern bargaining system.

There is nothing in this legislation that would prevent a conservative government or an employer or a group of employers engaging in that conduct—that is fine. Any industrial relations action taken in pursuit of it is left unprotected and therefore liable to all the sanctions available against industrial action under our industrial law. What is unlawful is for workers to move beyond their single business enterprise, to form a collective with workers in other enterprises and to commonly pursue together an industrial outcome.

That is pattern bargaining. Pattern bargaining under this legislation is not protected industrial action, so if you engage in conduct like that you do not have the protections for industrial action that are offered in other circumstances under our industrial law and you will be liable to all of the sanctions, fines and penalties that the law can throw against you. When we look at it we can ask, ‘What is this really about? What it is clearly about is breaking down the bargaining units—the way in which workers can bargain—to smaller and smaller units. This government does not want workers using their collective strength to bargain industry wide. It wants to break down the collective unit that workers can use to the smallest possible fragment—and the smallest possible fragment, as defined by this legislation, is a single enterprise.

This legislation is so offensive that you need to look to Pinochet’s Chile to find an industrial equivalent. We find that this very offensive legislation is being justified as needed. The Minister for Employment, Workplace Relations and Small Business in question time almost every day tells us about Campaign 2000 in the manufacturing sector in Victoria and says that this legislation is needed to answer the challenge laid down by Campaign 2000. Let us just think about how offensive this legislation is and whether legislation so offensive could be justified by any industrial threat, and then let us think about what industrial threat is posed by Campaign 2000.

Campaign 2000 is the pursuit by a number of unions in the Victorian manufacturing sector of a framework agreement. It does not preclude in any way site-specific deals being done under a broad framework agreement. The framework agreement being pursued deals with matters like long service leave, trust fund protection for workers’ entitlements, training standards, portability of skills, and the like—matters which undoubtedly have industry-wide ramifications. It should seem not a problem in any way that for those sorts of conditions that have industry wide ramifications there ought to be an industry-wide process of bargaining. What is wrong with that? Of course, there is a common wage claim too. That cannot be denied. There will be a common percentage wage claim. But then one wonders why in this environment employers—who already have at their disposal a piece of legislation in the Workplace Relations Act which strengthens their hand considerably and gives them fundamental advantages—cannot meet that industrial challenge using current tools.

One of the great concerns that I have, when you track the movement in industrial relations over the last few decades as we have moved increasingly from a centralised wage fixing system to a collective bargaining system, is the double standard that is brought to bear by employers as we have made that move. We were told the centralised wage fixing system was no good, was too rigid, did not allow site-specific arrangements, and everybody would be better off if people went out into the industrial relations field and bargained for outcomes. Then unions go out into the industrial relations field and bargain for outcomes—as they have been urged to do—and when they do it successfully then we are told, ‘No, that is no good. We now have to change the way in which you can bargain. If you are actually in this new environment bargaining for an outcome and doing well at
getting the outcome, then we are going to change the rules to make it more difficult for you to do well. What do you want?

All you can conclude is that there is no scheme of industrial relations that allows people fairness and equity that is going to be seen to be satisfactory. A centralised system that promises fairness and equity is rejected out of hand. A bargaining system that allows workers to genuinely combine and bargain is rejected out of hand. And what we have is legislation like this driving downwards the ability of workers to bargain by driving downwards the bargaining units which they can use, so they cannot use industry wide bargaining units, cannot use multisite bargaining units, cannot use a combination of workplaces as bargaining units. What they have to do is just bargain within the single business. It seems to me that, really, that cannot be defended in any way, shape or form as a fair framework, particularly when the strictures against pattern bargaining are being applied only on the trade union and worker side and not on the employer side.

If there is any doubt about the biased nature of this legislation just in respect of pattern bargaining—if the pattern bargaining scheme predicated by this piece of legislation was not enough to convince people of how unfair this piece of legislation is—we also find that there is a prescription for so-called ‘cooling-off periods’. Of course, we know that this minister’s legislation is generated by not only his department but also the ministry for truth. We had the ‘more jobs, better pay’ bill; we now have cooling-off periods. Of course, cooling-off periods are not cooling-off periods at all. Cooling-off periods are about a setting where there is protected industrial action in progress—so people are doing what they are supposed to do, we are told, under the system; that is, they are engaged in a round of bargaining—and in that round of bargaining this piece of legislation says that there will always be a facility, basically, for the employer to go and get that action stopped, to get a so-called cooling-off period.

So instead of a fair bargaining system letting everybody use their strengths to get to the best possible outcome they can—and employers do use their strengths in that setting; they do things like lock workers out when unions or workers are in combinations where they are using their strengths, which might be the withdrawal of their labour through strikes or other forms of industrial action—this provision in this legislation allows employers to get that halted, to get the necessary reprieve, which means that they can then go back into the field strengthened by the fact that the industrial action against them was forced off. This is another quite nakedly biased provision in this bill, all about making sure that when workers bargain they do not get to do that with the industrial strengths that they would otherwise have available to them. They are fundamentally weakened, and once fundamentally weakened are then sent out into the field to bargain, not before.

Lastly, I would like to address the provisions of this bill that go to the question of the jurisdiction of the Federal Court—and I will do it very briefly—because I think, once again, that this is a fundamental unfairness. Currently, we have a situation where the Federal Court, in dealing with industrial matters, is able to deal with questions where employers have gone to state courts. So we have always had this duality in the industrial relations system. You have the Federal Court, you have state courts, and you can have inconsistent pieces of legal action on foot that are used as a tactic by employers to put pressure on workers. The Federal Court itself has said that the use of that tactic by employers can be viewed as coercive. Because of that, and because of his hatred of the Federal Court stemming from the MUA case, this minister for industrial relations in this bill is contemplating a situation where you could have a multitude of actions on foot in relation to an industrial dispute and an employer could nakedly forum shop to get the best possible deal. (Time expired)

Dr NELSON (Bradfield) (5.53 p.m.)—It is a great opportunity to be able to speak this evening—to a packed chamber and packed galleries—to the Workplace Relations Amendment Bill 2000. I introduce my remarks by responding to some of the things said by the member for Lalor. This bill represents another significant instalment of the
Howard government’s economic reconstruction of Australia in the post-Keating era.

One of the issues that was visited in question time today was that of real wages and where real wages have actually gone for everyday working Australians. In the decade to 1984, through the period of the ACTU-government accords—which really stand behind the opposition to this bill that we are hearing today, particularly from the member for Lalor—when we averaged 3½ per cent growth annually and 160,000 jobs a year, the number of people unemployed in this country increased from 670,000 to 840,000. What the ACTU-government accords did, and what the Labor Party’s attitude to workplace relations would perpetuate, was entrench the very settings that militate against employment growth—that is, very high levels of government expenditure, unsustainable levels of public expectation, reflected in large external public deficits, maintaining a complex and inequitable taxation system and, as a consequence of that, high interest rates. As we now know, in the last five years of the Hawke and Keating governments, real wages for Australian workers dropped by five per cent. In contrast, we have had a 2.3 per cent per annum average growth in real wages since the change of government in 1996—a real increase of about seven per cent.

One of the reasons we are now living in a society that is sustaining high rates of economic growth—and I am sure you saw, Mr Deputy Speaker, that the OECD has revised our growth forecast for this year up to 3.9 per cent and forecasting 3.75 per cent—in a low inflation environment is essentially the increasing productivity in the workplace. Those things were partly due to the efforts of the Labor government, particularly under Mr Keating, to introduce enterprise bargaining into the workplace so that workers could negotiate working conditions with their employers which were appropriate to the circumstances of both the workers and the industries in which they worked. If you apply—which is really what the opposition are arguing today—a common set of conditions right across a work force in a world where, increasingly, we are competing not with other parts of the state or other companies in the city in which an industry might be based but with other parts of the world, it is important that, if we are now going to sustain a productivity level which is three times that which it was through the 13 years of Labor government, we actually have to see that the kinds of things that prevent pattern bargaining in the workplace are actually sustained by the federal parliament.

I find it extraordinary—and I will go into this in a moment—that the same members of the previous Labor government who so passionately argued enterprise bargaining under the leadership of Mr Paul Keating as being important to give the next generation a reasonable prospect of a job by being able to compete with the rest of the world are actually here today arguing against our government trying to sustain the basic principle of enterprise bargaining in the workplace. But I should not be surprised. I have been in this parliament for four years, and I have seen some most extraordinary things.

The member for Lalor said the name of the 1999 bill More Jobs, Better Pay came from the ‘Ministry of Truth’. Of course ridiculous things are said by politicians and governments of all persuasions all of the time, but ‘more jobs, better pay’ is what it is all about. Over 700,000 new jobs have been created since March 1996 and, as I said, there has been a seven per cent real increase in wages for workers in those four years. We have had more jobs and better pay. It does not matter what side of the political fence you are on; surely that is something you ought to celebrate.

Pattern bargaining undermines the enterprise bargaining system, and it returns central control and workplace arrangements which are not reflective of the needs of either the individual workers or their employers. This bill will enable the Australian Industrial Relations Commission to terminate a bargaining period and thereby render industrial action in pursuit of such claims unlawful. If Australia is to compete, and if my children—indeed, your children, Mr Deputy Speaker—are to carry with them the reasonable prospect of a job, remembering that the biggest single lifetime determinant of poverty is unemployment, there are certain reforms that this na-
tion must undertake: reforms in transport, communications, energy, taxation, regulation and workplace relations. This means having an environment in which employers and employees are able to negotiate their wages and conditions in circumstances appropriate to their own needs.

There are two broad objectives which underwrite the government’s reforms. The first is to ensure that Australia has a workplace relations system that sustains and enhances our standard of living, our jobs, our productivity and our international competitiveness. The second is to promote a more cooperative workplace relations system that is compatible with the realities of a diverse, mobile and skilled labour force. It has been improvements to the nation’s productivity as a result of structural reform, structural reform commenced by the previous Labor government, that has enabled us to sustain high rates of growth in a low inflation environment.

The majority of Australian employees in the workplace relations system are now employed under enterprise or workplace agreements, whether they are collective or individual and whether they are under federal or state laws. There are now more than 100,000 workplace agreements under federal laws, agreements that Mr Beazley, the Leader of the Opposition, has committed to abolish should the opposition succeed in winning government.

In its previous incarnation our economy could live comfortably with a system of centralised arbitration and high tariff barriers. In the modern era—it cannot ... This legislation marks the culmination of the government’s break with the past—our move as a nation from a centralised to a decentralised industrial relations system, to a system based primarily on bargaining at the workplace, with much less reliance on arbitration at the apex. Over time that process of change has parented a number of accords, a rewriting of the federal act, and two major pieces of amending legislation. Today it spawns a new system, a new system for a new era.

That was the member for Kingsford-Smith, who was then the Minister for Industrial Relations in the Keating government, a government which comprised many of the members who to this very day are opposing this particular bill. Pattern bargaining undermines not only what we have today but also the very thing that the member for Kingsford-Smith was doing when he was the Minister for Industrial Relations. This bill deals with a real problem in that pattern bargaining is occurring in one of Australia’s major industry sectors, and that of course is the manufacturing industry. If ever there was an industry in which the security and welfare of employees was inextricably linked to international competitiveness and productivity growth, it has to be this one.

The strongest productivity growth in the private sector has also been in those industries dominated by enterprise bargaining—mining, finance and insurance and manufacturing.

When the then Minister for Industrial Relations, Laurie Brereton, introduced his Industrial Relations Reform Bill into this parliament in 1993, he said:

Three of the major unions in the Victorian manufacturing industry, under the collective banner of the Victorian branch of the Metal Trades Federation of Unions, have embarked on a campaign to replace enterprise bargaining with an industry-wide pattern agreement. It is likely, if not certain, that they will use industrial action against hundreds of Victorian businesses to achieve their objective in brutal ways, aided by a compliant Victorian Labor government. In fact, the union claims involve quite a bit more than an industry-wide pattern agreement and the demise of enterprise bargaining so strongly embraced and supported by the Keating Labor government. They include, for example, a six per cent wage increase per annum, which is twice the CPI, and also a GST inflator. Casuals are to be made permanent, there are to be prohibitions on redundancy, contractors are to be used only with union consent, there will be a prohibition on the right to make workplace
agreements and to overwrite statutory award simplification and there will be compulsory trade union training leave and compulsory rights of entry into business premises. Also, some of them actually want a 36-hour week.

Questions have been raised recently as to whether the Leader of the Opposition has the courage—I note these days that it is described as ‘ticker’—to lead not only the Australian Labor Party but indeed the country. It is essential that he be prepared to stand up for what he believes is right. In 1993, when he was the Minister for Employment, Education and Training, the now Leader of the Opposition and his government legislated for enterprise bargaining, specifically providing that industrial action would not be available in industry-wide claims. In other words, on the very principle that underwrites the legislation before us here today that is being opposed by the opposition, he has now caved in to the ACTU, capitulating to union dogma on workplace relations. The ground for industrial relations debate is quite clear. Labor will go to the next federal election committed to the regulation of industrial relations laws only through awards and collective union agreements. This is of course irrespective of the 150,000 workplace agreements that are likely to be in force by the time the polls are held.

In the Western Australian mining industry, for example, a recent survey found that 29 companies with 7,213 employees had 87 per cent employed under individual employment arrangements. The results found higher levels of productivity, remuneration and improved safety standards. Labor’s opposition to this bill—indeed its raison d’être—is to disenfranchise workers and transfer industrial power back to union officials, the same people who write Mr Beazley’s speeches. Labor would like to abolish the Office of the Employment Advocate, which has refused to approve individual workplace agreements where workers’ rights have not been protected by law. Further to this, why is Labor opposing the bill? During the 1998 election campaign, the Leader of the Opposition told the Australian people that Labor would keep a formal system of individual agreements in federal laws but make them reviewable by the Australian Industrial Relations Commission. In fact, this is precisely what has been done by the Queensland Beattie Labor government, but I do not think the member for Brisbane is opposing that. The simple reason why that commitment has not been honoured by federal Labor is a deal between left-wing and right-wing unions. They do not want workplace agreements and, as has been shown before, the Leader of the Opposition does not have the stomach for a fight with the unions. When you look at it, it is not hard to see. He needs to fight the ACTU, the combined right and left unions, the 61 per cent vote that unions get at Labor’s policy convention, the unelected union officials who decide political donations and ALP preselections, the former ACTU presidents who currently sit on Labor’s front bench and the union domination of the shadow ministry. Labor’s opposition to this bill brings together both bad policy and, I would suggest, considerably weakened leadership.

This bill will enable the Industrial Relations Commission to terminate the bargaining period where it has found that a party has engaged in pattern bargaining. It will further boost the Industrial Relations Commission’s power to issue orders that unlawful industrial action cease and to also order cooling-off periods, as referred to by the member for Lalor. One of the reasons why we have just seen a 15 per cent wage increase and a 36-hour week in the building industry in Victoria is pattern bargaining. The unions manipulating workers in individual workplaces have been able to ensure that the industry is basically held to ransom across a single uniform negotiating process in the state of Victoria. We had three or four big building companies move out of that and negotiate a deal with the unions but, in the end, that will destroy small businesses in the state of Victoria.

Whatever we might think about it—and I just direct you to the assessment done by Access Economics in relation to it—that outcome will in the long term cause 3,000 people, human beings with families to support, to lose their jobs and it will add in excess of $2 billion in oncosts to the Victorian economy. That virus, if you like, which has now taken root in Victoria, will soon be go-
ing into the manufacturing sector, a sector that can hardly afford this kind of pattern bargaining behaviour, and I am sure it is only a matter of time before it crosses the border and comes to New South Wales.

Mr Deputy Speaker Quick, I am pleased that I have been able to persuade you that this bill is of particular concern. I am sure that all of those members who were members of the Keating Labor government who so strongly supported enterprise bargaining when the member for Kingsford-Smith was the Minister for Industrial Relations will similarly support the government’s wisdom today—support and protect the jobs of workers, and growth and productivity in our economy.

Mr BEVIS (Brisbane) (6.09 p.m.)—I would advise the member for Bradfield to stick to health. That is something he knows a little bit about, but he has obviously read the script and not examined what is occurring in relation to the Workplace Relations Amendment Bill 2000. He does not understand what has happened with pattern bargaining—not just in Victoria, not just this year and not just with Campaign 2000 and the practice of pattern bargaining adopted by employers and employees and, I might add, encouraged by this government. I recall seeing the Minister for Employment, Workplace Relations and Small Business on television only a fortnight ago, just after this bill was tabled, saying that he supported pattern bargaining. That is what the minister said on TV. So, before members of the government get too excited about following the script, they should take the advice I normally give to everyone dealing with this minister—that is, do not read his lips but watch his hands.

What we have here is Minister Reith’s second wave revisited. This is the salami approach to that mammoth document last year that produced widespread reaction in the Australian community and a backlash in this parliament that eventually saw the bill withdrawn in the face of certain defeat in the Senate. So now we have bits and pieces of that legislation returning to the parliament as the government thinks it might have the numbers to see it through the Senate. I want to make some comments at the outset about the process this bill has followed.

This bill was tabled less than three weeks ago, without any prior advice or notice to the opposition. The Senate set up a committee to look at this issue on that day—it carried a motion. In fact, my office had 11 minutes notice of the motion in the Senate. The Senate set up a committee to review the legislation and to take evidence, and it determined that that committee was going to meet for one day, which was last Friday. In fact, under great protest, it met for a little bit longer. But the government is intent on ramming this legislation through without the proper consideration that it would be normally given in this parliament, without the opportunity for Senate committees to conduct their normal detailed analysis and, most importantly, without the opportunity for the Australian public to review it and make a contribution.

Those people in the community who have a view about this and wish it to be known to the parliament had about two weeks to be aware of the bill, to be aware of the detail of it, to formulate their views and to put submissions to the Senate inquiry. They had about two weeks to deal with it. There has been no consultation with the unions. It has been a practice for some time when major items of industrial legislation are brought before the parliament that there is consultation in a tripartite forum where government, employers and employees can sit down, look at the ramifications of the legislation and at least discuss what they think might improve the legislation the government is contemplating. That did not happen this time.

But there clearly was consultation with the government’s employer mates. The Australian Chamber of Commerce and Industry managed to get a press release out supporting this legislation on the day it was tabled. The only problem for the ACCI is that the minister’s office forgot to update the ACCI press office as to what was going on. As we know, business in this parliament gets delayed from time to time. As the Hansard records, Minister Reith moved the second reading of the bill at 5.01 p.m. on the last day we sat, 31 May. I have the ACCI press release in front of me that came off my fax machine at 15.57 that day. More than an hour before the bill was tabled in the parliament, the ACCI
had a press release out saying ‘Employers support workplace relations bill’. But the bill had not even been put into parliament. It was an hour away from even being tabled and this press release was on my fax machine. I guess there are a couple of explanations for that. One is that the minister and his mates in big business were in cahoots, and I would not be far off the mark if I were to speculate that that were so. I guess the only other explanation is that the people at the ACCI have a divine faith in this minister, and I do not think that that is so.

So we are left with one conclusion. In seeking to bring this bill before the parliament, the government consulted with at least some of its employer mates but none of the usual tripartite interlocutors. It did not see fit to negotiate or discuss with, or even provide an exposure draft to, anybody else. Having failed to do the normal customary things before the bill gets here, the government is now embarking upon a process to ram it through the parliament, to have it dealt with by the Senate as a matter of urgency. The Senate committee is due to report next week, I believe. The government intends that the Senate should fully deal with the matter as quickly as possible thereafter. This is an abuse of process, and it exposes the biased and unbalanced approach that the government, and particularly this minister, has in relation to this bill. But why should this bill be any different from any other industrial relations bill the government has brought forward? The government adopts the same degree of balance to most of them.

I should also make some comment at the outset about the litany of bills this government has foisted on the parliament in the area of industrial relations. Since it came to office, from its first bill in 1996, the government and the minister have proclaimed their desire to simplify the system. On a number of occasions, the minister has referred to how the government has made it easier for people to operate in the industrial relations environment. In the name of simplicity, the government has now amassed nearly 1,000 pages of bills. That is not the explanatory memorandums or the additional material that goes with them; it is just the raw pages of bills that this government has put before us. There were over 700 pages in its two major bills—the 1996 legislation and the second wave. So, in the name of simplicity, this government has forced upon the parliament, and tried to force upon the people of Australia, about 1,000 pages worth of legislation. Thankfully, a good body of it has been rejected by the parliament. But here we are, back again, with the minister having yet another attempt at pursuing his agenda.

Let me say a few things about this bill, why I believe it is fundamentally flawed and why the Labor Party will be opposing it and will be opposing the second reading. This bill seeks to restrict unions in taking action in support of what the bill defines as pattern bargaining. It is important to understand what the bill actually defines as pattern bargaining. If, say, a union makes a claim seeking common wages—everything else could be different; the flexibility in hours and everything that an employer wants—the fact that wages might be the same in two different places constitutes pattern bargaining on the face of it. In fact, the bill goes even further. It refers to pattern bargaining in a situation where a union is making a claim ‘involving seeking common wages and/or other common employee entitlements’. It then goes on to describe how the commission will deal with that. Basically, any part of the conditions of employment that are common to two places could be held by the commission to be pattern bargaining. The commission under this bill would effectively be forced to say that that could be dealt with in one enterprise alone rather than two, three or 10 and, because they are seeking the same leave, the same pay rate or any other provisions that are the same, an employer would leave it open to them to go along to the commission and effectively force an end to the pattern bargaining that is occurring in that situation.

This bill seeks to outlaw unions pattern bargaining, but it makes no such claim or restriction on employers. Employers are free to continue pattern bargaining—and they do, all the time. Employer associations as a matter of course produce standard templates for their members. That is a standard practice adopted not just in the manufacturing indus-
try but in virtually every industry. I do not criticise them for that. I think that is a reasonable course of action for them to take and they have to judge the circumstances. But this bill says that employers can continue to pattern bargain as much as they want to; it is just unions that cannot. If that is not a clear example of the government’s bias in this matter, there are even more direct examples of their bias that I will come to in a minute.

For those who want to understand how pattern bargaining can work and what happens in the real world, I want to put on the record the experiences of workers at a manufacturing location in New South Wales—Joy Manufacturing, and some people will be familiar with that company. Negotiations began in September last year for a new enterprise bargaining agreement at that company. The enterprise agreement they had expired on 31 December, so they started a few months earlier in September, which is a common practice. The bargaining period was put in place by the unions, and there were a couple of days stoppages in early January this year as part of the protected action provided for under the act. In early February, the company put forward four separate bargaining periods to cover the one site; that is, this one company, basically doing one thing, turned around and said, ‘We are going to pattern bargain, and we are going to break this company up into four little subgroups: hydraulics, gearboxes, warehouses and the main fabrication shop. Every one of those is now a separate entity, and we are going to pattern bargain across the four of them.’ So the company said to these people all working in the one place, ‘You are no longer going to bargain as one group. There are four groups that we will deal with.’ They then put undue pressure on each of those individual sections to reach an agreement. They basically said to the members of the union involved that, if they did not reach an agreement in those little sections, they would either lock them out of the business or they would simply shut the gate and the place would close down. I have to say that is even worse than Peter Reith’s legislation.

On 31 March this year, the company started to transfer unfinished jobs from that site to other places and at that point the workers at that factory felt they had no alternative but to go on strike and withdraw their labour, which they did. That occurred at the end of March and the start of April. A few days later on 6 April, the unions met the company whilst the dispute was continuing. They said to the company that the business could get back on track and they would be happy to sort things out, but the company had to give up this idea of having four separate agreements for the one factory and just have the one agreement, which they had had previously and was the norm. The company said no and would not have a bar of it.

On 12 April this year members were sent a new agreement from the company, but again it addressed the four separate entities with four separate expiry dates. Remember that they are all working in the same factory. The covering letter that the management sent out said that the employees had 14 days in which to respond. On 13 April, that is a day later, they received by registered mail a lock out notice of three months commencing the very next day.

I have not heard the Minister for Employment, Workplace Relations and Small Business complain about that three-month lock out. There is not a person in this parliament, there is not a person in Australia, who would think that, if a union said tomorrow that they were going to have a three-month strike, we would not have the Minister for Employment, Workplace Relations and Small Business up in the parliament the next morning putting on a song and dance show and that he would be on the TV, on the radio and press releases would be flooding the media. This company has said it is going to have a three-month lock out of its workers and we have not heard boo from the minister.

That is not surprising. Last year, ACI in Melbourne locked its workforce out for five months. People who are concerned about industrial relations in the manufacturing sector in Victoria might like to have a talk about what ACI has done. They had a five-month lock out. There was not a word from government members about that. This is a patently biased manoeuvre by the government. As that real life case demonstrates, pattern
bargaining is alive and well and, what is more, there are employers out there who take pattern bargaining to the extreme of splitting up their work force which is at the one location to pattern bargain across. This bill will do nothing about that. This bill will say that that is fine and they can continue to do that because it is going to advantage one side and not the other.

The second fundamental flaw of this bill is that it once again seeks to attack the Federal Court. We happen to hold the view that industrial relations is best dealt with by an independent commission, not by courts. What we are seeing—because of this government’s legislation in 1996 where they kneecapped the umpire; they made sure that the Industrial Commission had no power to deal with those disputes that it has customarily dealt with—is that every dispute now finds its way to the courts. There has not been a significant industrial dispute in the last three years that has not ended up in a supreme court, a federal court or even the High Court. That is no way to resolve industrial relations matters. You get tied up in legal argument, high costs and red tape.

It has been the practice. This government put that in place deliberately because they thought they would get a better outcome than through the commission. They have discovered that the Federal Court actually upholds the law and not the political agenda. When the Federal Court said to this government, ‘You are conniving with Patrick and Corrigan to deny workers on the waterfront their livelihood. On the face of it, we think there is a conspiracy. You cannot do those thing,’ this minister and this government were unhappy. Earlier this year the Federal Court said to BHP, ‘We think you might be breaching the law by telling your workers you will not negotiate with them about an agreement. They must sign an AWA.’ There are many other cases like that.

The simple fact is that the government are now having its third attempt at circumventing the Federal Court. They tried to do it with their second wave legislation by effectively transferring authority to the state supreme courts. They tried to do it when we set up the magistrates court. Members will remember at the end of last year that the parliament established a new magistrate court effectively to deal with the overflow of family law matters. This minister tagged on to the end of that a provision for the new Federal Magistrates Court to deal with very sensitive industrial relations issues. Not surprisingly, the parliament rejected that. Now we have the third attempt—piggybacked on to this legislation is another go at trying to circumvent what goes on in the Federal Court in terms of dealing with industrial relations matters, empowering the state courts to deal with these matters and preventing the Federal Court from doing so. There is clear reference to this at paragraph 27 of the explanatory memorandum. It states:

Proposed subsection (2) would prohibit the Federal Court from issuing anti-suit injunctions in respect of proceedings being brought or pursued in respect of industrial actions under ...

It then lists the sections. Basically, what that means is that when the Supreme Court has issued injunctions and a union or an employer thinks those injunctions are wrong at law, the union and the employer are, at the moment, free to go to the Federal Court, indeed the High Court, and challenge that. What the government wants to do is stop those parties going to the Federal Court and challenging it. There have been a few occasions where the Federal Court has said, ‘No, the state court has got it wrong. That is not the way the federal legislation is meant to apply.’ Here we have the third attempt to circumvent things.

The third fundamental flaw in this bill is so amazing I had to read it a few times before I actually believed that it was in the legislation. This bill includes a requirement that the umpire listen to one side of the argument only. Under this bill, when a matter gets before the commission the commissioner will be obliged to take particular regard to what the employer alone says. We have always said this government has a bias and most Australians know that to be so. But here we have it in black and white. There is no misunderstanding the words. I will read, inter alia, directly from the bill. Subsection (4) states:
In determining ... whether entitlements sought by an organisation ... are of such a nature that they are not capable of being pursued at the single business level, the Commission must have particular regard to the views of the employer ...

The effect of that is that when the two parties come before the commission, the union and the employer, in the normal course of events the umpire sits there, listens to the arguments, has a look at the law and makes a decision. Not now—not under this bill. When the union and the employer both come before the commission the commissioner will, as a matter of law, have to take heed of what the employer says, not what the union says. That is an amazing provision in any piece of legislation. I know of no precedent, not just in industrial relations in this parliament, but in state parliament, in administrative law, in criminal law, where the parliament tells the umpire it must have particular regard to one side of the argument. But it is in this bill.

These flaws are so fundamental that the bill deserves to be defeated on the second reading. I happen to think, though, that the minister has probably put a few of those things in there, tucked a few extremes in—his normal tactic—go a bridge too far. He has put some of those in there so that when he sits down to talk to the Democrats he can say, ‘All right, you are right about that; I will remove that clause’, and give the Democrats a few concessions so the Democrats can go away and think they have somehow found the middle ground. My advice to the Democrats is: don’t be conned. The tactic is clear in the government’s approach to this issue. Don’t be conned. This is a patently biased and deliberate attempt to strip from workers an entitlement they currently have and to blatantly allow employers to continue to use exactly the same vehicle at their whim.

One of the things the bill provides is some recognition of problems that may occur on individual sites. There is a note to item 6 of the bill that, when I read it, I thought referred to the construction industry. It talks about the fact that it may be okay to have an enterprise bargain across more than one employer on a particular site of work. I mistakenly thought that note was there to ensure that the construction industry was not going to be lampooned by this on the way through. In fact, it does nothing of the sort. It provides no solace for the construction industry. I say that deliberately because the construction industry employers have made it very clear that they do not want these sorts of provisions contained in this bill to apply to them. The construction industry have made it clear that when they are on a building site with 20 or 30 or 40 different contractors or employers, if it suits their purpose—and that is their decision, not Minister Reith’s or mine—to have one agreement covering all those employers on that one site, it is administratively easier. Let them do it; that is what they want to do. The construction industry have made that plain to anyone who will listen to them, but unfortunately the government has done nothing to address it. That maybe another ‘gimme’ for the Democrats, but clearly the bill has failed to take notice of it.

I referred to the outlandish provision that requires the commission to have particular regard to the views of employers. I just pause for a minute to ask the rhetorical question: what would be the response if I were to announce on behalf of the Labor Party that we thought there should be legislation, on any matter in industrial law, that said that the commission must pay particular regard to a union submission on any particular point that may come before it? If the Labor Party were to publicly espouse that view we would be pilloried very quickly by the press, by those opposite—by everyone. In fact, the government is doing that here in this bill, in black and white, unequivocally putting it into the law.

There are a couple of other matters I want to refer to in the few minutes remaining to me. This government has managed to put industrial relations out of the hands of umpires like the commission and force a confrontationist, gladiatorial system upon Australian workers and employers. Confronted with that, the only relief people have is to go to the courts. The situation is so severe that justices of our courts are now making speeches complaining about the situation, complaining about the confrontation that regularly occurs in their courts that is really a matter for industrial conciliation commis-
sioners. I want to quote the comments of Justice Nathan, who in February this year—not that long ago—referred to the current act as having reduced the industrial parties to a fight ‘redolent of the Grecians and Spartans’. So we have this epic battle that Justice Nathan identifies as having been forced to be played out in the courts as a result of this government’s legislation. He added that the courts have become the new industrial battleground as the act invoked ‘ritualised mayhem in which only the innocent are slaughtered’.

That is the system this government has put in place. They are not my words; they are the words of one of our justices, observing the reality of what transpires before him in the courtroom.

Against that background this government says that because they have one problem with one industry in one state they want to legislate to deny every worker everywhere in Australia in every industry a right which they currently have. Against that background this government thinks that is a fair response. Not only is it not a fair response; it is very poor public policy. The proper public policy prescription is to put back in place some balance, to restore some authority for an independent umpire. Later in this debate, when we get to consideration in detail, I will be moving a series of amendments to the principal 1996 legislation that give an indication of how that might be done, how we might set about putting in place some decency and ensure that we have an Industrial Relations Commission and umpire that are effectively able to settle industrial disputes and allow the parties to go about their business and, when a dispute arises, for it to be dealt with in a civilised way rather than using this philosophically driven, gladiatorial approach that Minister Reith pursues at every opportunity.

There are a couple of final comments I would like to make in relation to the bill. I notice that not only are the government keen to rush this through the parliament in the next couple of weeks but they are keen that when any matter comes before them as a result of this bill it be rushed through the commission. The bill requires that the commission must deal with any of these applications brought under this section within 48 hours of the application being made. So this is high priority. The commission is going to set aside whatever other matters may be before it and rush this through. That is probably not a difficulty, given the way the minister has knee-capped the commission and scoped down its authority in just about every other area, but it is an indication of the warped view the government has brought to this debate.

Another important aspect that should be placed on the record is where this will now leave us in relation to our international obligations. The 1996 legislation has already been the subject of adverse comment by the ILO. The panel of experts has now twice concluded that this government’s industrial relations laws fail to meet our international obligations—that is, conventions to which we are a signatory. It could be worse. The government’s response to that has simply been to attack the ILO. Rather than address the substance of the concerns twice raised by the ILO, the minister just publicly attacks them and berates them. It could be worse, because in another area to do with the seafaring industry where we are in breach of ILO conventions the government’s response has been to withdraw Australia’s name from the convention. So, rather than meet the minimum standards, we are actually going to cease to be a signatory to the agreement. On the bright side, the government is not proposing that we withdraw our name from one of the fundamental conventions of the ILO dealing with the rights of workers to collective bargaining. Given that we are already in breach of ILO conventions, there can be no doubt at all that this bill puts us grossly in breach of our international obligations. That is a national disgrace. It is a disgrace for the Liberal Party in the year 2000 because, in the past, Australia has been able to hold its head high in the international community of the ILO. It did not matter whether it was a Labor government or a Liberal government, whether it was Bob Menzies or Malcolm Fraser or Billy McMan- hon or Bob Hawke—take your pick—we had a good reputation. We do not any more. That is a product of this government and this minister—and that is a disgrace which will be rectified as a priority by the Labor government. I move:
That all words after “That” be omitted with a view to substituting the following words: “the House:

(1) condemns the Government for introducing a bill which:

(a) further entrenches unfairness and bias in the existing industrial relations system;
(b) is particularly biased in its application to unions only while allowing employers including the Commonwealth Government to foster and use pattern bargaining;
(c) directs the Australian Industrial Commission to have particular regard to the views of an employer when determining what constitutes pattern bargaining;
(d) reduces the opportunity for Australian workers to protect and enhance their wages and conditions of employment;
(e) further restricts the independence of the Commission;
(f) emphasises the punishment and prevention of industrial action rather than its resolution;
(g) fails to ensure that Australia’s labour standards meet our international obligations;
(h) has been introduced without providing the Parliament or the public with a proper period for consideration and consultation;
(i) reveals the Government’s partiality in failing to consult any further than employer groups on the bill; and

(2) calls on the Government to introduce a new bill which:

(a) delivers fair and equitable outcomes for Australian workers; and
(b) provides for an independent commission with the appropriate power to conciliate and arbitrate fairly and settle disputes”.

This amendment makes it plain that we oppose this bill. It sets out the reasons why we oppose this bill and calls on the government to introduce a new bill that delivers fair and equitable outcomes for Australian workers and which provides for an independent commission. As I said earlier, in the consideration in detail stage I will move some detailed amendments that will go some way to identifying how we can have an independent commission to bring some balance back into this system rather than the divisive and politically driven campaigns of this government and Minister Reith. (Time expired)

Mr DEPUTY SPEAKER (Mr Quick)—Is the amendment seconded?

Ms Roxon—I second the amendment, and reserve my right to speak.

Mr LINDSAY (Herbert) (6.40 p.m.)—We hear a lot of rhetoric and squealing from the other side on the Workplace Relations Amendment Bill 2000. How about some facts? There are some pretty clear and plain facts available to the Australian work force in relation to the performance of our minister and the performance of the Howard government. Those facts were clearly enunciated in the parliament this afternoon. When you look at the increase in real wages of the Australian work force under the coalition government and look at the decrease in real wages under the former government, the Australian work force can be well pleased that indeed Minister Reith and the Howard government have performed so well in the industrial relations area.

We should also look at the way that workers in this country are voting with their feet and marching out of unions and out of the centralised systems that have been a feature of the opposition’s policies. We should also look at how pleased they are with the individual arrangements they can make under the options they now have. The legislation we are debating tonight will provide ordinary Australians, especially those who reside in my electorate of Herbert—Townsville and Thuringowa—with a better future. This bill will address the emerging incidence of pattern bargaining and related measures to ensure that industrial action, particularly in pursuit of pattern bargaining, can be contained. This bill is needed. It gives the independent umpire, the Australian Industrial Relations Commission, a key role in determining the lawfulness of industrial action in pursuit of pattern bargaining campaigns.

During the 1998 election campaign, the Howard coalition government gave a clear
commitment to the Australian public in our workplace relations policy to improve the legislative framework to clearly distinguish between protected action in pursuit of genuine bargaining, and illegitimate bargaining and related industrial action. Furthermore, we gave the voters the undertaking to discourage agreements which compromise workplace choice and which undermine company performance and job security, such as forced industry-wide agreements and pattern bargaining.

I support this legislation as it is biased towards enterprise bargaining, whether collectively or individually, at the workplace. This legislation before us now will take enterprise bargaining into both unionised and non-unionised businesses, which will lead to a fairer workplace for both the employer and the employee. The federal government is refurbishing what has been for many years a centrally controlled outdated industrial relations system. Under Minister Peter Reith, a system has been put in place where outcomes are put above process, where cooperation substitutes for backroom deals and where agreements between employers and employees at the workplace level have primacy over the intervention of third parties.

I have been asked by some people why the government is introducing more reforms. My response is, firstly, that as a government we have to ensure that Australia has an industrial relations system that enriches our living standards, our jobs, our productivity and our international competitiveness; and, secondly, that we have a responsibility to promote a more inclusive and cooperative workplace system that understands the realities of our diverse, mobile and skilled labour force where employers and employees are capable of making agreements on wages, conditions, and work and family responsibilities which are subject to a safety net of minimum standards. Surely that is a reasonable approach.

It is quite interesting to note that, despite all of the huff and puff coming from the other side, Labor in government actually introduced a similar policy. However, it was flawed, as it did not allow enterprise bargaining to function effectively in non-unionised businesses. Unlike those opposite, this government is doing the things that need to be done. Reforms to our workplace relations legislation have received wide praise. I was pleased to see the IMF conclude that the structural reforms have raised Australia’s sustainable productivity growth, thereby enhancing the growth potential of our economy. Enhancing the growth potential of our economy, of course, is good not only for businesses trading in that economy but for the employees of those businesses.

The proof of the pudding is in the eating. As a result of the hard work of Minister Peter Reith we have seen a significant drop in the unemployment rate which, in my electorate of Herbert—in Townsville and Thuringowa—has seen unemployment plunge by nearly 2,000 people over the last couple of years. At the moment in Townsville, 30 people a week are coming off the unemployment queues, and that has been a sustained trend now for many months. It is a terrific result. Needless to say, this is benefiting many people, many businesses, many families, and creating a sense of renewal in the community.

The Budget Strategy and Outlook 2000-01, Budget Paper No. 1, on page 3-23, states that the continuation of the current economic expansion could be expected to offer a unique opportunity—some years hence—to again achieve and sustain an unemployment rate not seen in Australia for at least a quarter of a century. This is terrific news if this country can achieve it—and we can. However, it can be achieved only by continuing labour market reform, but continuing labour market reform in the interests of employers as well as in the interests of employees. That has been the hallmark of this government: reform has not been in the interests of unions.

It is pleasing to note that a majority of Australian employees in the workplace relations system are now employed under enterprise or workplace agreements—whether collective or individual, whether under state or federal laws. Currently, there are more than 100,000 Australian workplace agreements under federal laws. More than 17,000 collective agreements have been formalised under the federal system alone, with thousands more under state bargaining systems, as well as individual workplace agreements.
under federal and some state laws. The sad thing, though, is that, should the Leader of the Opposition become Prime Minister, he will abolish Australian workplace agreements. And why? Because the puppet-masters of the ALP, the unions, will have told him to.

I saw a wonderful example just recently of how well an AWA works in the workplace. This was an individual AWA between the employer and one employee. This particular fellow was a member of the Federal Police here in Canberra. One of his relatives close to him was sadly very badly injured in a road accident. The relative—in fact, it was his daughter—was helicoptered to Canberra. Some days later, his daughter died. But he received a bill for the helicopter flight which he could not pay. He went to the HR people at the Federal Police and said, ‘How can you help me?’ What they were able to do within 24 hours was set up an AWA between the employer and employee that allowed that employee to access some of his long-term entitlements immediately, and he was able to solve that terrible problem he had in relation to the payment of that very large account. We had a situation there where the employee was very happy that he was able to do that and the employer had an employee who had a problem solved and therefore worked better in the workplace. So this is a situation where AWAs work in the interests of both the employer and the employee; yet the Labor Party want to abolish them. How sad is that. How sad is it that the Labor Party want to say to people like this fellow, ‘Sorry, we are not going to allow you to make those sorts of decisions for yourself in your interests. We are not for the workers; we are for the unions.’

The Leader of the Opposition wants to make sure that agreements cannot be made directly between employers and their employees without third-party involvement. It is even more disturbing to note that the federal opposition has not publicly commented on the MTFU campaign in Victoria. But as the ACTU is sponsoring it one can only believe that the opposition will happily follow that campaign. The Metal Trades Federation of Unions have been trying to force as many manufacturing companies as possible to have their current enterprise agreements conclude on a common date—and from that date to take industry-wide action throughout the state in support of its claims. The proposed date for this action is 30 June 2000, and that is the reason for the urgency of this bill.

Included in the unions’ demands are things like a six per cent wage increase per year, which is more than twice the CPI, a GST inflator—which is just simply not the real world—portable leave and severance entitlements into industry funds, compulsory income protection insurance, casual employees to be made permanent, prohibitions on redundancy, use of contractors only with union consent, a compulsory three per cent training levy, a prohibition on the statutory right to make AWAs, overriding statutory award simplification, compulsory trade union training leave and compulsory union rights of entry into business premises. It kind of sounds like they do not want employees to have jobs, with those kinds of claims, because that is the reality of it. That is not all, of course; some even want a 36-hour week. An interesting thing out of all of this is that employers have not agreed to the union demands. I have heard that at least 500 employers have made arrangements which expire on 30 June 2000 and, as we debate this bill tonight, this presents us with a real threat of industry-wide action in the next few months, if it is not passed. It has been widely reported that the Bracks government in Victoria simply refers to this as ‘apocalypse now’.

The federal government strongly opposes the claim by the MTFU. We believe that the abandonment of enterprise bargaining would be against the national and industry interest and counterproductive; it would seriously damage industry, employment and investment. Through this legislation, the Howard government will outlaw this form of campaign; it will strengthen protections against unlawful industrial action, and balance access to protected action by giving businesses access to cooling-off periods during industrial action. In November 1999, members opposite and the Australian Democrats blocked reforms which would have prevented this type
It is pleasing to see that the Australian Industry Group has strongly supported the government’s stance on this particular issue. You may be aware that the AIG has taken legal action and obtained court orders against certain union officials for unlawful stop-work meetings in support of a claim. Legal action against union officials is also in the pipeline. Together with the AIG, the Howard government will continue to lobby other members of parliament to ensure that this legislation is enacted by 1 July 2000. It is urgent and important that it be enacted.

On Monday, the workplace relations minister informed the House of an increase in the number of strikes in February. The minister said that ‘92 per cent of the total number of days lost in February can be attributed to just three states’—Victoria, New South Wales and Queensland, all of which are managed by Labor state governments. Surprise, surprise! As the minister said, the facts tell a pretty stark story. In Victoria, it was the green light that the construction industry got, and the electricity dispute was part of the problem. That was a failure by the state Labor government. In New South Wales there were problems with the teachers. In my state of Queensland, they had a transport dispute with Queensland Rail, and this can only be blamed on mismanagement by the Labor government and the incompetent Minister Braddy.

To go on further, my local member of parliament, the member for Mundingburra, Lindy Nelson-Carr MLA, was actively supporting illegal strikes at the Sun Metals plant in Townsville, which is, incidentally, the largest Korean investment in Australia, with half a billion dollars. There we had the Labor state member on the picket line, when the court had declared the strike illegal, standing up there and saying, ‘I support this illegal action.’ It is no wonder that, although Ms Lindy Nelson-Carr was upset about it, she did not get an invitation to attend the opening of that particular plant two weeks ago: I think we can all understand why that might have been.

Again, I agree with the minister’s assessment that, when you pull out the year figures through to February of this year, you will see that it is exactly the same problem. There is clearly a pattern emerging. If those increases had not occurred, particularly in New South Wales, 1999 would have actually been better than 1998. Therefore, what we are seeing is a lift in those figures in 1999, and it is directly attributable to mismanagement by state Labor governments. Under this government, the average number of working days lost per 1,000 employees is 78. When Labor was in government, it was 190 days. Under us it is 78: Labor averaged 190. So it is very much better under the coalition government.

I say again that this government is doing the things that need to be done and is prepared to stand up and do the hard things and require people to observe the law. In Queensland, we are getting a rise in disputes because the Labor government has overturned the successful industrial relations legislation introduced by Santo Santoro MLA, the former minister. Labor believes in increasing the power of unions and widening the role of the Australian Industrial Relations Commission. These policies are little wonder, when Labor’s parliamentary ranks are stacked with ex-union officials. Labor is opposing the implementation of coalition election promises that would deliver more jobs and better pay. Of course, that track record I have already alluded to earlier in this speech.

The unions’ wish list is forced on the ALP by the millions of dollars in political donations made to the ALP during federal election campaigns. Labor would take Australia back to the 1970s, which will hinder Australia’s performance in the international economy. Labor’s backward policies will cost Australian workers their jobs, undermine their security, and damage the investor confidence that is required to further reduce unemployment.

I proudly go on the record tonight as certainly strongly backing this legislation. I call on the Australian Labor Party, those opposite, to recognise the value to workers and employers in this country, and to recognise the positive results that come from the industrial relations reforms that this government has already been able to proudly deliver.

Ms LIVERMORE (Capricornia) (6.58 p.m.)—I do not like to disappoint the previ-
ous speaker, but I will not be joining him and his colleagues tonight in supporting the Workplace Relations Amendment Bill 2000. In fact, I will be standing and supporting the workers and their families in my electorate. On their behalf, I oppose the government’s bill and support the very sensible amendments moved by the shadow minister earlier this evening.

This deal, on a close look, is nothing more than an attempt by the Minister for Employment and Workplace Relations and Small Business, Peter Reith, to have another go at introducing the very damaging measures that got voted down by the Senate last year, when he attempted to introduce the second wave of his industrial relations amendments. It seems that the minister is attempting to change his style a little. When he first started out, there was nothing very subtle about the minister. We all remember the waterfront dispute and the dogs and balaclavas. But it seems that the minister is preparing to change his ways a little: he is resorting to more subtle and, you might say, sneaky means of achieving his aims.

Those aims have not changed in any form at all. They are to shackle the Industrial Relations Commission and undermine its independence; to leave unions with no legislative authority to protect their members through collective bargaining; and basically to leave workers completely unprotected when it comes to setting their wages and conditions. When the Senate had a good look at the minister’s second wave of industrial relations changes last year, they did not want a bar of them, including the provisions relating to pattern bargaining.

But it seems the minister has not got the message. He is having another go at introducing these changes to pattern bargaining which will be quite damaging to workers in this country. It seems that the minister definitely got part of the message from the exercise in the Senate last year because he made sure that he did not give the Senate a good look at these changes in this bill. He has given them only a few days to conduct their inquiry into what are quite far-reaching changes to the industrial relations system in this country. Make no mistake about it, this bill seeks to do just as much damage to the living conditions of Australian workers as threatened by the second-wave changes last year. It is just as important to defeat this measure as we did the second wave last year. If this bill is passed it will create the most biased and unfair industrial relations system this country has seen since Federation. This bill limits the powers and rights of employees and their representatives while at the same time expressly giving additional rights to employers. It quite expressly and unashamedly gives employers the upper hand in any industrial dispute. You have to hand it to the minister on that count. Who needs the second wave when you can sneak this into the system through this bill before the House?

The danger in this bill comes from its definition of pattern bargaining. The definition proposed is so broad that in practice it would cover almost all union collective bargaining. If you look at the definition of pattern bargaining, it says that pattern bargaining involves seeking common wages and/or other common employee entitlements that the commission is satisfied form part of a campaign that extends beyond a single business and is contrary to the objective of encouraging agreements to be genuinely negotiated between parties at the workplace or enterprise level. That definition raises two points. The first one comes up in subsection (2) of that proposed amendment. In defining section (b)—what is contrary to the objective of encouraging agreements to be genuinely negotiated between parties at the workplace or enterprise level—it is contrary to the objective of encouraging agreements unless the commission is satisfied that all the common entitlements being sought are of such a nature that they are not capable of being pursued at the single business level. They are not explained in the notes following that subsection. You would have thought that the whole idea of negotiating entitlements is that ultimately they will be provided by an individual employer. It is really hard to see what would constitute an entitlement that
could not be pursued at the single business level.

It gets worse. The bill is not at all clear in directing the commission as to what might be an entitlement not capable of being pursued at the single business level, but the employer gets to tell the commission what they think about the status of the entitlement. That is in subsection (4) of that section. In determining whether the entitlement sought by an organisation is not capable of being pursued at the single business level, the commission must have particular regard to the views of the employer who is a negotiating party to the proposed agreement. That is a clear example of this minister’s bias and readiness to taint the commission with his bias. The commission is supposed to be the independent umpire; now it is expressly being told under this bill that it must listen only to the views of one of the parties, that is, the employer. This definition of pattern bargaining basically catches all union collective bargaining, and of course that is what it is meant to do. This government is totally against a fair and independent industrial relations system. It is only employees and their representatives who are prevented from pattern bargaining. The bill says nothing about any restrictions on the activities of employers and their organisations. In fact, companies and representative bodies are free to continue pattern bargaining when it suits them. Of course, it does suit them. There are examples—and we have heard plenty of them here tonight in the House—of employers, including this government in its capacity as employer, using template agreements to conduct their negotiations. There are also examples of the Office of Employment Advocate recommending similar templates to employers to assist them in their negotiations.

The implications of this broad definition of pattern bargaining are very far reaching. The definition calls into question all collective efforts by unions on behalf of their members. Those members are the working people of Australia. This realisation was reflected in a resolution by the ACTU executive, passed on 16 May after the executive had considered the bill. The resolution goes on at some length, but I will quote one paragraph in particular:

If the bill becomes law it will have the effect of prohibiting all workers from campaigning around issues of common concern, including compensation for the effect of government policies such as rising interest rates and the GST, and for improvements in job security, health and safety, training and apprenticeship opportunities, skill development and fair rates of pay.

If you accept the definition of pattern bargaining in the bill, the work of negotiating wages and conditions for employees in any sort of fair way becomes impossible. Further sections of this bill make sure of that. The bill effectively removes the concept of protected industrial action from the Workplace Relations Act. Section 170MWB requires the commission to terminate a bargaining period when a union has engaged in pattern bargaining. It is also proposed to change section 170MP of the Workplace Relations Act to prevent a union which is involved in pattern bargaining taking protected industrial action. Currently that section says that before an organisation is able to take protected industrial action it must have genuinely tried to reach agreement with the employer. The new section states that an organisation of employees is taken not to have genuinely tried to reach an agreement with the employer if it was engaged in pattern bargaining in respect of the agreement. The stacking of the deck here in favour of employers and against employees is unfair and not even realistic. The combination of these sections takes away any right of unions to take up issues of concern to their members across an industry. As soon as a union takes up an issue across an industry and then tries to enter into negotiations with a particular employer on an issue that is the subject of more widespread negotiation there is no bargaining period and no protected industrial action. Effective bargaining is impossible without the entitlement to take lawful industrial action because employers know that there are no means for unions and employees to put pressure on them.

The pressure on employees and the attacks on the commission’s discretion in this bill go on and on. Currently, the Workplace Relations Act gives the commission power to suspend or terminate a bargaining period if it
believes that a party is not genuinely trying to reach an agreement with the other parties. This bill seeks to change that section in a way that actually takes away any discretion from the commission. The commission will have to suspend the bargaining period if it considers that the cooling-off period would be beneficial because it would assist the parties to resolve the matters at issue. It seems quite clear that ending the bargaining period is always going to assist in the resolution of the dispute, because it basically pulls the rug out from under the employees. So on that interpretation the commission is bound by the proposed section to suspend the bargaining period.

The other section that is of concern is section 127, which gives the commission power to order that industrial action cease. The minister is now insisting that any application under section 127 be dealt with by the commission within 48 hours of the commission receiving the application. If that cannot be achieved, the commission is compelled to grant an interim order for the industrial action to cease. Normally the commission could consider the merits of the application and hear from both sides before making an order. Now, on this deadline, the commission basically has a gun to its head and all unions will be forced to cease industrial action under interim orders, regardless of the fact that the action might be protected under the act.

The bill also purports to remove the right of the Federal Court to grant antisuit injunctions. This means that parties—and I would suggest in most instances employers—can take the opportunity to forum shop and start actions in state Supreme Courts. That can happen even if the matter is already before the Federal Court. We have seen many examples in my own electorate where the mining unions are continually up against large, powerful multinational corporations who take every advantage of these sorts of legal technicalities to tie workers up, to tie the mines up, for months and months in protracted legal proceedings.

It is obvious from looking closely at the amendments proposed by this bill that the legislation is designed to shift the industrial relations system in this country even further towards the interests of employers at the expense of the interests of employees, and even at the expense of traditional notions of fairness and equity. Industrial relations in this country has always been about ensuring fairness. It has been based on the acknowledgment that the best and fairest outcomes are not always going to be reached just by letting the most powerful party in the employment relationship dictate the terms. This has been done in this country through the Industrial Relations Commission. The Industrial Relations Commission has stood at the centre of our system for a century now. It represents the fair and independent umpire.

There was plenty of freedom in the system under the previous Labor government for parties to negotiate and work out their wages and conditions for themselves, but always with the knowledge that fairness and scrutiny were built into the system, if either party needed to call on them, by way of arbitration and conciliation in the Industrial Relations Commission. That gave the parties an outlet. It enabled the parties to have their say and to also let the national and public interest be considered and to have the decision ultimately made by an independent arbiter. This fairness in the industrial relations system has been lost under this government. It has actually been quite enthusiastically driven out of the industrial relations system in this country. Workers are basically left to take it or leave it in many of their workplace situations.

I can see the results of this new law of the jungle approach to industrial relations in my own electorate, and it is basically part of what has formed the basis of the other side of the debate here tonight. It is as if the only dimension of industrial relations is the bottom line of the employer. The whole point of industrial relations is that you have a system that balances the interests of employers—and their bottom lines—and the interests of employees. It appears that in the mind of this government there is only one set of interests to be considered when it comes to workplace relations, and that is the interests of employers. It is the right of employers to make a buck. More and more I have to ask, ‘Where is the right of employees to have a life?’ In my electorate the miners and meatworkers are
basically covered by the federal system. It comes down to the question of whether or not the employees are entitled to gain anything out of the employment relationship. Is it simply that they go to work purely to further the interests of an employer or are they entitled to get anything out of it for themselves, to earn a decent living and also to have a decent life to pursue the goals and aspirations that they have for their families?

It is perfectly common in the mining industry now for workers to be working 12-hour shifts. When you drive from one mining town to the next in my electorate you can pick what shifts the employees in those towns are on. If you go to a town where there are 12-hour shifts, there is street after street of empty houses, where mum and the kids have moved to the coast away from the mining town, because all dad does is work and sleep. You drive around the streets and there is no-one at the shops— in fact, the shops are closing up on a daily basis because there is no-one living a proper life in these towns— there is no-one out kicking a football or swimming at the local pool. There is just no life in these communities. The only thing that the mining companies are interested in is the 12 hours a day that the employees spend at their facilities. The employees basically do nothing but work. They might as well be robots or slaves. There is no acknowledgment or recognition that these people should be entitled to be able to live a life as well as spend the time that they commit to their employer.

Mr Tuckey—They do that seven days a week?

Ms Livermore—The other thing is the four days on, four days off. Again, you have got people working 12-hour shifts on four days and then taking off to the coast. So communities are destroyed, families break down—

Mr Tuckey—With the kids?

Ms Livermore—The workers are telling me—and it is my job to represent them here, not to keep you happy—that they do not want this. They have fought for conditions over many years so that they can have a job and also a life.

The issue of workers having a life takes on a much more serious perspective when you look at the rate of accidents in the mining industry at the moment. I have lived in a mining area all my life, and I have never picked up the paper and seen the frequency of accidents reported that I have seen in the last three or four years. A man lost his life at Oaky Creek mine just west of Rockhampton last week. That was just one of a litany of very serious accidents in the mines in Central Queensland. This is what happens when people are working 12 hours a day, underground or in open-cut mines where you have got heavy, dangerous equipment—you cannot expect the safety standards to be upheld. In fact, the whole thrust of bargaining and individual contracts, casualisation and contract labour in the mining industry is leading to corner cutting and much lower safety standards in that industry. If you can tell me that an individual employer negotiating with their individual employee is going to fix systemic safety problems in a coal mine, that is Disneyland stuff. You need the power of unions as representatives of employees across industries to be able to take up these issues. They do not need to be penalised by the kinds of provisions that are proposed under this bill, losing their right to bargaining periods and protected industrial action, just because they are taking up an issue on an industry-wide basis.

The other problem occurring in my electorate is that of the 'gypsy miners'. That is what my friends in the coal mining industry call the casualisation and contracting out of mining work. Again, families on the coast are basically driving from one job to the next, and there is no check on whether people are actually fit for duty, given their fatigue and the hours they have been working. People are driving from one mine site to the next, to the extent that they put their lives in danger, as evidenced by the rate of injuries. People in the mining towns are telling me that they do not want to drive on the roads that connect the mining towns to the major centres. People who have to drive their kids to soccer games or people who have to go in for meetings or whatever do not want to be on the roads because they know that the roads around Central Queensland are full of people who have
just come off 12-hour shifts and all sorts of ridiculous overtime shifts. If the government wants to tell itself that industrial relations is just about a bottom line, it is not giving the right service to this country. Industrial relations has to be about people, it has to be about families and it has to be about the right of employees to have their interests met just as much as employers have the right to have their interests looked after. *(Time expired)*

Mr McARTHUR (Corangamite) (7.18 p.m.)—I draw attention to a couple of the things that the member for Capricornia raised in her speech. To the suggestion that the mining covenants are unfair, 12-hour shifts being difficult, I say that the mine workers themselves have been advocating 12-hour shifts over a four-day period with three days off, that the mining unions have never been fair with management and that productivity levels have been very poor by world standards. I was pleased that the member for Capricornia actually raised some of these issues at the conclusion of her speech, but if you look at the facts in the mining industry you would know that what she says does not stand too well because of the federation’s mining activities in the broad mines in Queensland and in New South Wales.

I notice the shadow minister at the table. I am delighted he is here because he might add some interest to the debate since this is a seminal debate that we are having here. We are debating a return to the dark ages of award structures in the Conciliation and Arbitration Commission. The opposition advocated an award structure when they were in government—and the shadow minister at the table supported the changes at that time—and we are now returning to award structures under pattern bargaining. Even the Hawke government moved away from a legalistic structure and into a more flexible set of arrangements, which we advocated in opposition. I do take some credit, along with the present Prime Minister and shadow ministers at the time—including the Minister for Employment, Workplace Relations and Small Business now, the Hon. Peter Reith—for advocating a more flexible enterprise based operation of industrial relations. At that time everybody disagreed with us; they thought it was too revolutionary. Eventually, the Hawke government agreed with the proposition that there ought to be a more flexible set of arrangements and that companies and individuals should draw up a set of arrangements to suit the workplace and to suit the pay and conditions.

Like other members, I would like to get clearly on the record the attitude of former Prime Minister Keating in his famous speech to the Institute of Directors in Melbourne on 21 April 1993. Let me get this clearly on the record. I do not think I could have said it better myself. The former Prime Minister had this to say:

We now have workplace or enterprise bargaining proliferating rapidly. There has been substantial progress, but I think we need to do a lot more.

Let me describe the model of industrial relations we are working towards. It is a model which places primary emphasis on bargaining at the workplace level within a framework of minimum standards provided by arbitral tribunals. ... For most employees and most businesses wages and conditions of work would be determined by agreements worked out by the employer, the employees and their union. These agreements would be based on improving the productive performance of enterprises, because both employer and employees are coming to understand that only productivity improvements can guarantee sustainable real wage increases.

We now have enterprise bargaining which covers one third of the workforce under federal awards. Over eight hundred agreements covering nearly three quarters of a million employees. That is extremely encouraging, but it is not enough—not nearly enough. We want it to be close to one hundred per cent of employees under federal awards. ... We need to make the system more flexible and more relevant to our present and future needs.

So there we have former Prime Minister Keating putting forward a sensible view on making a change to the industrial relations structure.

What do we have here in the parliament? We have a bill before the parliament to enhance and encourage the more flexible system of enterprise bargaining. The Reith provisions in the first set of industrial relations changes introduced by the Howard government have been put in place and need further adjustment to ensure that they work well, that the current wave of potential pattern bar-
gaining can be withstood and that enterprise agreements do take place.

The current bill before the parliament will do five things. It will qualify access to the right to take protected industrial action when parties are negotiating so that when enterprise agreements are being undertaken by employees and by management they are protected by law. The next thing is that it will enhance the effectiveness of the Industrial Relations Commission to issue orders that unlawful industrial action cease during these periods of discussion. It will give the Industrial Relations Commission the power to order cooling-off periods in discussions during industrial action. The next important thing is that it will ensure existing rights to pursue common law remedies, particularly under sections 45D and 45E, in response to unlawful industrial action in Supreme Courts without additional litigation in the form of anti-suit injunctions being sought from, or issued by, the Federal Court. In simple terms, it will be moving from one court to another and using the current industrial relations legislation to suit the actions of unionists and other members.

I would like to quote from a very interesting paper that was delivered to the H.R. Nicholls Society, of which I am proudly a paid-up member, on 5 May in Albury by Mr Stuart Wood, who is a barrister-at-law. This is an independent witness talking about the matter that we have before the parliament. In his paper, he talks about the former legislative regime, the unions, the Federal Court and the state Supreme Courts, section 127 and the famous Dollar Sweets case that was decided under common law. He basically refers to the former Arbitration Commission, which was legalistic and which operated in Australia for some 90 years. Most of us are aware of that, and even Prime Minister Keating and Prime Minister Hawke moved away from that situation. The changes that they introduced were enhanced by the Reith legislation, and we are improving on that here this evening. Stuart Wood made some interesting references to the union campaign that we know is taking place in Victoria, Campaign 2000, kicking off on 30 June. What is happening in Victoria is that those unions wish to water down the enterprise agreements and move back to the pattern bargaining arrangements. This is from an independent witness; it is not me giving the arguments. He says:

“Campaign 2000” is a concerted effort to synchronise industrial action in support of better wages and conditions in manufacturing businesses. It will initially affect Victoria, with hundreds of businesses which signed up to common expiry dates for enterprise… agreements to be hit with... strike action...

I think it is an unfortunate situation that these enterprise agreements are finishing on a common date, which would encourage the union movement to move to the pattern bargaining type approach. He also says:

The campaign denotes the resurgence of the... union left... in Victoria...

We know a fair bit about that in Victoria. He goes on to talk about the contrast between the left-wing, Victorian based Metal Workers Union and the New South Wales Ironworkers Union. Referring to Victoria, he says:

Over the last decade, the Metalworkers union has merged with the Food Preservers Union—

I will add my bit: that is the tomato left in the Food Preservers Union, as the minister at the table, the Minister for Forestry and Conservation, would recall—

the Confectionary Workers Union (of Dollar Sweets fame) and the Vehicle Builders Union amongst others to form the Australian Manufacturing Workers Union...

There you have it. That is an interesting background. He goes on to state:

The Victorian branch of the AMWU has been taken over by Craig Johnston and his cohorts...

Then he goes on to say:

His campaign is “Worker’s First” and is based upon taking “industrial action” to secure wage increases.

Then he talks about the ‘strategic alliance between Johnston, Martin Kingham of the CFMEU and Dean Mighell of the Electrical Division of the CEPU’.

So there we have what is happening in Victoria on the record by an independent commentator. The member for Holt would understand it. He knows some of these people and understands where they might stand in the Labor Party. The attitude of the Federal
Court is a bit difficult to comprehend. It is
difficult to comprehend the way in which the
courts have handled these pieces of industrial
litigation and the movement between one
court and another. When introducing section
127, Minister Reith stated:
Parties suffering from illegal industrial action will
have access to effective legal redress, including
injunctions and/or damages. Industrial action that
continues in breach of such directions from the
court will be in contempt of court ...
Quite simply, Minister Reith introduced sec-
tion 127 to give some protection to employ-
ers and employees. However, the attitude of
the unions and the attitude and the approach
of the Federal Court and the Supreme Court
has militated against some of those important
changes.
We have the situation in Victoria where,
quite clearly, the Metal Trades Federation of
Unions are running a very strong campaign.
They are quite clear that they want to have
pattern bargaining. I have their list of claims
before me. They want a claim for three years.
They want an industry-wide pattern. It is
quite straightforward that they do not want
enterprise agreements; they want awards
which prevent the use of clauses that might
be part of the Reith legislation. They want
protection of the existing overaward pay-
ments. So, if there is any overaward, they
want that part of the program. They want
superannuation to be funded by industry and
no-one else. They do not want any industry
individual contracts, AWAs or any other
form of individual contract and coverage by
agreement of all employees. So it is quite
clear what their program is. They want pat-
tern bargaining. They also want the right of
entry of union officials. They want wage in-
creases of six per cent. They want jobs cre-
ated in manufacturing, although this situation
is making it difficult for the manufacturing
industry to compete internationally. They do
not want contracting out. They want con-
tractors to be covered by union collective
agreements, and they want casuals to be
made permanent. They also want 35 hours a
week if they can get it. It is quite clear that in
Victoria pattern bargaining is going to be the
order of the day and that the unions will work
very hard to get it. When they have not been
able to achieve their outcomes, you have a
situation as reported in the Age on Tuesday,
30 May. The article is entitled ‘Union two
refuse to pay fines’. Our good friends Dean
Mighell and Craig Johnston were fined
$40,000 for ignoring a court order. They are
quite clear on what they are going to do.
Debate interrupted.

ADJOURNMENT
Mr SPEAKER—Order! It being 7.30
p.m., I propose the question:
That the House do now adjourn.

Lighthouse Foundation
Mr BYRNE (Holt) (7.30 p.m.)—One of
the benefits, if not one of the privileges, of
being in public life, particularly as a new
member of parliament, is having the opportu-
nity to meet with people whose lives are
dedicated to constructively changing the lives
of others, to basically helping people who are
unable to help themselves and to witness
programs that help people to get their lives
back on track. I had the benefit of actually
meeting with a person and coming into touch
with such a program when I attended the
opening of the Lighthouse facility, which is
based in Keysborough, on 17 May this year.
This is a facility and a program that basically
offers a second chance to what I believe is
our most precious national asset: our youth.

I would just like to briefly discuss this
program because I note that many of the peo-
ple who work in programs like this and per-
form these sorts of community services are
very underrecognised, and many times these
people wonder whether or not it is worth
while. To people like them, and to many oth-
ers throughout the community, I say that, yes,
it is. In many cases, they are the glue in our
community—the much underrecognised glue,
the very essential glue, the glue that holds
this place together. I would particularly like
to pay tribute to this program and mention it
briefly in my acknowledgment of their pas-
sion, their tenacity and their commitment to
making the lives of our youth better. I will
take up the remaining time discussing this
particular program so that many others may
become aware of it and the benefit that it has
in our community.
The Lighthouse program itself provides a long-term family environment, care and support to young people aged between 15 and 22 years who would otherwise be homeless. There are currently four homes operating in Victoria—in Toorak, Middle Park, Geelong and, the one that I attended, in Keysborough, which actually came as a donation from a philanthropist businessman, Ralph Todisco. The Lighthouse is unique in meeting many of the long-term needs of disadvantaged young people. The emphasis is on relationships and community, giving the young people an environment where they are trusted and challenged and can thrive intellectually, physically, spiritually and emotionally. A sense of being and a sense of belonging is encouraged. This foundation was established in 1991 to support the work of its founder, Susan Barton, the moving spirit behind this particular enterprise.

This facility is for young people who are ‘at risk’ or homeless. They frequently come from a background of abuse and have complex problems, including mental illness and physical health problems, drug abuse, limited education, unemployment, limited life and social skills, financial disadvantage, challenging and antisocial behaviour, juvenile justice history and psychological adjustment difficulties. In many cases they have suffered the effects of disruption in their family life, accommodation and schooling, or because of their antisocial behaviour are unable to live at home. The program offers a broad range of services which include life skills, food, shelter, support, family therapy, family mediation, education, intensive case management, counselling and socialisation as well as extensive outreach services. These services now, I understand, are enhanced by an in-house psychologist. It is interesting to note that these particular services are being offered with virtually no government assistance. That is not a criticism of the government; this is a very community-based organisation which is reaching out into the community and being rewarded by the community. Given that there are only four of these such facilities in Melbourne, I would certainly encourage greater community awareness of the good work that is being done by this particular organisation and the outcomes it achieves and would encourage greater community participation in it.

The statistics of the 128 young people who have been through this program show that many had been homeless, had extremely violent family backgrounds, had been using harmful drugs, had extreme mental illness and had been victims of sexual abuse. Seeing these young people who have put their lives back together again through this program, with the support of their peers and the people who are in this program, offers great hope to our community. This is a program that should be supported. I would like to commend those who have been involved in this program, particularly Susan Barton and a young youth worker called Leah Bastian. I would like to thank the people who shared their experiences with me, young people like Malcolm who six months previously had been homeless and is now an apprentice to a leading chef in Melbourne. This is a great program, it should be recognised and it deserves community support. (Time expired)

**Trucking Industry: Long Distance Owner-Drivers**

Mr St Clair (New England) (7.35 p.m.)—I rise tonight to bring to the House’s attention the plight of long distance owner-drivers in the trucking industry and the difficulty they have in remaining viable small business operators. Those in this place should know how efficient the trucking industry is in this nation. They should also know that the trucking industry is one of the most important industries in Australia, contributing over six per cent of Australia’s GDP and 4.5 per cent of the nation’s employment, with truck drivers representing the largest full-time occupation for Australian males. One of the great challenges facing the long distance owner-drivers is that freight rates they are paid by prime contractors and other large trucking companies or freight forwarders are not reflecting the dramatic increases in costs that have hit the industry over a period of years.

Mr Speaker, as you know, the A New Tax System is being introduced on 1 July this year and the initiatives that are contained in that system will certainly help cut the costs of the long distance owner-drivers. But the rates
that are being paid to these owner-drivers today are not reflecting the increases that they have had to wear over the last five or more years. One of the concerns is that, every time there is some sort of increase in rates that may be paid, there is a sudden increase in the number of owner-drivers out there trying to get to those rates, and the resulting competition forces freight rates down again, which in turn puts existing people out the door and out of business. One driver said to me today, ‘I would love to know how many trucks are being repossessed and how many owner-drivers are going to have to sell their homes to pay off their bills.’

One way of alleviating the problem of supply and demand for owner-drivers could be a system of licensing for the road transport industry. I have no doubt, after talking to the drivers, that their view is that road transport operators should be licensed, that licensing standards should be established and that licences should be issued only to those operators or intending operators that meet those required national standards. While I am opposed to any form of government intervention in free trade, there clearly needs to be something done. I note that the Transport Workers Union of Australia has involved itself in this dispute, and I have to say that this could indeed be a constructive involvement.

If a system is brought in to license the industry, one of the ways available is through state legislation and, as in New South Wales there is a Labor government in control, I am sure that the influence of the TWU will be able to convince the New South Wales government to look at this type of legislation. While on the subject, the TWU can, in effect, put pressure on the Labor state governments of Queensland and Victoria at the same time. I am sure that this type of legislation comes under the province of the states and that the state Labor governments will have no hesitation to bring the appropriate legislation into play should it be appropriate. But, Mr Speaker, I would not hold your breath. The Transport Workers Union has never been a friend to the long distance owner-drivers. However, it has always tried to take advantage of any circumstances that it can find to increase and recruit new members to its union. I think the TWU represents less than 10 per cent of drivers.

If the states do increase licensing, there may be a chance of addressing the very serious concern of the oversupply of trucks, the very real issue of managing fatigue, implementing a freight rate schedule that keeps our small business owner-drivers viable, getting rid of cowboys and increasing the level of safety on our roads. I applaud the initiative of the Motor Accidents Authority of New South Wales in calling for submissions to their safety inquiry into the long haul trucking industry, which is looking into those types of concerns. I was pleased to put a question to my National Party colleague the Deputy Prime Minister and Minister for Transport and Regional Services, John Anderson, in question time today, and his response shows that he has a deep understanding, and cares for the plight, of owner-drivers. He also understands the agenda the TWU is playing in trying to boost its numbers.

There needs to be a good outcome for not only long distance owner-drivers but all owner-drivers who make such a valuable contribution to this nation’s wealth and well-being. In my view, these owner-drivers need to be listened to at the highest level. I assure the House and the owner-drivers that I will continue to make representations on behalf of the owner-drivers and support them in their endeavours to become better represented among the decision makers of this country.

Aboriginals: Reconciliation

Ms ROXON (Gellibrand) (7.40 p.m.)—I would like tonight to record my congratulations to the organisers of Sunday’s reconciliation march in Sydney—a large congratulation to those organisers and also to all of the individual people who attended and all of those who, like me, would have liked to have attended. One of the misfortunes, as many of us in this House know, of being a federal politician is that we are more often than not in the wrong place at the wrong time than in the right place at the right time. I was unable to attend on Sunday in Sydney and also was unable to attend today a fantastic local celebration for Reconciliation Week, which I would also like to discuss tonight.
Most importantly, I think my view, amongst many others, should be recorded in this House as recognising the great importance that a broad cross-section of this community sees in making an apology and taking a step towards healing the relations between the Aboriginal people of our country and the rest of us.

The celebration that was held in my electorate today was a very interesting one because, although the western suburbs of Melbourne are no longer the home of a very large number of Aboriginal people, they were traditionally the home of many Aboriginal people, particularly along the banks of the Maribyrnong River. The western suburbs were home to the Woiwurrung tribe and the Boonwurrung tribe, and the Australian Aboriginal League was actually founded in Footscray in the 1930s. This was one of the first Aboriginal political organisations in Australia, and the league would be known to some for petitioning King George V to allow Aboriginal representation in the parliament. The Prime Minister, however, at the time refused to forward the petition to the king because, under the Constitution, the Commonwealth had no power to legislate for Aboriginal people. Thankfully, we know today that that is one step that we have been able to take.

In discussing the celebrations of this week, I note that Premier Bracks actually today allowed a number of Aboriginal people to speak from the floor of the state parliament, which was built on land that was once a meeting ground for the elders of the Kulin people. I would like to record my view that such signs of reconciliation can only help the reconciliation process in this nation.

The event that was held today in my electorate was organised by a combination of groups, particularly the Inner Western Migrant Resource Centre, the Maribyrnong Council, the Adult Multicultural Education Service, the Footscray Community Arts Centre, the Living Museum of the West and the Department of Human Services. The event was a very interesting one. It was addressed by Michael Gorton, the co-chair of the State Aboriginal Reconciliation Committee. It was attended by a vast range of constituents and supported by a very large number of different ethnic groups in my electorate. I am told around 500 people attended this luncheon today to eat not just Koori food but also Ethiopian, Chinese, Italian, Bosnian, Serbian and Vietnamese food, to mention just a selection of them. I think it is interesting that some of our newer migrants to this country are actually more aware of the appropriate recognition that should be given to the Aboriginal people as the traditional owners of this land than perhaps are some of us who have been here for more generations.

I think that, whilst we are taking many important steps during this week, it is something all of us need to be vigilant of—that the process of reconciliation cannot be achieved just in a week and that we have many steps to take from here on in.

I was able to attend on Friday in Melbourne the Sorry Day activities that were held. I was amongst an unfortunate several thousand people who had to face the sleeting cold rain in Melbourne while we did this. But, again, I think it was something that people did willingly to record their views and to say sorry in a way that each and every one of the people that attended not only in Melbourne but also in Sydney was able to do.

I urge, amongst the many other voices that are calling for this, our Prime Minister to reconsider his position on this important issue.

Mallee Electorate: Wimmera Business Awards

Mr FORREST (Mallee) (7.44 p.m.)—I believe we live in the greatest country in the world, a land of great opportunity. I am not wanting to understate many of the challenges with which we are currently confronted. I note the member for Gellibrand's contribution. She mentioned but one of them—that is, the great challenge of being reconciled with indigenous Australians. I note the reference that the member for New England made to the desperate need for taxation reform and to meet the needs of small business.

I think it is important to reflect on what a wonderful opportunity Australia does have. One only needs to view the evening news on the television and, whilst it might have been
the Balkans some time ago or southern Africa or most of Africa, on the current news it is Fiji where forces have attempted to ruin democracy at the point of a gun. In our country, last year in November we were able as a group of 19 million citizens to make a decision, and probably the most significant and important decision any modern democracy can make, about who we want to have as our head of state. We had a referendum on that. Every citizen recorded so to do was able to cast their vote on their choice. A robust debate was held. Every person with a point of view, no matter how outrageous, was allowed to express it. Nobody’s rights were violated. Not one single shot was fired. Surely this is a good thing that we have in our country.

Whilst we have many challenges, I think it is our robust and fundamental belief in democracy that will gird us to meet the challenges that confront us. There are many things that happen. I was impressed with the member for Holt’s contribution tonight. Being a member of parliament is a very humbling experience.

Last Friday night I had the opportunity to enjoy with constituents the celebration of the Wimmera business awards. Such awards are happening in regions right across Australia, I am aware. It is the second such function this year that I have had in my electorate. Earlier in the year it was the Swan Hill district’s business awards. Friday night the Wimmera region had an opportunity to showcase its premier businesses, to celebrate the success and achievements of Wimmera’s best individuals and family businesses—not big corporate entities, but basically the mum and dad businesses that have struggled over the last decade but are now starting to make their way.

Seventeen awards were presented last Friday evening. The first was awarded to Whimpey and Maureen Riecheldt. Mr Speaker, if you get the opportunity—it is not very far from Wakefield to visit the Little Desert National Park—you should visit Whimpey and Maureen Riecheldt’s Little Desert Lodge. There is an opportunity to get up early in the morning and go on an excursion with Whimpey and see native mallee fowl, which is Australia’s most famous megapode in the wild, coming up to Whimpey as he calls them by name. It is a very special experience. I think it is very fitting that the Little Desert Lodge should achieve the tourism award at the Wimmera business awards on Friday night.

One of the manufacturing awards really impressed me. It was awarded to an operation in Edenhope, which is a typical Victorian country town, struggling with all of the normal challenges confronting rural towns. Here a young man in his early 20s started a wood-working business, a joinery business, working with Australian red gum eucalypts. He is now employing five people and making a major contribution to the economy of that small town. He is making commodities, like the lectern in front of the honourable member over there, in native red gum. I was immensely proud that he was also awarded a manufacturing award. It was Wimmera at its best, with typical Australians all out there having a go and meeting the challenges that confront them.

Capricornia Electorate: Collinsville

Ms LIVERMORE (Capricornia) (7.49 p.m.)—I want to tell the House tonight about a trip that I took last week to the town of Collinsville, which is at the northern end of my electorate. Collinsville is a small town of 1,500 people which has a very proud history as a traditional mining town—one of the oldest mining towns in Queensland. When I was there I met with a mixture of groups, including representatives from the Pensioners League, the retired mine workers, the Collinsville District Development Bureau and the Bowen-Collinsville Enterprise Organisation. I was invited by different sections of the community to see what was going on in Collinsville because it has taken some pretty hard knocks over the last year, the most recent being the halving of the work force at the Mount Isa Mines colliemine in Collinsville. I went along to talk with the various groups and basically to find out about the needs of the community and also the opportunities that exist.

There are a number of projects that were spelt out to me when I was there. I wish to mention them tonight. The first of those is the Urannah Dam project. The dam is proposed to be constructed south-east of
Collinsville. Construction of the dam would open up some really great opportunities for the town of Collinsville and that region. It would enable the development of a 20,000-hectare irrigated agricultural zone around the town of Collinsville. It is estimated that 6,000 jobs will be created once the full agricultural potential of that region is up and running. It has been tested as suitable for sugar cane, cotton, citrus, grapes, peanuts, lucerne and a range of horticultural crops.

The construction of the Urannah Dam would also allow for the expansion of mining in the Bowen Basin. Currently, the Eungella Dam, which provides water for the Bowen Basin mining developments, is fully allocated. It is the northern end of the Bowen Basin coalfields that is currently undergoing the heaviest development and has the most potential for expansion. So the construction of an alternative water source is a very important part of the future development of that part of Queensland.

The second project that the people of Collinsville wanted me to pursue is the rail link from Newlands mine to Goonyella mine. That would involve the construction of 70 kilometres of railway line, linking the Newlands mine and Abbott Point railway line with the Goonyella mine to Moranbah line. The construction of that 70 kilometres of railway would provide an integrated transport link between the Bowen Basin coal industry and the port of Point Abbott located at Bowen.

The other project which is of immediate concern to the town is the sealing of 12 kilometres of road from Cerito station to Newlands mine. Anyone who has ever had to drive the existing road between Glenden and Collinsville would know that it is a pretty rough old trip and not at all passable in wet weather, which we have had a lot of in my area recently. The sealing of that section would allow the miners in Collinsville, many of whom have been retrenched recently, to live in Collinsville and work at the Newlands mine, which is not really that far by road if that section is upgraded.

The other issue of great concern to the community and one which basically has impacted on every aspect of the community is the lack of public transport from Collinsville to Bowen for things like students wanting to access TAFE training or those people needing to travel to see medical specialists and other medical practitioners. The trip is 80 kilometres, which is not very far in comparison with other areas of my electorate, which can be quite isolated, but as the community is largely elderly these days, with the number of retrenchments, it is a very big trip for people to make in private vehicles or for those people without transport.

The whole visit was really worth while for me. It showed me again how the lack of government services impacts on people in rural communities, the need for all levels of government to work together to understand the needs of community, but also the great opportunities that exist. With a bit of work and commitment from all levels of government we can turn those opportunities into very beneficial projects for the whole of Australia.

Roads: Scoresby Transport Corridor
Mr BARRESI (Deakin) (7.54 p.m.)—Late last evening in the Victorian Parliament the member for Mitcham, Tony Robinson, and Peter Batchelor, the Victorian Minister for Transport, made some remarks concerning me, the federal coalition government and the proposed eastern metropolitan ring road, one part of which is called the Scoresby Transport Corridor, from Ringwood through to Frankston. Mr Batchelor accused of me wanting to build a road through the environmentally sensitive and residential areas of Melbourne between Greensborough and Ringwood. Mr Batchelor is completely and utterly wrong to assert that I have advocated the construction of a freeway between Ringwood and Greensborough. In my public statements and discussions on this important issue I have concentrated on ensuring that the Scoresby Transport Corridor is built, and it does not include that section which I have just mentioned. The reasons for its construction are well documented and understood by those who are not blinded by their myopic view that providing extra buses, trams and trains will resolve both the current and anticipated north-south traffic congestion in Melbourne’s east.
It appears that Labor is very touchy on this important issue—Melbourne’s east. This is not surprising, as they have never really understood the needs of the east. Whilst Labor misrepresents and criticises, important issues go unanswered: when and in what form would the eastern freeway be extended to Ringwood? Despite their commitment to this proposal initiated by the Kennett government, the necessary funding has not been allocated in the recent budget but there has simply been more stalling. Another option for a tunnel, whether it be the fourth, fifth or sixth option, has been considered.

At a local level my constituents want to know where the freeway extension will end. They are unanimous in demanding that a traffic bottleneck is not designed and built by the Labor Party in the Mullum Mullum Valley. Labor’s record on these issues is not a good one. We all remember John Cain’s south-east arterial car park. The government, led by Premier Bracks, a former Cain adviser, has yet to commit to joining the end of the freeway extension to the Scoresby Transport Corridor. At the very least it could continue the route of the extension to Canterbury Road and then on to Burwood Highway. This will prevent chaos in an already very busy Ringwood commercial district.

Contrary to Mr Bracks’s suggestion, the federal coalition government, through its members in the eastern suburbs, is committed to pursuing the proposed Scoresby Transport Corridor. He claims it has not gone ahead due to failure by the Commonwealth to provide the funds. I call on Mr Batchelor and his friend Mr Robinson to provide hard evidence of this knock-back. In fact, Mr Batchelor has never submitted a formal proposal for the Commonwealth to fund the Scoresby Transport Corridor or even declaring it a road of national importance. The federal government’s future involvement in the Scoresby Transport Corridor is contingent on the Victorian government taking the first step, that is, to designate it a road of national importance. Once the Scoresby Transport Corridor is declared a RONI by the Victorian government, I am sure the local federal members would advocate for Commonwealth funding to follow.

The ball is in the Bracks government’s court. Despite Mr Batchelor’s recent comments, it is up to him to complete the Scoresby Transport Corridor planning process.

Mr Batchelor made two notable errors last evening. It is possible that he was still distracted by the events of the 1985 Nunawading by-election, where he is well remembered in the eastern suburbs. He states that ‘in the last federal budget the federal government promised $1 billion to the people of outer Sydney for a ring road around the city’. Wrong again. No wonder the public does not trust Labor with money. He has confused $1 billion with the actual $10 million which was allocated to enable further planning work to continue as part of the EIS process that has not even been completed.

Mr Robinson’s comments of yesterday indicate that he, too, is feeling the pressure of being held accountable. I am glad he is reading the Brackswatch column in my newsletters. It will continue. He might learn something. Labor should have by now realised that being in government is much harder than being in opposition. Victorians expect this minority government to deliver and to be accountable. The hard choices are yet to be made. I assert that Mr Robinson will better serve local residents by concentrating on issues that are relevant to the Mitcham electorate. Greensborough, Eltham, Park Orchard and the Yarra Valley are capably represented by other MPs, most of whom are respected Liberals. Ensuring the timely construction of the eastern freeway extension and the commencement of the Scoresby Transport Corridor are two of the most important local issues.

I assure Mr Robinson and others that I will continue vigilantly to monitor the performance of the Bracks minority government as their decisions and policies will clearly impact on Deakin residents. Kite flying projects such as underpasses or overpasses or fourth or fifth tunnel options are stalling tactics. Meanwhile we have gridlock. I will continue to advocate the Scoresby Transport Corridor, no matter how much Mr Robinson and the state ALP object to it.
Fiji: Political Crisis

Mr JENKINS (Scullin) (7.59 p.m.)—In the ebbs and flows of the political situation in Fiji we, as members of this place and members of a Commonwealth parliament, need to remember that there are still 34 of our parliamentary colleagues held hostage. In particular, Mr Speaker, I want to draw to your attention that the leader of the Fiji delegation to the Asia Pacific Parliamentary Forum, held in Canberra earlier this year, the Hon. Nareish Kumar, is one of those hostages. To him and all his fellow hostages, we send our best wishes for their safe return. It behoves us as a parliament to ensure that we have those people in our thoughts. I thank the House for its indulgence.

Honourable members—Hear, hear!

Mr SPEAKER—Order! It being 8.00 p.m., the debate is interrupted.

House adjourned at 8.00 p.m.

NOTICES

The following notices were given:

Mr Entsch—to present a bill for an act to amend the Petroleum (Submerged Lands) Act 1967, and for related purposes.

Mr Ruddock—to present a bill for an act to amend the Aboriginal Land Rights (Northern Territory) Act 1976, and for related purposes.

Mr Slipper—to present a bill for an act to amend the law relating to the diesel and alternative fuels grants scheme, and for related purposes.

Mr Latham—To move:

That this House:

(1) recognises the potential of Internet democracy as a way of fostering greater public participation in politics and rebuilding public trust in democratic processes;

(2) notes the US experience in conducting elections through Internet voting, plus the development of mass participation in Internet polls;

(3) notes the strong interest of the Australian Electoral Commission in the development of Internet voting; and

(4) recognises the need to reform representative democracy and create a charter of issues and governmental responsibilities determined by direct democracy.

Mr Price—To move:

That this House:

(1) acknowledges the fact that a legitimate government, democratically elected, has been detained at gun point and thereafter removed from office by illegal means, in Fiji by a small band of armed terrorists;

(2) notes that the ethnic Indian communities in Fiji are being deprived from exercising their fundamental political and human rights;

(3) calls on the Australian Government to:

(a) recall Australia’s High Commissioner from Suva;
(b) suspend all Ministerial and high level official contacts;
(c) seek Fiji’s immediate suspension from the Commonwealth;
(d) suspend all non-humanitarian elements of Australia’s $22.3 million aid program;
(e) cancel all defence cooperation with Fiji’s armed forces;
(f) suspend the extension of the Import Credit Scheme in its application to Fiji;
(g) urge Australian tourists to favour other destinations instead of Fiji; and
(h) encourage other countries to adopt similar sanctions; and

(4) urges the Government to review the measures taken only upon full democratic rights being restored to each and every citizen of Fiji and a constitutional government being restored.
Mr DEPUTY SPEAKER (Mr Nehl) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Local Government: Mayoral Elections

Mr SAWFORD (Port Adelaide)—Municipal elections have recently been completed in South Australia. In Salisbury, the current highly respected mayor, Mr Tony Zappia, easily accounted for his opponent, Mr Darryl Hicks. In a hard-fought and close contest in the City of Charles Sturt, former Henley and Grange Mayor, Mr Harold Anderson, defeated councillor Mr Chris Taylor. In Port Adelaide Enfield current Mayor, Ms Joanna McCluskey, easily accounted for two basically unknown candidates.

I have to say I feel that mayoral elections are unnecessary. I would rather see the elected councillors elect the mayor rather than the current system in South Australia. Unsuccessful mayoral candidates are lost to the municipality for a whole electoral term, as has happened in the current elections with Mr Chris Taylor and Mr Darryl Hicks in the City of Charles Sturt and Salisbury respectively. That is an unnecessary waste of talent and experience.

However, the municipal elections in the City of Charles Sturt also mark the end of an era of 30 years remarkable service by former Mayor and Mayoress, John and Judy Dyer, and 20 years service by former Deputy Mayor, Lyle Gilligan and his wife Mary. John Dyer was a great and influential advocate for the western suburbs of Adelaide. He was elected as mayor, firstly, of Woodville, then of the amalgamated Woodville and Hindmarsh councils, and finally of a further amalgamation with the City of Henley and Grange to form the City of Charles Sturt. To successfully oversee three amalgamations gives some indication of both the vision and the determination of John Dyer. John was also a very effective advocate for local government at state and national levels through his membership and leadership of local government associations.

Local government, when John Dyer commenced his service, was much about the three Rs: rates, roads and rubbish. That narrow role has expanded greatly in the last 20 years into community services, public libraries, environmental management, community health, community education and so on. Local government expenditure can account for up to 25 per cent of the taxation dollar. The transformation from smaller percentages under 10 per cent of capital infrastructure spending—far too common in too many municipalities—to percentages over 20 per cent will determine to a large extent investment and employment growth and successful local government in the foreseeable future. That John Dyer encouraged that trend, particularly as the mayor of Charles Sturt, is to his great credit.

For the past 20 years of their service John and Judy Dyer were also ably served by former Deputy Mayor Lyle Gilligan and his wife Mary who also chose this time to retire from local government. I wish all four, John and Judy, Lyle and Mary, a well-deserved and healthy retirement. I thank them for their positive relationships with both state MPs and federal MPs like myself. It says something about their civic responsibility that they attended the first public ceremony of the new council, a citizenship ceremony, in their new roles of former mayor and former deputy mayor. Well done to John and Lyle. Your services have been greatly appreciated by the people of the western suburbs. To the elected mayors, Harold Anderson, Tony Zappia and Johanna McCluskey, I wish each of them every success for the future.

Italian Australian Institute

Mr BARRESI (Deakin)—Twenty-five years ago, an organisation was born in the United States called the National Italian American Foundation. Its specific purpose was to educate both Italian Americans and other American citizens on the Italian culture, language and
traditions. Today NIAF, located in Washington DC, donates over $US1 million in scholarships to help young American kids pursue their education of all things Italian.

Last week the President of NIAF, Mr Joseph Cerrell, joined an illustrious group of Australians in the Italian Australian Institute’s inaugural conference in Melbourne. The conference entitled In Search of the Italian Australian into the New Millennium had an ambitious agenda with over 40 respected speakers from both Australia and overseas. In the end it was hailed as a success by all. I congratulate the chairman and founder, Rino Grollo, on his vision in creating IAI, often against much criticism. His task is now to make it a truly national and representative organisation.

The creation of IAI has been a long-held dream for many, but at each previous attempt it has been hindered by personal ambition, lust for power, regional allegiances and even state parochialism. One may ask: why does the Italian Australian community feel the need to have such an organisation? After all, as the song says, ‘We are all Australians.’ There are a number of reasons. While the Italian Australian community may be more established than some others, the stereotypes of Italian contributions still abound.

Italian Australians are still considered great restaurateurs, cane growers, tobacco growers, concreters and perhaps some other more unsavoury occupations. People forget that a number of Italian Australians have made significant contributions in the fields of law, academia, politics, commerce and the arts. Many of these people were represented at the conference last week. The IAI will ensure that the Italian contribution that has improved our nation’s cultural diversity will be broadcast loud and clear. It will provide educational cultural funding to this end, and if the collective interest of the Italian Australian community is set back or prejudiced in any manner, then that injustice will be addressed. It is a function not too dissimilar to that which is carried out by a number of organisations which look after the interests of the Jewish community.

This Sunday, as those of us of Italian descent celebrate the Italian National Day, let us, as Australians, be proud of our commitment to the prosperity and the future of this land. In doing so, however, let us not forget our heritage and ancestry for the contribution that they made to this great land, Australia.

CSIRO: Prospect Facility Closure

Mrs CROSIO (Prospect)—I would like to express this morning my disappointment at the decision to close the CSIRO research facility in my electorate of Prospect. This closure will result in a loss of several highly skilled, valuable scientific resources and over 120 jobs from my electorate. The closure has been caused by the relocation of this site’s biotechnology division to other plants in Queensland, which will leave the Prospect site underresourced and force its closure.

This marks the end of a 50-year period in scientific development and research in western Sydney. The CSIRO plant at Prospect was an integral link for western Sydney industries, which relied on the close location of the CSIRO facility for their businesses and for the development of science in the region. The Prospect site became renowned across Australia for its innovation and excellent progress in the field of science. It boasts the privilege of producing Australia’s first genetically engineered sheep in 1985 as one of its largest achievements. As well, it has had exceptional success in the field of DNA and gene technology at that site.

The closure comes after successive governments have poured millions of dollars into funding this site over the years, with $12 million allocated in 1995 to upgrade the facility. Only a few months ago the Minister for Industry, Science and Resources, Senator Nick Minchin, in a letter to me stated that there were no plans for the CSIRO to relocate its Prospect laboratory. Further, in September last year, the CSIRO advised the minister regarding the consequences of closure of the Prospect site. There is ample argument as to why it should not have happened. There are questions it raises. Was the minister informed, when
he answered the letter to me, of the highly skilled scientific researchers who would be leaving the site? Was he informed that these research programs have a national importance to the $12 billion livestock industry? Was the minister aware that a move from the Prospect site would relocate the facility away from customers it has built up over 50 years of existence there?

The closure of this high-technology facility will waste the $12 million of taxpayers’ money allocated to upgrade that site in 1995. It has also been estimated that a total cost of $22 million will be incurred by the taxpayer, and a large but unquantifiable cost by the national livestock sector. This closure could quite possibly set a precedent which paves the way for any of Australia’s 148 electorates to press at any time for a claim for relocation of research facilities for, I believe, parochial benefit.

I asked the minister, in a question on notice on 28 September 1999: would a closure of the CSIRO site at Prospect ‘incur months of disruption to research programs of national importance to the $7 billion a year livestock industry’? The minister replied, ‘I am advised by the CSIRO ... yes, it could occur.’ I also asked the minister if he was aware that the closure would cut established links with the CSIRO Prospect facility. Again, he said he was aware of it. However, despite all of these arguments, he wrote to me, in answer to that question, saying that there were no plans whatsoever, just a few short months ago, to close this site. You can understand my disappointment having now been informed this will occur.

These jobs will be transferred to Queensland. Those people who do not wish to stay with the scientific field will be offered redundancies. But, more importantly, we are losing an asset in western Sydney. (Time expired)

**Fireblight Disease**

Mrs HULL (Riverina)—I rise today to raise awareness of an issue that will greatly impact on Australian apple and pear producers if we do not put in place rigorous measures to protect our industry from the very real threat of fireblight disease. This disease is known as the horticulture equivalent of foot and mouth. Fireblight is in many countries, including Mexico; Central, North and South America; the United Kingdom; Europe; the Middle East; and New Zealand. However, fireblight is not in Australia—that is, not yet.

Treatment of fire blight requires extensive use of expensive antibiotics that are not able to be used in Australia. In short, fire blight cannot be prevented or cured once it enters our country. Should we enable fruit that has been exposed to this catastrophic disease to come into this country and should this disease take hold in Australia, you would see a reduced production of at least 25 per cent, a possible 25 per cent fall in apple growers’ net return, a possible 40 per cent fall in pear growers’ net return and increased production costs associated with preventative control measures. Associated with these costs, you would find that prices would also surely rise and our access to our quality Australian fresh and canned fruits would be reduced, leading to imports of fresh and canned fruits to compensate for our shortages. Thousands of casual jobs and many hundreds of permanent jobs would be lost by people who are directly employed in the apple and pear industry, not to mention those many thousands of jobs that are indirectly created because of associated involvement with the apple and pear industry.

Most of these jobs are in rural and regional Australia, and many are in my electorate of Riverina. It is my fear that if the access request for New Zealand apples to be allowed to come into Australia is not rejected by AQIS, as it was in 1989 and 1995, then we will witness the problems that I have outlined in this speech. We must reject any move that will put this great Australian industry at risk. I must confirm that I strongly oppose the AQIS decision to even consider the New Zealand request to allow New Zealand apples into the country of Australia.
Mr SERCOMBE (Maribyrnong)—A few weeks ago I took the opportunity provided by the time allowed for statements by members in the Main Committee to raise to the attention of the Minister for Veterans’ Affairs the ongoing anomalies that have existed for some considerable time with respect to eligibility for service pensions for naval personnel who served in the Far Eastern Strategic Reserve in the context of the emergency in what was then Malaya in the period between 1955 and 1960.

This anomaly was the subject of a very thorough review by Major General Mohr and Rear Admiral Kennedy. Those gentlemen recommended to the minister towards the end of last year that this anomaly be corrected. It was pleasing in the context of the recent budget, therefore, to see that the government has now recognised that these naval personnel, like their comrades in the Army and the Air Force, ought to be able to receive service pensions after this considerable length of time.

However, I want to point out at this stage that there is considerable dissatisfaction in the veterans community that the recognition after so long of the justice of this case for service pensions will still result in a delay, until January of next year, before service pensions will be awarded. Whilst, as I indicated, it is very much welcomed that the government has now recognised the anomaly, it is not satisfactory to delay the payments after so many years—40 years, in fact—until January of next year. This really does reflect, I think, a mean-spiritedness in the way in which these people who served Australia with distinction some 40 years-plus ago continue to be treated, and I take this opportunity to call on the minister to ensure that the payment of entitlements to service pensioners are brought forward to perhaps, at the latest, 1 July rather than the mean-spirited and penny-pinching approach designed to save, presumably, six months of the expense.

It would appear that one thing that has characterised the debate on this matter has been a whole lot of legal mumbo jumbo that comes out of the bureaucracy in mounting last ditch attempts to prevent justice being awarded to these veterans. It would appear that some of this mumbo jumbo continues. For example, I am advised that the Department of Veterans’ Affairs is claiming that necessary amendments to the act are the cause for the delay. This is nonsense. The DVA, having lost two cases in 1990 in the Federal Court, was able to amend legislation to overturn the court’s decisions within a period of eight weeks. It is just not satisfactory for these just entitlements for naval personnel to be delayed until January next year. (Time expired)

Mr HAASE (Kalgoorlie)—I rise today to highlight the huge disparity that exists between the cost of living in cities and the cost of living in remote areas of Australia, especially in my electorate of Kalgoorlie. Of 24 centres around Australia that are regularly checked, living costs in 20 of them are cheaper than Perth, to start with. As you move away from Perth, living costs increase. The cost of housing in Karratha is 37 per cent more than in Perth. The cost of a newspaper in Perth is 80c. In Karratha, it costs $1.60. Over one year, it costs $250 extra.

The taxation zone rebate of $338 per annum for a single man with no dependants is absolutely laughable when it comes to addressing this disparity. The taxation zone rebate has not been increased for years. It was introduced to address the vast difference between the living costs in Perth and the living costs out in regional Australia. It needs to be readdressed. Those with a non-taxable income—that is, an income below the threshold—get no realistic consideration. Those responsible for addressing this anomaly need to develop a rebate or a grant scheme to address the situation with a strong zonal influence.

With respect to the cost of living, a basket of goods in Perth would cost $305 per week; the same basket of goods in the East Kimberley would cost $541 per week. That is a difference of...
about $200 per week, and we are talking about a taxation zone rebate of $338 per annum. It is absolute nonsense. On 1 July, when personal income tax cuts are introduced, certainly they will not exacerbate the situation, but nor will they address the inequity that remains. The reduction in transport costs will also marginally address the high cost of consumables in remote areas, but the reduction in transport costs will also reduce the base price in Perth, as it will around Australia. Therefore, the differential will remain.

There is only one sure-fire way to address this glaring disparity between country and city living in Australia—that is, in some meaningful way to analyse the existing taxation rebates and to establish rebates that genuinely address the disparity so that the difference between the cost of living in remote areas and city and suburban areas will once and for all be addressed in a meaningful way to the satisfaction of those in my electorate of Kalgoorlie.

Mr DEPUTY SPEAKER (Mr Nehl)—Order! In accordance with standing order 275A, the time for members’ statements has concluded.

PETROLEUM EXCISE AMENDMENT (MEASURES TO ADDRESS EVASION) BILL 2000
Second Reading
Debate resumed from 30 May, on motion by Mr McGauran:
That the bill be now read a second time.

upon which Mr Kelvin Thomson had moved by way of amendment:
That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the bill a second reading, the House:
(1) condemns the Government for its inaction on the dangerous practice of fuel substitution and in particular, for allowing the Australian Taxation Office to cease random testing of fuel;
(2) notes that fuel substitution is a dangerous practice that reduces engine performance, leads to total breakdown of engines, defrauds the Commonwealth of millions of dollars in revenue and harms the environment;
(3) notes that the Commonwealth Parliament has a responsibility for ensuring that fuel substitution does not occur, including the testing of retail fuel; and
(4) calls on the Government to ensure that the activity of fuel substitution is really brought to an end”.

Mrs HULL (Riverina) (9.58 a.m.)—The amendments proposed in the Petroleum Excise Amendment (Measures to Address Evasion) Bill seek to improve the government’s ability to address excise evasion occurring through fuel substitution. Historically, excise on petroleum products has been levied at differential rates depending upon the intended end use of the product. Fuels intended for on-road use, such as diesel fuel and unleaded petrol, have attracted a relatively higher tariff. Tariffs on fuels sold for non-transport uses, such as heating oils and kerosene, have been levied at a lower rate and other products sold for non-fuel use, such as solvents, have not attracted any excise duty. The differential tariff rates have been exploited to avoid excise duty on transport fuels through the substitution of lower excise petroleum products.

Besides reducing government revenue, the practice of blending or substituting fuels for on-road use is potentially dangerous and can cause damage to vehicle engines. Legislative changes designed to combat substitution were put in place as far back as 1993 and again in 1997. In February 2000, a further round of changes were passed to ratify customs and excise proposals that came into effect in November 1999. Fuel excise and, more specifically, fuel prices are of major concern to me and to the constituents of my electorate of Riverina.

Fuel recently obtained prices in excess of $1 per litre in some centres in my electorate, which by any standards is excessive. I understand that, to make a reasonable living out of fuel retailing, the margin per litre should be at 7c per litre. Retail margins for many operators in my electorate hover around the 3c per litre mark, and many company outlets have been on assistance for some months. The temptation for shonky retailers to increase their profits by substituting additives is ever present.
The government has not increased fuel excise, other than by CPI adjustment, since coming into office in March 1996. In contrast, previous Labor governments increased fuel excise in various budgets by around 10c per litre during their 13 years in power, in addition to introducing indexation of excise to the consumer price index in 1983. Fuel excise is set at a flat cents per litre rate. That is, the government receives the same amount of excise, no matter what the retail price of petrol. Effectively, the government receives no extra revenue from higher fuel prices.

On the same day as the February 2000 excise indexation rise of 0.652c per litre, fuel prices rose by between 8c and 10c. As far as I can ascertain, the increase was due not to excise increases but primarily to the oil companies withdrawing their rebates and subsidies to service stations to coincide with the CPI indexation. While the government receives some extra revenue from indexing fuel, alcohol and tobacco excise, it costs the government far more to index pensions and allowances to the CPI. To call for an end to fuel excise indexation may impact upon the indexation of pensions and allowances.

Under the new tax system, the government will reduce fuel excise—diesel and petrol—by approximately $1.97 billion. Business will be able to claim fuel costs back and the price of diesel will fall by about 23c per litre for eligible businesses and primary producers. The government has committed to reducing fuel excise at the time of GST implementation so that the price of fuel at the pump for both rural and metropolitan areas need not rise, and I certainly welcome this. What I would like to see, though, is the funds raised by fuel excise being specifically spent on infrastructure improvements or roads. Motorists might not mind paying the excise if they could see where their excise money was spent. Unfortunately, Australia’s Constitution does not allow certain taxes to be earmarked for certain expenditures: all taxes must be paid into the consolidated revenue fund. Even the Medicare levy is paid into the CRF.

The disparity between city and country fuel prices is an issue that has attracted much attention of late. As far as I can ascertain, the factors involved include higher freight costs; lower site volume throughputs; less diversity of revenue sources, which means fewer non-fuel sales; higher retail margins; lower levels of competition; the general absence of wholesale and retail price discounting; and regular and sometimes deep price discounting in the capital cities, which causes differences with country areas and widens the gap. The temptation for retailers to increase profits by taking shortcuts is ever present.

By the time of the introduction of the February 2000 legislation, it became evident that some operators in the petroleum industry had reacted to the November 1999 changes by increasing the levels of toluene in fuel. At that time, toluene, when imported as a ‘chemical’—for example, for use as a paint solvent—attracted no customs duty, whereas if it was imported as ‘fuel’ it did. It appeared that large quantities of toluene that had been nominally imported under the chemical classification were, in fact, diverted to a fuel use, thus avoiding customs duty. On 6 March, the government announced that it would amend the Customs Tariff Act 1995 to make imported toluene and related substances subject to customs duty. Sectors, such as the paint industry, that used these substances for non-fuel purposes—for example, as solvents—would receive rebates on customs duty paid. The reaction to the changes was mixed. For example, the Australian Paint Manufacturers Federation reportedly had concern that the proposed rebate system ‘would leave companies with cash shortfalls and increase prices’.

This bill facilitates prosecutions for fuel substitution offences by removing some technical difficulties with the legislation and allowing use of evidentiary certificates in prosecutions. As some forms of excise evasion through fuel substitution occur when parties systematically exploit weaknesses in the excise tariff structure, any restriction in the government’s ability to
quickly amend the tariff is a restriction on the government’s ability to quickly address fuel substitution.

The 1997 reforms referred to earlier included a number of acts designed to assist the detection and prosecution of offences. While the government has not publicised the issue, it appears that there has only been limited success in bringing prosecutions for unlawful evasion of duty, claiming of rebates, et cetera. From July 1999, responsibility for excise functions, including those relating to fuel substitution matters, was transferred from the Australian Customs Service to the Australian Taxation Office. At the time of the handover, the 1998-99 Customs annual report noted that ‘establishing proof of offences under the Fuel (Penalty Surcharges) Amendment Act 1997 has proven to be more difficult than expected’.

To address this problem, this bill proposes to eliminate the need to prove an ownership trail of the fuel back to original suppliers and also to enable evidentiary certificates to be admissible in court in proving certain elements required to prosecute an offence. In theory, it is also possible to prosecute substitution activities through trade practices, that is, fair trading legislation. However, the fact that there is no legally binding standard governing the content of petrol is a significant impediment.

This bill also ensures that a broader range of imported products that can be used in fuel substitution activities, such as imported chemical grade toluene, are covered by this legislation. As mentioned above, the scam involving the toluene substitution apparently arose as a result of certain loopholes being closed in November 1999. In situations where tariff related legislation needs to be amended quickly to close down such practices, the standard practice is for the government to introduce so-called tariff proposals which usually take effect within days of being proclaimed. These are then ratified by legislative amendment at a later date.

However, a potential difficulty exists in relation to tariff proposals amending excise payable on petroleum products due to the interrelationship of Excise Tariff Act 1921 and other relevant acts. The amount of excise payable on various petroleum products is governed by the relevant categories listed as item 11 in the schedule of the Excise Tariff Act 1921. These categories are, in turn, specifically referred to in relevant acts. For instance, aviation gasoline, under the Aviation Fuel Revenues (Special Appropriations) Act 1988, is currently defined as ‘goods falling within subparagraph 11(A)(3)(a) in the schedule’ of the Excise Tariff Act 1921. The problem arises because a new tariff proposal may amend the schedule by creating a new petroleum product category, thereby adding a new section/paragraph/subparagraph to item 11 of the schedule. The result of this is that the references to specific sections in, say, the Aviation Fuel Revenues (Special Appropriations) Act 1988 may now be inaccurate unless the act itself was amended by the time the excise proposal was to take effect.

Given the time required to table and debate a legislative amendment, the end result could be a considerable delay in closing an excise loophole. The bill therefore proposes to replace current references to specific item 11 petroleum product categories in several acts with a generic catch-all definition of petroleum product. Essentially, this bill removes those specific tariff items and replaces them with generic descriptions. These changes do not affect the way excise is levied, nor do they impose an additional excise liability. They simply give back to the government the power to quickly amend the tariff to protect the revenue. I commend this bill to the parliament.

Mr O’KEEFE (Burke) (10.10 a.m.)—I rise to support the Labor amendment to the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. It will be described and summed up in the final reading of the bill back in the main chamber. In essence, the thrust of our position on this legislation is that we are supportive of it. But after listening to
members from the government from country electorates talking about these issues, I am reminded of the old country adage that if you are going to do something, do it properly in the first place because then you do not have to come back to it. What we have here is a piece of legislation that was introduced in 1997-98 which was supposed to deal with these sorts of substitution issues. As I understand it, there has not been one successful prosecution and so we have had to come back and make further changes.

The amendments that are being proposed by our side say that if you are going to do this, you had better do it properly the second time around instead of having to revisit it a third time. We believe there should be further measures introduced in the bill to provide for on-site testing and stronger countermeasures at the ground level. While it is a step in the right direction, it has a long way to go.

I noticed not only that the member for Riverina spoke about this issue but also that the member for Kalgoorlie, in the private members statements that were made just before this bill was introduced, talked about country petrol prices, among other things. It is a very hot topic, and this legislation relates directly to it.

I had a funny day last Sunday. You could almost say that something funny happened to me on the way to work. Let me describe the day. It started off in Melbourne. I did not come to Canberra from my normal place of residence, which is Heathcote. I was in Melbourne overnight. But before I left the city I had to fill up the car with LPG for my wife because she finds it hard to fill it up. I said, ‘Right, I will do this,’ and I happened to be over in the eastern suburbs of Melbourne.

If you had heard me in this chamber a couple of weeks ago, I outlined the problem with LPG. I outlined the fact that for 20 years we have had a regime operating in Australia where the petroleum industry, in return for the agreement of the federal government not to impose excise on LPG, agreed that the price would stay less than half the retail price of petrol. So if petrol were 70c, gas would never be more than 35c; if petrol was 80c, gas would be never more than 40c.

For the first time in 20 years I noticed two months ago—and I talked about it here two weeks ago—that the price of gas had gone over the halfway mark. Why? The deal has been broken. We are having a tax imposed on LPG—it is called the GST—and the petroleum industry has reacted. We were observing all around the place, and particularly in country areas, that gas had for the first time in 20 years gone above that halfway point. In my home town of Heathcote, petrol was about 86c and gas was 46c, past the halfway point. It is very interesting.

I set out on this trip on Sunday morning by trying to fill the car up first. I was in Canterbury in Melbourne and I observed that petrol was 88.9c and gas—surprise, surprise—was 23.9c. I thought, ‘Fabulous, it is back where it is supposed to be. This is good. I wonder what has caused this?’ It must have been the O’Keefe speech in the parliament, although there may be more to it than that, and I will come to that. But I did not have the right petrol station to fit my fuel card. So I drove around a bit and I got a few kilometres away from the immediate point where there was competition from the supermarket chains that had the fuel out the front and once I got three or four kilometres away the gas price shot up to 29.9c. It was 6c a litre dearer in Melbourne within three or four kilometres.

Then I filled up, headed off over to Brunswick and picked up my motorbike. As you know, Mr Deputy Speaker, I am a keen motorcyclist. On Sunday, which was probably one of the looziest days ever to ride a motorcycle to Canberra, I rode my bike to Canberra in that one degree temperature and I got this beautiful travelogue. I reached Albury and saw snow for 100 kilometres to Gundagai. I have never seen anything so pretty; it was just fabulous. It was so wonderful that I took my eye off the speedo—and the New South Wales police sorted me out.
on that one. But one thing that had me distracted was the LPG experience going up the Hume Highway.

As soon as we got out of Melbourne, LPG went from 29.9c up to 40.9c—the petrol was around 86c or 87c—so they were still under the halfway mark all the way to Wodonga. As soon as I crossed the border, it was 46.9c in Albury. That is 23c a litre dearer for LPG than the cheapest point I saw in Melbourne on the same morning. I have heard people talk about the disparity, but I have never, with my own eyes, seen it with a 23c per litre difference, 300 kilometres up the road, in Albury, where there is supposed to be plenty of competition and all the things that people talk about. Where is this, by the way? It is right in the middle of the seat of Farrer; right in the middle of one of the hotspots for the government. The member for Farrer is retiring, they have to get a new candidate. They have got Telstra launching a terrific new regional office. And here is LPG 23c a litre more than in Melbourne.

So, while I had thought it must have been my speech, I realised there is something else going on in Victoria. The Bracks government has commissioned a public advertising campaign calling on Victorians to register as price watchers and help them to deal with this rip-off. And as soon as those ads had gone into place, the price collapsed in Victoria back to where it should be. As I can remember so many times here in the last five years, and so many times in the year leading up to the 1996 federal election, the huge campaign run on country petrol prices by the now government and all the faith that they were placing in what was then the McGauran plan: opening up the distribution rights, getting rid of the Laidley act—all these wonderful things.

Twenty-three cents a litre between Melbourne and Albury! If you are panicking about country areas now, you had better go and have a look at it. What has happened in Victoria is that, the minute that Bracks has got on the trail and started even to threaten to use the state pricing powers, it has dropped like a rocket.

Mrs Hull—Maybe the Carr government should do the same.

Mr O'KEEF—And I will call on Bob Carr to do exactly the same. The key point about this is: where is Mr Fels? Fels announced an LPG inquiry. Costello got up in the main chamber and preached about the ACCC and all its powers. You are running around Australia trying to tell people that Fels and the ACCC are going to save them from your GST mess. Well, surprise, surprise! It is up to the states to use their powers, and I am calling on the states to use their powers.

We have a very interesting proposition on the table in Victoria from one of the Independents, Russell Savage: a piece of legislation proposing to cap the gap between city and country. I happen to fully support that. I hope the Bracks government supports it. The interesting point, though, is that when I first put it on the table I got a letter from Jeff Kennett—and I will table it in the parliament—saying to me, ‘We don’t believe in this stuff; we support the McGauran plan and so do all our state counterparts,’ because, apart from New South Wales, they were all state Liberal governments at the time. The McGauran plan was your big plan. Twenty-three cents a litre difference between Melbourne and Albury!

What I am saying in this discussion is that I think there is a huge dose of the chickens coming home to roost. Government members have spent so much energy and time preaching to country people that this big package to start on 1 July would involve a major reduction in transport costs as a result of the reduction in diesel fuel costs that country people have been led to believe their cost of living is going to go down. They have been led to believe that if anybody rips them off then Allan Fels will fix it up. Fels announced, with the full support of the government, that he was going to have a particular look at LPG. During my travels last Sunday I saw something with my own eyes that, if anybody had told me about it, I would
have had trouble believing. If anybody had told me that there was a 23c a litre difference between Melbourne and Albury, I would have said, ‘You are having a lend of yourself.’

Mrs Hull interjecting—

Mr O’KEEFE—The point is that I would have said, ‘You are having a lend of yourself.’ I could not have believed that the petrol companies would actually go as far as loading up the LPG price to subsidise their petrol prices. But that is in fact what is happening. They are doing it for two reasons. They are doing it because the government has broken the deal, the 20-year deal that there would be no tax on LPG. Members on the other side may not realise it yet, but every one of those motorists who have paid their $1,500 to convert their car to LPG—and they live in a lot of the marginal rural seats, by the way; they commute to the cities and to the main centres—are the most price sensitive consumers of all in the car market. They are all going to see the gap between petrol and LPG close. While you are out there doing your best to keep petrol prices about where they are at, you are actually loading up the price of LPG and closing the gap. Every one of those hundreds of thousands of people who have paid their $1,500—let alone the taxi companies and all the rest—is absolutely right on to this. The petrol companies are slaughtering you.

My view is that you had better revisit the McGauran plan and get into bed with the state governments very quickly and get them to do your job for you, because it is very clear that Fels cannot do it. It is very clear that when they feel they can retail at 23c above the margin only 300 kilometres away and hope that nobody driving up the highway, such as me, will actually observe it, they actually do not care. They do not care what you think; they do not care what you wish. They are now loading up the price of LPG in the country, except where they are under specific surveillance from a state government. I hope there are a few lessons to be learnt from that.

I guess it is fine for a bill to talk about measures to pin down evasion. As I said earlier, we would like to see you take it a little further. I think the key thing here is that people who are really being stabbed are right in the centre of some of the government’s most precious seats—and Farrer is a classic one. I would give whoever is going to be a candidate for Farrer this little bit of information and get them campaigning on it. It will not be just the bypass; it is going to be the rip-off as you cross the river that your government does not even know about, let alone is trying to do anything about.

The trip up here last Sunday was very interesting. It was a bit cold on the bike but good fun. Had I not seen with my own eyes both the snow between Albury and Gundagai and the LPG prices as I progressed up the highway, I would not have believed either of them. But I did. It was an interesting day. I call on the government to have a look at this. Have some discussions with Mr Fels and see if he seriously thinks he has anything in LPG, see if he seriously thinks there is a way to tackle it. See if Mr Costello, the Treasurer, can get the petrol companies to do something decent by country people, because right now it just is not happening.

Mr ANDREWS (Menzies) (10.25 a.m.)—It is, of course, always easy to allege that something should have been done before. It is the role of oppositions, I suppose, to find fault at some level, even when they are in basic agreement with what needs to be done, as is the case with the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 which we are debating today. Nevertheless, it is good to have bipartisan support.

As oppositions know from their experience of government, issues are rarely straightforward and solutions are not preordained in stone. I say to the honourable member for Burke, in relation to the comments that he made, that if he believes that this is something which state governments such as the Bracks government in Victoria can do something about, perhaps they ought to be turning their attention also to the role of independent fuel suppliers,
service stations and garages which often find themselves squeezed—one suspects often deliberately—by major oil companies. If one wants to achieve a situation where fuel prices can remain at reasonable levels, then some competition from independent operators is desirable.

Fuel substitution has been a significant problem for many years. This has been historically due to the fact that excise on petroleum products has been levied at different rates, depending on their intended use. Fuels for on-road use have been levied at higher rates compared with those used for non-road purposes, such as heating, and products such as solvents do not attract any excise. Over the years Australian governments have tried various piecemeal ways of dealing with the problem. Such efforts began as long ago as 1993, when I seem to remember that a Labor government was in power. The Howard government made further efforts to deal with substitution in 1997. Each time, the racketeers have taken advantage of another loophole.

Toluene is normally present in small quantities in leaded and unleaded petrol at about 10 per cent of volume. The latest scam has involved the diluting of petrol with anything up to 60 per cent of toluene, the solvent used in paint. By using toluene, distributors have been avoiding the 44c petrol excise and ripping off consumers paying pump prices. The government needed to address a real danger to the lives of motorists and to the health of their vehicles. The use of solvents added to petrol can melt rubber seals in the fuel system, so increasing the risk of fire in an accident, and it can reduce performance. At high levels, the substance can lead to the rough running of engines, ignition problems and poor fuel economy.

Of course, not everyone will be happy. The paint industry uses these substances for non-fuel purposes. I understand that the concern of the Australian Paint Manufacturers Federation is that the proposed rebate system ‘would leave companies with cash shortfalls and increase prices’. The Australian Automobile Association has also called for regular monitoring of fuel quality at service stations, arguing that this is how the New South Wales Department of Fair Trading was able to uncover the current tainting racket by testing samples from service stations in Sydney.

The government has decided not to go down this road again. The 1997 reforms were designed to assist the detection and prosecution of offences. In fact, there has only been qualified success in bringing about prosecutions for unlawful evasion of duty, claiming of rebates and so on. At the time of the hand-over from Australian Customs to the Australian Taxation Office, Customs noted that ‘establishing proof of offences under the Fuel (Penalty Surcharges) Amendment Act 1997 has proven to be more difficult than expected’. However, the Australian Institute of Petroleum has acknowledged the need for across the board action, stating:

Wider reform is needed to stop the problem from recurring in the future ... the best way to stop these scams ... is to remove the incentive to blend fuels by introducing uniform excise rates across all relevant petroleum products.

So this is what the government has decided to do. The government has not dropped the ball, as the member for Wills alleged last night; rather, it has picked it up and is running with it. The member for Wills stated that the opposition had raised the issue in March. May is only just ending, so I would have thought that that was an argument for the celerity of government action. This measure will also protect the revenue of the Commonwealth, which has lost an estimated $500 million in revenue due to this scam. I believe that the government is to be congratulated for taking a tough stand on fuel substitution. I commend the bill to the House.

Mr Mossfield (Greenway) (10.30 a.m.)—The Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 addresses excise evasion and substitution in the petroleum industry. The issue of chemical substitution has received some publicity in recent
times, and this appalling activity has caused the bill to be brought in the House for debate and/or approval.

The background to this legislation is that excise on petroleum products is levied at different rates, depending upon the intended use of the product. Fuels intended for on-road vehicle use, such as diesel fuel and unleaded petrol, have attracted a higher tariff than fuel sold for non-transport use, such as heating oil and kerosene, while other products sold for non-fuel use, such as solvents, do not attract any excise duty. Unscrupulous operators in the industry have avoided excise duties on transport fuel through the substitution of lower excise petroleum products into motor fuels. This action has the effects of reducing government revenue and being potentially dangerous or damaging to motor vehicles. I believe all members would have been surprised to find out the lengths that individuals have gone to, not only to avoid paying proper excise but also to be part of a practice of chemical substitution to petrol to lower the cost and, of course, increase profits. Industry sources have also expressed alarm at this substitution racket in an AAP article on 8 May this year:

Liberty Oil Chief Executive Officer, Mark Kevin, said his company had been subject to death threats for demanding government action against the widespread practice of diluting petrol and diesels with low-octane hydrocarbons, toluol and toluene and naphtha.

‘There has been a lot of action taken by the government and the tax office over the past two years and that has narrowed it down. Last year we put a figure of about $400 million that was lost in excise that was not collected on the rort that was going on over the last year’, Mr Kevin told a Senate inquiry into legislation to block the excise rorts.

‘We have estimated that at any one time there is probably about $50 million being avoided through one rort or another.’

He said the substitution could cause engine problems and probably endanger public health. He estimates the cost to his own small independent company of competing with diluted products was between $5 million and $7 million in 1998. The company has discovered two months ago that petrol was being mixed with naphtha and sold at service stations in Sydney and Melbourne.

There is some evidence to suggest that the federal government could have moved quicker on this issue. The member for Wills, who usually has his finger on the pulse on these particular issues, is quoted in the Age of 10 March as saying:

The issue of paint thinner solvent being used to dilute diesel fuel was first brought to Senator Kemp’s attention by the Liberty Oil company 18 months ago.

The member for Wills stated, ‘I have a letter dated June 26, 1998 to Senator Kemp which enclosed a copy of the letter sent to the Minister for Justice and Customs outlining their concern over significant tax excise avoidance within the industry.’

Also to continue the quote by the member for Wills:

In the letter the company warned the government that up to $300 million in fuel excise revenue was being jeopardised by the fraudulent behaviour of some petrol station owners.

Speaking during the second reading debate last evening, the member for Wills highlighted further weaknesses in the government’s approach to this issue. He spoke of the massive amount of money that has been lost to the government through excise evasion and stated:

It has cost at least $100 million—the tax office admits to $100 million but the figure is probably much higher—through the branding of unleaded fuel as ‘solvent’ and then a further $10 million, once again as admitted by the tax office, through the toluene scandal. All in all, this legislation represents a clear example that the government had failed and had dropped the ball on fuel substitution.

The member for Wills referred also, in the same speech, to the lack of activity by the government in regard to fuel excise. He said:

Since 12 July last year when the tax office took over control of fuel substitution from Customs, we find that only a total of 42 sites have been tested. Of those 42 testings, a total of eight instances of fuel substitution was discovered. So it is still going on—
that is some 20 per cent incidence of fuel substitution. But compare that meagre number of 42 sites tested with the actions of Customs when they were responsible for this in the previous year. Their annual report for 1998-99 reported that they had visited 551 test sites, and they found 52 positive instances of fuel substitution. So, once again, Customs detected a very serious level of fuel substitution, but instead of the government acting on that, once it found out there was this kind of problem, it reduced the number of tests, so that Tax has only tested 42 sites since 12 July last year—a 90 per cent reduction in the level of testing.

It hardly seems that the government has taken this issue seriously, despite the issue being brought to its attention.

People participating in these activities have not only short-changed their customers but avoided their responsibilities to the community by avoiding or deliberately lowering, by unfair means, their tax obligations. This bill attempts to close the legal loopholes now available to the unscrupulous by using a generic, catch-all definition of petroleum product. Another advantage of the bill’s clauses is to make it much easier to prosecute offenders and much harder for offenders to hide behind legal niceties in their attempts to avoid prosecution.

The blending or substitution of chemicals in petrol is an absolute disgrace, and must be stopped as a matter of urgency. To that extent, I am sure the opposition welcomes this legislation before the House. The substitution has been by the use of a chemical called toluene, which is basically for use as a paint solvent, to avoid excise charges. Earlier this year, it became evident that some operators in the petroleum industry were increasing the levels of toluene in fuels. It appears that large quantities of this product, imported under the chemical classification, were in fact being diverted to a fuel use and therefore avoiding customs duty. Press reports indicate that over 20 million litres of toluene had been imported into Australia since November, which is more than its main legitimate user, the paint industry, had used in a year.

It has been clearly established that this mixture of petrol and toluene is most dangerous to the safety of drivers. It is also likely to cause great harm to the engines of the vehicles whose owners are unsuspecting users of the mixture. It has been alleged that some independent tanker owners have been adding huge amounts of toluene to their petrol load and thus are able to almost double their number of deliveries to clients. Of course, there are some cut-price service stations that are alleged to be doing their own adding of toluene to their storage tanks, charging the full price for the petrol but making more money because of the use of this cheap, but dangerous, additive.

I am aware that even within my own electorate of Greenway there have been unfounded rumours, which have been directed at particular retail outlets, that have claimed mixed petrol was being sold to vehicle owners. I find it quite obnoxious that persons in Australia would stoop to such horrendous levels of deception to make a dishonest dollar at the expense of unsuspecting motorists. It costs a great deal of money today to own and maintain a vehicle. What the average Australian—in fact every Australian—does not need is parasites in the petrol industry ripping them off. This petrol mix is likely to cause great damage to the engines of their precious motor vehicles. This is a scam that is being perpetrated upon the unsuspecting motorists of our nation by evasion of excise payments. The substitution or addition of large quantities of paint solvent to petroleum products is unacceptable, and motorists should be able to believe that they are actually receiving what they expect to be getting from the petrol pump.

Previous legislative charges introduced in 1997 to overcome this fuel substitution racket have only had limited success in bringing prosecutions for evasion of duty. In March the government announced that it would amend the Customs Tariff Act 1995 to make imported
toluene and related substances subject to customs duty. Sectors that use these substances for non-fuel purposes, such as the paint industry, would receive rebates on customs duty paid. But the Australian Paint Manufacturers Federation and the Australian Institute of Petroleum have expressed concern about this proposal. The Australian Paint Manufacturers Federation said the rebate scheme would leave companies with cash shortfalls and result in price increases. The federation’s executive director, Mr Michael Hambrook, said that not only would the paint and ink industries be affected but also others, including dry cleaners, would be affected. So this is an issue: in solving one problem, the government has to be very careful it is not creating problems for people in other industries.

Prosecuting offenders has been a problem to date. The Customs 1998-99 annual report noted that ‘establishing proof of offences under the Fuel (Penalty Surcharges) Administration Act 1997 has proven to be more difficult than expected’. To address this problem, the bill proposes to eliminate the need to prove an ownership trail on the fuel back to the original suppliers. It also enables evidentiary certificates to be admissible in court in providing certain elements required to prosecute an offence. The honest people in the industry, and that is the majority, will be watching the passage of this legislation with great interest.

Of even more interest to the honest industry people will be the successful prosecution of offenders and the elimination of such practices. Our motorists—who are at the end of the chain and whose vehicles suffer from the behaviour of the unscrupulous persons that are avoiding excise and adding dangerous chemicals to increase their profits—will also be watching with great interest just how this bill is acted upon by the government once it obtains the authority to act. I, like all those interested, will be expecting vigorous action and successful prosecutions. These dangerous and appalling tactics must be eliminated so that motorists are protected from these greedy and unscrupulous manipulators.

Mr WAKELIN (Grey) (10.43 a.m.)—I do not want to go over too many things that have been said about the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000; I simply want to say that these changes do not affect the way the excise is levied or imposed. An additional excise liability simply gives the power back to the government to quickly amend the tariff to protect the revenue and, over time, specific tariff items have been included in a variety of legislation. These references restrict the government’s ability to quickly amend the tariff by gazettal or proposal. So this is amending legislation which improves the existing legislation, protects the revenue base and attempts, to the best of its legislative ability, to challenge those who would indulge in illegal practice.

Professor Fels, the Chairman of the Australian Competition and Consumer Commission, put that as well as anyone when he commented to a recent parliamentary committee hearing:

We ran a case a few years ago on fuel substitution where we thought it was occurring illegally. It was a very, very difficult case to win. We had to prove in court the fuel was no good. In the end it was not possible to prove it. It might sound simple, but I am afraid it is quite the opposite.

What the government is endeavouring to do is to give the regulators and those who have the authority to challenge these illegal practices a better chance of success.

One of the amendments that I will quickly touch on will change the Fuel (Penalty Surcharges) Administration Act 1997 to cover a broader range of imported products that can be used in fuel substitution activities—for example, the chemical grade toluene—and to require a person dealing in these products to meet the record keeping provisions of the act. It is a fairly straightforward measure in terms of the issues we are trying to deal with in the collection of excise, though not, of course, as straightforward in the practical application, as has been proven.

Just a quick comment or two on the excise history. I heard a few comments from a couple of the previous speakers with the usual colourful phrases of ‘rip-off’ and ‘government
inaction’ and the usual things that oppositions talk about, and that is entirely appropriate. But, from the government perspective, and having had the experience of opposition as well, I think it is very interesting to recall some of the history of excise under the Labor years, when we went from something like 8c or 10c a litre to about 35c a litre.

What a contrast with the new tax system, when this government, as of about 30 days time, will be reducing diesel excise for vehicles over 4.5 tonnes by about 24c a litre. It is the first time in my life that I can recall a government reducing a tax on transport. It is an absolute milestone in giving the transport industry and consumers a much fairer go in this very large country of ours through the opportunity to deliver the goods and services in a more efficient and cheaper way. Of course, this government will not only reduce the excise but reduce the wholesale sales tax on the majority of transport in this country.

So when the normal attack points are being made on the government, from the opposition’s perspective, may I remind them that, if we have dropped the ball on excise, I do not think they ever got around to picking it up. And if they ever did pick it up, it was only ever to push the price of fuel up, ever, ever and ever up. That brings into context what this government is about and I have great pleasure in commending the bill to the House.

Mr DANBY (Melbourne Ports) (10.48 a.m.)—As events earlier this year have indicated, the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 is an amendment that is well overdue. Fuel substitution is a dangerous practice and it should be the responsibility of both state and federal governments to stamp out this practice. Aside from the dangers of fuel substitution, excise evasion has cost this country, as some of the earlier speakers have indicated, around $100 million through the branding of solvent as unleaded fuel.

The financial benefit to those involved with this chemical substitution has been ably outlined by my colleague the member for Greenway. As the member for Wills pointed out, a further $10 million has been lost through the toluene substitution scandal. I remind all members what the effect of toluene can be: if it is placed in car engines over a sustained period of time it can lead to the total elimination of all the plastic components of an automotive engine. For these very serious reasons, Labor is supporting this legislation.

This legislation will amend the Fuel (Penalty Surcharges) Administration Act 1997 and improve the government’s ability to prosecute those who undertake this dangerous and dishonest practice. By broadening the definition of fuel to include a wider range of products and removing the requirement of the Australian Taxation Office to prove that an allegedly illegally blended fuel has entered into home consumption, the ability to stamp out this practice should, in theory, improve. What we will wait and see, however, is whether the federal government is genuine when it says at this time that it is concerned about the safety of Australian consumers.

We support this amendment, but this government is good at making grand announcements about its commitment to ensuring that checks and balances will be implemented to safeguard the public, at the same time as building itself an impressive track record of not following through on any of these grand announcements. Earlier this year we witnessed the Minister for Aged Care go from one episode to another in her inability to carry out portfolio responsibilities and live up to the standard she set for everyone else. The result has been upsetting to witness. The distaste felt by the public for the government’s failure to prevent the substandard care at Riverside Nursing Home should be of concern to all elected representatives. If this government had followed through on its promises, much of this would have been averted. Empty promises are what this government seems good at. I am waiting for Minister Bishop to announce that her nursing home spot checks were, to borrow a phrase from her party leader, a ‘non-core’ promise.
Similarly, ministerial responsibility for ensuring a safe and consistent fuel supply to consumers has also been lacking. We now know that Minister Bishop’s spot inspections of nursing homes did not take place. The spot fuel checks promised by Minister Truss, back in 1998 when he was Minister for Small Business and Consumer Affairs, also seem to have been absent and led to the problem that has forced the government to take up this legislation. I think there is a strong stream of ideology in all of this that unfortunately cuts across the practical execution of responsibility. I have to ask: does it take a severe media blow-up and threat to consumer safety before this government’s ministers will actually do what they have promised?

Pledges of national crackdowns and spot checks only serve to lull the population into a false sense of security when nothing is followed through. This is especially true of recent events with this fuel substitution scandal. On 26 June 1997, Mr Prosser, the then federal Minister for Small Business and Consumer Affairs, announced in his second reading speech that the purpose of the Fuel Misuse (Penalty Surcharge) Bill 1997 was part of a:

... legislation package designed to give effect to the government’s announcement in the 1997-98 budget that it would be cracking down on fuel substitution.

Then, on 30 January 1998, Warren Truss, the subsequent federal Minister for Customs and Consumer Affairs, put out a press release announcing:

... a major nation-wide crackdown on fuel-substitution rorts which avoid paying customs or excise duty...Apart from avoiding duty, the use of fuel substitutes can be dangerous That is exactly as I outlined in the case of toluene and plastic components of automotive engines. In other words, the monitoring of fuel was, by the Howard government’s own insistence, a federal responsibility. So what was the point then of these so-called tough measures—the $50,000 fines for those caught practising fuel substitution rorts? The answer, I am sorry to say, is that Minister Truss’s ‘get tough’ press release was an exercise in window dressing, as recent events have indicated.

More alarmingly, the government must surely have known that its legislation was not effective, as the recent Senate Economics Legislation Committee hearings on the Excise Tariff Amendment Bill and the Customs Tariff Amendment Bill 2000 indicate. During these hearings, Senator Campbell questioned a spokesman from the tax office and then a spokesman from Australian Customs about who in those bureaucracies had the responsibility for carrying out the government’s announcement that it will be cracking down on fuel rorting. In this place you often have very interesting things to read and some of them are very amusing. The resulting exchange could have come from the scripts of Yes, Prime Minister. The Australian Taxation Office spokesperson said:

Our legislation does not empower us to deal with the quality of fuel. If people want to mix half a litre of water with half a litre of petrol and say it is petrol and, if they pay the excise on it, they have paid the excise.

Later, the reply from the spokesman for Australian Customs to the same question was:

I think the point is that it was a responsibility of either other Commonwealth agencies or state governments.

It is no wonder that, earlier this year, when cases of petrol substitution were discovered in New South Wales, it was the Victorian Minister for Consumer Affairs, not the federal government, that took action to protect Victorian consumers. Within 48 hours, the Victorian Minister for Consumer Affairs, Marsha Thompson, ordered urgent petrol sampling. This is in spite of the federal government supposedly being concerned about these substitution scams. Furthermore, we know that the federal government was notified of these scams, as the member for Wills has pointed out, more than 18 months ago.
As it turns out, the testing in Victoria did not reveal any evidence of petrol substitution. It is my suggestion that this could be due to the publicity generated from the positive toluene results already found in New South Wales; although my colleague the member for Wills has already pointed out that tests carried out by Liberty Oil some 18 months ago did reveal some evidence of petrol substitution in Victoria. So here we have a new Victorian state government acting within 48 hours of becoming aware of this problem. By contrast, the federal government failed to act for 18 months, despite making repeated announcements about its concern for Australian consumers.

The introduction of this legislation comes after statements by three federal ministers and at least 18 months, and still only because it was embarrassed into doing so, in my view, by the Victorian and New South Wales state governments. The Australian public will have to wait and see whether this time the government is genuine in tackling this dangerous problem of chemical substitution in fuels.

The decisive action by the Victorian Minister for Consumer Affairs earlier this year, upon being informed of this rorting, indicates that the Victorian state government has grasped the concept of responsible government. Yet this state minister’s ability to act on this issue in a regulatory sense has been hamstrung by the fact that fuel substitution rorting is essentially a federal government responsibility. While this legislation addresses some of these problems, the government is to be condemned for its inaction over the last 18 months in allowing and ignoring this not only dishonest but potentially dangerous practice of chemical substitution in fuels to continue to occur unchecked, thereby irresponsibly placing the Australian public at risk.

I know the government is now hiding its ‘debt truck’. Perhaps that truck can be put to good use in testing fuels and making sure that there are adequate numbers of testers out there doing what these trucks should have been doing over the last 18 months.

Mr SNOWDON (Northern Territory) (10.58 a.m.)—I am pleased to take this opportunity to speak in the debate on the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 because it gives me the chance to raise a number of issues about consumer protection. I note that whilst the Labor Party will not be opposing the bill in the House, nevertheless we have moved an amendment which condemns the government for its inaction on the dangerous practice of fuel substitution and, in particular, for allowing the Australian Taxation Office to cease random testing of fuel. The amendment notes that fuel substitution is a dangerous practice which reduces engine performance, leads to total breakdown of engines, defrauds the Commonwealth of millions in revenue and harms the environment. It also notes that the Commonwealth parliament has a responsibility for ensuring that fuel substitution does not occur, including the testing of retail fuel, and it calls on the government to ensure that the activity of fuel substitution really is brought to an end.

Others have spoken about the gravity of this. It is important that we understand that in 1997-98, the government made a strong statement about the issue of fuel substitution, when passing a number of bills, to the effect that fuel substitution was both a consumer and a revenue issue. I will come onto the consumer issue shortly.

The oddity is, Mr Deputy Speaker, that when the excise functions of Customs in relation to this matter were referred to the Australian Taxation Office in 1998 systematic testing ceased. You would have to wonder what was going on in the minds of the tax office officials if they did not have the capacity or the interest to carry out appropriate testing in relation to this matter.

The tax office have maintained that they are responsible not for testing the quality of fuel but merely for ensuring the correct excise is paid. You might ask then, ‘Who is?’ because this statement is in direct conflict with that of Minister Truss in his second reading speech to the

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**Wednesday, 31 May 2000**

**MAIN COMMITTEE**

**16763**

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The tax office have maintained that they are responsible not for testing the quality of fuel but merely for ensuring the correct excise is paid. You might ask then, ‘Who is?’ because this statement is in direct conflict with that of Minister Truss in his second reading speech to the
fuel substitution legislation in 1997. In any event, what we do know is that the failure of the tax office to carry out this function and the failure of the tax office to provide for someone else, if not itself, to undertake the systematic testing for fuel substitution has cost us $100 million in revenue.

Where I live, $100 million could be used for a lot of useful things. It could be used, for example, Mr Deputy Speaker, as you from a rural electorate would understand, to bituminise part if not all of the Tanami Road in my own electorate. It is all very well for this government to carry on as it does about how it cares for the bush but, in actual fact, the evidence is to the contrary. In my own electorate, the issue of roads, which is a very important issue, is one which has not been adequately addressed by the way in which this government has approached transport and communications infrastructure. To say that $100 million would go a long way for roads in the Northern Territory is to state the obvious. I guess I should just say, ‘Thank you, Treasurer, for your incapacity to provide us with the roads—for you allowing $100 million to flee from the public purse because of your failure to oversight a department which you have oversight of.’ You might ask him, Mr Deputy Speaker, next time you are in the party room, bearing in mind his stated interest in regional Australia, although we have not seen him visit too often—

Mr Martin Ferguson—He knows all about cutting wages.

Mr SNOWDON—That is the point. He is cutting wages, not spending the resources that could have been spent. There is the opportunity cost of not gathering revenue. Who is responsible? The person responsible is the Treasurer, the person we see parading in this parliament day in and day out, giving us the virtue of his comment on the state of the economic affairs of this nation, but here he is, responsible for allowing $100 million to flee from the public purse.

Mr Martin Ferguson—He could spend it on advertising.

Mr SNOWDON—That is the other point, of course. I do not think that we need to pursue that matter any further, because I am sure it is obvious to all of us, even to the coalition members. A hundred million dollars, you as a regional member, Mr Deputy Speaker Hawker, would understand could have been spent very fruitfully—partly in your electorate. I would have been willing to split it with you. $50 million each, no problem. It could have been spent on your roads or perhaps to upgrade some communications infrastructure.

This matter was transferred from the Customs Service to the Taxation Office. At the time of the handover, the Customs annual reported noted:

... establishing proof of offences under the Fuel (Penalty Surcharges) Amendment Act 1997 has proven to be more difficult than expected.

This bill proposes to eliminate the need to prove an ownership trail of the fuel back to original suppliers and to enable evidentiary certificates to be admissible in court in proving certain elements required to prosecute an offence. The proposed provisions relating to analysts’ evidentiary certificates mirror those relating to proving the composition of narcotic drugs under section 233BA(2) of the Customs Act 1901. These latter provisions were inserted in 1989.

In theory, it is also possible to prosecute substitution activities through the trade practices fair trading legislation. However, the fact that there is no legally binding standard governing the content of petrol is a significant impediment. The Commonwealth does not appear to have given any indication that it is looking at the issue in relation to the Trade Practices Act 1974. Professor Fels, the Chair of the Australian Competition and Consumer Commission, commented on the issue in a parliamentary committee hearing. He stated:
We ran a case a few years ago on fuel substitution where we thought it was occurring illegally. It was a very, very difficult case to win. We had to prove in court that the fuel was no good. In the end it was not possible to prove it. It might sound simple, but I am afraid it is quite the opposite.

That is true. Thankfully, though, in my electorate fuel substitution has not been an issue. One issue in relation to fuel that confronts my community is sometimes the variable quality of it. In relation to consumer protection, we have, on the one hand, the issue of fuel substitution. On the other hand, we have the issue of pricing, and it is that issue that I want to raise in this debate.

I have discussed previously in this place the issue of fuel pricing in remote Australia. Over the past months there has been much public concern raised both with me and through the media regarding the extremely high price of fuel in the Northern Territory. Media reports have reported retailers adding 10c a litre to the bowser price. Fuel retailers say that this cost is untrue and that it is around 6c a litre. This compares to fuel retailers in the south, who add 2c a litre to the bowser price.

On a number of occasions in this place I have talked about the diversity of fuel prices across the Northern Territory. I just want to remind the Main Committee of some of those prices. On 10 May, which is not that long ago, the price for unleaded petrol at Nguiu Garage on Bathurst Island was $1.40 a litre. At Milyakburra it was $1.60 a litre. Shell in Nightcliff, on the other hand, was 91.5c. BP Nightcliff was 90.9c. Around the same time the price of fuel in Brisbane was 78c. That shows a gross distortion in the cost of fuel for people who live in Darwin, let alone outlying areas, compared with that which is paid by their counterparts in Brisbane. I have checked the prices at Rockhampton and Cairns, and they are also significantly cheaper than the price of fuel in Darwin, let alone the price of fuel in the bush.

When I have sought an explanation as to why there should be this divergence in the cost structure of fuel, I have not had any satisfactory responses. In the past I have called for an inquiry into fuel prices in the Northern Territory, and I must say that the response from the government has been extremely muted. I should point out that there is, of course, an executive member of the government in the form of Senator Tambling, a parliamentary secretary, whose silence is deafening in relation to representing the interests of Northern Territory constituents on this matter. I had hoped that he might do something reasonable and assert some influence over the government in relation to the cost of fuel. Alas, I was to be disappointed.

I am also disappointed that the Northern Territory CLP government, which says it does a great deal for the Northern Territory community, has failed to address this issue. So, on 12 May, I took the step—and I do not often do this but I did it on this occasion—of writing to a Commonwealth government minister. I am not surprised that I have not received a response, but I wrote to Joe Hockey. Joe, as you would recall, is the Minister for Financial Services and Regulation. I wrote to Joe because Joe has got responsibility for giving references to the ACCC. I thought that a moderately good thing to do would be to get the ACCC to do an inquiry into fuel prices in the Northern Territory so that we expose whatever the issues are in relation to fuel prices.

I point out that it has come to light in the last little while that it is very difficult to explain the divergent costs. I pointed out a moment ago that the price of fuel in Darwin is about 91.5c a litre for unleaded petrol at Shell Nightcliff. At Shell Todd in Alice Springs the price is 99.9c a litre. That is one of my local service stations. I am happy to go along there and patronise the business, but I feel a little cheated when I have paid an extraordinarily large amount of money, in my view, for petrol in a place like Alice Springs. Of course, if you travel out of Alice Springs, you are up for $1.10, $1.20, $1.40 or $1.60 a litre. It does not seem to worry the government. I do not know what it is like in your electorate, Mr Deputy Speaker Hawker, but I bet you don’t pay $1.60 a litre anywhere for fuel.
One of the things that this government talks about is the impact of freight costs on fuel prices. What we know is that the freight cost from the tanker to retailers in Darwin—that is, from the fuel farm in Darwin—is 0.4c a litre. What do we think that the GST is going to do in terms of impacting on the freight component of the fuel price for petrol stations in Darwin? Perhaps you would like to ask at the next joint party room meeting, Mr Deputy Speaker, what that might be. We also know that the freight cost to Alice Springs is 7.3c a litre—the freight cost in terms of tankers travelling outside Darwin. I pointed out that the price at Shell Nightcliff is 99.5c a litre; at Shell in Alice Springs it is 99.9c a litre—8c a litre difference. What we have seen is that there is a margin of almost 3c a litre which the people in Alice Springs are paying. What for? When I wrote to Joe Hockey I said to him that for some months—

Mr DEPUTY SPEAKER (Mr Hawker)—I ask the member not to refer to ministers by their name.

Mr SNOWDON—Absolutely; Minister Joe Hockey. For some months now I have been making a regular check on the cost of leaded, unleaded and diesel fuel in the Northern Territory. I explained in this correspondence my concern about this divergence in fuel prices. I explained that consumers have little confidence in industry explanations of the pricing structure and that constituents have approached me for assistance in examining the reasons. I requested of him that he should use his powers under section 18(1) of the Prices Surveillance Act 1983 to authorise the Australian Competition and Consumer Commission to conduct an inquiry into fuel prices in the Northern Territory.

I think it is only fair and reasonable that there be an inquiry into fuel pricing in the Northern Territory. This bill which we are discussing is about consumer rights, consumer protection, ensuring that consumers have the fuel quality that they require. It is also about, in my view, assuring consumers that they get that petrol at the right price, at an appropriate price, at a fair price, and that they are not ripped off. In my view, somewhere along the line there must be an explanation—one which, I must say, escapes me—as to why people in my own electorate are forced to pay such high prices for fuel.

This morning, on ABC Radio in Darwin, a spokesperson from the ACCC said that, without accounting for the impact of inflation after the GST, he believed that the impact on price in Darwin of the fuel subsidy legislation would be 0.2c a litre. That is without the inflationary impact. The Royal Automobile Club of Victoria has said that, with a 6 per cent inflation rate, you can expect an increase in price of 2c a litre.

Whilst I do not want to traverse those issues, it is very clear that, come this new world on 1 July, the price of fuel in the Northern Territory, if it does anything, will increase, not stay the same and not decrease. It seems to me that in that environment, and given the disparity in costs which people incur in the Northern Territory as a result of where they live, in comparison with their brothers and sisters who live elsewhere in Australia, particularly along the eastern seaboard, it is only fair and reasonable that Minister Hockey should give this reference to the Australian Competition and Consumer Commission to conduct this inquiry.

It is not good enough for this government to see $100 million flee out of the country’s purse because of its own inaction and claim that it is concerned about consumer rights and protection, yet stand by and see, at least on the surface, constituents of mine in the Northern Territory being thoroughly ripped off as a result of fuel prices, and then do nothing about it. It may well be that after such an inquiry is conducted there might be a reasonable explanation as to why fuel prices are so high in my electorate, but I do not think so. There must be an explanation which is acceptable to the community.

The lack of action on this issue by the government is a matter of grave concern for consumers in the Northern Territory. It is all very well to fix this issue of petrol substitution,
but you have got to fix the issue of prices. The fact is that this government has done very little—in fact, nothing—to ensure that the rights of consumers in the Northern Territory are properly protected. This issue goes right around regional Australia. Mr Deputy Speaker Hawker, I say to you, as a member representing a country seat, that you should also be concerned about this lack of activity by the government in relation to consumer protection.

Whilst it is all very well for us to pass this legislation, we need to understand that consumers have rights; that those rights must be recognised; and that the government must do something about them.

Mr MARTIN FERGUSON (Batman) (11.18 a.m.)—In rising to speak on the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000, I want to particularly speak in favour of the second reading amendment moved by the member for Wills. In doing so, I want to draw attention to the horrific experience of the Australian aviation industry earlier this year. I believe it is intimately related to the issues that are before the chair for discussion this morning. When I think about the experiences of the aviation industry with the avgas difficulties earlier this year, I very firmly believe that the second reading amendment standing in the name of the member for Wills is intimately related to the problems being experienced by the industry.

To summarise the nature of the second reading amendment, in thinking about the avgas dispute, the member for Wills, in putting forward the amendment, has picked up the key elements that reflect the views of the industry. The second reading amendment condemns the government for its inaction on the dangerous practice of fuel substitution. It notes that fuel substitution is a dangerous practice which goes to the safety of the travelling public and those employed in providing a service to the travelling public, including consumers. It also notes, which I think is very important, the responsibility of the Commonwealth parliament to ensure that fuel substitution does not occur.

This bill is not just about the Treasurer collecting excise, because that is only part of the responsibility. Obviously, excise is revenue for the purpose of the provision of government services, but in the collection of revenue via excise there is also a responsibility on government to look after those who are basically required to pay the excise and, in doing so, to provide services which mean that the Australian public are protected as a result of the collection of that revenue. The amendment finally, and I think rightly, says that the government not only has a responsibility on this front but has got to bring fuel substitution to an end as a matter of urgency.

It is for those reasons that I join the member for Wills and others on this side of the House in condemning the Howard government, of which you are a member, Mr Deputy Speaker Hawker. You have a responsibility to also stand up on this issue as a representative of regional Australia who depends on quality fuel and also on a proper and accountable regional airline service, which I believe is seriously in question as a result of the failure of the Treasurer to face up to his full responsibilities with respect to these matters.

We condemn the government for its inaction on the dangerous practice of fuel substitution and, importantly, for allowing the Australian Taxation Office and, in essence, the Treasurer—someone who would like to carry the baton to be the Prime Minister of Australia—to cease random testing of fuel. That is the crux of the problem before the House this morning. It is about the Treasurer effectively deciding, ‘Yes, I will rip off Australian taxpayers anything I can when it comes to revenue.’ He then has the hide to waste it on the promotion of a GST that no Australian actually wants, including the majority of people in your own electorate, as you know, Mr Deputy Speaker, without also in turn facing up to his responsibilities to make sure that, as part of his right to collect that excise, he also goes out of his way to put in place mechanisms to protect the Australian public from rip-off merchants who are, more often than
ever, because of inaction on the part of this government, substituting lower quality fuel. That is what it is all about.

Those rogues are only allowed to get away with this because of the failure of the Howard government and, more importantly, the direct lack of responsibility, and willingness to accept that responsibility, by the so-called would-be Prime Minister, the current Treasurer, Mr Costello.

Mr Danby—The man who would be king.

Mr MARTIN FERGUSON—Yes, the man who would be king. To be king, and to be able to spend revenue, requires that you face up to your responsibilities on a broader front. That is where the Treasurer and the Howard government fail with respect to the bill, which is about addressing evasion, protecting Australian consumers and guaranteeing safety in all forms of transport. That is what the debate is about, and the failure of the Treasurer to accept his responsibilities on that front.

I believe that this bill gives all of us the perfect opportunity to remind the Australian public that the aviation fuel crisis is, frankly, not over. That has also been clearly revealed in Senate estimates in recent times. The truth of the matter is that not only is the Treasurer responsible for Australian travelling difficulties but so is the Minister for Transport and Regional Services and Deputy Prime Minister, the so-called lion of the Australian regional development movement, Mr Anderson, a resident of Canberra around Red Hill. So much for his concern for and attachment to regional Australia. The problem is that the minister for transport, as you know, Mr Deputy Speaker, has let the issue of the avgas fuel difficulties languish, ignoring the statistics that show that the issue has not passed for those directly affected.

The feeling of deja vu was overwhelming when the toluene fuel substitution crisis emerged. The issue of fuel quality and the role of the Civil Aviation Safety Authority were raised by the aviation fuel contamination crisis. Fuel quality and the role of other government authorities have emerged as the key issues in the toluene fuel substitution crisis. The distribution of contaminated fuel by Mobil and its agents at the end of last year put lives at risk and will result in a cost of tens of millions of dollars and affect the livelihood of a range of small businesses around Australia, especially in regional Australia in areas such as Flinders Island.

The aviation fuel contamination crisis actually had a much longer history than is generally appreciated and, perhaps more importantly, accepted by the Howard government. The role of the aviation authority in overseeing the distribution of aviation fuel has been the subject of considerable debate within CASA and, before it, the Civil Aviation Authority from 1991 onwards. It is not a recent issue, but one from 1991 onwards. In fact, from that date, staff at district offices continued to monitor fuel distribution even though it was no longer mandatory to do so.

In September 1993, a meeting was held with Sydney, Melbourne and Moorabbin based Civil Aviation Authority staff to discuss the auditing of fuel distribution. The meeting proposed that audits of fuel companies commence immediately and that legislation be introduced to provide for enforcement of the audit trials of the complete fuel distribution chain. At the end of 1995, a number of CASA officers were even involved in a special training program that went to the issue of fuel security, but that training program was prematurely terminated by the authority. At the same time, the then general manager of airworthiness with CASA, Mr Frank Grimshaw, told a regional manager, Mr Alan Frew, not to proceed with a planned aviation safety surveillance program audit of Shell Australia.

In an email dated 26 March 1997, Mr Grimshaw said that the CASA Safety Committee had recommended that existing certificates of approval held by oil companies under regulation 30 be cancelled. Mobil was issued with such a certificate of approval under Civil Aviation
Regulation 30 as far back as 12 April 1974. That certificate, I might note, required Mobil to manage its affairs in relation to the distribution of fuel in accordance with, among other things, an effective Civil Aviation Authority audited quality control regime. While the conditions imposed by the certificate and the role of the then CAA did not go to the manufacture of aviation fuel, the audit process imposed on companies was an important discipline on both the production and the distribution of fuel.

On 11 January 1996, Mobil applied for a new certificate of approval from CASA which related to the manufacture and distribution of aviation fuels. A CASA document dated 16 June 1997 said that that application was put on hold until the situation with regard to whether or not oil companies would hold a certificate of approval was resolved. It is still not resolved today.

In a letter to the Technical Director of the Australian Federation of Air Pilots, Captain Tom Russell, dated September 1997, the acting CASA director, John Pike, said that a review of requirements regarding the control of aviation fuel would be done as part of the regulatory framework program. This debate then continued until 1998, with a number of district offices still continuing to audit fuel distribution systems.

The minister for transport has, I note, required the Australian Transport Safety Bureau to conduct a comprehensive inquiry into the whole issue. That review started in January this year during the crisis and it appears is ongoing. According to the current CASA director, Mr Toller, there has been yet another organisational change, and this process is now a matter for the aviation safety standards area. So the debate about the role of CASA in the supply of fuel to the aviation industry has continued within the authority for nearly a decade without resolution. While that debate was going on, and no effective monitoring and regulatory action was taken, the aviation fuel crisis emerged and hit home. Just ask regional Australia, including people in your own electorate, Mr Deputy Speaker. And still the transport minister has not fixed CASA’s internal bumbling to ensure that fuel is tested and regulated.

We hope that the Australian Transport Safety Bureau investigation will make recommendations to ensure a closer monitoring of this area. Meanwhile, it is important to stress that the aviation fuel crisis is not over. The implications of that crisis are continuing and ongoing. At recent Senate estimates hearings, my colleague, Senator O’Brien, ascertained that the total number of aircraft grounded during the crisis was between 1,500 and 2,000. Of that number there are approximately 300 aircraft still grounded. Of those, many will not fly again because of the prohibitive cost of replacement parts. They just cannot afford to get the planes in the air again.

In terms of compensation, this fuel contamination crisis has also cost financially, especially small business. The estimates process revealed the payments to date under the various compensation programs. As at 1 May 2000 under the hardship program there had been 345 payments made to a total of $2,157,047. Of the second category of compensation, which is for reimbursement for the cost of meeting CASA airworthiness directives, there have been 1,722 payments to the value of $3,725,581. In the third element of the package, the business compensation package, there have been 57 interim payments and 59 final payments totalling $1,716,556.

Those are the figures to 1 May of this year. However, the truth is that that is not the end of the compensation issue. To quote the words of the departmental official, Mr Gemmell, when describing what will happen to the payments at Senate estimates of 2 May 2000, page 88, he said:

The expectation you would have is that the hardship will start to die away and the reimbursement claims will start to die away. The big issue will be, of course, the business loss compensation package, and that is likely to increase significantly over time.
On that note, I will touch on the experience of one of the affected businesses I visited during this crisis, the abalone operation of Gail Grace on Flinders Island. At the time, Mrs Grace estimated the cost to her business was in the order of $200,000. The truth is that her abalone business relied on transporting the produce to interstate markets by air. Over the period of her crisis, her business, Furneaux Aquaculture, missed a key annual event for the sale of her produce—the Chinese New Year celebrations. I know this is small bickies to a Treasurer and would-be Prime Minister, Mr Costello, but so be it. It is my responsibility to remind this parliament of the inadequacies with respect to the monitoring and regulation of fuel and the unwillingness of the Treasurer to actually think about the implications to small business.

In that vein I go to an article in the *Mercury* where it was reported that Mrs Grace normally sends two tonnes of live abalone by air per week for three to four weeks during this time. This year the total was 1.5 tonnes over the four weeks. So much for this government’s support, understanding and commitment to the needs and concerns of regional Australia and small business. Just ask the abalone operators on Flinders Island about the fuel contamination crisis and the importance of this bill.

Mr Deputy Speaker, I believe that the fuel crisis left the island isolated, and affected the standing and reputation of her business with her markets in Sydney and Melbourne. We all know what that means in the business world. It is about quality of product and reliability of producing that product on time and at a reasonable price. The problems of this government with the fuel contamination crisis have actually set back many small businesses for a long time.

As an aside, I simply wish Mrs Grace well in her business. I appreciate her problems because, having visited Flinders Island as part of my responsibilities, it is hard doing business from Flinders at the best of times, let alone through a crisis like this. The survival of businesses through this adversity is a credit to the resilience of the inhabitants of Flinders Island and many other areas of regional Australia.

The bill before the House relates to measures to improve the ability of the government to prosecute those engaged in fuel substitution. When the excise function was transferred from Customs to the Australian Taxation Office in 1998, systematic testing unfortunately ceased. It is all about the grab for money and no responsibility—no care, understanding or responsibility about the needs and concerns of people who, when they purchase fuel, expect sufficient attention by government to ensure that when they pay a reasonable price for products such as fuel they get a quality product.

When it comes to the consideration of these matters by this government, it is all about the bottom line and to hell with consumers and the travelling public and, in doing so, the safety of the travelling public. I believe the tax office claims it is only concerned with the revenue issue and collection. It has left the quality and consumer functions absent and the government, the consumers and the community totally exposed. The toluene substitution racket was what resulted.

In aviation, the same exposure of the government and the community resulted from the neglect by CASA of this function. In aviation, as we have seen, flying operators and business have been exposed from a safety point of view and financially. The bill before the House addresses some measures to stamp out the practice of fuel substitution. I sincerely doubt it goes far enough, hence the second reading amendment moved by the shadow minister and member for Wills. I suppose it can be said that the government has, at best, moved to stitch up the financial exposure. However, the real crux of the debate from our side of the House today is not just that issue but the quality and consumer issues that are not covered comprehensively and appropriately.
This government has us in the same position with regard to aviation. The opposition will continue to monitor and pursue the aviation fuel crisis and CASA’s general operations to ensure that proper measures are in place to ensure fuel quality is appropriately regulated. I support the second reading amendment moved by the member for Wills, because it places the finger directly on the Treasurer and the tax office. It simply condemns the government for its inaction on this dangerous practice. It is about consumers being ripped off and the safety of the travelling public being placed at risk. Why would any government endanger, for example, our children through allowing the substitution of inadequate fuel because of lack of regulation and accountability? Only the Howard government and the Treasurer would do that. (*Time expired*)

Mr Martin (Cunningham) (11.38 a.m.)—It is a pleasure to speak in the Main Committee this morning on the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 and to raise a number of issues which clearly are of concern to my constituents in Wollongong.

Fuel substitution simply is a methodology employed by unscrupulous service station proprietors to avoid tax. I think that is the most simple description of exactly what takes place by those unscrupulous operators who seek a way to avoid their tax responsibilities. Fuel being substituted with paint solvents such as toluene, among a number of other products, does not attract the tax excise that petrol does. As a consequence, it is a classic example, again, of unscrupulous people in the broad community looking at ways to skate around their taxation obligation. Regrettably, this particular practice became more and more widespread as the perpetrators of these particular schemes realised that the Australian Taxation Office had ceased to conduct random testing.

The honourable member who spoke in this debate a moment ago talked about the fact that the Australian Taxation Office ceased testing for this type of activity and, as a consequence, it had long-term ramifications. He also went on to talk about fuel substitution and problems of contaminated fuel in the aviation industry. I will make one brief comment about that later. What he highlighted was the fact that this was a practice that was able to spin out of control because the government had failed to honour commitments about continuing testing. So the question has to be asked about the priorities within the Taxation Office in looking at the ways in which their obligations are to be met because the implication of their not doing that was to compromise safety for people who were driving cars that subsequently were affected by contaminated fuel.

In terms of the aviation industry, which my colleague referred to as well, clearly the concerns there were even more acute and more important, because an aircraft carries a lot more passengers than a private vehicle. Any accident caused by fuel substitution would have had devastating consequences. It comes down to the fact that somebody had taken their eye off the game. It comes down to the fact that, for whatever reason, the Taxation Office was no longer carrying out its obligations to the Australian travelling public and that, by definition, a number of fly-by-nighters operating some of these questionable service stations around Australia were getting away with not only abrogating their responsibility in terms of taxation but, importantly as well, potentially putting the lives of their customers in danger.

It is also worth noting that fuel substitution damages vehicles. I think this is one of the issues which a lot of people have perhaps not paid a great deal of attention to. It is simply bad for engines. Some engines today are highly complex, computer driven and micro-chipped. I understand this is particularly so in the case of foreign vehicles, and European cars in particular. So it becomes a costly issue for consumers as well. To take one car, the Golf, as an example, it runs on premium unleaded. European cars, because of substituted premium unleaded, attracted the greatest benefit for the rorters. As a consequence, because of the
expensive repairs that were required for these cars, the consumers suffered again, and it was something over which they really had no control.

We in this parliament are responsible for ensuring that fuel substitution does not occur. It is there in the acts. It is a responsibility of the federal government. As I said a little earlier, the process of conducting spot checks for some reason was dropped off. It is a bit like, I suppose, the Minister for Aged Care and her commitment to conducting spot checks in nursing homes: that dropped off as well. As a result, the government has also forgone considerable tax revenue. On the ATO’s own admission, this figure is about $100 million. So a minimum assessment is that $100 million of tax revenue has been forgone because of not conducting the spot checks, not doing what they were supposed to do.

This government has promised on many occasions no new taxes and no increases in taxes. Here is another tax opportunity that was in place, yet it has been prepared to forgo $100 million while at the same time instituting this great revolution, this great reform of the Australian taxation system with the introduction of the GST. Perhaps some of those people at the tax office are a bit overloaded with work in having to worry about the implementation of the GST. Perhaps they were more concerned with the figure of $420 million, which I think the estimates process has been able to find has been spent by this government in the propaganda campaign—the Joe Cocker type of songs.

Maybe what we should have been doing with the tax office is conducting an education campaign on fuel substitution. Maybe we could have had a song for the fuel substituters. Maybe we could have had a campaign out there with some catchy little tune that people involved in this racket could have twigged on to and the consumers would have known about. I can suggest a few. Ted Mulry’s Jump in My Car—that was an oldie but a goody. Paradise by the Dashboard Light by Meatloaf—now there’s a cracker, if ever I heard one; I think that takes people’s memories back. What about Little Deuce Coupe, by the Beach Boys? I am sure there could have been some sort of a campaign designed around that. At the end of it, though, the best one is probably the old Who favourite Substitute. You could have changed some of the lines in there to fit just exactly what this practice is all about: a substitute ripping off the Australian tax system, ripping off the Australian public and, at the same time, creating dangers for consumers because of the practice causing problems with engines of cars.

Unfortunately, as a result of this practice going unchecked for quite some time, a lot of service station operators suffered a significant drop in sales. My colleague talked a moment ago about the effect on small business of this sort of practice, and it is true. If you look at the fuel industry these days, most people operating in the industry as service station proprietors are, indeed, not proprietors; all they are are lessees or they are operating on behalf of the major oil companies. As a consequence, they must ensure that they do everything they can to maximise the clientele coming in the door; otherwise the revenue stream they have will drop off.

In this instance, it was the larger franchisees who suffered the most. This was because their fuel was provided by a supplier whose brand is represented on the premises and there has been little scope to shop around for other bargain deals from smaller independent suppliers. I think that was one of the problems. The fly-by-nighters could go and do a bit of shopping around and get a cheap fuel, substitute toluene and other things for the fuel and therefore contaminate what was being sold to consumers around Australia, abrogate their responsibilities in the tax system and, at the same time, cause problems for consumers. But the larger franchisees could not do that because of the agreements that were struck with the Mobils, the Shells and the other major fuel suppliers, so there was little scope to shop around for bargain deals. Therefore, it was difficult to compete with the small unaligned or independent operator up the road who could continually undercut them.
I know in my own area of Wollongong that people brought to my attention from time to time a similar sort of problem. When one went to engine reconditioning people in Wollongong and asked them whether or not there had been a surge in cars being brought in because of engine problems, the answer was yes. When questioned further as to what sorts of cars were coming in and what was the cause of it, it did not matter necessarily what sort of car but the cause of it was that they had gone to a few of these small service stations operating as independents, non-aligned, and had bought fuel which was contaminated. And, over time, it had caused the problem and created unnecessary expense for consumers because of the difficulties experienced in the engines.

It is well known that proprietors in some of these service stations—the genuine people out there trying to make a living—were not making great profits from the sale of fuel. In fact, I was told by someone I know quite well that her brother had said that while this particular practice was going on he would probably have gone broke had it not been for the carwash and the video sales and rental business that were part of his service station. He obviously had one of these fly-by-nighters just up the road from his operation.

How did it all go so wrong? I do not think the Treasurer is entirely to blame, despite what my colleague said just a moment ago. He is out at the forefront, there is no doubt about that, but I have to say the Assistant Treasurer, Rod Kemp, has a little bit of the blame here as well. This particular racket was brought to Senator Kemp’s attention some 18 months before the story broke in March of this year. It was brought to the minister’s attention by Liberty Oil. And in March the senator played dumb by claiming it was the first time the toluene issue had been brought to his attention. Liberty had been talking about it for quite some time and he did not realise that toluene was a solvent. He had only heard about substitution with solvents before this, but did not realise that was the whole basis of the problem.

There is no legally binding standard that governs the content of petrol and, therefore, prosecution will always remain difficult. Really, the legislation that is before us just ensures that the government receives its excise revenue. The minister literally was asleep at the wheel. He has offered regrets rather than acting when he should have some 18 months ago.

And it was not just 18 months ago that this issue was raised again and again. In fact, in a media release from the New South Wales Minister for Fair Trading, John Watkins, dated 29 February of this year, he named a number of these fly-by-night service stations in Sydney. Indeed, I suspect some were probably close to the electorate of my friend and colleague the member for Lowe. The minister went on to say that he had been telling the federal government about this issue for some time, but because it is a federal government responsibility, the state government, through the Department of Fair Trading, could do nothing other than publicise the problems and warn consumers. The actual closing down of this particular sort of operation rested with the Commonwealth government. Mr Watkins pointed this out and said he had been talking to the Assistant Treasurer, Senator Kemp, for some time, but still no action had been taken.

So what is this and other related legislation, what does it do and what doesn’t it do? Firstly, it ensures that the government gets all its tax revenue, about $100 million, and probably a little bit more. It implements more red tape and an administrative burden on businesses that use toluene and other petroleum derivative chemicals in industry. These businesses have to pay the full excise and claim it back. It came too late, and it does nothing to ensure consumers are protected from inferior fuel supplies damaging to their vehicles.

What are the implications of this legislative change that is being contemplated here? With no safeguards in place to ensure fuel quality, consumers in the industry are not provided with any protection whatsoever. The government has ensured that it receives all of its revenues, but that is about it. As I remarked earlier, the aviation fuel contamination debacle in Victoria

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should have been enough to warn this government about what consequences, potentially, there could be in Australia for this sort of practice to spread to other industries—in this case, aviation.

What we are debating here certainly is something restricted to fuel substitution in petrol for cars, but at the end of the day the basic tenets of the problem, and the causes, and the reasons behind why people decide to get involved in these dreadful practices, could easily be transferred elsewhere.

The government must take responsibility. The tax office must take responsibility. I know they are all overworked in the tax office; I know the government has imposed on them this burden of the implementation of the GST. We know that they are out there composing songs. We know that they are out there spending $420 million in trying to see that the Australian public receive the necessary propaganda. We know they are preparing the letter for the Prime Minister to sign and send out to every household, personally addressed, while ripping off from the Australian Electoral Commission what I had believed were private addresses and occupations so that carefully targeted letters can go to consumers around Australia.

But the main game here was the protection of consumers. The main game here was to stop the bleeding of taxation revenue, and the government let this go through to the keeper. It is high time that this legislation was in this place for debate, and it is high time that it was placed before the people so that they could judge the tardiness of this government. It is also appropriate that the amendments that have been moved by my colleague the honourable member for Wills are given a fair and robust debate in this place as well. I commend the legislation to the House, but I particularly commend those amendments that have been moved.

Mr MURPHY (Lowe) (11.54 a.m.)—Today I wish to speak on the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000, which seeks to amend a number of acts to ensure that the evasion of excise duty on fuel does not continue to occur. I support this bill and also strongly support the amendments foreshadowed by my colleague the member for Wills, Mr Kelvin Thompson:

That all words after “That” be omitted with a view to substituting the following words:

(1) condemns the Government for its inaction on the dangerous practice of fuel substitution and in particular, for allowing the Australian Taxation Office to cease random testing of fuel;
(2) notes that fuel substitution is a dangerous practice that reduces engine performance, leads to total breakdown of engines, defrauds the Commonwealth of millions of dollars in revenue and harms the environment;
(3) notes that the Commonwealth Parliament has a responsibility for ensuring that fuel substitution does not occur, including the testing of retail fuel; and
(4) calls on the Government to ensure that the activity of fuel substitution is really brought to an end”.

Historically, the excise on petroleum products must depend on the anticipated purpose or end use of the product. So the excise on fuels such as unleaded petrol or super petrol has been levied at a much higher rate than on fuels sold for non-transport purposes, such as heating oils and kerosene. Previously, products such as solvents attracted no customs duties at all. In recent times, because of the discrepancies in tariffs that are collected on fuels, the substitution of lower excise petroleum products has occurred to avoid the customs duty on transport fuels. Such fuel substitution can lead to damage or total breakdown of engines. It also harms the environment and reduces government revenue by millions of dollars each year.

It is obvious that some operators in the petroleum industry quickly reacted to the legislative changes that came into effect in November last year, by increasing the levels of toluene in fuel. Toluene, if imported as a ‘chemical’ for use as a paint solvent, attracted no customs duty.
If imported for use as a fuel, however, it would have had a duty imposed. Basically, what happened was that large amounts of toluene were ostensibly imported under the chemical classification and later were switched to a fuel use, circumventing the customs duty.

Public awareness on the issue of tax avoidance by the petroleum industry is now at a peak. This is due mainly to conscientious reporting by the media, in particular the *Sydney Morning Herald* and the *Daily Telegraph*, which should be congratulated. In the first week of March this year they reported that the Department of Fair Trading had conducted tests and found that six Sydney petrol stations had petrol laced with toluene at levels of up to 57 per cent. To find this level of toluene is to uncover a colossal fraud, especially when it is considered that petrol generally has a toluene level of only between seven and 11 per cent, and on average eight per cent. I take this opportunity to support the words a moment ago of the member for Cunningham in giving credit to the New South Wales Minister for Fair Trading, the Hon. John Watkins, for pointing out this problem in the industry, while at the same time condemning the government for its inaction.

I support the government’s move to make imported toluene and related chemicals subject to the same customs duty as fuel, 44.1c per litre. Also, I commend the government’s promise to rebate the money to sectors which have used such chemicals for non-fuel purposes. This is a vital measure to remove any incentives for operators in the petroleum industry to participate in fuel substitution scams such as have been reported recently.

Members of the House may remember what I had to say on this subject on 13 April this year, when I spoke here on the *Taxation Laws Amendment Bill (No. 10) 1999*. Specifically, I talked about the Australian Taxation Office’s inability to carry out its duties of excise collection because it has been completely overstrained, due to the implementation of the GST, pay-as-you-go tax and the Ralph business tax changes. The ATO is clearly underresourced in terms of both staff and funding—and, as we all would know, it is suffering a loss of staff to the private sector. Not only has the Howard government created more work for the ATO with the implementation of the GST; it has given the former Customs responsibility for the collection of excises to the ATO. Since this handing over of responsibility, fuel scams have run unchecked and it is estimated that the ATO has lost petroleum excise worth over $100 million. These fuel substitution rackets undertaken by unscrupulous operators in the petroleum industry have proven one thing: those operators can be successful at evading tax and not being caught. Quite frankly, this is a scandal.

I am concerned that not enough is being done by the government to catch these crooked operators. I am not convinced that the passage of this bill will improve the quality of petroleum fuels because this bill is concerned more with collecting the revenue for the Commonwealth than ensuring the quality of the product.

The amendments proposed in the bill include the prosecution of fuel substitution under the Fuel (Penalty Surcharges) Amendment Act 1997. It will be finetuned by eliminating the need to prove an ownership trail of the fuel back to original suppliers and allowing evidentiary certificates to be admissible in court to help prove scientific elements which are required to prosecute an offence. Also, the amendment of the Excise Tariff Act 1921 concerns the calculation of the duty payable on excisable blended petroleum products and the Fuel (Penalty Surcharges) Administration Act 1997 will be amended to improve the ability of the government to prosecute those who are undertaking the practice of fuel substitution. This will be achieved by changing the definition of fuel to cover a broader range of products and removing the requirement for the Taxation Office to show that allegedly illegally blended fuel has entered into home consumption.

This is all good in terms of collecting the revenue but it does not give a lot of confidence to ensure the purity of the petroleum products, as I have previously said. As I pointed out, the
tax office has been overburdened with this work primarily with regard to the introduction of the GST and with the responsibility of collecting the revenue on behalf of the Commonwealth. So, as I pointed out earlier, the New South Wales government, particularly the Minister for Fair Trading, the Hon. John Watkins, is to be commended for pointing out to Dr Kemp, who was obviously very slow out of the starting blocks, that the problems were existing in New South Wales with fuel substitution and he has obviously made it quite plain that the government and the ATO have to take their responsibilities quite seriously.

As the amendment by the member for Wills foreshadows, we condemn the Australian Taxation Office for ceasing the random testing of fuel. We realise that this is a very dangerous practice because of the implications for motor vehicle engines, notwithstanding that it also defrauds the Commonwealth of an enormous amount of revenue and, consequently, has effects in terms of the potential environmental vandalism that can arise from such behaviour. Also, there is the responsibility for ensuring that fuel substitution does not occur in the future and the requirement of the government to prosecute the testing of retail fuel. Finally, it is to ensure that the activity of fuel substitution is really brought to an end so that we give the motorists and the public at large confidence in the quality of the product and that we bring the charlatans in the industry, who are there only to make money at any expense, to heel and to be accountable for the deeds that they have visited on the motoring public.

I support the bill, as I said earlier, but I encourage the other side of the House to support the amendments foreshadowed by the honourable member for Wills. Finally, I emphasise the importance of the tax office to do its duty and to make sure that the government gives priority, not only to the other things that are on its agenda, but also to making sure that the tax office does its duty in terms of protecting the community.

Motion (by Mr Hawker) agreed to:
That further proceedings be conducted in the House.

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 2000
Second Reading

Debate resumed from 30 May, on motion by Mr McGauran:
That the bill be now read a second time.

upon which Mr Tanner moved by way of amendment:
That all words after “That” be omitted with a view to substituting the following words:

“whilst not declining to give the Bill a second reading, the House expresses its concern that the Government:

(1) has cut Financial Assistance Grants (FAGs) to local government in real terms since coming to office;
(2) attempted to terminate the 25 year Commonwealth local government funding partnership by trying to transfer responsibility for local government FAGs funding to the states;
(3) promised to exempt local government services from the GST before the 1998 election only to renge on this commitment within months of regaining office;
(4) through the GST, has imposed a regressive and unfair tax on essential services provided by local government to communities in regional Australia; and
(5) has hit councils with major GST compliance costs with inadequate compensation or assistance”.

Mr ST CLAIR (New England) (12.04 p.m.)—I rise today in support of the Local Government (Financial Assistance) Amendment Bill 2000. The grassroots of Australian politics really is local government. In rural and regional Australia, and particularly in my electorate of New England, the local councils and shires are the basis of their respective communities. I am aware of this through my own experience in local government as a...
councillor on the Guyra Shire Council for 11 years, and in the position of mayor, elected
annually for a period of seven of those years.

The local government financial assistance grants are vital to the communities of rural and
regional Australia. As much as 70 per cent of some of the local government revenue of
regional and rural Australia is made up of grants, which the financial assistance grants make
up the bulk of, and the rest of the revenue is made up of rates and, of course, other grants. The
council government is committed to building effective partnerships with local government
and to helping councils contribute to the welfare of their communities and to the nation’s
overall economic performance and social wellbeing.

The Commonwealth is a major contributor to the funding of local government, in 1999-2000
providing around $1½ billion to councils around the country. The Commonwealth
government has provided general purpose assistance grants to local government through the
states since about 1974, and the Local Government (Financial Assistance Grants) Act 1995 is
the basis upon which the Commonwealth financial assistance grant is provided to local
government through the states and territories.

This financial assistance has two major components, as we are all aware—the general
purpose funding and the separate, identified local roads funding portion. This act provides for
local government financial assistance grants and road funds to be increased each year in
accordance with an escalation factor. The Treasurer determines this factor in line with the
underlying movement in general revenue assistance to the states. The escalation factor reflects
the percentage increase in state financial assistance grants in the current year, and the state
financial assistance grants in turn reflect indexation for population growth and the change in
the consumer prices index. This has had the effect of maintaining local government financial
assistance grants on an equal per capita basis.

Under this government’s revised tax reform package the Commonwealth retains
responsibility for providing financial assistance grants to local government. It is necessary to
amend the Local Government (Financial Assistance Grants) Act 1995 to remove the nexus
with the states financial assistance grants as these will be abolished from 1 July 2000 as a
result of the intergovernment agreement on the reform of the Commonwealth-state financial
agreement. A key feature of the agreement is the payment of all GST revenue to the states.

This bill allows an amendment so local government financial assistance grants can be
maintained on a real per capita basis. This amendment bill will also clarify the roles of the
minister and the statistician relating to calculation of projected population figures used in
estimating state entitlements. The statistician will prepare the estimates on the basis of the
assumption specified by the minister after consultation with the statistician.

This government, as part of its reform to the taxation system, proposed that the states and
the Northern Territory assume responsibility for providing general purpose assistance grants
to local government. At the 9 April 1999 Premiers conference, the heads of government
signed an intergovernment agreement on the reform of Commonwealth-state financial
relations which provided, among other things, that the states would assume responsibility for
funding of local government. To ensure that the funding was adequate the states undertook to
maintain growth in local government general purpose assistance on a real per capita basis and
meet the existing Commonwealth conditions on the payment of assistance.

I have to say, being involved in local government as I was, it seemed crazy—and I listened
to the debate yesterday—that in the 1988 referendum on the recognition of local government
people did not support giving constitutional recognition to local government. I think it really
is poor that all sides, our side included, did not support the fact that we should give
constitutional recognition to local government. Having been involved, as I say, for some time,
I think that was poor. I have to say that I am disappointed that still today local government is not recognised in the Constitution, and that creates a problem.

I have also been a strong supporter of seeing local government hook itself up on a financial basis of assistance grants to the states, because the total GST revenue was going to the states, as we know. We heard in speeches yesterday that agreements were reached in various states, particularly with the Beattie government. Queensland needs to be congratulated for entering into an agreement to give a fixed percentage of the GST revenue to local government. I think that is great because it was a growth tax. However, the powers that be within the Australian Local Government Association voted it down. Again, that is an opportunity, quite frankly, that was lost. I keep reminding local government of that opportunity that was lost.

Local governments generally opposed transferring responsibility from the Commonwealth, as we have discussed. Their main concern was that they would incur a reduction in funding. In particular, local governments were concerned that state governments would incur a reduction in funding. In particular, local governments were concerned that the state governments would renege on the undertaking with the Commonwealth and, should that happen, the Commonwealth would not, therefore, support local government.

Another concern was that local government funding would fall behind funding of other sections of the community. While indexation for population growth and inflation places a floor under the assistance, indexation does not really provide any growth. Local governments were also concerned that they would be further disadvantaged financially by the GST. I will talk about that in a moment.

One of the issues that is always raised, I think by everybody on either side of the House, is the issue of the lack of funding for local roads for local government. Whether we talk about local government in the Northern Territory, Victoria, New South Wales or wherever, we are faced with that problem of not providing sufficient funds to local government to be able to carry out the level of maintenance that keeps their roads in a proper condition.

Following the opposition’s rejection of the greatest change in the history of Australian taxation, the government negotiated a revised package with the Australian Democrats. Under the terms of the agreement that was reached on 31 May 1999, it was agreed that the Commonwealth would retain responsibility for payment of financial assistance grants to local government. I think that is poor. But never mind; the decision was made. The Local Government (Financial Assistance) Amendment Bill 2000 is the outcome of that process.

The Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations was revised to take account of the changes to the GST agreed to between the government and the Australian Democrats. The coalition’s tax reform package will greatly benefit local government in Australia. The new tax system will remove embedded wholesale sales tax and other state taxes from Australian local government. The new system will allow councils to claim a full refund of all GST payable on their purchases. Councils will save massive amounts on the operation of their vehicle fleets under the new diesel fuel credit arrangements. Councils in my electorate and in the rest of rural and regional Australia with vehicles with a gross vehicle mass of over 4½ tonnes will save about 23c a litre on their diesel purchases. All councils will also be eligible for a saving of 7c a litre for all other petrol and diesel purchases.

It is interesting to note that I have 14 local government areas in my electorate of New England. Some are very much moving forward in being prepared and ready to accept the savings from 1 July onwards, and I have to say that some are the exact opposite of that. So only time will tell, but there are certainly great opportunities for savings to be made. Let us see that these savings are being passed on in the form of increased services and increased maintenance of roads, et cetera.
General rates will be GST free. Charges for water and sewerage will be GST free. Regulatory and licensing services such as zoning and planning fees and dog licence fees will be GST free, and fines and penalties such as parking fines will be GST free. There are not a lot of parking fines in the little village that I come from. However, I know that in the larger regional cities, if you overstay the half an hour park in the middle of the city, you normally get a bill. So a lot of people shop in the towns that do not have them.

In spite of a scare campaign by the federal Labor Party and some elements of local government, any sensible and authoritative assessment clearly shows that local government will do well from the GST. In fact, in the Senate estimates committee hearings in February this year, it was revealed that the Labor Treasurer in New South Wales had acknowledged that local government stood to be a major beneficiary following the introduction of the GST. The New South Wales Treasurer, Mr Michael Egan, in a letter dated 22 December last year, stated, amongst other things:

Local government also stands to be a major beneficiary in funding arrangements following the introduction of the proposed goods and services tax.

Mr Egan’s letter was further evidence that councils throughout Australia would gain financially through the GST. In addition to an independent report by Arthur Andersen for the Victorian government and the comments by many councils and mayors around Australia, the confirmation by the New South Wales Labor government clearly shows that local government will do well out of the new tax system. I can assure members in this place that we are looking forward to the dramatic increase in funding from state governments to local governments, particularly for roads and road networks. When we look back at some of the funding that used to be supplied by the state government for state roads or main roads, we have seen that situation change dramatically and the cost has been transferred to local government, which does not have the resources. I am certainly looking forward in particular to the state of New South Wales increasing substantially the amount of funds that will go through to local government in my electorate of New England.

When Labor were in government for 13 years they did nothing except undermine the effectiveness of local government by stifling innovation by seeking to impose new layers of regional bureaucracy. The Labor Party set up many regional development organisations in competition with long established local groups and duplicated the capacity of local government organisations. I also believe that local government had a role to play in this. Instead of hiding its head, as some ostriches do from time to time, they should have taken the lead within their communities and regions and provided competition to some of those organisations that were being duplicated.

Since this government came to power in 1996, it has had a number of priorities. It is continuing funding programs for black spots and local roads. In one of my regional cities, Armidale, a black spot area was fixed by providing a good roundabout, which has certainly made a huge difference. I am sure that that happens in other places. There are other black spot programs with respect to local roads. The government is continuing funding to local government for the provision of aged care. Many in this House have heard me debate repeatedly the need to keep our senior citizens, our oldies, in our towns and villages, and to make sure that they are suitably funded. We have also continued the provision of disability and children’s services.

We are assisting rural and regional councils in flood-prone areas to undertake flood mitigation works to protect lives. That is certainly happening in Tamworth and Inverell. We want to protect homes, businesses and community infrastructure. As I mentioned, in the regional city of Tamworth in my electorate, great work is being done with the council in providing flood mitigation work.
The Anderson-Howard government have a number of initiatives that have helped councils in rural and regional Australia. I would like to point out some of these initiatives to the House. I refer to the establishment of a $45 million local government online program to help regional local government authorities to access new technologies, including interactive services. The government has funded a new local government incentive program to the tune of $7 million in 1999-2000 and 2000-01. The grants will be targeted to achieve assistance for local governments in relation to necessary implementation costs incurred in complying with the requirements of the GST legislation; streamline regulatory practices that otherwise inhibit economic development; the adoption of best practice and sharing of technical expertise across councils; and the promotion of an appropriate role for local government in regional development. Certainly, local government has a very strong role in regional development. I hope that some of the leaders that we elect to these positions take that forward.

The $20 million Regional Flood Mitigation Program which the government has announced will financially assist local agencies in flood-prone rural and regional areas to undertake protective works. In 1999-2000, $6 million will be available to commence those top priority projects. The projects supported under the program will include levees, channel improvement works, retarding basins, upgrading and replacement of existing flood structures, flood warning systems, protection levees for key infrastructure, and voluntary purchase of flood prone homes.

An allocation has been made of $3 million per year from 1999-2000 to develop disaster mitigation strategies, to plan and identify ways to minimise the cost of natural disasters to local communities. I might comment that, although we had a foot of snow last night in my little village, we are fortunate in being high enough not to be flooded out.

The 1999-2000 budget announcement of benefits to local government included a further $37.8 million for the highly effective Black Spot Program, which we have talked about, an extra $195 million for the Roads of National Importance Program and the National Highway Program, and a new $20 million program for bridge upgrading on the National Highway. That is tremendous: having 400 kilometres of the No. 1 highway, the New England Highway, coming through the middle of my electorate, I understand the importance of that initiative. In addition, the budget announcement stated that the local roads component of financial assistance grants to councils amounted to nearly $390 million.

In the budget which was handed down by the Treasurer earlier this month, the government announced federal assistance of $1.32 billion to local government. This represents an increase of about $51 million, or around four per cent, over the last year and an increase of almost $158 million since the coalition came to government in 1996. Of the $1.32 billion, approximately $915 million is for general-purpose grants and $406 million for local roads grants. I would like to see that increase dramatically next year. We should re-tie the roads component of federal assistance grants to the councils, to make sure that they actually spend that money on road networks and not on other infrastructure.

This government is aware of the importance of these financial assistance grants to councils, particularly councils in rural and regional Australia. Some two-thirds—nearly $881 million—of these grants will go to more than 580 rural and regional councils. That may seem an awful lot of councils. I think there are 177 councils in New South Wales, and I know that some are looking voluntarily to make some changes. In my electorate of New England we have just had council elections in Armidale and Dumaresq, with 10 new councillors, and I would like to take this opportunity to congratulate those 10 new councillors on their elevation to the position of elected representative on the Armidale-Dumaresq councils.

In my electorate there has been an increase in financial assistance grants of $1.135 million from the last budget of the Labor government, in 1995-96, to the 1999-2000 budget of the
National-Liberal government. That includes an increase of more than $368,000 for local roads in New England. An amount of $4.5 million will be made available for special grants programs. Another bonus to local governments and communities is the $1.5 billion for the Natural Heritage Trust, a massive program of conservation and resource management activities which have a huge capacity to generate regional job opportunities. I have had the pleasure, over the past couple of weeks, of meeting all the groups in my electorate which received funding last year—$1.2 million, put to 41 different projects.

This government, unlike the Labor Party, recognises that local government can do much to foster regional economic development. The coalition will continue to work with councils to reduce business costs and sponsor regional economic development initiatives. The government will continue to help councils improve the range and quality of local government services by supporting continuous improvement initiatives and the introduction of new technologies, and by promoting innovation and the implementation of best practice. I commend the bill to the Main Committee.

Mr SIDEBOTTOM (Braddon) (12.24 p.m.)—It is always nice to be able to talk about local government. I, like the former speaker, was a member of local government for about two years. Because of the archaic law that we have where there may be a conflict of interest in terms of profit of the Crown, I had to resign that position before I could stand for the federal election. Unfortunately, if I had been so unlucky as to have lost the election—

Mr Snowdon—Thankfully you did not.

Mr SIDEBOTTOM—and thankfully I did not—then of course I would have lost my position on local government. Of course this would have affected others in the same way. If I remember correctly, Senator Brown was talking about introducing a private member’s bill or a suggestion in the Senate to the effect that, if you were in local government, you would not have to resign the position per se but rather table it. I think it something—and it is not directly relevant at the moment—that we should have a look at. It is hard enough to get people to stand for local government—let alone state and federal—and, with that disincentive, I think you lose good people. It is nice to know that we are here rather than being non-members of the houses of parliament and also non-council members, which may well have happened.

Mr Snowdon interjecting—

Mr SIDEBOTTOM—Secondly, it is nice to share this forum with one of the clerks who was at school with me many years ago in Hobart. It is a small world, isn’t it. To be together is a historic moment for my old college, Saint Virgil’s College. It is nice to acknowledge that and to be here with him. I am sure we look exactly the same as we did when we were in shorts.

So often nowadays it seems that people living in regional and rural Australia are getting mixed messages from Canberra. After the budget, it was a very mixed message. It is no more evident, I am sorry to say, than the scrambled signals going out to our community leaders in local government—most recently, in the lead-up to the GST and in the aftermath of this government’s fifth budget. I think we would have to agree that so often local government is the forgotten partner in this government’s vision—I will have to be careful about using that word ‘vision’—for regional Australia. I think you would have to say that poor old local government would be a distant third cousin in the food chain of the family. The former speaker and member for New England certainly raised that issue in his speech very candidly and very honestly.

It would be charitable to say that this might be an oversight on the government’s part, but I do not think it is. I think it is deliberate. I would like to make my way through that, and I think this legislation demonstrates it. You do not have to travel far from Canberra to find that local government is not high on this government’s list of priorities. In fact, it was not in the GST
deliberations, and if you were to investigate the absolute and sheer confusion in local
government, let alone in small businesses in local government areas, I do not think you would
get any more evidence than that. And it is going to continue, believe me, despite the glitzy
advertising campaigns. You are going to have to more than unchain local government; you are
going to have to dig it up. It certainly was not in the budget.

But what surprises me is that this government does not even try to hide the fact that it
wanted to abrogate its responsibility to local government. In fact its attempts to do that are
why we are here today. Its attempts were foiled, stymied, initially when we tried it—and if
you do not have the numbers, you do not have the game—and then of course through their
complicit partners in the GST and in introducing the new tax, the Democrats. We can discuss
that a little later.

The signs were ominous for regional Australia and local councils right from the time this
government came into office over four years ago—or is it five years now? All we basically
hear is the 13 years of Labor and how we cause everything. They forget that they have been in
long enough now to make a difference. One of the first things this government did was to
abolish the office of regional development. The member for New England was talking about
regional development organisations and how they acted contrary to local organisations. I
would say to you that the introduction of regional development organisations under the former
government unchained many local government areas and allowed them to at least develop
programs both from the bottom up and from the top down. It did have problems, but at least it
started to unshackle the binds that they felt.

At the time this government came into office I remember them saying that there was no
role for a national government in regional development. We know they believe that, because
we do not now have a minister for regional development. Regional development and regional
services are hived off into some junior ministry, thrown in with local government. When you
check the speeches of the relevant minister, there is just the replication of about three points
and basically little else. I believe that says a lot about this government’s priorities.

It is ironic that this government’s latest attempts to sever ties with our important third
sphere of government was foiled by its GST partners in crime, the Australian Democrats, with
a little help, I am happy to say, from the Labor Party. Hence, we have this Local Government
(Financial Assistance) Amendment Bill 2000. The bill is the legacy of the government’s
attempt to shift all responsibility for local government to state and territory governments. The
Howard government, as part of its new taxation system, proposed that the states and the
Northern Territory assume responsibility for providing general purpose assistance or financial
assistance grants to local government. In essence, it wanted the states to take over the
responsibility for funding to local government.

But before the Democrat-government GST deal, the Labor Party successfully moved an
amendment in the Senate to have local government financial assistance grants, or FAGs,
retained by the government. And following the Senate’s rejection of the initial GST
legislation, the government negotiated a hastily revised package with the Australian
Democrats. They were hastily revising and devising lots of packages with the Australian
Democrats—anyway, there was a lot of candle buying at that time and it was going late into
the night. Under the terms of that agreement in May of last year, the government agreed
begrudgingly to retain responsibility for the payment of financial assistance grants to local
government. As a result, thankfully, the Commonwealth still has a direct financial link to
local government.

The bill will also fundamentally change the role of state governments in relation to local
government. In fact, state government will no longer just be the post box for the role of
passing on FAGs to the local government organisations. You see, it has a new role. Basically
you could say it is monitoring, if you want to be nice; you could get a little bit more negative and say it is policing. I think we would all agree it is almost a punitive role that it has to take up. It has got the power to withhold financial assistance grants in cases where a local government authority fails to collect the new tax. To put it more formally, the bill amends the act to implement clause 18 of the IGA to require states and the Northern Territory to withhold from any local government authority that does not pay voluntary or notional GST payments a sum representing the amount of unpaid voluntary or notional GST payments. Amounts withheld by the states and the Northern Territory will form part of the revenue pool to be distributed to the states.

Mr Snowdon—To the states?
Mr SIDEBOTTOM—To the states, yes. This is just another example of the many onerous compliance tasks this government is foisting on government, business and communities around Australia. So the Local Government (Financial Assistance) Amendment Bill 2000 is the outcome of another GST driven process. Paradoxically, the outcome for local government from financial assistance grants under this government’s tenure is still very much a sore point, particularly among local councils in regional and rural areas.

Local government is still suffering from government cost-cutting measures in 1997-98 which have cost local government millions. The $15 million cut in financial assistance grants in 1997-98 has never been recovered—and under the tight-fisted approach this government has taken to local government it never will be. If you multiply the 1997-98 funding cut by four years, it amounts to over $60 million, which equates, on average, to a loss of $87,000 per council over that period. This is certainly not an insignificant amount in my electorate of Braddon. The funding cuts have been felt across the nine municipal councils across the north-west coast of Tasmania.

Adding salt to this wound is the imposition of a GST on local government. Make no mistake, there are significant set up and compliance costs for local government associated with the GST. At present, the government has made a paltry $2.5 million available nationally to try to help soften the impact on local councils. It is my understanding that New South Wales will get $626,000; Victoria, $360,000; Queensland, $535,000; Western Australia, $402,000; South Australia, $248,000; Tasmania, $125,000; and the Northern Territory, $214,000. That amounts to a grand total of around $2,000 per council to make them GST compliant. I suppose they should be grateful for that because if they were small business they would only get $200.

What is worse, as was revealed in the Senate estimates hearings last week, this government has been holding out on local councils. An extra $1 million was allocated, but it has not been handed over yet. Asked if he had asked any of the councils how much the GST implementation was going to cost, the minister replied:
I don’t think so, I do not think too many councils have raised the issue with me.
That is extraordinary. But should we be really surprised that the minister, or this government for that matter, does not seem too interested? For their interest, in my electorate it has been estimated the GST has so far cost local councils more than $500,000, and there is plenty of anecdotal evidence that many councils are still unsure of how to apply the new tax. For state governments to withhold FAGs payments due to GST non-compliance in light of the lack of information and financial support for local government to implement the GST would be an extreme punishment.

The GST dilemma facing local councils was recently highlighted in the local media in my electorate. One council administrator was quoted in the Advocate newspaper as saying:
The Coast would have lost more than $500,000 in productivity costs.
Another said his council was unable to estimate how much compliance costs would be, but the costs would certainly outweigh the savings. He said, and I quote again:
The level of savings will not be significant and we have been involved in a never-ending run of meetings to determine where we are going with the GST.

Another local council manager in my electorate was quoted as saying:

It is such a complicated issue that a true indication might not appear for some time.

I would have thought administration at local government level was difficult enough as it is, particularly in real terms, but to have the compliance costs, the compliance regulations and the demands on top of this, and the lack of clarification in terms of the GST, is galling. I thought the GST was supposed to be a simple tax. An accountant from another of my local councils said the main issues were a lack of clarification and vague information from the federal government. ‘Lack of clarification and vague information.’ That has a familiar ring to it. It is the hallmark of the GST.

This government certainly has not made the GST easy for anyone, let alone local councils. We heard from the ACCC last week that municipal rates should not go up. It sounds a little like petrol prices need not rise, or beer prices will not rise, or the plethora of other GST broken promises. It no doubt is getting harder and harder for the ACCC to justify the impact the GST is going to have, and I believe it is inappropriate in this case for it to be an apologist for the government’s new tax on local councils. Councils raise revenue from ratepayers for the ever increasing number of services they provide. The ACCC is a price regulator, not a tax regulator, so how can it say council rates and/or services should not rise? We will have to wait and see.

The government’s attitude towards local government, as we have seen through declining financial assistance grants, and as we are about to see with the introduction of the GST, gives no cause to suggest it cares too much about municipal government. Financial assistance grants make up around 65 per cent of local councils’ budgets, and municipal rates barely cover the cost of the multitude of services they provide. Therefore, the reality is that the less that is made available in financial assistance grants, the more likely it is that ratepayers will be slugged.

There is also an issue of equity under the Financial Assistance Grants Scheme, and local government may well argue that it is getting the thin edge of the wedge. The slow and steady decline of financial assistance grants from the Commonwealth to local government continues. In essence, this bill proposes the continuation of the existing practice whereby the official assistance grants to local councils remain indexed to population and inflation. How does that equate to a fair deal for local councils in regional areas where there is a population decline at a time when the national economy is in a period of taxation revenue growth? It means local government funding under the present structure will continue its decline in real terms. The bill does nothing to overcome the problem of no real growth in the level of assistance. The question of equity, particularly in rural and remote areas, begs the issue of a different type of mechanism to take that into account. I know the member for the Northern Territory has long advocated horizontal fiscal equalisation for remote and isolated municipal areas and, no doubt, will elaborate on that a little later.

While I do not oppose the bill, I reiterate that this government stands condemned for the reduction in financial assistance grants funding of $15 million over the past four years, its lack of any commitment to provide real growth in financial support for local government and its lack of financial support and information for the local government sector in implementing the GST. But what of the budget and its implication for local government? It is probably best summed up by the response from the Australian Local Government Association representative of local councils around Australia. The association had an expectation, as did regional Australia generally, that there would be something in the budget for them. In fact, in its official response to the budget, the Local Government Association said:
This budget was sold as a budget to assist rural and regional Australia. Its response was best summed up, however, in just five words when it said:

There is no new money.

To say that local government was disappointed with the outcome is an understatement. Yet, on the face of it, the budget package for regional and rural Australia looked promising, with an allocation of $1.83 billion, albeit over four years. But all is not what it seems. It is typical of the smoke and mirrors approach to governance that we are all becoming accustomed to from the coalition. For example, of the package, $500 million has been earmarked for the Fuel Sales Grants Scheme—half a billion dollars, well over a quarter of the total package for rural and regional Australia, earmarked for compensation for the impact of the GST on petrol prices. Local government can only ponder how it could have better used that money. No doubt it would have used the money to improve Australia’s deteriorating rural road network. After all, it warned the coalition prior to the budget that the rural roads network was on the verge of collapse and pleaded for the funds in its final submission for road funding. But what did it get? Nothing—not one cent for regional infrastructure. The Australian Local Government Association President, Councillor John Ross, said:

The Prime Minister has acknowledged the need for renewed infrastructure and yet his Government fails to deliver the necessary resources on Budget night.

He went on to say:

Once again the third sphere of government is disappointed. Imagine his dreadful disappointment at the waste of taxpayers’ money—now well over $400 million and still counting—being wasted in this government’s advertising propaganda campaign. (Time expired)

Mrs MOYLAN (Pearce) (12.43 p.m.)—Within the boundaries of the electorate of Pearce there are 11 local government authorities. Seven of these represent country towns and areas; most of the others represent a mix of urban and regional areas. These areas grow a significant amount of produce for domestic and export markets. The pink lady apple, for example—which I am sure you would all have had the great pleasure of eating and enjoying—was developed in the southern part of my electorate by Illawarra orchards, which last year celebrated 100 years in orcharding. The electorate grows pears, stone fruits, grapes, dried fruits, olives, passionfruit, nuts and flowers. The broadacre farming areas of the electorate produce a significant amount of wheat, canola, hay, sheep for wool and meat, cattle, marron and yabbies. We have one of the most famous goat cheese producers in Australia, Kervella, and in the north of the electorate we have a major export crayfishing industry. Most of these industries are significant exporters doing their bit to help address the balance of trade figures.

In speaking on the Local Government (Financial Assistance) Amendment Bill 2000, I paint this sketch to show the great diversity of the electorate—which also provides much of the produce for the metropolitan areas of Perth—and to give some idea of the magnitude of infrastructure required to maintain such productive farming and industry. Roads, water supply, conservation and protection of the environment, tourist facilities, housing and land development all highlight the massive task of local government authorities in my electorate.

Since being elected in 1993 I have worked closely with local authorities in the electorate, and I have found elected and non-elected officers to be capable and committed to the development of their communities. In fact, there has been a great deal achieved by recognising the need for new and vigorous development to stimulate employment opportunities, resulting in some of the country towns in my electorate experiencing growth. I have to say in response to the member for Braddon that the Howard government has made a significant contribution to improved local government operation, not only through increased
direct funding for local governments but also through many programs that have been put in place.

The rural health program, black spot road funding, which has been restored under the Howard government, and the Green Corps and Work for the Dole programs have significantly benefited the country shires. This was brought home to me last Friday when once again I travelled to a graduation of people in the Green Corps program. At that graduation there were a large number of people from the town and shire of Gin Gin who had made a significant contribution to the program, and we saw the results of the work of seven fantastic young people who had volunteered their time for six months of training and contribution in the Green Corps. They had worked with volunteers from the local community to clean out a very beautiful part of the Gin Gin brook and to restore the environment there. It is not just the direct funding that the Howard government has given, increasing the local government grant pool, but also that indirect funding that is so important to the infrastructure and the development of these communities.

This bill is to do with arrangements for the transition to the new tax system which are of great interest to local government in my electorate of Pearce. The amendments relate to the new tax system and make tax reform related amendments and procedural amendments to the Local Government (Financial Assistance) Act 1995. The main feature of the bill is that local government general-purpose assistance will continue to be indexed to population and inflation factors.

Under the current system, as most people would understand, local government assistance is broken into two payments: financial assistance grants and road funding. It is instructive to examine briefly the history of local government funding, as there have been considerable changes over the years and the funding in the past has not always been good news for local government. I think that local government has been very much the winner under the Howard government, for the reasons I have just outlined.

General purpose assistance was administered through the states until 1976. Under the 1974-75 provisions, the Commonwealth Grants Commission determined the size and distribution of the grants to local government. Changes made in 1976 to the Local Government (Personal Income Tax Sharing) Act specified that a percentage of net personal income tax revenue from the previous year should go to local government. Based on horizontal equalisation, the percentage received by local government was varied.

After a national inquiry in 1984, called to review local government tax sharing arrangements, these arrangements were scrapped and the Local Government (Financial Assistance) Act 1986 was introduced. Funding then took into account growth of local government general revenue, tying it to growth in general purpose funding to the state governments. There is provision in the Local Government (Financial Assistance) Act for growth, with linked indexation for population growth and the change in the consumer price index at state level. This ensures that local government assistance is maintained on a real per capita basis.

Under the new tax system, the Commonwealth will no longer pay financial assistance grants to the states. As my colleague the member for New England pointed out, even the Labor premiers—and in this case the Labor Treasurer in New South Wales, Michael Egan—have highlighted the benefit to the states, and to local government in particular, of the new tax system:

The old system will be replaced with revenue from the goods and services tax going to the states. This amendment ensures that the escalation factor for local government financial assistance continues on a real per capita basis for the previous year’s grants. The Treasurer will have some discretion to vary the escalation factor under certain circumstances. There are new definitions for the term ‘population of a state’ and ‘population of Australia’ to be used when causing an escalation factor to be calculated and when applying to the requirements for
estimates to be made by the Statistician on the basis of assumptions specified by the minister after consultation with the Statistician. Section 7(3A) requires the Treasurer, when making estimates regarding Australia’s population, to consult with the Statistician.

Financial assistance to the states will be based on the two components of general purpose funding and local road funding, as it now is. Because of the tax changes and under the Intergovernmental Agreement on the Reform of the Commonwealth-State Financial Relations, Commonwealth, state and local government and their statutory corporations will operate as if they were subject to the GST legislation. Clause 18 therefore requires the states and the Northern Territory to withhold financial assistance grants for local government authorities in breach of clause 17 of the agreement. A sum representing the amount of any paid voluntary or notional GST payments should be paid to the Commonwealth. I think that is quite a reasonable arrangement, given the changes to the tax and the benefit this will give not only to the states but to local government—in fact, to the whole community.

With the Commonwealth maintaining local government funding on a real per capita basis, my main concern rests with the manner in which the state grants commission works out the formula for the distribution of funding to local authorities. I think it is appropriate for me to raise that in this place as I have had a longstanding interest in this issue. In 1999-2000 the financial assistance grants allocation for some shires in my state and in my area decreased. This occurred despite the fact that many of these shires experienced strong population growth, adding greater pressure for infrastructure expenditure. There are social pressures on many country towns as low-cost housing attracts people who sometimes have much higher support needs than the rest of the population and an increasing number of older residents require appropriate accommodation and day-care services within the area in which they live.

Given that there was an overall increase in federal assistance grants by the Commonwealth to the states last year, this decrease in general purpose funding to some rural shires made it difficult for those shires experiencing rapid growth and the decrease simply could not be justified, especially when some areas received substantial increases in funding. In my electorate of Pearce, I met with the state grants commission to express my concern for the Shire of Gingin and other country shires. Gingin experienced a cut in general purpose funding of about 12½ per cent, which is a very significant amount. It occurred against the backdrop of high growth and the administrative challenge for this shire of having three major centres, including a popular coastal tourist centre, within the shire boundary.

Chittering lost a total—that is, combined general purpose and road funding—of 4.57 per cent, and Toodyay and York, which are both growth towns in my electorate, experienced total cuts of about 16 per cent through the allocation process administered through the state government and their grants commission. The level of reduced funding in these shires represents a significant blow to them.

The federal government increased federal assistance grants last year by $34.6 million. Although the new arrangement changed the funding formula—because that was the argument that was put to me in relation to urban councils—I maintain that there is still scope to improve the way that the formula is administered by the Grants Commission when they apply the formula used to disburse funding to local government in rural areas. That is necessary so that a fairer outcome can be achieved. I do not think they have quite got that formula right. I believe that under the previous way in which the Grants Commission was administered, they did sort that out, they did have a fair system and people were happy with it. I am not sure why they had to change it to the extent that they have. I do not buy the argument that because the federal government has made certain stipulations in relation to the funding of urban shires it should still affect the formula that determines the allocation to rural shires.
In this year’s budget local government is allocated $1.32 billion of federal government assistance, representing a four per cent increase, or $50.9 million, over the last year. In fact, local government has received increases totalling $158 million since the Howard government came to office. I think that is quite significant. The increase in this year’s local government funding includes a total spending on roads of $406.4 million. I would like to point out to this chamber, as well, that added to that is considerable funding just announced in the budget to my electorate for major roads, bridges and black spots, which is pretty important, as I said, to the development of these rural and regional areas. Councils have the responsibility for local roads and in country areas the maintenance of these roads is critical to safety, economy and accessibility.

Local government is also going to benefit from the last budget from the $4.5 million allocated for regional development programs, and these are very practical programs. I sincerely hope that the shires in my electorate, particularly rural shires and councils, get a better deal this year than they did last in terms of the state government grants commission allocation of this particular budget. Local authorities in my electorate do much more today than just provide roads, as they did in times gone by. The public expects much more in terms of infrastructure development, in the rubbish collection and disposal, in town planning, in environmental work, and in a host of other services that improve the quality of life for people living in and visiting the area. They are knowledgeable and they are sensitive to local issues, and they work under considerably more pressure than they have done in the past.

Elected members of local government are not salaried. Most hold full-time jobs or run businesses. I know that differs from other parts of Australia but, certainly where I come from, that is the case. They are there on an honourary basis and they give that service on a voluntary basis to their community. Many of them have served their communities for many years. I think that we too often hear too much local government bashing and we hear them talked about as the poor relations. I think they are the most important part of government in that they are at the grassroots. They are in touch with their communities. They know what is going on and they are an enormously valuable tier of government. I do not think that we need to make distinctions which give them a lesser value than either state or federal governments. I think they do play a very important role, sometimes under the most difficult conditions.

I know, speaking to some of my local government non-salaried officers, that it is much more demanding today. They are feeling the pressures of the many issues they have to deal with—some quite sophisticated issues—within their community, as I am sure all of us in any area of government sense today. But they are across the local issues. They are generally very conscientiously endeavouring to look after the interests of the areas under their administration. Without exception, all the local governments within Pearce work constructively to meet the needs of their communities.

These amendments are important to local government, ensuring that at the federal level the real value of the grants is maintained. I particularly look forward to continuing to work with local government authorities in Pearce to ensure that they get a fair share of funding through the allocation of the states grants commission so that we can go on to continue to build on the tremendous projects that have been initiated within my electorate over the last few years—certainly, since I have been there. I was at Northam the other day and they have many projects in the pipeline that will increase the economy and job opportunities and ensure that the region has a viable future for many years to come.

Debate (on motion by Mr Wakelin) adjourned.

Main Committee adjourned at 1.00 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**International Criminal Court: Rome Statute**  
(Question No. 1302)

**Mr McClelland** asked the Minister for Foreign Affairs, upon notice, on 4 April 2000:

1. What is the effect of the Rome Statute of the International Criminal Court.
2. When did Australia sign the Rome Statute.
3. Has Australia ratified the Rome Statute.
4. How many countries have ratified the Rome Statute, and which countries are they.
5. How many countries are required to ratify the Rome Statute before it enters into force.
6. What is the reason for the delay in Australia ratifying the Rome Statute.

**Mr Downer**—According to records held by the Department of Foreign Affairs and Trade, the answer to the honourable member’s question is as follows:

1. The Statute of the International Criminal Court, when it enters into force, will establish the International Criminal Court as an international organisation with legal personality based in The Hague. The Statute provides for an Assembly of States Parties to meet following its entry into force to approve the necessary administrative arrangements for the Court’s functioning and to bring the Court into relationship with the United Nations. The Court, once established, will be a permanent international tribunal to investigate and prosecute allegations of crimes of most serious concern to the international community (i.e., genocide, crimes against humanity, war crimes and the crime of aggression) that have not been, or are not being, legitimately investigated or prosecuted by a national jurisdiction. The Court will only have jurisdiction over the crimes specified in the Statute, and then only if committed by a national or on the territory of a State Party or of a State specifically accepting the jurisdiction of the Court over the crime in question. Under the Statute, the Court may exercise jurisdiction when a matter is referred to the Prosecutor or by a State Party, or the Security Council acting under Chapter VII of the United Nations Charter, or through the initiation of an investigation by the Prosecutor. A fundamental aspect of the jurisdictional regime in the Statute is that the Court shall be complementary to national jurisdictions. This means that, even if the Court has jurisdiction over a case, the case is only admissible if the case is not being or has not been legitimately investigated by a national jurisdiction.

2. 9 December 1998.
3. No.
4. Nine: Belize, Fiji, Ghana, Italy, Norway, San Marino, Senegal, Tajikistan and Trinidad and Tobago.
5. Sixty.
6. The Government announced on 12 December 1999 that Australia would ratify the Statute. Before this action can occur, implementing legislation must first be in place. Given the complexity of the Statute, and the seriousness of the obligations Australia will be assuming upon ratification, a very deliberate and consultative process is being undertaken in the development of this legislation. The intention of the Government is, however, to ratify the Statute as soon as practicable.

**International Union for the Conservation of Nature: Australian Delegates**  
(Question No. 1360)

**Mr Hollis** asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 5 April 2000:

1. To which International Union for the Conservation of Nature (IUCN) General Assemblies has Australia sent delegates since the meeting held in Buenos Aires from 17-26 January 1994.
2. Will the Minister provide information on the subsequent meetings corresponding to the information provided by the Minister’s predecessor in answers to question No. 885 (Hansard, 5 May 1994, page 394) and No. 923 (Hansard, 5 May 1994, page 396).
3. Has Australia accepted the invitation to the IUCN World Conservation Congress in Amman, 4 to 11 October 2000); if so, what are the names, qualifications and positions of the Australian delegates.
Mr Truss—The Minister for the Environment and Heritage has provided the following answer to the honourable member’s question:

(1) Australia sent delegates to the IUCN World Conservation Congress in Montreal, Canada from 13 – 23 October 1996.

(2) I refer you to the reply of the similar Question on Notice No 923 of Thursday 5 May 1994 from Mr McGauran. The Department of the Environment and Heritage, which is the Australian State member of IUCN, sent 2 delegates to the IUCN World Conservation Congress in Montreal, Canada from 13 – 23 October 1996. Another officer attended as a delegate from 16-20 October 1996 while in Montreal for another meeting which covered the relevant costs. These officers were from the Australian Nature Conservation Agency (ANCA), which is now Biodiversity Group, Department of the Environment and Heritage (DEH). In addition, the State and Territory Governments were represented by 4 delegates, and the Great Barrier Reef Marine Park Authority was represented by 1 delegate who attended another meeting en route.

Costs for the officers were as follows:

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<th>(GBRMPA)</th>
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<td>7,242.54</td>
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The officers from DEH were required to participate in General Assembly Plenary Sessions debate, contribute as appropriate to debate on the 129 draft motions, and participate in a series of workshops on a range of topics related to IUCN. Officers were chosen according to their level of background knowledge and experience in Australia’s involvement in IUCN, their knowledge of Australian and international environmental issues and their experience in international environmental negotiations generally. The number of DEH officers was the minimum required to achieve an adequate and coordinated Australian involvement in the General Assembly.

Detailed briefing on all draft resolutions and plenary agenda items was prepared by DEH in consultation with relevant Commonwealth Government Departments and Agencies.

All issues before the General assembly were dealt with by the Australian Government delegation in accordance with existing Government policy therefore no cabinet approval was required.

Authorisation for the delegation to Montreal was provided by the Secretary of the Department of Environment and Heritage.

There were 129 significant motions. The vast majority of these were submitted by non government agencies and were essentially directed at particular global issues (such as climate change, the sustainable use of wildlife, indigenous peoples issues, fisheries), and at issues in a specific region or countries. There were a number of resolutions in this category from Australian NGO’s on the topics of Australian Forests, Forest conservation in Tasmania, Hinchinbrook, Cape York Peninsula, Kakadu, and Dugongs.

(3) Formal acceptance of the invitation to the IUCN World Conservation Congress in Amman 4 to 11 October 2000 is currently being processed. The composition of the delegation is yet to be finalised.

Parrish Meats Supplies Pty Ltd: Liquidation

(Comment No. 1439)

Mr Hollis asked the Minister for Financial Services and Regulation, upon notice, on 13 April 2000:

(1) Has his attention been drawn to the placement in liquidation in August 1999 of Parrish Meats Supplies Pty Ltd at Yallah, NSW.

(2) Has his attention also been drawn to the corporate identities South Coast Bulk Carriers Pty Ltd and Obnora Pty Ltd; if so, what is their current status.

(3) Has the Australian Securities and Investments Commission (ASIC) been approached to investigate the liquidation of Parrish Meats Supplies Pty Ltd, South Coast Bulk Carriers Pty Ltd and Obnora Pty Ltd; if so, (a) who made the approaches and (b) what was the response of ASIC.
(4) Has ASIC investigated the corporate activities and directorships of Mr Colin Lord.
(5) Was there a prosecution of directors associated with Direct Acceptance Corporation Pty Ltd and Drum Reconditioners Pty Ltd; if so, (a) when was the prosecution undertaken and (b) what was the result.
(6) How many companies does Mr Lord own or have a directorship interest in, and what is the current status of those corporate entities.
(7) Will he direct ASIC to investigate the liquidation of Parrish Meats Supplies Pty Ltd, South Coast Bulk Carriers Pty Ltd and Obnora Pty Ltd; if not, why not.

Mr Hockey—The answer to the honourable member’s question is as follows:

(1) Yes. My office is aware of press reports relating to the liquidation of Parrish Meats Supplies Pty Ltd, and I am aware of statements made in the House by the honourable member regarding Parrish Meats Supplies Pty Ltd on 10 April 2000.
(2) No.
(3) In response to this question, ASIC has advised of the following information:
Parrish Meat Supplies Pty Ltd
(a) ASIC received a report from the company’s administrator (Mr Roderick Sutherland) which outlined a range of alleged offences.
(b) An initial assessment was made of the report from the company administrator. ASIC is awaiting the report from the company’s liquidator (pursuant to section 533 of the Corporations Law) before proceeding in this matter. As at this date the report from the liquidator has not yet been received by ASIC.
South Coast Bulk Carriers Pty Ltd
(a) Mr Michael Costa, Secretary, Labor Council of NSW.
(b) ASIC has concluded that the directors of the company, Mr Colin Lord and Mr Michael Parrish, are not persons eligible for administrative banning (pursuant to section 206F of the Corporations Law). ASIC does not intend to take any form of action against either director at this stage.
Obnora Pty Ltd
(a) ASIC has received no complaints in relation to this company.
(b) Not applicable.

(4) ASIC advises that it has investigated the corporate activities of Mr Colin Lord in relation to Parrish Meats Supplies Pty Ltd, South Coast Bulk Carriers Pty Ltd and Direct Acceptance Corporation Ltd.

(5) I am advised by ASIC that as a result of work undertaken by ASIC’s predecessor, the Australian Securities Commission (ASC), directors Mr Raymond Lord and Mr John Riordan were successfully prosecuted for various breaches of the NSW Companies Code in relation to companies including Direct Acceptance Corporation Ltd and Drum Reconditioners Pty Ltd.

In December 1994 Mr Raymond Lord was committed for trial on various charges relating to offences under the Companies Code. In November 1995, he pleaded guilty to these charges and in December 1995 was sentenced to 2 years 6 months in gaol.

In December 1994, Mr Hohn Riordan was committed for trial on various charges relating to offences under the Companies Code. In November 1995, he pleaded guilty to these charges and in December 1995 he was sentenced to 2 years 6 months in gaol.

(6) ASIC advises that the current status of corporations which Mr Colin Lord owns or has a directorship interest in is as follows:
- Brunning Investments Pty - registered company.
- Direct Acceptance Corporation Ltd - under external administration.
- Direct Acceptance Investments Pty Ltd - under external administration.
- Glowbade Pty Ltd - deregistered.
- Joal Investments Pty Ltd - registered company.
- Kinghorn Nowra Pty Ltd - registered company.
Leader Newspapers Pty Ltd - registered company.
Milulla Pty Ltd - registered company.
Mulroad Pty Ltd - registered company.
Norken Pastoral Pty Ltd - registered company.
Parrish Meats Supplies - under external administration.
Sid Parrish Pty Ltd - registered company.
South Coast Bulk Carcass - under external administration.
White Gates Investments Pty Ltd - registered company.
SKP Investments Pty Ltd - registered company.

(7) No. Details of action taken by ASIC in relation to these companies is outlined above. It would be inappropriate to interfere with ASIC’s consideration of any outstanding matters.

**Northern Territory: Community Recreation Officers**

*Question No. 1480*

Mr McClelland asked the Minister for Sport and Tourism, upon notice, on 9 May 2000:

(1) Is the Minister able to say what services operate in the Northern Territory which provide persons with assistance in organising or running sporting or recreational events, including the provision of community recreation officers.

(2) Where does each service operate.

(3) What are the particular services provided by each of the services.

(4) Who operates the services.

(5) What proportion of clients of each of the services identifies as Aboriginal or Torres Strait Islander.

(6) How many (a) full time, (b) part-time and (c) casual staff are employed in each of the services, and of the total staff, how many identify as Aboriginal or Torres Strait Islander.

(7) How many (a) full time, (b) part-time and (c) casual staff are employed in each of the services in areas related to the correctional services and justice, and of the total staff, how many identify as Aboriginal or Torres Strait Islander.

(8) What is the total allocation of financial resources provided for the services by the (a) Commonwealth and (b) Northern Territory.

(9) What is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by the (a) Commonwealth and (b) Northern Territory.

(10) What is the total per capita allocation of financial resources provided for the services by the (a) Commonwealth and (b) Northern Territory

(11) What is the total per capita allocation of financial resources provided for the services in areas related to the correctional services and justice by the (a) Commonwealth and (b) Northern Territory.

(12) What proportion of total expenditure by the Commonwealth is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by the Commonwealth.

(13) What proportion of total expenditure by the Northern Territory is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by the Northern Territory.

Miss Jackie Kelly—The answer to the honourable member’s question is as follows:

(1) No. The Commonwealth does not collate specific information on services operating in the Northern Territory that provide persons with assistance in organising or running sporting or recreational events, including the provision of community recreation officers. Assistance for sporting and recreational events (in particular community recreation officers) services is largely a Northern Territory and local government responsibility.

However the Commonwealth, through the Australian Sports Commission’s (ASC) Participation Division, has a Memorandum of Understanding with the Northern Territory Department of Sport and
Recreation to deliver agreed outcomes in relation to the implementation and support of Active Australia at the territory and local level. An annual schedule reflects target outputs in the areas of registration and recognition of Active Australia providers, Schools Network Providers, Local Council Network Members and public education. The ASC also provides funding to assist with the program delivery initiatives of the Northern Territory Coaching Centre and implementation of the Indigenous Sport Program.

(2)–(7) see response to Q (1)

(8) (a) In 1999-2000 the Commonwealth, through the Australian Sports Commission provided the following funding to the Northern Territory:

- $182,666 to implement and support Active Australia initiatives;
- $20,000 to assist with the program delivery initiatives of the Northern Territory Coaching Centre; and
- $257,433 under the Indigenous Sport Program.

(b) not available.

(9) – (13) see response to Q (1)

**Western Australia: Community Recreation Officers**

(Question No. 1482)

**Mr McClelland** asked the Minister for Sport and Tourism, upon notice, on 9 May 2000:

(1) Is she able to say what services operate in Western Australia which provide persons with assistance in organising or running sporting or recreational events, including the provision of community recreation officers.

(2) Where does each service operate.

(3) What are the particular services provided by each of the services.

(4) Who operates the services.

(5) What proportion of clients of each of the services identifies as Aboriginal or Torres Strait Islander.

(6) How many (a) full time, (b) part-time and (c) casual staff are employed in each of the services, and of the total staff, how many identify as Aboriginal or Torres Strait Islander.

(7) How many (a) full time, (b) part-time and (c) casual staff are employed in each of the services in areas related to the correctional services and justice, and of the total staff, how many identify as Aboriginal or Torres Strait Islander.

(8) What is the total allocation of financial resources provided for the services by the (a) Commonwealth and (b) Western Australia.

(9) What is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by the (a) Commonwealth and (b) Western Australia.

(10) What is the total per capita allocation of financial resources provided for the services by the (a) Commonwealth and (b) Western Australia.

(11) What is the total per capita allocation of financial resources provided for the services in areas related to the correctional services and justice by the Commonwealth and (b) Western Australia.

(12) What proportion of total expenditure by the Commonwealth is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by the Commonwealth.

(13) What proportion of total expenditure by Western Australia is the total allocation of financial resources provided for the services in areas related to the correctional services and justice by Western Australia.

**Miss Jackie Kelly**—The answer to the honourable member’s question is as follows:

(1) No. The Commonwealth does not collate specific information on services operating in Western Australia that provide persons with assistance in organising or running sporting or recreational events, including the provision of community recreation officers. Assistance for sporting and recreational...
However the Commonwealth, through the Australian Sports Commission’s (ASC) Participation Division, has a Memorandum of Understanding with the Western Australian Ministry of Sport and Recreation to deliver agreed outcomes in relation to the implementation and support of Active Australia at the state and local level. An annual schedule reflects target outputs in the areas of registration and recognition of Active Australia providers, Schools Network Providers, Local Council Network Members and public education. The ASC also provides funding to assist with the program delivery initiatives of the Western Australian State Coaching Centre and implementation of the Indigenous Sport Program.

(2) – (7) see response to Q (1)

(8) (a) In 1999-2000 the Commonwealth, through the Australian Sports Commission provided the following funding to Western Australia:

- $334,830 to implement and support Active Australia initiatives;
- $20,000 to assist with the program delivery initiatives of the Western Australia State Coaching Centre; and
- $321,791 under the Indigenous Sport Program.

(b) not available.

(9) – (13) see response to Q (1)

Asia-Pacific Region: Death Penalty
(Question No. 1491)

**Mr Melham** asked the Minister for Foreign Affairs, upon notice, on 9 May 2000:

(1) Is he able to say in which countries and territories in and around the Pacific and Indian Oceans the death penalty can be imposed.

(2) Is he also able to say in which states and territories referred to in part (1) the death penalty is still carried out.

**Mr Downer**—The answer to the honourable member’s question is as follows:

(1) The Australian Government is universally and consistently opposed to the use of capital punishment in any circumstances. Australia consistently raises its opposition to the use of the death penalty with all countries employing capital punishment. More than half the countries in the world have now abolished the death penalty either in law or practice. According to Amnesty International, there are still 90 countries in which the death penalty can be imposed. Those in the Asia-Pacific region in which the death penalty can be imposed are shown in the following table.

<p>| <strong>COUNTRIES IN THE ASIA-PACIFIC REGION IN WHICH THE DEATH PENALTY CAN BE IMPOSED</strong> |
|---------------------------------|---------------------------------|---------------------------------|
| Afghanistan                     | Lesotho                         | Somalia                         |
| Bahrain                         | Malawi                          | South Korea                     |
| Bangladesh                      | Malaysia                        | Swaziland                       |
| Chile                           | Myanmar                         | Taiwan                          |
| China                           | North Korea (1)                 | Tanzania                        |
| Comoros                         | Oman                            | Thailand                        |
| Eritrea                         | Pakistan                        | Uganda                          |
| India                           | Philippines                     | UAE                             |
| Indonesia                       | Qatar                            | United States                   |
| Iran                            | Russia                          | Vietnam                         |</p>
<table>
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<tr>
<th></th>
<th>Iraq</th>
<th>Rwanda</th>
<th>Yemen</th>
<th>Laos</th>
<th>Saudi Arabia</th>
<th>Singapore</th>
<th>Zambia</th>
<th>Zimbabwe</th>
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</table>

Source: *Amnesty International USA Annual Report 1999*

Notes:

1. Amnesty says several executions were reported to have been carried out, but independent confirmation was unavailable because of government restrictions on access.