## CONTENTS

### CHAMBER HANSARD

Ministerial Arrangements .................................................................................. 18295

Questions Without Notice—
- Goods and Services Tax: Petrol................................................................. 18295
- Australian Society: Fairness ....................................................................... 18295
- Goods and Services Tax: Business Preparedness ..................................... 18296
- Goods and Services Tax: Petrol Prices ...................................................... 18297
- Australian Defence Force: Government Policy ......................................... 18297
- Goods and Services Tax: Petrol Prices ...................................................... 18298
- Tax Reform: Benefits .................................................................................. 18298
- Taxation: Government Policy .................................................................... 18299
- Goods and Services Tax: Fuel Excise ........................................................ 18301
- Workplace Relations: Secondary Boycott Policy ...................................... 18302
- Goods and Services Tax: Petrol Prices ...................................................... 18303
- New Apprenticeships .................................................................................. 18303
- Goods and Services Tax: Fuel Excise ........................................................ 18304
- Farm Help Program .................................................................................... 18305
- Goods and Services Tax: Business Cost Savings ...................................... 18305
- Employment: Unfair Dismissal Law .......................................................... 18306
- Goods and Services Tax: Petrol Prices ...................................................... 18307
- Banking: Elders Rural Bank ....................................................................... 18307

Personal Explanations ....................................................................................... 18308

Questions to Mr Speaker—
- Questions on Notice .................................................................................. 18308
- Parliamentary Library ................................................................................ 18309
- Parliament: In Camera Proceedings .......................................................... 18309

Papers ................................................................................................................ 18310

Matters of Public Importance—
- Goods and Services Tax: Petrol Prices ...................................................... 18310

Main Committee .............................................................................................. 18319

Matters ReferRed to Main Committee............................................................. 18319

Corporations Law Amendment (Employee Entitlements) Bill 2000—
- Consideration of Senate Message .............................................................. 18320

New Business Tax System (miscellaneous) Bill 1999—
- Consideration of Senate Message .............................................................. 18320

Indirect Tax Legislation Amendment Bill 2000—
- Consideration of Senate Message .............................................................. 18320

Committees—
- Selection Committee ................................................................................ 18320
- Report .......................................................................................................... 18320
- Public Works Committee .......................................................................... 18321
- Report .......................................................................................................... 18321

Workplace Relations Amendment (Termination of Employment) Bill 2000—
- First Reading .............................................................................................. 18323
- Second Reading ......................................................................................... 18323

Compensation Measures Legislation Amendment (Rent Assistance Increase) Bill 2000—
- First Reading .............................................................................................. 18326
- Second Reading .......................................................................................... 18327
CONTENTS—continued

Product Stewardship (Oil) Bill 2000,
Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000,
Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000 and
Product Stewardship (Oil) (Consequential Amendments) Bill 2000—
  Second Reading ................................................................. 18327
  Third Reading ................................................................. 18341
Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000—
  Second Reading ................................................................. 18341
  Third Reading ................................................................. 18341
Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000—
  Second Reading ................................................................. 18341
  Third Reading ................................................................. 18341
Product Stewardship (Oil) (Consequential Amendments) Bill 2000—
  Second Reading ................................................................. 18341
  Third Reading ................................................................. 18341
Copyright Amendment (Digital Agenda) Bill 1999—
  Second Reading ................................................................. 18341
  Consideration in Detail ......................................................... 18379
Adjournment—
  Child Support Agency: Client Confidentiality ................................. 18379
  Education: Funding for Government Schools .................................. 18380
  Geelong Football Club: Mr Gary Hocking and Mr Tim McGrath ........ 18381
  Cook Electorate: Sutherland to Surf Race ..................................... 18382
  Gellibrand Electorate: Local Artists .............................................. 18383
  National and Cultural Identity .................................................... 18383
Notices ..................................................................................... 18384

QUESTIONS ON NOTICE
  No. 1204—Repatriation Pharmaceutical Benefits Scheme: Entitlements ... 18387
  No. 1205—Repatriation Pharmaceutical Benefits Scheme: Available
    Medications ........................................................................ 18387
  No. 1432—Telstra: Retail Outlet Expansion ...................................... 18388
  No. 1506—What Works Report: Recommendations ......................... 18389
  No. 1554—Sri Lanka: Internal Conflict ......................................... 18390
  No. 1576—Iran: World Bank Loan .............................................. 18390
  No. 1583—Parthenon Marbles .................................................... 18391
  No. 1588—Canning Electorate: Unemployment Rates ....................... 18391
  No. 1595—Sudan: Civil War .................................................... 18391
Mr HOWARD—I have, in fact, had my attention drawn to calls for greater fairness. Amongst the pieces of paper that have come across my desk in the last couple of hours is a speech by the Leader of the Opposition to the union movement at Wollongong. The Leader of the Opposition was in full flight about issues of fairness. The Leader of the Opposition went on, page after page, about how a Labor government would bring back fairness to Australian society.

Those sorts of claims seem, to many of us on this side of the House and, I dare say, to a great number of the Australian population, very strange indeed. They might well ask what was fair about driving unemployment to 11.2 per cent. They might well ask what was fair about driving interest rates to 23 per cent. The people he addressed might well have asked him what was fair about cutting the real wages of Australian workers during the 13 years that Labor were in government. They might well ask what was fair about promising l-a-w law tax cuts and then dumping them. They might well ask what was fair about increasing the price of petrol by 6c a litre, without warning and without compensation. They might ask what was fair about burdening our children with $96 billion of national debt and then trying, at every turn, to obstruct the efforts of a newly elected government to lift that debt burden from the shoulders of our children.

Finally, they might well ask what is fair about a party that is committed to giving the trade union movement of this country a privileged position under the laws of Australia. The industrial relations policy of the Australian Labor Party would repeal the secondary boycott laws, wind back the way in which the laws of this country have been made to apply equally to all sections of the Australian community, and provide to the unions of Australia a privileged position under the laws of Australia. I believe that when the great bulk of the Australian people hear the word ‘fairness’, the last man and the last party they would associate that with is the Leader of the Opposition and the Australian Labor Party.
Goods and Services Tax: Petrol
Mr BEAZLEY (2.06 p.m.)—I ask the Prime Minister again, because he did not answer: will the government collect more tax from each litre of petrol sold after Saturday than is the case today?

Mr HOWARD—I have nothing to add to what I have said.

Goods and Service Tax: Business Preparedness
Ms GAMBARO (2.06 p.m.)—My question is addressed to the Prime Minister. Has the Prime Minister seen any recent reports of the attitudes and readiness of business to the introduction of the new tax system on 1 July?

Mr HOWARD—As we have only a few days to go before the introduction of the new taxation system, I know that those who sit opposite are again scrounging the highways and byways of Australia to find some kind of evidence or some kind of support for their two-year-long campaign to create obstruction and confusion and to sow doubt in the minds and the attitudes of the Australian people. The news for the Australian Labor Party, despite their best efforts, is not good. As we get closer to 1 July, more and more people are beginning to understand that the campaign run by the Australian Labor Party has been the most negative campaign in post World War II Australian political history.

When a government has the courage to do the right thing by the nation, it is very easy to run a negative campaign. You can start a hare running, you can tell a lie and you can distort the reality of the situation, which is precisely what those who sit opposite have done. The reality is that, as we get closer, more and more Australians are realising that the new taxation system is not only good for them but it is also good for Australia. It is good for Australia because it will reduce income tax for all Australian taxpayers. It is good for Australia because it will leave Australian families better off. It is good for rural Australia because it will deliver a 24c a litre reduction in diesel excise. It will provide cheaper fuel costs for the rural people of Australia. It is good for Australian exporters, and it is good for Australian business. Increasingly, Australian business is recognising the benefits of the new taxation system. For example, a press release today from the Australian Industry Group and PricewaterhouseCoopers said: Contrary to reports of gloom about current and prospective business conditions, manufacturing companies do not appear unduly pessimistic about growth prospects in the post-GST period. The report goes on to express a sense of hope and optimism about the economic future of Australia. I know that is disappointing to the Labor Party. All the Labor Party wants is gloom, doom and disappointment because it thinks that if it talks the economy down long enough and hard enough it will succeed. But the Australian people are determined not to be deceived by that. The Australian people know that this government has been willing to embrace with courage far-sighted economic reforms. Those reforms will strengthen the Australian economy, those reforms will make Australians better off, and those reforms will be seen in the fullness of time—and I believe certainly by next year—as reforms which do the government great credit and do the Labor Party great discredit for having tried to stop them.

You may sit there with your smug, complacent smirking responses today, but as these reforms work their way through the Australian community month after month—as Australian taxpayers benefit from the tax reforms; as the states of Australia realise that we are underwriting their capacity to provide more resources for roads, schools, hospitals, and police; as Australian exporters reap the benefits of GST exports; as Australian business reap the benefits of lower costs to the tune of $7 billion a year; as those benefits spread through the Australian community more and more—the people of Australia will remember that we fought for those reforms; and they will remember that you tried to stop them.

As time goes by, despite any temporary truculence you may experience along the way, nothing can alter the fact that the Australian people have enough commonsense to know a decent, committed, reformist government when they see one, and that is the government that I am proud to lead. We have
attempted reforms that you know in your heart are right. You know that tax reform is necessary, just as you knew that privatisation was necessary. You pretend to the people now that you would not privatisate Telstra but, if you became Prime Minister, you would do so, just as you did in relation to the Commonwealth Bank.

And so it is, as time goes on, that more and more of the business community of Australia recognise the benefits of these reforms. A media release from Hayes Knight, accountants, indicated that 90 per cent of businesses are ready for the GST. They said:

There is no doubt that, in time, the new tax system will create a better business environment. Equally, it is understood that there will be some headaches in the transition.

Of course there will be some transitional difficulties—we have never denied that—but the bottom line, as indeed for all business organisations, is that this is a reform, courageously undertaken by this government, which is good not only for Australians but for the entirety of the Australian nation.

Goods and Services Tax: Petrol Prices

Mr CREAN (2.13 p.m.)—My question is to the Prime Minister. Are you aware that, according to page 5-15 of Budget Paper No. 1, the excise your government currently collects on petrol is 35.78c per litre? Isn’t it the case that on Thursday you announced that, from Saturday, the new excise will be 37.48c per litre, a rise of 1.7c per litre? Prime Minister, haven’t you increased the Commonwealth tax rate on every litre of petrol by 1.7c per litre?

Mr HOWARD—I will look at the budget paper. I never take for granted anything you say about anything. It is always a very wise precaution. I will have a look at the budget paper, but all of these questions are asked in the context of the excise arrangements that were announced by the Acting Treasurer last Thursday. Those excise arrangements are based on a straight cut in excise and also the arrangement for the pass through of cost savings. It remains our view that all of the cost savings that are available should be passed through. We expect companies to pass them through promptly. We expect companies to anticipate cost savings, and we do not believe that oil companies are an exception to that rule.

Australian Defence Force: Government Policy

Mrs GASH (2.14 p.m.)—My question is addressed to the Prime Minister. Would the Prime Minister inform the House of the recent moves by the government to consult the people of Australia on the future shape of Australia’s Defence Force?

Mr HOWARD—I thank the honourable member for Gilmore for that question. The honourable member for Gilmore is one of those many members on this side of the House—and I know there are many on the other side—who take a very keen interest in the defence needs of Australia. This morning I had the opportunity of launching the Defence discussion paper. The launch was attended by my colleagues the Minister for Defence, the Minister for Foreign Affairs, the Minister for Veterans’ Affairs and also by the shadow minister, the member for Cunningham. This particular discussion paper represents a first in policy formulation in the defence area in this country. It is a discussion paper that is designed to involve the people of Australia in the formulation of our defence policy. There will be a very extensive public consultation process facilitated by an expert group led by Andrew Peacock, a friend and former colleague who is the former and, might I say, very exemplary Ambassador to the United States—a man who did a very fine and talented job in Washington on behalf of the Australian people. His contribution to the diplomatic life of Washington is still very well and very fondly remembered.

This discussion paper is designed, as I say, to involve the Australian people in the process of building defence policy. We do not take the view that defence policy is something that can be handed down like a tablet from a mountain; we take the view that the Australian people are entitled to feel ownership of it and are entitled to be involved in the consultation process. The discussion paper encourages discussion in four main areas: Australia’s current and strategic environment and interests; the reform process and efficiency within Defence; current
I want to express my thanks to the Minister for Defence for the leadership that he has displayed in relation to his department and in the defence community generally. He has been the driving force behind this discussion paper and the driving force behind the whole consultation process. I look forward most warmly to the consultation process. The Minister for Defence and I will involve ourselves in that as is appropriate at various stages. I indicated this morning when I launched the discussion paper something that I have indicated on a number of other occasions, that is, that I believe that, in the changed strategic environment in which Australia operates, the time has come when this country must spend more rather than less on defence provision. That is a view that I hope is shared by the opposition and I hope it is a view that is shared within the Australian community. We do live in a different strategic environment. The world has changed a great deal, particularly in our region. I believe there is a heightened interest in the Australian community in debate on defence and defence issues. I think the release of this discussion paper is both appropriate and timely, and I look forward to the response of the Australian public and, ultimately, the development of a white paper on the future defence needs of Australia.

Goods and Services Tax: Petrol Prices

Mr PRICE (2.18 p.m.)—My question is to the Prime Minister. Prime Minister, will you confirm that the 6.7c per litre reduction in petrol excise will cost the budget $2.2 billion in the financial year 2000-01? How much revenue do you estimate will be raised by the GST on petrol over the same period? Is it more than $2.2 billion?

Mr HOWARD—I can only repeat what I said earlier. This is a debate about the GST on petrol and the compensatory arrangements that have been introduced by the government, which are in two elements. One of them is the straight cut in excise; the other is a passing on of cost savings. I have explained that ad nauseam. You know that is the answer. I wonder why you asked the question.

Tax Reform: Benefits

Mrs VALE (2.19 p.m.)—My question is addressed to the Minister for Finance and Administration representing the Treasurer. Would the Acting Treasurer detail to the House any new analysis which confirms the benefits of the new tax system for the Australian economy?

Mr FAHEY—Members of the House and, I am sure, the honourable member for Hughes would be aware that many organisations have identified the significant benefits to Australia which result from the taxation reforms—benefits such as improving our indirect taxation arrangements and cutting company tax, capital gains tax and income tax. Access Economics has, for example, estimated that the government’s reforms will grow the economy and create nearly 200,000 new jobs. Moody’s Investors Service last week stated that: Australian tax changes, scheduled to begin in July, will stimulate growth.

Their sovereign analyst for Australia said:
I think the tax reform which will come into place in July is a positive step. It is positive in terms of economic efficiency. ... a tax structure which should encourage growth. In addition, the removal of the wholesale sales tax in July will lower the cost of exports and boost our export competitiveness.

Other international bodies have also endorsed the government’s tax reform package. The OECD, in its survey of the Australian economy which it released last December, stated:
Tax security will be better assured by a GST than by the indirect taxes it replaces.
And:
The reduction in marginal income tax rates and marginal effective tax rates will improve work and saving incentives.
That report concluded:
The introduction of a more efficient tax system in July should help to consolidate the productivity gains that are now being seen ... Last week a new report released by Citibank and Salomon Smith Barney also confirmed the significant benefits of tax reform which
will flow to Australian consumers and businesses. The report estimates that the level of economic growth is expected to increase by around 1.6 per cent in the longer term as a result of the government’s reforms. The report also predicts that the reforms will boost exports and investment—and we know that increased economic growth, increased exports and higher investment mean more jobs for Australians. In particular, the report notes that the indirect tax reforms will boost GDP through having more efficient indirect taxes, rather than the narrow and inefficient taxes such as the wholesale sales tax, bed taxes and financial institution duty. It also notes that indirect tax reforms will have the effect of lowering the cost of new business investment as a result, boosting the long run level of business investment. This report goes on to say that the government’s business tax reforms will also boost growth by treating entities, industries and assets more evenly for taxation purposes. Again the report states: This more level playing field should improve the quality of investment decisions and lead to a more effective use of capital. In addition, lower compliance costs are expected to flow from the reforms.

So, all in all, this report once again demonstrates the benefits of the government’s tax plan for all Australians.

**Taxation: Government Policy**

Mr ANDREN (2.23 p.m.)—My question is to the Minister for Agriculture, Fisheries and Forestry and relates to the potential impact of the integrity measures tax bill on genuine small primary producers. Minister, what assurances can you give that people like Robert Mcgregor of Duramana near Bathurst, who does shift work at a local pet food factory earning $50,000 per year to help develop a 250-acre cattle property valued at $225,000, will not be reduced, as he says, to being a ‘mere lifestyle/hobby farmer’ when he is demonstrably a dedicated and experienced third generation farmer improving a property valued well under the legislation’s $500,000 valuation, which according to the Valuer General, applies to just four per cent of rural properties in New South Wales.

Mr SPEAKER—The member for Calare must come to his question and not advance an argument.

Mr ANDREN—I will, Mr Speaker. Minister, why is your party supporting this bill as it stands?

Mr TRUSS—I obviously have no knowledge of the personal circumstances of the case referred to by the honourable member but, if he would care to provide me with some more details, I would be happy to investigate how the legislation may affect his particular circumstances. The reality is that in Australia we have never provided tax deductibility for hobbies. Those sorts of activities are perfectly worthwhile and honourable pastimes but they are not supported by the tax system. There have been occasions when people have been able to take advantage of various elements of the taxation laws to be able to in fact gain some taxation benefits from their hobbies that are not available to other taxpayers. This legislation is an endeavour to ensure that the benefits available for business, and indeed for farmers in business, are quarantined to those who are genuinely involved in their businesses rather than to people who might really be conducting a hobby.

As the Treasurer said, in answer to a similar question a week or so ago, there are a number of tests which need to be passed for someone to qualify for the tax benefits under the new arrangements. You only have to pass one of those tests. It is quite a generous system which will ensure that those people who have farm incomes, but for seasonal or other circumstances their incomes have fallen below what would normally be their expectations, are not adversely affected. It takes account of those people who are in a development phase in their properties—they will still be able to claim their benefits. It also takes account of those people who earn some off-farm income up to $40,000—they are also excluded from these new arrangements. This new legislation is an endeavour to ensure that those people who are claiming benefits for a business are indeed genuinely involved in the business and to differentiate them from those who are only engaging in a hobby. If the honourable member would like to pro-
vide me with more details of the case that he has referred to, I would be happy to respond in more detail.

**Taxation: Government Policy**

*Mrs DRAPER (2.27 p.m.)*—My question is addressed to the Minister for Finance and Administration, representing the Treasurer. Has the Acting Treasurer seen reports of suggestions to modify the new tax system? What is the government’s response to these policy alternatives?

*Mr FAHEY—* I thank the honourable member for Makin for her question. Yes, I have seen the reports. I noted, for example, in the *Sydney Morning Herald* this morning that there was an article entitled ‘Labor put on notice to roll back GST’. The President of the ACTU, Ms Burrow, told the policy making ACTU congress in Wollongong that unions ‘clearly want the GST wound back’. As for this declaration by the ACTU—this indication that the GST should be rolled back on the essentials of life including such things as clothing, rent and all food—we know that when the ACTU declares something, the Leader of the Opposition caves in. Undoubtedly, he will crumble again. I guess it comes from the pressure of having three former ACTU bosses in his team. Undoubtedly, he will crumble again. I noted that there has been a campaign on this by the union movement for some time. The AMWU Secretary, Doug Cameron, on television a couple of Sundays ago was asked this question on the GST:

How far would you expect a Labor government to roll back a GST?

Cameron:

A long way, a long way.

When asked specifically, ‘What would you like removed?’ he said:

We certainly don’t believe that there should be a tax on clothing.

That means a roll-back of $1.7 billion on this item alone—no tax on fur coats, no tax on Zegna suits. So here we see, all of a sudden, a first cut of the so-called roll-back by the ACTU, which will flow to the Labor Party very, very quickly.

We all know that roll-back simply means making the tax system more complex while putting up income tax to pay for it. That is a fact. Don’t just take my word for it—let me quote some experts. Commenting on the comparisons of the new tax system in Australia a couple of weeks ago, Mr John She-wan, the Chief of Tax Practice in PricewaterhouseCoopers New Zealand, said this in answer to the following question:

Question: Can any political party unroll a GST really once it is unfurled?

Answer: Realistically, no. To repeal it means that you obviously have to replace it with something.

We all know what the something is, the Australian people know what the something is: a reduction in those tax cuts which start from this Saturday, brought about by this government. Mr Stephen Harrison, the Chief Executive of the Institute of Chartered Accountants—

*Mr Price—I* rise on a point of order under standing order 142. It has been standard practice to ask ministers for alternate views, but it is usually prefaced by a question about their portfolio responsibilities.

*Mr SPEAKER—I* did not rule the question out of order, and the minister is responding to the question.

*Mr FAHEY—* As I was indicating, another independent person, Mr Stephen Harrison, the Chief Executive of the Institute of Chartered Accountants of Australia, stated earlier this year:

If a future government were to introduce even further exemptions, we will be taking ourselves backwards into the complex environment that we currently face for the wholesale sales tax. We’ll be turning back the clock and destroying many of the benefits that can be accrued from a simplified system through the GST.

Mr Mike Bannon from Duesburys Chartered Accountants, Canberra, said:

More exemptions, as envisaged by Mr Beazley, would result in more pages, more uncertainty and disputes between the ATO and taxpayers. Self-interest groups would be relentless in their claims for more exemptions.

Mr Curt Rendall, the Director of the New South Wales Small Business Development Corporation, said:

He—

referred to Mr Beazley—
should butt out. The sector is starting to engage in the GST; they are starting to come to grips with it. ... Then Mr Beazley comes along and says there will be changes if Labor gets into Government. That does nothing but confuse small business.

Professor Peter Dixon was once described by the Leader of the Opposition as one of the ‘pre-eminent economic modellers of this nation’. That is what he said about Professor Peter Dixon. The Deputy Leader of the Opposition described him as a ‘world renowned independent expert’. So let us listen to what Professor Peter Dixon had to say. He was asked:

Is it feasible for Labor to roll it back?

His answer:

I don’t think so. If you’re going to have a GST, you should have a very broad based GST and as simple a GST as possible.

We saw last week that the first cast-iron guarantee on roll-back in relation to caravan park residents and boarding house residents actually amounted to a roll-forward: additional cost in rent to those who live in caravan parks or in boarding houses. The first cast-iron policy on the subject was rolled forward at greater cost to those that are affected.

Goods and Services Tax: Fuel Excise

Mr BEAZLEY (2.33 p.m.)—My question is to the Prime Minister. Prime Minister, are you aware that the Minister for Financial Services and Regulation today is reported under the heading ‘Petrol price increases may be OK: Hockey’ as saying that if the ACCC found no price exploitation in a petrol price rise it could go ahead. How do you reconcile this statement with your promise that petrol prices will not rise because of your GST?

Mr HOWARD—As it happens, I haven’t; my attention has not been drawn to that statement. But it also happens that I do not always take on face value what those opposite might say. When you are listening to somebody over there and they say something, it is never quite what they allege it to be. I have a very good example of that—and this is on the subject, just to anticipate the point of order on relevance from my mate opposite. The rebuttal of the interjection and point of order will be that what I am about to say does relate to the question of excise on petrol, and that is the basis of the question he has asked me. When the Deputy Leader of the Opposition got up and asked me a question about rates of excise, he quoted from a budget paper. I said that I would have to have a look at that, because I did not assume that what he said was right. And, sure enough, he has done it again. He quoted an excise rate of 35.0357 per litre.

Mr Crean—35.7.

Mr HOWARD—Okay, 35.7. He said ‘That has gone up to 37-something; therefore, you’re misleading the Australian public.’ What, of course, he didn’t say was that there was a footnote that said that these rates refer to the Commonwealth component of excise.

Mr Crean—That’s right.

Mr HOWARD—That’s right, he says. When you add in the state component that we collect on behalf of the state, you see that there is a significant reduction in the amount of excise being collected by the Commonwealth. He knows, everybody who has studied this knows, that when the High Court declared the franchise arrangements of the states invalid, the Commonwealth government put in place an arrangement whereby the excise was collected by the Commonwealth on behalf of the states. Those payback arrangements have been subsumed in the arrangements in relation to the GST whereby the states get every last cent of the GST revenue. This sort of pathetic attempt—which has formed the basis of about 10 questions from the opposition—to suggest that we have actually increased the Commonwealth’s excise take, when in reality we have reduced it, is just another example of the pathetic capacity of the opposition to misrepresent the truth to the Australian public.

Mr Beazley—Mr Speaker, I seek leave to table the report of Mr Hockey’s remarks saying that the oil companies, if they are not exploiting consumers, can raise their prices.

Mr HOWARD—We will check the transcript. We won’t rely on your report.

Leave granted.
Workplace Relations: Secondary Boycott Policy

Mr HARDGRAVE (2.38 p.m.)—My question is addressed to the Minister for Employment, Workplace Relations and Small Business, the workers’ friend—

Opposition members interjecting—

Mr SPEAKER—The member for Moreton will come to his question.

Mr HARDGRAVE—Is the minister aware of policies that seek to change Australia’s secondary boycott laws? Would the minister inform the House of the effect of this proposed change on matters such as job security, and what has been the reaction to these proposals?

Mr REITH—Mr Speaker, I promise you I did not put him up to that.

Mr SPEAKER—The minister will come to the question.

Mr REITH—As they say, if the cap fits, wear it. I am aware of changes which are being proposed to Australia’s Trade Practices Act provisions in respect of secondary boycotts. To use the word ‘change’ is a bit of an understatement. The Labor Party is proposing to abolish the provisions in the Trade Practices Act—

Mr Bevis—And?

Mr REITH—The interjection is ‘And?’ What the opposition want me to say—I am quite happy to say it—is that the Labor Party’s view is that it is better to have these provisions, but they are going to change the provisions. They want these provisions—that is the first little bit of deception—in industrial law.

Mr Bevis—As they were.

Mr Howard—As they were when they didn’t work.

Mr REITH—There is a reason why they didn’t work. The reason was that there were no penalties attached to the provisions. This is just a little Labor Party deception. What your proposal is—

Mr Beazley interjecting—

Mr REITH—You ought to know what your proposal is. You have been mouthing it as it has been given to you, the Labor Party, by the ACTU. The provisions in the Trade Practices Act ensure that we have the ACCC to enforce them but, furthermore, significant penalties for people who breach the law. And there ought to be significant penalties for people who breach the law, whether they are businesses or trade union leaders. That, of course, is the rub.

The fact is that when the Leader of the Opposition was down there talking to the Wollongong ACTU meeting today what he was saying is, ‘Don’t worry, fellers, if we get in there will be a special deal for you.’ Special privileges for trade union mates, and the particular privilege that he wants to provide to the union movement is to ensure that there are no penalties.

Mr Beazley—Very unconvincing.

Mr REITH—I will tell you what is convincing, and that is the existing penalties under the Trade Practices Act which will no longer be available for people who breach the law who happen to be your mates in the trade union movement. Section 45E of the Trade Practices Act has a penalty for breach of that provision of $10 million. Is there such a provision under the Workplace Relations Act or any amendment that the Labor Party would make in the future? No way known. Section 45D of the Trade Practices Act has a penalty provision of $750,000. Is there any such like provision in the Workplace Relations Act or any amendment that the Labor Party would make in the future? No way known. Sections 45DB, 45E and 45EA are all provisions which provide protection for small business. If you breach those provisions, what is the penalty in each case? Up to $750,000. It is no wonder the Labor Party and a former trade union official, in this case the shadow minister, are in favour of giving a privileged position to his mates.

It is no wonder that this latest proposal has been roundly condemned around the country. For example, Tim Colebatch says in the Age:

And union power would be revived by restoring the right to launch secondary boycotts—perhaps the most crippling weapon unions wielded in the old days—and outlawing individual agreements.

The Daily Telegraph editorial today is headed ‘Beazley’s promise a folly’. It says:
This concession to the union movement will not increase the wages of workers, but simply provides union officials with the power to legally hold business to ransom.

Who will suffer from that? Not just the businesses but the rank-and-file workers that the Labor Party claims to represent. I could only find one authoritative source of support for the Labor Party’s position. This is the quote:

And at the same time there is a progressive side to Beazley’s statement in that it lends to the workers’ claim and assists in building broader working-class and community unity. This should be welcomed.

Who would make such a claim? The only support they have had outside the trade union movement is in none other than a newsletter dated 14 June 2000: Vanguard, the Communist Party newsletter.

Goods and Services Tax: Petrol Prices

Dr Lawrence (2.43 p.m.)—My question is to the Prime Minister. I refer to the ACCC’s pricing guide, which assumes no change in petrol prices only on the assumption that the government ‘would reduce the excise by the same amount as the GST’. Given that this assumption is now wrong, doesn’t the ACCC pricing guide now effectively confirm that petrol prices will go up because of the GST?

Mr Howard—I do not accept for a moment that it does.

New Apprenticeships

Mrs May (2.44 p.m.)—My question is addressed to the Minister for Education, Training and Youth Affairs. Would the minister advise the House about the recent trends in new apprenticeships? Is the minister aware of any threats to continued employer take-up of new apprenticeships?

Dr Kemp—I thank the honourable member for McPherson for her question. One of the significant achievements of the Howard government has been the rebuilding of the apprenticeship system and, for the first time, giving a national framework to apprenticeships. I am pleased to inform the House that, according to latest estimates from the National Centre for Vocational Education Research, the number of new apprenticeships continues to grow. At 31 March 2000, there were 264,210 new apprentices in training, over 4,300 places more than the revised December quarter figure of 259,870. This is a record figure for new apprenticeships in Australia and it shows the commitment of this government to expanding quality training opportunities for young people. There is, however, a cloud on the horizon of these statistics. That cloud is the performance of the Labor states—Queensland, Victoria and New South Wales.

In Queensland, commencements in new apprenticeships have dropped markedly over the last nine months. In Victoria, commencements in apprenticeships have dropped sharply in the last four months. In New South Wales there has been a continuing weak performance by the Carr government, which has deprived tens of thousands of young people and businesses of quality training opportunities. When you look more closely at these cases and ask why commencement numbers are beginning to decline in these Labor states, you find that it is in these states that employers are being faced with mounting paperwork, excessive regulation and duplication. In Queensland, the power of the unions over the training system is being boosted by the Queensland government. In Victoria, under union pressure, employers are being deprived of the opportunity to make a free choice of private or public training providers. In New South Wales, at every turn the Trades and Labour Council has resisted efforts to get rid of outdated regulations and employers have had to wait months to get an apprenticeship registered. This is what happens when Labor comes to power.

When Labor comes to power, the self-interests of their union mates overwhelm the interests of businesses in getting quality training and overwhelm the interests of young people in taking on new apprenticeships. They hand the training agenda over to their trade union mates and that starts to put business off the training system. We are now seeing falls occurring in these three states. Of course, that is exactly what happened when the federal Labor Party was in office. When the Leader of the Opposition was training minister, we had a collapse of
20,000 traditional apprenticeships in one year. In 1995, the number of young people in apprenticeships and traineeships reached the lowest proportion of the work force in three decades. If Labor ever gets into power, state or federal, you will find the trade unions having the apprenticeship system handed over to them and you will see numbers begin to decline. For all the rhetoric of a commitment to education, training and skilling up the country, the reality is this: Labor’s trade union sectional interests always take priority over the training system. On Friday, when I meet with the training ministers in these states, I will be taking up this issue with ministers to ensure that these extraordinary restrictions that are now being placed on the training system are removed, so that young Australians can once more begin to get the sort of opportunities that this government is dedicated to providing to them.

**Goods and Services Tax: Fuel Excise**

Mr BEAZLEY (2.49 p.m.)—My question is to the Prime Minister. Prime Minister, now that you have asserted that Commonwealth excise is going down and not up, why have you twice refused to answer the question whether or not the government will collect more tax from each litre of petrol sold after Saturday than is the case today? Since you seem to be a full bottle on the figures, Prime Minister, will the government collect more tax from each litre of petrol sold after Saturday than is the case today?

Mr HOWARD—I do not have anything to add to what I have said.

Opposition members interjecting—

Mr HOWARD—You have a very simple situation. The current collection is 44c a litre and the excise is going down—simple. What an incredible revelation! This was going to be the week when they had us on the ropes. The last week before the GST and they have almost an embarrassment of riches. They have petrol, caravans and the natural anticipation of a GST, but this morning they kept bumping into each other at the tactics meeting. Simon said, ‘I’ll get Carmen to ask that wasted question,’ which she did, and so it went on. Of course, there is a fall from 44c down to something like 38c a litre because there is a reduction. Nothing alters the fact that the GST compensation has two elements. One of those elements is the straight reduction and the other is the passing on of cost savings. While I am on the subject of cost savings, I just happened to have come across my desk this morning, immediately after the speech on fairness, which I read with enormous interest, scepticism and utter cynicism, which progressed into total disbelief and then ended in gales of laughter at the fact that somebody should have such infernal gall, after participating in 13 years of the most divisive unfairness this country has ever seen—

Mr SPEAKER—The Prime Minister will come to the question.

Mr HOWARD—What came across my desk immediately after—

Mr Lee—On a point of order, Mr Speaker—

Mr HOWARD—This is tactic number three!

Mr Lee—My point of order is as to relevance. I don’t think the Prime Minister heard you when—

Mr SPEAKER—The member for Dobell will be aware that I have already asked—

Mr Lee—I do not think the Prime Minister—

Mr SPEAKER—The member for Dobell may not have heard me but in fact I had asked the—

Mr Lee—I was trying to let you know that he did not hear you.

Mr SPEAKER—I am inviting you to refer to the question.

Mr HOWARD—Are you inviting me to finish?

Mr SPEAKER—I am inviting you to refer to the question.

Mr HOWARD—I will come back to this in the next answer, Mr Speaker.
Farm Help Program

Mr NEHL (2.53 p.m.)—Mr Speaker, my question is addressed to the Minister for Agriculture, Fisheries and Forestry. Would the minister advise the House of the new benefits available to Australian farmers under the government’s enhanced Farm Help program, particularly those involved in aquaculture and mariculture in areas such as the North Coast of New South Wales?

Mr TRUSS—I thank the honourable member for Cowper for that question and for his interest in farmers who require assistance through difficult times. Since 1997 this government has supported farmers in financial difficulty through the Farm Family Restart Scheme. Around 4,000 farmers have benefited from that program. In this year’s budget, the government announced that that program would be extended, at a cost of $111 million over four years, to provide enhanced benefits to farmers facing difficulties. The new scheme will be renamed Farm Help—Supporting Families through Change, to better reflect the fact that this scheme overwhelmingly provides short-term assistance to farmers going through difficult periods. The income support under the arrangements will continue as in the past, and around 3,600 people have to date taken advantage of that element of the scheme. Farmers will continue to have access to subsidised professional advice to help them make decisions about the future of their property. This advice will, in future, underpin a new case management approach. In addition, the re-establishment grants—$45,000 tax free—will continue to be available. The assets test will be made a little more generous. In addition, in the future there will be a retraining grant available for farmers who choose to leave agriculture.

This is an enhanced program to help farmers in need through difficult times. The good news on the eve of the new tax system is that there will be less need for a program like this in the future because the profitability of the farm sector is expected to improve significantly. The National Farmers Federation have estimated that the new tax system will be worth an average of $7,500 in reduced costs to farmers. Of course, a very significant element of that reduced cost will be in reduced transport costs. The Livestock Transport Association have estimated that, with the lower fuel costs and lower costs on trucks, their freight rates could go down by as much as 15 per cent. The grain industry expect to save $30 million on the reductions in excise for rail transport alone. All of those things provide significant benefits for farmers. Whilst Farm Help will now be less necessary than it has been in the past, this government recognises that there is a need for a special safety net. This new Farm Help program enhances the existing program and guarantees that support will be available whenever a difficult time arises.

Goods and Services Tax: Business Cost Savings

Mr BEAZLEY (2.56 p.m.)—Mr Speaker, my question is to the Prime Minister. I refer to economic modelling prepared by your preferred modeller, Chris Murphy, which formed the basis of the ACCC’s pricing guide. Are you aware that Mr Murphy advised the ACCC that, ‘The lower cost of business investment will flow through to lower consumer prices in the long term but not the short term’? Are you aware that he further said, ‘This means that results from long-term models, including Prismod, the Treasury model, applied from five to 10 years’? Prime Minister, hasn’t your preferred modeller confirmed that industry cost savings will take five to 10 years to be passed on to consumers, not three days as you claimed? I again ask you: why won’t you produce your modelling to justify your claim?

Mr HOWARD—I have not recently read that modelling or indeed the ACCC submission. But let me say that, even if I were to accept the analysis of it by the Leader of the Opposition, I do not think it automatically follows from that that it takes five to 10 years for business to pass on cost savings. That is really what the Leader of the Opposition was arguing, wasn’t he? Correct me if I am wrong. I am not misrepresenting him, am I? I would not want to do that, Mr Speaker. What he was asserting—and let us spell this out very carefully—was that that proved that it would take five to 10 years to
pass on cost savings. I just happen to have the transcript of an interview in my hand. The interview was carried out yesterday and it was with the managing director of Woolworths.

Mr Crean—Oh!

Mr HOWARD—‘Oh’? He only runs one of the largest retail organisations in the country, and he happens to preside over an organisation that has a lot more day-to-day contact with the consumers of Australia than does the Leader of the Opposition. I will tell you what he had to say. He was asked a question which goes very directly to the point asked of me by the Leader of the Opposition. It is right on it. Not even he could take a point of order on this. The question was:

Are you absorbing any of the costs? To which the answer was:

Corbett: We are anticipating some of the cost savings that we believe we will get in advance, yes.

In other words, what he was saying was that they were going to anticipate costs savings—not in five or 10 years but on 1 July. He then went on to say, in answer to a question about what I understand to be the subject of the question asked by the Leader of the Opposition, that is, oil companies and petrol:

Corbett: Look, I can’t make a comment on the oil companies. That’s a very complex business and I wouldn’t presume to do that. But let me say there are substantial savings for our company in GST. Even our capital budget. We’ll save about 10 per cent of our capital budget as a result of input savings in GST. GST will have a very beneficial effect on the Australian economy because it is stopping the taxing of inputs—

Now listen to this:

and businesses will have significant savings which will be for the benefit of everyone and as we have said we are committed to passing those on to the consumer.

All I can say is that I could not have put it more eloquently myself. I think Mr Corbett speaks for the responsible business community of Australia. All credit to him. There are cost savings. We think they ought to be passed on by all companies, not just some companies.

Employment: Unfair Dismissal Law

Mrs ELSON (3.00 p.m.)—My question is addressed to the Minister for Employment, Workplace Relations and Small Business. Would the minister inform the House of policies to improve Australia’s unfair dismissal law and is the minister aware of support for these changes?

Mr REITH—I thank the honourable member for her question. I have also been reading the speech of the Leader of the Opposition at Wollongong today with his claims that he supports a fairer system. If you look at the unfair dismissal law, the fact of the matter is that for some people who have to deal with the unfair dismissal law the system is not fair at all. It is certainly not fair to have a system that penalises somebody in small business because they have taken a risk and given somebody a job. It is not fair—

Mr Beazley interjecting—

Mr REITH—The Labor Party will not even agree to the unfair dismissal exemption for small business being debated in the Senate and a vote being taken in the Senate. Let us not have this deceit. The Labor Party are opposed to the interests of small business, and the people who pay the price of their subservience to the ACTU are thousands of people who are unemployed who would be glad to given a job by small business if the system was fair for small business. The Labor Party talk about fairness. What about a system that is fair for people who are unemployed and who would like to be given an opportunity by a small business person? The Labor Party today also make it quite clear in the speech by the Leader of the Opposition that they will oppose further legislation to make some sensible changes to the unfair dismissal law. One of the changes that should be made to the unfair dismissal law is in respect of frivolous or speculative claims where in some cases large costs are run up against small businesses, costs which small business cannot afford to pay but which under the current system cannot be required to be met by an applicant who has made an unfair or a speculative claim. In fact, the Industrial Relations Commission, the umpire of the system, has effectively said that there
ought to be a change in the law. This is what the commission said in a particular case:

We have little doubt that in the civil courts the respondent would have recovered costs against Mr McKenzie and against—

Mr Beazley interjecting—

Mr REITH—This is genuinely pathetic, Mr Speaker. The Labor Party—

Mr SPEAKER—The minister will come to the question.

Mr REITH—Here is a case where the Industrial Relations Commission says there ought to be change because it would make for a fairer system and yet the Labor Party are opposed to that change. That is not fair. The Labor Party support additional powers to the Industrial Relations Commission. The speech this morning said that we ought to support the continued role of the umpire. And, when the umpire says the rules ought to be changed, what do the Labor Party do? They ask the ACTU and the ACTU says no. The fact is that this system in many respects is unfair and changes ought to be made. This has been acknowledged by others, not just the commission. Meg Lees, for example, said:

But there is some scope at least to simplify the commission’s proceedings to prevent employers being forced to pay hush money to litigious but unworthy employees.

Senator Murray said:

... we acknowledge that the unfair dismissals laws are to some degree being abused with speculative claims by employees, ...

The Democrats said in their policy:

Support for a fair balance between the rights of employers and employees (irrespective of the size of the employer) on unfair dismissal claims, with low cost, non-legalistic and prompt resolution of disputes;

That was their policy in 1998. I believe that we do need some more reforms to unfair dismissals and this would be of benefit to small business. If it is good for small business, that means many more unemployed people can get a job. The Labor Party, instead of just being totally negative and totally doing what the ACTU says they should do, for once ought to look at an issue on its merits and look at the clear demand for a fairer system. They ought to read what the Industrial Relations Commission as the umpire has said and just for once ought to take a decision based on the interests of ensuring that more people can have a job.

Goods and Services Tax: Petrol Prices

Mr CREAN (3.06 p.m.)—I again direct a question to the Prime Minister. I ask him if he recalls saying yesterday:

Our advice from the Treasury, based on their modelling, is that the cost saving is 1½c a litre. We say to the oil companies of Australia: you pass those savings on in full.

Prime Minister, given your staunch reliance on the accuracy of this modelling that you will not release, is it your intention to have Minister Hockey direct the ACCC to prosecute any oil company that does not pass on these savings in full on Saturday?

Mr HOWARD—As in all of these matters, I expect my ministers to do what they are required to do and what is appropriate under the laws of Australia.

Banking: Elders Rural Bank

Mr NEVILLE (3.07 p.m.)—Fortuitously, my question is addressed to the Minister for Financial Services and Regulation. Would the minister inform the House of any developments in the financial sector that would give people in regional and rural Australia more access to financial services, particularly in my electorate of Hinkler?

Mr HOCKEY—I thank the member for Hinkler for his timely question. It was a great pleasure this morning to launch Australia’s newest bank, Elders Rural Bank, which is a new bank for a new century. Elders Rural Bank will officially begin operations on 1 July. It has met all the proper banking requirements of the independent banking regulator, APRA, which issued the licence this morning. Elders Rural Bank brings together Futuris, which is the holding company of Elders—a name familiar to many in rural and regional Australia—and Bendigo Bank which, in my view, has done an outstanding job of developing the concept of community banking. These two organisations have a long history of successful enterprise and strong community partnerships in rural and regional Australia.
Elders has over 400 outlets in rural and regional Australia, and from 1 July I am advised that banking services will be offered initially through 149 new branches, increasing to 400 branches within two years. This means 149 new bank branches in towns like Hamilton, Longreach, Katherine, Deniliquin, Cooma, Nyngan, Mareeba, Carnarvon, Albany, Kalgoorlie, Kingaroy and Walgett. It means a return to face-to-face banking in up to 30 towns that currently have no bank branches at all. In the member for Hinkler’s electorate, it means a new bank branch in Bundaberg. Other members of his electorate will be able to access the bank branch at Gin Gin, which is in the member for Wide Bay’s electorate.

Elders Rural Bank has declared agribusiness as its priority so that residents of country Australia will now be able to deposit their savings in a bank that has priority lending for the development of rural and regional Australia. This has been illustrated in the past by Elders’ commitment to seasonal working capital for rural producers. With the expert backing of Bendigo Bank’s risk management systems, Elders Rural Bank can expand its product range.

It was particularly pleasing this morning to hear the Chairman of the new Elders Rural Bank, the Hon. John Dawkins, say that this new bank would not have been possible without the reform of banking undertaken by this government, the Howard government, in 1997. That means that Elders Rural Bank can use the infrastructure of both Elders Rural Services and Bendigo Bank to offer low cost banking in rural Australia. Our reforms are delivering real success stories for rural and regional Australia. It is this government’s commitment to reform, it is this government’s commitment to picking up Australia and taking it into the 21st century, that delivers real benefits to rural and regional Australia.

**PERSONAL EXPLANATIONS**

Mr BEAZLEY (Brand—Leader of the Opposition) (3.11 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr BEAZLEY—I certainly have been, most grievously, Mr Speaker—twice by the Prime Minister in question time.

Mr SPEAKER—The Leader of the Opposition may proceed.

Mr BEAZLEY—Firstly, the Prime Minister said that we would abolish prohibitions on secondary boycotts. No such undertaking has been given by the Labor Party. We opposed it in the Trade Practices Act. We would put it in the industrial relations act as we did when we were in office.

Mr SPEAKER—The Leader of the Opposition must indicate where he has been personally misrepresented.

Mr BEAZLEY—that is exactly what I said.

Mr SPEAKER—The Leader of the Opposition had a second point he wished to raise.

Mr BEAZLEY—On the second point, the Prime Minister said it was my intention to privatise Telstra; it is not. I did not when I was communications minister and I would not do so now. It is a pathetic attempt to get the monkey off his back.

Mr SPEAKER—The Leader of the Opposition has made the point he wished to make.

**QUESTIONS TO MR SPEAKER**

**Questions on Notice**

Ms MACKLIN (3.11 p.m.)—Mr Speaker, I have a question for you. On 13 April I raised with you, in accordance with standing order 150, the failure of the Minister for Health and Aged Care to respond to questions on notice Nos 460 and 461. These questions sought information on bulk-billing and doctor numbers, and they still remain unanswered after 15 months, despite your letter. As these questions were asked in the last century, could you please now write to...
the minister again and ask him to give his personal attention to this matter?

Mr SPEAKER—I will follow up the matter raised by the member for Jagajaga under standing order 150.

Parliamentary Library

Mr ALBANESE (3.12 p.m.)—Mr Speaker, my question to you is in relation to the proper functioning of the Parliamentary Library, which I am sure all members will agree provides us with an excellent service on the basis of its being independent and confidential. Are you aware that the Minister for Community Services has directed the Parliamentary Library to send any requests relating to Centrelink to an officer in his ministerial office? Are you further aware that this has resulted in delays to answers and that the library has been asked to identify the member making those requests? Will you investigate this issue and report back to the House on measures which ensure that the independence and integrity of the library are maintained?

Mr SPEAKER—I will follow up the matter raised by the member for Grayndler. As Chairman of the Library Committee, and on behalf of all of those members who share with me the responsibility of the Library Committee, I can reassure the member for Grayndler that the Library Committee is proud of the reputation that the Parliamentary Library has for confidentiality, as indeed I believe all members are, and I will follow up the issue raised by him and report to him or to the House as appropriate.

Mr ALBANESE—Further to that, Mr Speaker, I would be happy to meet with you privately and give you documentation to back up this claim.

Mr SPEAKER—The member for Grayndler is welcome in my office any time, as of course are all members of the House of Representatives.

Mr Martin—At the same time.

Mr SPEAKER—The policy was a policy in place under the member for Cunningham and maintained by the present occupier of the chair.
tesy of discussing the matter with me privately before raising it in the House. I believe the suggestion made by the member for Banks that the Speaker does possess the authority to permit the release of evidence or documents not already published which have been in the possession of the House for at least 30 years, in respect of in camera evidence or confidential documents, is correct. Documents that are not confidential or evidence other than in camera evidence must have been in the possession of the House for at least 10 years. It is also true that the in camera evidence connected with the Bankstown Observer inquiry of the Privileges Committee has been in the possession of the House for approximately 45 years. However, I am advised that my predecessors in the office of Speaker have consistently taken the decision not to exercise the authority to release this material publicly. In light of the fact that the most recent Privileges Committee report recommended its release under certain conditions by means of a House resolution, that would be the course I would propose to follow should the House so choose.

Mr REITH (Flinders—Leader of the House) (3.18 p.m.)—By way of indulgence, I inform the House that this matter has been brought to my attention. There has been some correspondence on the various aspects of it. It has been going on for some months now. Given that it is 45 years or so since the inquiry, there has not been a sense of great urgency about it, but it has been the subject of ongoing consideration. Hopefully, we will come to a considered view on the proposals coming from the committee sooner rather than later.

PAPERS

Mr REITH (Flinders—Leader of the House)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings.

MATTERS OF PUBLIC IMPORTANCE

Goods and Services Tax: Petrol Prices

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

The government’s responsibility for the increased taxation of petrol arising from the GST.

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—

Mr CREAN (Hotham) (3.20 p.m.)—With just three days to go before the GST comes in, we have now had announced a new petrol tax—the John Howard broken promise petrol tax. It is a tax worth, according to the Australian Automobile Association, some $450 million a year extra, a tax of at least 1.4c per litre—we think between 1.7c and 1.8c per litre, and I will elaborate on that in a minute—on every litre of petrol sold in this country. It is a tax which will hit regions hardest. It is a tax which the government promised would never happen and it is a tax which has introduced another GST implementation fiasco. Where is the Treasurer today? He is in Paris. He is not presiding over the mess that he has created. He handpassed it—the hospital pass—to the Minister for Finance and Administration, who is not here today either. It has been left to the hapless minister at the table—’Round-up Joe’—who has contradicted the Prime Minister today on petrol.

Mr DEPUTY SPEAKER (Mr Nehl)—The honourable member will refer to the minister by his correct title.

Mr CREAN—The fact of the matter is this: the Prime Minister had ample opportunity today to answer the question—indeed the truth, Minister—as to whether or not, as a result of his tax adjustment through the GST, the government will collect more tax from each litre of petrol sold after Saturday than is the case today. He was asked that question in this parliament today not once but on at least three occasions and he refused to answer it. Why do you think he refused to answer it? Because he knows the answer can only be yes. It can only be that his decision in relation to the GST will increase the price
of petrol, which he solemnly said would not happen.

He thought he had the great knockout blow when he came back in question time today. In his answer to the question I raised—in which I referred the government, and the Prime Minister in particular, to their own budget papers, which show that, from 1 February this year, the excise on unleaded fuel that the Commonwealth collects is 35.78c per litre—as the great knockout blow, the Prime Minister said there is a footnote that says, ‘These refer to the Commonwealth component of excise.’ They are net of the states. What is your point, Prime Minister, if indeed you are here to answer it? That is precisely the point we were making: this is the Commonwealth take—35.78c per litre net to the Commonwealth is what they collect today. But what will they be collecting come Saturday? They will be collecting 37.48c per litre on every litre of petrol as the net Commonwealth take. That is an increase of 1.7c per litre to the Commonwealth. That is why he would not answer the question.

If you want to do it the other way, take the situation of the totality of Commonwealth and state taxes, where the Commonwealth has to collect the excise on behalf of the states. The Commonwealth excise is 35.78c—that same figure I referred to—and the state excise is 8.1c a litre. That is a total of 43.88c a litre. On 1 July the Commonwealth excise will be that 37.48c a litre, the figure I referred to before. We know that from the press release of the Minister for Finance and Administration, the Acting Treasurer, dated 22 June. From that we know that the Commonwealth excise is 37.48c and the GST collected by the states, which is the GST supposedly replacing part of the excise tax, is 8.2c a litre. So you add the 8.2c a litre to the 37.48, and you get 45.68c per litre—a combination of Commonwealth excise plus GST. That figure of 45.68c a litre is actually 1.8c a litre higher than the 43.88c a litre that is being collected today. This is a government that has promoted a massive fraud on the Australian public. The minister at the table is gurgling with mock laughter, when we have a Prime Minister who deceived the Australian public in relation to this. Let me go through what the government was promising in relation to petrol. In the Prime Minister’s address to the nation on 13 August 1998 he said:

The GST will not increase the price of petrol for the ordinary motorist.

The then Minister for Transport and Regional Development, Mark Vaile, on 9 September 1998 said:

Petrol prices for motorists in Australia will not rise with GST as we are reducing the excise (tax) on petrol by an equivalent amount to offset the impact of the GST to zero ...

I remember it well because we were debating around the country. I asserted during that election campaign that the government did not have the mechanism in place to deliver on its promise that petrol would not rise. He was saying on radio and in press releases that the government would reduce the amount of excise by the equivalent of what the GST goes up. But the GST puts on 8.2c and the excise is reduced by 6.7. Minister, this does not sound like equivalence to me. Your equation is 1.5c shy. Yet that was a promise that your minister for transport made. He is no longer the minister for transport. He is no longer in the House because he is in Paris too. Are you having a subcommittee of the cabinet in Paris at the moment to determine how you can squirrel your way out of this promise that you made at the last election? All of these statements were made at the time of the last election campaign. If there is any doubt about the other culprit in this, the Treasurer, who is usually much more careful with his words, said on 7 September 1998:

The Government’s proposed New Tax System will not lead to any increase in petrol prices. In fact there will be, for business users, significant falls.

But the Treasurer gets better. In answer to a question from me in November last year, when we were actually trying to get the government to announce its formula—and we only got it last week—he said this:

The excise comes down and the 10 per cent goes back up. It is the same amount of tax.

He then went on to say:

We factored it in on both sides. We factored in the excise reduction and the GST take. As I said before, if you reduce the excise and apply a 10 per
Of course, he has not done that. He has flown to Paris, and no wonder. If the GST was going to put up the price of petrol by 8.2c, he promised to take down the excise by the equivalent amount. He did not; he took it down by 6.7c per litre. The other great quote was by the Prime Minister on his favourite radio program, where he was pressured during the election campaign on the price of petrol and his commitment to making sure the GST did not put it up. He said:

Well, anybody who is saying it will rise as a result of the GST is telling lies.

We now know who was telling lies. This is a government that has been caught out one week before the GST comes into effect. This is a government that goes on about the need for integrity and honesty. The budget papers—and we asked this question of the Prime Minister today—show that the drop in excise will cost the budget $2.2 billion a year. If the government are honest today—and I invite the minister to answer the questions that the Prime Minister would not—we want to know: on Saturday, will their decision on petrol put the tax take for a litre of petrol above what is collected today? And will the minister stand by their budget forecasts which say that the only cost to revenue from the excise reduction is $2.2 billion? How much are they going to get from this little windfall? Do they refute the Australian Automobile Association’s figure of $450 million extra, and was this ever factored into their budget accounting?

Mr Danby—That’s what their advertising budget was.

Mr CREAN—It is almost the cost of their advertising campaign; that is exactly right. They have deceived the public with the Joe Cocker ad and ripped motorists off to pay for it. That is what has happened—they have squandered $430 million on their Joe Cocker ad and other promotional advertising, and they are ripping it off Australian motorists. Every time you go to a petrol pump and see the 1.7c a litre extra, understand that you are paying for Joe Cocker to sing you melodies, to tell you how good the GST will be. Those were the promises.

Come Saturday, what people have to be alert to is this: anywhere in a metropolitan area where the price of petrol is above 74c a litre, the GST will increase the price. And there are many metropolitan areas where it is above 74c; in fact there are not many where it is below it. If you go to a regional area the benchmark is 84c per litre because of the grants scheme that they have in place, and if you go to a remote area the magic figure is 94c per litre. So if you go into the outback, to Alice Springs, to the Kimberley or to the Pilbara, where we know that petrol prices are well over a dollar, if petrol is anywhere over 94c the GST will push the price up. If it is above 84c in the regions, the GST will push it up, and if it is above 74c in the cities, the GST will push it up.

The Treasurer actually got his way—in fact he got better than his way. We remember when he was on the Laurie Oakes program at the beginning of the year and he was pressed by Mr Oakes to say how he was going to introduce this formula. He said, ‘Well, it is a promise that has its limits, Laurie.’ Too right it had its limits, and we thought those were the city limits. But he has actually extended the limits to within the city, because city motorists are going to get hit, as well as motorists in the regions and the remote areas. Everywhere around this country, there are going to be millions of motorists paying more for their petrol because of the GST.

What does the government do, in its usual courageous fashion, when it is caught out? It finds someone to blame. This time it is the oil companies. They are an easy target; they are about as easy to bash as the banks. The government have tried to say that we are supporting the oil companies. We are not. We do acknowledge that there are some cost savings, but those savings are minimal. The only thing the Prime Minister has identified is a fall in the price of diesel, and we will hear the round-up man rabbit on about this in a minute. Mobil has said that the price of the fuel reduction, according to their calculations—and they are prepared to have them tested by the ACCC—is worth 0.04c per litre.
to them. Where is the other 1.46c saving, Minister?

Even Dick Warburton, the head of the Business Coalition for Tax Reform, has come out today and said that the savings referred to by the Prime Minister are minuscule and, in his assessment, not worth more than 0.1c per litre. But it is not just the oil companies that are saying the government is wrong; it is also the National Farmers’ Federation, the Business Council, the Royal Automobile Club of Victoria and the Australian Automobile Association. These are not friends of the Labor Party, but they are into exposing this government’s deceit. We heard the Leader of the Opposition refer to Chris Murphy, the government’s favoured modeller, saying that the cost savings referred to by the Prime Minister will not be realised for five to 10 years.

This has been a massive fraud on the Australian public. They will know on Saturday, when the excise goes up on petrol, that it is the government’s broken promise hitting them. (Time expired)

**Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation)** (3.34 p.m.)—Bluff and bluster. As I go through each MPI, and there are a lot of them, it seems as though more and more gas emanates from the member for Hotham when it comes to the application of the new taxation system after 1 July.

The member for Hotham said, ‘Let’s talk about Saturday.’ He has left the chamber—that is how concerned he is about the matter. From Saturday, every business in Australia has cheaper petrol, because they get the benefits, or the pass-through, of the GST to the consumers. So every small business gets cheaper petrol from 1 July. Every large business that is involved in day-to-day commerce and passing goods and services onto consumers gets cheaper petrol. On top of that you add the massive income tax cuts that average Australians are going to get from 1 July, the massive increases in family benefits that are coming into play from 1 July, the significant increase in pensions that every pensioner is going to get from 1 July, and the rental assistance for low-income families which comes in from 1 July. If you add all those factors in, what do you get? You get a fairer taxation system—a taxation system that Australia has been crying out for for 25 to 30 years. This coalition government had the courage to undertake it, but the Labor Party never had the courage when they were in government to take the hard yards that would deliver long-term benefits to average Australians. Not once did the Labor Party ever really make a hard commitment to the delivery of real taxation reform.

This week—in the week that they were meant to king-hit the government with these death-defying blows—the Labor Party ran questions like the question asked by the member for Fremantle, which was a repeat of an earlier question. The Leader of the Opposition was reduced to quoting a misleading headline by Reuters in his effort to ask 10 questions of the Prime Minister during question time. That was the peak moment in question time: ‘Let’s ask a question about a headline from Reuters that is misleading.’ That was the key moment in the king-hit day for the new taxation system.

Let us talk about petrol prices. Let us talk about the fact that more than 70 per cent of the costs of the production of petroleum and coal products are recurrent costs. That means that things like water transport, which is essential in the cooling process of extracting and separating different oil polymers, get the full benefit of the new taxation system. Petrol, as a business cost of road transportation in the delivery of consumer-ready products, gets the full rebate with the implementation of the GST. Is the Labor Party alleging that petrol is delivered from the refinery to the service station in paper bags? It is delivered in trucks, which currently have wholesale sales tax applied, with no rebates such as those associated with the input tax of the GST. Sand is used for cooling and absorption in the distillation process, miscellaneous mining products are used in the exploration and extraction processes during the course of preparing petrol, liquefied natural gas is used in fuel distillation processes in the refinery, and plastic products are used in the refinery for storage and product packaging. There will be other benefits as a result of the new taxation system.
Producing the petrol that ends up in the bowser is a five-stage process: there is exploration, there is extraction, there is refining, there is marketing and there is sales. Interlinked at each point is transport. Transport costs are coming down, not the least of which is the 24c a litre reduction in diesel. For every business—and, as far as I am aware, oil refineries are businesses—the cost of petrol is coming down. That has been lost in this argument about petrol. Every single business in Australia will have cheaper petrol from 1 July—this Saturday—because, for the first time in Australia’s taxation system, the end-user pays for what they receive and the business which is the deliverer of goods does not. Business is the beneficiary of that, and particularly small business. This debate is about cheaper petrol for businesses. It is about cheaper petrol for those people who are engaged in commerce—who are trying to earn a buck and to deliver consumers a better deal. That is what it is about. If you believe the Labor Party, the only factor which has any effect on petrol prices at the pump is excise, but let me tell you: the major factor is the cost of oil.

Let us look at the volatility of oil prices over the last two years. From January 1999 to August 1999 West Texas crude increased from $12.27 a barrel to $21.06. That sort of volatility in oil prices has a direct effect at the pump. Oil prices will move. The debate we are having about oil prices is not unique to this parliament in Canberra. What is the major issue in the US presidential debate at the moment? The major issue in the US presidential debate at the moment is the price differential at the pump between Seattle and Chicago. That is the No. 1 issue in the US presidential debate at the moment—it is about the cost of oil and the cost of petrol to consumers. People in the United States cannot understand how the price of petrol at a pump in Seattle can have the same input costs as the cost of petrol at the pump in Chicago, yet consumers are paying two different prices.

Every Western country in the world which absorbs the full impact of the changes in the OPEC price of oil has to deal with the volatility of oil prices on a day-to-day basis. Oil prices have the most significant impact on inflation. That is the bottom line—the cost of oil is out of the control of this government, it was out of the control of the Labor government when it was here for 13 years, and it is out of the control of every other government. But there is one simple fact: we have to deliver lower costs for businesses that use petrol for their day-to-day production. From 1 July—from this Saturday—business gets the biggest windfall in petrol pricing it has ever had. In 1993, when the Labor Party was in government, every business ended up paying an extra 6c a litre. I have been advised that, on budget night 1993, under the Keating Labor government the excise applicable to diesel, leaded and unleaded petrol was increased by 3c a litre; on 2 February 1994, diesel and unleaded fuel were increased by another 1c a litre; on 1 August 1994, there was a further increase of 1c a litre; on 2 February 1994, unleaded petrol was increased by 2c a litre; and, on 1 August 1994, there was a further increase of 2c per litre for unleaded fuel. This was on top of normal indexation.

The Labor Party increased petrol prices by 6c a litre on top of normal indexation—and they have the gall to come into this place and make allegations about our treatment of Australian consumers! Let me tell you what 6c a litre does to a small Australian business. For a small business, an increase of 6c a litre gets passed on to consumers—and not in the form where every consumer knows about it, as they do with a GST. It is one of the Labor Party’s classic hidden taxes—6c a litre. On this side of the House we are reducing the price of petrol for every business from 1 July. Every business will have cheaper petrol—by one-eleventh—from 1 July. At the end of the day, that flows through to cheaper prices for consumers in the end goods produced by those businesses that have to pay for petrol. Of course, it is also forgotten that from Saturday, 1 July the wholesale sales tax on oils and lubricants, which is currently 22 per cent, is coming off. That has been completely forgotten in the debate. It is as if every car that the members of the Labor Party drive requires no oil and no lubricants for the pistons or any of the other parts of the car.
Ms Roxon—Can you think of any other part?

Mr Sidebottom—Name another part.

Mr Billson—Camshafts.

Mr Hockey—Camshaft, axle—whatever the case might be. Every part of a car relies on the oil and petrol that flow through the engine. For small businesses the benefits will come into play from Saturday, 1 July.

In all of this debate about petrol—and I am sure there will be another opportunity during the course of the week to talk about the GST—and for all the bluff and blustering that has come out of the Labor Party today and over the last few months—or, arguably, over the last few years—and, more particularly, will come over the next few days and weeks, remember this: the Labor Party have a history of increasing taxes and providing no compensation to consumers. They increased the price of excise by 6c a litre without one dollar of compensation to consumers. They increased the wholesale sales tax from 10 to 12 per cent, from 20 to 22 per cent and from 30 to 32 per cent—as part of the l-a-w tax cuts that were never delivered—without one dollar of compensation for Australian consumers. They introduced the fringe benefits tax without any compensation for small business. They introduced the capital gains tax without any compensation for small business. And they have the gall to come into this place and lecture us about our treatment of business and lecture us about our compassion! I will tell you what compassion is: compassion is about caring for the average hardworking Australian. That is what compassion is. Compassion is about taking care of people most in need. The history of the Labor Party is that every time they talk compassion they do the punters in the eye. From 1 July we are delivering compassion. We are delivering a fairer taxation system. We are delivering the biggest tax cuts in Australian history. We are delivering compensation to pensioners and those most vulnerable in the community. We are delivering cheaper fuel for businesses, especially small business, which means that it is going to cost less to run a business. It is better for consumers and it is better for small business overall.
have the GST'. The second one was: ‘never, ever is the petrol price going to go up’, and then we see, as a result of all of these changes and the government’s backdown on this issue, that the price is going to go up.

The third broken promise is going to be the one that the minister has made today. He has made it very foolishly, although the only query I do have is that perhaps he has been a little cleverer than we would normally give him credit for, because he did promise that every single business was going to have cheaper petrol; he did not promise what every single consumer was going to have. He is not interested in the price at the bowser. He is not interested in explaining to the consumers who will be going to the petrol bowser on Saturday and who will find that the price has gone up. Cliff and Radleigh at the local Caltex, like those at every other local petrol station, do not have any cost savings to pass on. Why should they actually bear some cost just because the minister says that the price should go down? They are not required to do that just because they are a business. Of course, they are required to pass on cost savings if there are any. I am going to go into that in a little more detail, because I think the oil companies have a very good argument about some of those cost savings not being able to be passed on.

Mr Fitzgibbon—But will he be in his pub on Friday night?

Ms ROXON—I am being encouraged by the member for Hunter to issue a challenge to the minister. I think it is a good one, because, in speaking on this issue on petrol, he did also promise that consumers—this was in his spiel about compassion—would benefit under the new tax system. I would encourage the minister to make sure that he is in one of his local pubs on Friday night at 12 midnight, when the prices are going up, to see what the reaction is of his local drinkers at the pub and how they feel about this ‘compassionate, fantastic’ new tax system.

Mr Fitzgibbon—He said he doesn’t know where it is.

Ms ROXON—If he does not want to go to the local pub in his electorate, I can understand that. He is welcome to come to a pub in my electorate. He should be there at 12 o’clock. In fact, I am a bit worried about what is going to happen on Friday, to be frank, because Thursday is pay day for most people and on Friday they are going to have a very busy day. They are going to have to go off to work—which is fine—but they are also going to have to quickly buy up all of those goods that are going to be cheaper on Friday, the last day before the introduction of the GST. They are going to have to go and fill up with petrol because the price is going up. It is their last chance to go to the movies without a GST. It is their last chance to have a beer without the prices going up. Frankly, how are people going to fit all of that in on Friday? What is going to happen? There will be queues at the petrol station and at the movies and people fighting to get to a restaurant for a meal without the GST. Friday is going to be a long day. I am encouraging the people in my electorate to make the most of it. This will be their last chance to do it.

In the speech that the Deputy Leader of the Opposition has given, he indicated—I think a little generously—that anywhere where the prices are under 74c in a metropolitan area the prices may in fact go down. I think that the deputy leader has been a little generous because, frankly, we cannot find a single price at a petrol station anywhere in my electorate—which is an inner city, western suburbs electorate in a metropolitan area, so we are not talking about the higher rates in rural and regional areas—which sells petrol for less than 79.5c per litre. But there are prices of 80c, 81c and 81.9c in my electorate. Consumers who are going to be buying petrol at those stations on Saturday—we are telling them to fill up if they can on Friday—are going to suffer the price increase.

One of the things that the minister also wanted to do was blame the oil companies—they might be a fair target in some circumstances; they are certainly not the companies that get a lot of the sympathy and compassion that the minister would like to hand around—and I think that is a bit undeserved. The Mobil Altona refinery is in my electorate and supplies 13 per cent of Australia’s petrol and 50 per cent of Victoria’s petrol. It
has been a major employer in the electorate since 1949.

In relation to Mobil, I would like to deal with the issue of embedded costs, which this government thinks are going to be saved by its changes to the tax system. In September 1997, Mobil made a commitment to massive capital investment at their refinery in my electorate. They spent $250 million on building a new cracker, which is required in the processing of petrol. That commitment is a down payment which has to be offset over time. It may be that, under the new tax system, if they wanted to spend another $250 million, they may, in 10 or 15 years time, save some money. But the fact is that they have already spent that money and they are trying to recover their costs for that. It does not matter that the government is now introducing a new tax system on 1 July, because it cannot pass on any benefit now, even if the government is right that some of that benefit will flow in the future.

It is surprising to me that the government can simply assert that these very real issues for businesses—for the oil companies in this situation—are just not true. The government wants to assert they are not true because, frankly, it is convenient to do so. It is not convenient for it to accept that it is true. That is not good enough. I do not think that we can ignore the fact that Mobil and other refiners say that they cannot pass on the cost savings to the level that the government thinks should be there. I do not believe—and I am sure no-one on this side of the House believes—that the individual petrol station owners like Cliff and Radleigh, whom I have spoken about before, should bear the burden of this government trying to save face on an issue where, frankly, it has just misled the public time and time again.

I will use as an example the Yarraville Caltex station where the cost of petrol today is 80c per litre. If we are only going to have a reduction of 6.7c in excise and then we add 10 per cent to that, we are already up to 80.6c per litre. That is on Saturday. That is for petrol that is going to have been bought on Friday, Tuesday or the week before. How can they pass on any cost saving? How can the minister stand up in this House and say that on 1 July, this Saturday, those cost savings that are magically going to appear will be passed on to consumers? It is really a quite outrageous thing for him to be doing.

I am also concerned that the minister is so eager to threaten small businesses with the powers of the ACCC. He is doing it in all other areas. I know that at one of my local supermarkets—an old family supermarket; it is a small business—Ian and Betty Johnson have already been audited by the ACCC. They have been asked to detail cost savings. They will be threatened with action if they do not do that. It is really a quite outrageous burden for these small businesses— and every single one of the 8,000 small petrol stations around the nation are going to be in the same position. It is outrageous. The government is now on record for its third biggest lie. We will see on Saturday what has happened. I reiterate my challenge to the minister: if he is not going to go to a pub in his electorate on Friday night or come to the petrol station on Saturday, he is welcome in mine—and I can tell him what sort of meeting and reception he will get. (Time expired)

Mr McARTHUR (Corangamite) (4.00 p.m.)—I am delighted to participate in this debate. The member for Gellibrand is part of the ALP—a party that put up taxes during the 13 years it was in government yet comes to this House arguing about 1.3c per litre. As the minister formerly at the table mentioned, the price rises under the ALP during its time in government were extraordinary. Let us get this whole argument in perspective. People in business will receive a reduction in their excise and a reduction for their inputs under the GST. Those members opposite are claiming that fuel prices will rise. They are saying that there will be increased taxation of petrol arising from the GST. Let me put it to you quite clearly and categorically that those small business men and women and big businesses around Australia will in fact pay reduced costs for their fuel, petrol and diesel from Saturday, 1 July and thereon in. This is the biggest price reduction in fuel that any government has ever undertaken.

We had an argument about this at question time in the parliament and we have it during the MPI. The member for Gellibrand is now
leaving, and, of course, the Deputy Leader of
the Opposition leaves as well. That is how
keen they are about the argument. That is
right; they are leaving. We have about three
of their stalwarts left: one from Brisbane,
one from Melbourne—who knows about the
competition in Melbourne—and the member
for Tasmania, and Tasmania is subsidised
anyway. As he well knows, Tasmania is sub-
sidised on fuel prices. In essence, this argu-
ment is about the allocation of 1.3c, which—
as the Prime Minister reiterated at question
time today and yesterday—is about the em-
bedded costs that those petrol companies
should pass on, as Woolworths will pass on
savings to their consumers from 1 July. What
is different about the petrol companies? I
agree that they are in a fairly competitive
situation, but why shouldn’t they pass on
those savings? I make the point that petrol
diesel prices will remain the same be-
cause of government changes and that con-
sumers who are not in business will be re-
ceiving a $12 billion tax cut. Even the mem-
ber for Melbourne Ports understands that.
Even you can comprehend the tax cuts that
are coming in on Saturday. You have never
given a tax cut in your life, as a member of
the ALP. People will have better purchasing
power as domestic consumers to purchase
their petrol. The government are exactly on
line with the proposition that they put before
the Australian people at the last election.

I make the point quite categorically that
transport operators, the truckers of Australia,
will be receiving a reduction of 24c per litre
in their excise. I repeat that—24c. That re-
duction will obviously be a major factor in
their profitability, and this government had
the courage to introduce that major cost re-
duction. In a recent announcement, the fed-
eral Treasurer and the government have said
that unleaded petrol would be 37.481c. That
is the new excise rate for unleaded petrol
from 1 July 2000—a reduction of 6.7c per
litre. The argument that we see in this par-
liament is about 1.3c and 1.5c. As the Prime
Minister has said on a number of occasions,
these figures were worked out on a price of
about 90c per litre, and yet today I think the
price is at 85c. So the motorists and the con-
sumers in Australia are enjoying a cost re-
duction no matter which way you look at it.

Obviously, those oil companies should pass
on their fair share of the reductions that they
will receive on their diesel transport costs, a
reduction that is quite significant to country
Victoria and to their own internal operations.

On the key argument that the minister re-
ferred to, I reiterate the point that, during the
Hawke and Keating governments, the Labor
Party quietly put up their taxes at midnight.
Some of the members opposite were not here
during that period, so let me go over that for
you. Prior to the 1993 budget, the wholesale
sales tax rates were roughly 10 per cent for
household goods, 20 per cent for the general
rate and 30 per cent for luxury goods. Every-
one understood that. But after the 1993
budget, they went up to 11 per cent, 21 per
cent and 31 per cent. Not only that, in 1995
they went up yet another one per cent, to 12
per cent, 22 per cent and 32 per cent. Those
members opposite conveniently forget that,
and the shadow minister at the table would
forget it because he was part of the govern-
ment—he did not mind putting up these
taxes at one minute to midnight.

Let us look at these excise figures which,
again, members opposite conveniently over-
look. On budget night 1993, the excise appli-
cable to diesel, leaded and unleaded petrols
increased by 3c a litre overnight. Just like
that! Then, on 2 February 1994, diesel and
unleaded petrols increased by another one
cent. It is not a big figure; it is just enough to
raise $400 million. Nothing was said. No
compensation was given. No tax cuts were
given to average Australia. Then, on 1
August 1994, it increased by a further 1c per
litre. On 2 February 1994, unleaded petrol
was increased by 2c per litre, and on 1
August 1994 it was increased by a further 2c
per litre. The key element of this whole in-
crease was that it was on top of the indexa-
tion. I remind members opposite that they, as
a government, introduced this indexation
concept. Not only did they index the price of
fuel but they added their own extra cost. And
yet they come into this House and argue
about 1.3c, which should be paid for by the
oil companies because they are liable and
they have enjoyed price cuts.

Let me draw another matter to the atten-
tion of the House and those members of the
public who are concerned about petrol prices—and all of us are. The member for Cowper is concerned about petrol prices in his electorate, and the member for Ballarat is very concerned about petrol prices. The fundamental reason for the petrol price increase, as the minister for the table alluded to, is the dramatic price rise in Texas crude by the OPEC countries. Let us get the figures: in December 1998 the price of Texas crude was in the range of $US10 a barrel, by July 1999 it moved to approximately $US20 and by June this year it is in the range of $US25 to $US28 a barrel. All our constituents and all our consumers are fundamentally concerned about the conversion of that Texas crude price to the price at the pump, which is in the range of 75c to 85c, depending on what part of the country you are in.

That brings me to the point where we get to the age-old argument which my very good colleague the member for Indi has run in this parliament on the price range of petrol in country and city. The oil companies are running the argument in the press over the last 48 hours that they are unable to find 1.3c or 1.5c; they are unable to find it when we have given them the option and the capacity to reduce their price from 1 July. Let us have a look at the price of fuel in Colac and in Geelong in the wonderful electorate of Corangamite. I have never been able to explain to the electors why there is this variation of price. We have unleaded petrol in Colac at 89.9c today; we have just checked it out today. But in Geelong it is 81.5c—8.4c less than Colac. That is about 45 kilometres, about an hour’s journey. After 1 July transport will be a lot less because the diesel for the truck that carries the fuel will cost a lot less. So we have the situation where the oil companies are arguing the toss over 1.3c. They can have a price war in metropolitan Melbourne of 8c to 10c, sometimes 15c, to gain business at those metropolitan stations, particularly in Melbourne compared to other states, and where they can discount petrol in Geelong as compared with Colac, and yet they come to this parliament and to the government saying, ‘Look, we can’t afford 1.3c to 1.5c.’

Mr Lieberman—The opposition are supporting them.

Mr McARTHUR—As the member for Indi quite rightly points out, the opposition, remarkably enough, are supporting the big oil companies. I have not noticed them do that in the past. So we have a situation where fundamentally, with all the discounts and deductions the government have given in the budget papers and will be giving after 1 July, the government are receiving approximately the same revenue with the discounted arrangements. Members cannot in any shape or form discount the 10 per cent for businesses that have fuel as an input and the 24c for diesel for big truck operators. That has been on the table. That is a fact of life, and the government are receiving revenues approximately the same, with those discounts. I would just like to point out that, of that approximately $12.7 billion, $6 billion goes to road funding throughout the Commonwealth.

I conclude by saying that the ALP were a big-taxing government during their 13 years in government, and yet they come to this House arguing the toss over 1.3c. They implemented so-called tax cuts in l-a-w, and what happened to those tax cuts is that they were immediately removed. There was no compensation and there was no help to those Australian consumers, as there will be on 1 July. (Time expired)

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

MAIN COMMITTEE

Mr DEPUTY SPEAKER (Mr Jenkins)—I advise the House that the Deputy Speaker has fixed Wednesday, 28 June 2000, at 9.40 a.m., as the time for the next meeting of the Main Committee, unless an alternative day or hour is fixed.

MATTERS REFERRED TO MAIN COMMITTEE

Motion (by Mr Ronaldson) agreed to:

That the following bills be referred to the Main Committee for consideration:

- Defence Legislation Amendment (Flexible Career Practices) Bill 2000
- Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 3) 2000
CORPORATIONS LAW AMENDMENT (EMPLOYEE ENTITLEMENTS) BILL 2000

Consideration of Senate Message
Message received from the Senate returning the bill and acquainting the House that the Senate does not insist on its amendment disagreed to by the House.

NEW BUSINESS TAX SYSTEM (MISCELLANEOUS) BILL 1999

Consideration of Senate Message
Message received from the Senate returning the bill and acquainting the House that the Senate has agreed to the amendments made by the House.

INDIRECT TAX LEGISLATION AMENDMENT BILL 2000

Consideration of Senate Message
Bill returned from the Senate with requested amendments.

ORDERED that the requested amendments be taken into consideration at a later hour this day.

COMMITTEES
Selection Committee
Report

Mr NEHL (Cowper)—I present the report of the Selection Committee relating to the consideration of committee and delegation reports and private members’ business on Monday, 14 August 2000. The report will be printed in today’s Hansard and the items accorded priority for debate will be published in the Notice Paper for the next sitting.

The report read as follows—

Report relating to the consideration of committee and delegation reports and private Members’ business on Monday, 14 August 2000

Pursuant to standing order 331, the Selection Committee has determined the order of precedence and times to be allotted for consideration of committee and delegation reports and private Members’ business on Monday, 14 August 2000. The order of precedence and the allotments of time determined by the Committee are shown in the list.

COMMITTEE AND DELEGATION REPORTS

1 PROCEDURE—STANDING COMMITTEE: Report on review of the Main Committee. The Committee determined that statements on the report be made—all statements to be concluded by 12.50 p.m.

Speech time limits —
Each Member —5 minutes.

[Proposed Members speaking = 4 x 5 mins]

2 EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS—STANDING COMMITTEE: Report on issues specific to mature-age workers: Age counts. The Committee determined that statements on the report be made—all statements to be concluded by 1.10 p.m.

Speech time limits —
Each Member —5 minutes.

[Proposed Members speaking = 4 x 5 mins]

3 EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS—STANDING COMMITTEE: Report on employee share ownership plans. The Committee determined that statements on the report be made—all statements to be concluded by 1.30 p.m.

Speech time limits —
Each Member —5 minutes.

[Proposed Members speaking = 4 x 5 mins]

PRIVATE MEMBERS’ BUSINESS

Order of precedence
Notices
1. Mr Nehl to move
That the House:
(1) acknowledges the great need to help the Tibetan people cope with the devastating impact of Iodine Deficiency Disorders; and
(2) applauds the AusAID program launched in Lhasa on 18 May 2000 which will transform the health profile of the Tibetan people. (Notice given 9 May 2000.)

Time allotted —private Members’ business time prior to 1.45 p.m..
Speech time limits —
Mover of motion —10 minutes.
First Opposition Member speaking —5 minutes.
The Committee determined that consideration of this matter should continue on a future day.

Mr Horne to move

That a Standing Committee on Legal Affairs and Ethics be appointed to inquire into whether to permit human surrogacy in Australia and, if so:

(1) under what terms and conditions surrogacy should be legalised; and

(2) the legal, ethical, moral and religious framework by which legal agreements could be drawn up to allow human surrogacy to take place giving maximum legal safeguards to all people involved. (Notice given 8 December 1999.)

Time allotted — 30 minutes.

Speech time limits —

Mover of motion — 10 minutes.

First Government Member speaking — 10 minutes.

Other Members — 5 minutes each.

The Committee determined that consideration of this matter should continue on a future day.

Mr Ross Cameron to move—

That this House:

(1) acknowledges the significance of the Paralympic Games as the second largest sporting event in the world in 2000;

(2) applauds the example of our elite paralympic athletes in keeping alive the best sporting traditions of honour, excellence and competition; and

(3) records its appreciation to the people of the ACT and NSW for their generous support of the Paralympics throughout the 2000 Pollie Pedal bike ride from Parliament House, Canberra, to the Sydney Town Hall. (Notice given 7 June 2000.)

Time allotted — remaining private Members’ business time.

Speech time limits —

Mover of motion — 10 minutes.

First Opposition Member speaking — 10 minutes.

Other Members — 5 minutes each.

The Committee determined that consideration of this matter should continue on a future day.

Mrs MOYLAN (Pearce) (4.14 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present the sixth report for 2000 of the committee relating to the proposed Navy Ammunitioning Facility, Twofold Bay, New South Wales.

Ordered that the report be printed.

Mrs MOYLAN—by leave—The report I have just tabled concerns the proposed construction of a Navy ammunitioning facility at Twofold Bay, New South Wales. The project is estimated to cost $40 million. I am pleased to see the local member in the chamber as it does affect his electorate. The committee has recommended that the project should proceed. The need for this project arises out of the closure of Newington armaments depot in Sydney last year. Until the closure of this depot, the east coast fleet had been ammunitioned when positioned at the base at Garden Island in Sydney Harbour. Since the closure of the depot, the Navy has been using Point Wilson, near Geelong, as an interim ammunitioning facility until a permanent facility can be established.

In 1998, the committee considered a proposal to develop Point Wilson as a permanent ammunitioning facility. This was as part of the proposal for an east coast armament complex. The committee found that Point Wilson was an unsatisfactory location for an ammunitioning facility and recommended that locations closer to Sydney be further investigated. Twofold Bay was suggested as a location worthy of further consideration.

In March this year, the committee inspected the site of the proposed facility and held a public hearing at Eden. The inspection and public hearing re-affirmed to the committee the advantages that Twofold Bay offers the Navy in terms of an ammunitioning facility. These are: first, the location is reasonably close to the fleet base at Garden Island, and very close to the Navy exercise area off the coast of Jervis Bay; second, Twofold Bay provides a safe, deep and sheltered harbour for Navy ships; and, third, the area is relatively unpopulated. This last feature will enable the facility to function in
accordance with the NATO principles relating to the handling of explosive ordnance. To provide some certainty over the long-term operation of the facility, Defence will seek to control future developments that are incompatible with the NATO planning principles.

A comprehensive environmental impact study was conducted on the area in accordance with both Commonwealth and New South Wales legislation. Environment Australia’s environmental assessment report concluded that there were no overriding environmental reasons why the project should not proceed, subject to the recommendations of that report. Environment Australia’s recommendations are attached to this report as appendix C.

The committee has recommended that, when moving the expediency motion for the work to proceed, a guarantee should be provided to the House that all recommendations set out in appendix C will be implemented. The committee has also recommended that the Navy should strongly consider holding a public meeting in Eden every two years to report to the community on the state of the environment surrounding the facility. In conclusion, I would like to make two more points.

First, the Navy estimates that it will use the wharf up to 75 days per year. For the remainder of the time, the wharf will be made available on a commercial basis for the import and export of cargoes. There was some debate at the public hearing about whether any viable export cargoes could be sourced from the Eden area. However, the majority of the witnesses believed that the existence of the wharf could only assist in encouraging regional businesses.

The second point concerns community consultation. At the public hearing, Defence advised the committee that, if the project were to proceed, consultation would continue between Defence and the local community. For this consultation to be meaningful, Defence may need to look at ways of including the whole region, not just Eden. I commend the report to the House.
environmental recommendations, ranging from monitoring of the coast line, dredging, protection of flora and fauna, noise, air quality, visual impact, cultural heritage and traffic. Hopefully, this will address some of the concerns raised by the environmentalists. Perhaps in an ideal world there would be no need for Navy and therefore no need for a Navy ammunition facility.

As you will appreciate, Mr Deputy Speaker Jenkins, we do not live in an ideal world. We do have a navy and it has to have ammunition and an ammunition facility. I have absolutely no doubt that there will be some people who will argue against this proposal. I challenge anyone to come up with a proposal and tell us where this facility should have been placed. This project has been going on for several years. Few projects which have come before the Public Works Committee have received more scrutiny over a couple of parliaments and under different committees. This proposal is the one that we are recommending. It is what we consider to be the best and most cost-effective site for the proposal. I strongly commend the report to the House.

WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2000

First Reading

Bill presented by Mr Reith, and read a first time.

Second Reading

Mr REITH (Flinders—Minister for Employment, Workplace Relations and Small Business) (4.23 p.m.)—I move:

That the bill be now read a second time.

The coalition’s 1998 workplace relations election policy More Jobs, Better Pay contained commitments to further legislative reform in our second term of office.

These commitments were reflected in four pieces of legislation already introduced by the government since October 1998 dealing with small business unfair dismissal exemptions, superannuation, youth wages and multiple reform issues in the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999.

That bill was passed by the House of Representatives on 14 October 1999 but was subsequently blocked by the combined opposition of the Labor Party and the Australian Democrats in the Senate.

Since opposing the 1999 more jobs, better pay bill last November, the Democrats have publicly indicated that they prefer to deal with the contents of that bill on an issue by issue basis, not as an omnibus piece of legislation.

In a speech to the ACT Industrial Relations Society on 6 April 2000, Democrats spokesman Senator Murray said:

In my view only technical bills should be general and broad ranging. Policy bills should be specific. It is far better for a reformist government to deal with one issue at a time on a specific and limited basis.

And, again, in the course of the inquiry by the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee into the bill, Senator Murray said:

It seems to me the act can be conveniently broken up into major sectors . . . I find these kind of omnibus bills result in a lot of negativity and it is very difficult to progress them.

Taking these sentiments into account, the government has sought to accommodate the preferences of the Australian Democrats by proceeding, other than on technical issues, with an issue by issue consideration of policy matters arising from the more jobs, better pay bill 1999.

The first of these issue by issue bills was a bill dealing with pattern bargaining and related matters which passed the House on 1 June 2000 but which is now also being opposed in the Senate by the Labor Party and, so far, by the Democrats.

The government is now in a position to introduce further single issue bills drawn from the more jobs, better pay bill 1999.

This bill proposes amendments to the termination of employment provisions of the Workplace Relations Act 1996. The current provisions in the act are based on the concept of a ‘fair go all round’. This bill is designed to maintain the fair balance between the rights of employees and employers while
addressing some of the procedural problems that have become evident during the operation of the act. The bill contains a range of provisions designed to reinforce disincentives to speculative and unmeritorious unfair dismissal claims, to introduce greater rigour into the processing by the Australian Industrial Relations Commission of unfair dismissal claims and to remove unnecessary procedural burdens that unfair dismissal applications place on employers.

In the Australian Democrats minority report of the Senate inquiry into the more jobs, better pay bill, Senator Murray stated that:

. . . [t]he Democrats have consistently opposed removing the right to access unfair dismissal provisions, but have always supported improvements to process.

In a speech to the Victorian Employers Chamber of Commerce and Industry on 27 October 1999, Senator Lees stated:

I think that there are still some problems in the way that unfair dismissal applications are dealt with by the Commission.

She then went on to say:

But there is some scope at least, to simplify the Commission’s proceedings to prevent employers being forced to pay ‘hush’ money to litigious but unworthy employees.

Discouraging abuses of the process and unmeritorious and speculative claims

In the Australian Democrats minority report into the Workplace Relations Amendment (Unfair Dismissals) Bill 1998, Senator Murray acknowledged that some parties to termination of employment applications engage in ‘deliberate time wasting’ and impose ‘cost pressure . . . for tactical reasons’.

This phenomenon is also recognised by the Australian Industrial Relations Commission. In a recent decision involving an application for costs against a legal practitioner whose conduct had resulted in the other side incurring costs unnecessarily, the commission suggested that a reconsideration of the limits currently imposed by the current costs provisions may be in the interests of justice.

Senator Murray further highlighted the problem in his speech to the Industrial Relations Society of New South Wales, on 19 May 2000, when he said:

. . . we acknowledge that the unfair dismissal laws are to some degree being abused with speculative claims by employees, sometimes encouraged by lawyers on contingency fees. I have constantly stated the Democrats view that it is necessary to reform process and cost issues in unfair dismissal cases. I think this is an area of law that does need some further refinement to ensure the laws do provide the ‘fair go all round’ they were designed to deliver.

This bill proposes to make amendments that will ensure that the laws do provide the ‘fair go all round’. In response to these concerns, the costs provisions of the act will be amended to allow the AIRC to make orders for costs against parties in respect of a wider range of proceedings and in relation to a wider range of conduct.

In the Senate minority report into the Workplace Relations Amendment (Unfair Dismissals) Bill, Senator Murray also made the following recommendations:

(b) if either party, in the opinion of the Commission, is abusing the process, deliberately wasting time or deliberately applying cost pressures, the Commission should be given the power to award costs against that party’s legal practitioners, or those advising the applicant or respondent, which should specifically be precluded from recovery from the client; and

d) the Commission must have regard to disciplining any legal firm whose ethical approach is coloured by commercial predation.

Unfortunately, conferring power on the commission to award costs against third parties is probably beyond the Commonwealth’s constitutional power. Hence, to give effect to the spirit of Senator Murray’s recommendations, the bill proposes to insert a new series of provisions which will contain a prohibition on advisers from encouraging people from instituting or pursuing speculative or unmeritorious unfair dismissal claims. Where an adviser contravenes this prohibition, a respondent to an unfair dismissal claim will be able to apply to the Federal Court for a penalty against that adviser.

The bill gives the commission the discretion to require an applicant who is seeking a remedy in respect of termination of employment to provide security for costs. This will also serve as a disincentive to unmeritorious or speculative claims.
The amendments also address the role of legal representatives and advisers by enabling the commission to ascertain whether they are engaged on a costs or contingency arrangement. This is in response to another of Senator Murray’s recommendations in his report into the Workplace Relations Amendment (Unfair Dismissals) Bill 1998, in which he stated that:

... cases being conducted on a ‘no win, no fee, contingency’ basis should be made a matter of public record.

**Streamlining the process**

A number of amendments in the bill are designed to improve the efficiency of the process for conciliating and arbitrating claims.

To help ensure the efficient processing of claims, the bill confirms the commission may hear applications by the respondent to have an application dismissed for want of jurisdiction at any time. It also confers express power on the commission to dismiss an application where the applicant fails to attend a hearing. The bill also includes amendments to clarify the circumstances in which out of time applications should be accepted.

To improve the effectiveness of the conciliation process and reduce the number of unmeritorious cases which proceed to arbitration, the bill also includes amendments to the requirements for the issuing of conciliation certificates. These proposals, which have been amended to take into account concerns expressed by the Australian Democrats, place an onus on the commission to make a finding at the conciliation stage and prevent unfair dismissal applications from proceeding to arbitration where the commission is satisfied that the applicant does not have a substantial prospect of success. This will enable parties to have a clearer view of the merits of the case so it will be more likely that applications are resolved early, either by settlement between the parties or by being dismissed by the conciliator, and before large costs are incurred.

**Taking the needs of employers into account**

Unfair dismissal claims can be a particular burden upon certain types of businesses, especially small businesses, and in certain circumstances. The bill contains a number of provisions to assist in reducing such special burdens.

Crucial amongst these is the proposal to require the commission when determining whether a termination was harsh, unjust or reasonable to have regard to the size of an employer’s operations and the degree to which this would be likely to affect the procedures followed by the employer. This would enable the commission, for example where a respondent employer is a business which is too small to have a separate human resources function, to determine that different procedures may be reasonable for such a small business compared to larger businesses with greater resources, specialised personnel and greater capacity for more formal procedures. These provisions would not deny employees of smaller businesses a fair go, but would recognise that expectations as to administrative processes need not be the same in smaller businesses as they are in larger businesses.

Termination on the ground of operational requirements presents a particular situation in which it is inappropriate for there to be scope for unfair dismissal claims to be made. Such situations of redundancy are difficult for employers and employees alike and, if an employer establishes that terminations were genuinely required for operational reasons, the employer should not then be required to justify the fairness of those terminations in the commission. It will not prevent, however, employees making applications in regard to unlawful termination in such circumstances.

**Establishing certainty in jurisdiction**

The bill also proposes amendments to ensure certainty in jurisdiction. The act is designed to ensure that ‘federal award employees’ who were not employed by an employer within the constitutional reach of the unfair dismissal provisions of the act are still able to apply for a state unfair dismissal remedy. The unintended effect of these amendments
has been to enable forum shopping between federal and state jurisdictions. This undermines the authority of the legislation, results in inconsistency of treatment and creates considerable uncertainty for employers concerning their obligations. Amendments in the bill will remove the scope for forum shopping by potential applicants.

Similar uncertainty for employers and scope for double jeopardy situations can arise under the current provisions, which enable an employee to bring multiple actions under the Workplace Relations Act in respect of the same termination. The bill proposes to ensure that only a single application can be made in respect of a dismissal, ensuring that once an employee has had his or her ‘day in court’ then that settles the matter conclusively.

Two other amendments in the bill aimed at ensuring uncertainty in jurisdiction will make it clear, firstly, that independent contractors do not have a remedy for termination of employment, consistent with the original intent of the Workplace Relations Act, and, secondly, that the demotion of an employee does not constitute termination of employment where that demotion does not result in a significant reduction in remuneration and the employee continues to work for that employer.

In addition, the bill proposes amendments to preclude the commission and the Federal Court from taking certain non-economic factors into account in determining compensation in lieu of reinstatement.

The bill also proposes to make a number of minor and technical amendments.

In introducing this bill I am clearly indicating that the government is determined to proceed on an issue in respect of which there appears to be Democrat support. The government is prepared to consider amendments to refine the detail of the procedures proposed by the bill, if it is the detail that is the barrier to the bill’s passage through the parliament.

This bill will build on the objects of the 1996 reforms and improve the process of dealing with termination of employment claims in the interests of employers, employees and small business.

Of course this matter has already been referred to a Senate committee. However, the government would welcome further Senate scrutiny provided that such a committee will review the bill in order to achieve a scheme that truly ensures a ‘fair go all round’.

The right of the coalition to implement its workplace relations mandate, subject to constructive Senate review, is a principle that has been acknowledged by the Democrats— and one that they should now act upon.

On 15 June 1996 the then Leader of the Australian Democrats, now Labor shadow Minister Kernot, said on the issue of workplace relations:

The Democrats accept that the Government has been elected to govern and that it has its right to present its legislative program to the Parliament for consideration. But the Democrats have been elected to do a job, and that is to closely scrutinise legislation to ensure that it is fair, and workable and the best solution to an identified problem.

… the Democrats have no intention of being obstructionist in this Senate. As we have done for 15 years of holding balance of power, we will carefully review legislation, suggesting ways to make it work better if possible.

Adopting a ‘just say no’ attitude to this bill would be inconsistent with not only the proper role of the Senate as a House of Review, but also breach the principle under which the Democrats themselves marked out their past approach to these issues, at least until 1997.

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

Debate (on motion by Mr Martin Ferguson) adjourned.

COMPENSATION MEASURES LEGISLATION AMENDMENT (RENT ASSISTANCE INCREASE) BILL 2000
First Reading

Bill presented by Mr Anthony, and read a first time.
Mr ANTHONY (Richmond—Minister for Community Services) (4.37 p.m.)—I move:

That the bill be now read a second time.

The bill provides an important additional element of assistance to low-income private renters under the new tax system.

The government has decided to increase the maximum rates of rent assistance by 10 per cent with effect from 1 July 2000. This means that the maximum rates of rent assistance for social security, family assistance and Veterans’ Affairs customers will be increased by 10 per cent, instead of the seven per cent increase announced previously.

This measure will invest an extra $33 million in support for low income people in our community who are renting private accommodation. Caravan park, mobile home and boarding house residents are among those who will benefit.

In addition, the government will put in place an education program for the caravan park and mobile home sector to ensure that both operators and residents are fully aware of the GST tax options and price implications.

This 10 per cent increase in the maximum rate of rent assistance, on top of the four per cent increase in pensions and allowances, will ensure that low income members of the community will be protected from any price increases under the new tax system.

I present the explanatory memorandum to this bill.

Debate (on motion by Mr Martin Ferguson) adjourned.

PRODUCT STEWARDSHIP (OIL) BILL 2000

Cognate bill:

CUSTOMS TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

EXCISE TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

PRODUCT STEWARDSHIP (OIL) (CONSEQUENTIAL AMENDMENTS) BILL 2000

Second Reading

Debate resumed from 22 June, on motion by Dr Stone:

That the bill be now read a second time.

Mr KELVIN THOMSON (Wills) (4.39 p.m.)—The purpose of this legislation is to establish a product stewardship system for waste oil to encourage greater recycling and reuse of waste oil. The initiative arises from a federal government announcement of May last year, which was an outcome of negotiations with the Australian Democrats on the implementation of what we have come to know as A New Tax System—Measures for a Better Environment. This was a positive measure for the environment, but it was part of a deal which has given us the inequitable, confusing and economically inefficient GST—I think the world’s most complex GST—as well as a totally inadequate environmental legislation package. The commitment was to fund the development of a product stewardship arrangement and to provide transitional assistance to ensure the environmentally sustainable management and refining of waste oil and its reuse.

The Product Stewardship (Oil) Bill 2000 is the primary legislation that establishes the machinery and administrative provisions necessary to give administrative support to that purpose. Consequential amendments are being made under separate enactments to the Customs Tariff Act 1995 by the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000; to the Excise Tariff Act 1921 by the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000; and to the Taxation Administration Act 1953 by the Product Stewardship (Oil) (Consequential Amendments) Bill 2000.

Waste generation is a significant issue in Australia and its minimisation is a challenge
facing governments at all levels. Independent waste minimisation initiatives by state governments and coordinated efforts under the national waste minimisation and recycling strategy are making progress towards minimising waste in a number of industries. However, waste oil remains a difficult problem in Australia. Australian oil refineries currently produce around 800 megalitres of virgin base oil from which lubricant is made each year. Around 200 megalitres of base oil are exported and domestic users consume some 520 megalitres per year. It is estimated that around a third of domestic consumption is currently recycled. The missing oil is either being used inappropriately or is being inappropriately disposed of with adverse consequences for the environment. Some is lost to the system through combustion in engines, used as process and spray oils, or spilled or leaked. A small proportion of the unrecovered oil, some 12 per cent, is thought to be uneconomic to recycle for a variety of reasons—for example, the remote location of original use. While the ultimate fate of this used oil is not known, a portion will inevitably find its way into the environment. The storage of increasing quantities of waste oil in unknown locations and conditions does present a significant and growing environmental hazard.

Some of this oil is finding its way into the environment—that is, catchments, waterways, storages, and soils—and it is causing environmental degradation. Waste oil is harmful to the environment and to human health. It contains carcinogens and chemical toxins. It contaminates on entry to soil and water, and it transmits these toxic substances, plus dangerous particulates, through the air on burning. Its contaminants are toxic to humans, animals and plants on exposure through breathing emissions or consuming contaminated food or on contact with the skin. The cost to our health, natural heritage, resources and urban environment with exposure of up to 200 million litres of waste oil per annum cannot be readily estimated due to, first, the absence of data on illegal dumping or use practices—though all jurisdictions have evidence of the existence of this practice; second, inadequate levels of information on waste oil in Australia; and, third, the disparate nature of the oil dispersed into our air, water and soil.

However, the risks of taking no action on the continued transmission of such a toxic substance into our environment and communities should not be underestimated. Prevention of environmental damage is cheaper and less wasteful of scarce human and economic resources than subsequent remediation and restoration. The burden of remediation falls most heavily on public resources rather than on those responsible for the problem. The oil and oil recycling industry is fragmented and consists of players ranging from multinational oil producers through to small family businesses. Although the market for recycled products varies, recycling operations tend to have tight margins and low levels of profitability. This fragmentation and consumer reluctance to purchase recycled lubricant for use in engines acts as a significant barrier to increasing the capture rate of lubricant use that is currently not recycled.

While the collection industry operates under existing state and territory legislation, there is considerable variation between and within jurisdictions. Industry codes of practice and collection protocols are neither mandated nor widely observed. Without some form of regulation and incentive, re-refining and reuse of oil is unlikely to significantly increase. As a result, there is potential for substantial quantities of waste lubricants to be discharged into the environment consequently causing significant environmental damage to natural and built environments and adversely affecting water, soil and productive capacity. In turn, the Australian economy could incur significant costs associated with environmental remediation.

The objectives of the proposed government action are to, firstly, ensure the environmentally sustainable management, re-refining and reuse of waste oil by supporting economic recycling options through product stewardship arrangements in partnership with oil producers, recyclers and the states; secondly, ensure that oil producers progressively assume the costs of product stewardship and environmentally sustainable practices for waste oil; thirdly, increase the recovery rate of waste, thus avoiding environ-
mentally damaging disposal of waste oil; fourthly, ensure that products manufactured from waste oil meet the relevant Commonwealth environmental standards; and, fifthly, allow for transitional assistance to introduce product stewardship arrangements.

This legislation provides a financial incentive for the oil to be collected, recycled and reused. The added value for the oil is largely funded by the oil producers and consumers through a levy administered by the Commonwealth government of 5c per litre of oil, which ensures the costs of providing for proper recycling and reuse are internal to the market. The levy will be payable for both imported and domestically produced oil. A stewardship benefit is then offered to recyclers of oil on the basis of volume, intended use or quality of goods produced from waste oil and subsequently sold. A system of differentiation will mean some uses and products of waste oil will attract a different level of benefit from other uses and products. The Product Stewardship (Oil) (Consequential Amendments) Bill 2000 amends the Taxation Administration Act to allow for payment or product stewardship benefits to eligible recyclers by the Australian Taxation Office. The Labor Party supports the objectives of this bill.

There are other pieces of legislation which we are debating cognately which have complementary objectives. There is the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill which amends the Customs Tariff Act to support the product stewardship initiative for waste oil embodied in the Product Stewardship (Oil) Bill. The levy is subject to future consumer price index adjustments, which we support. It is interesting to note that this same adjustment has not been included under the renewable energy legislation due to be debated later this week. We think this is inconsistent and we will be reviewing this particular aspect, among others, in the Senate committee’s review of the legislation concerning renewable energy. We do support this bill.

There is also the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill which amends the Excise Tariff Act. It is consequential to the Product Stewardship (Oil) Bill and we therefore also support this bill. Finally, there is the Product Stewardship (Oil) (Consequential Amendments) Bill which makes minor amendments to three acts—the Products Grants and Benefits Act, the Excise Act 1901 and the Taxation Administration Act 1953—to bring the oil product stewardship benefit payments and levy collection arrangements into line with other excise programs. Once again, this bill is consequential to the Product Stewardship (Oil) Bill and we support it as well.

In conclusion, I note that this legislation comes before the House in the same week as the government announced its excise and GST arrangements for petrol more broadly. Those arrangements will certainly lead to an increase in the price of petrol. The government’s taxation on the price of petrol is increasing. That is something that the opposition have been very concerned about and have been drawing attention to during the parliamentary debate this week. We will be drawing attention to it after 1 July as we have been prior to 1 July. It is good to see the member for Dunkley in the chamber. We will be drawing the attention of the member’s constituents to petrol price changes. As I indicated to the House, we support these pieces of legislation.

Mr PROSSER (Forrest) (4.51 p.m.)—I rise to support the Product Stewardship (Oil) Bill 2000, the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000, the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000 and the Product Stewardship (Oil) (Consequential Amendments) Bill 2000. Speaking to these bills gives me the opportunity to not only support this initiative but also salute a major oil recycler who has the largest catchment area in Australia, based in my electorate of Forrest in Western Australia. That is Fred Wren of Wren Oil.

We are all aware of the figures. Australian oil refineries produce around 800 million litres of virgin oil, from which lubricant is made. Around 200 million litres of base oil is exported. Domestic users consume some 520 million litres and it is estimated that, of those 520 million litres, some 150 to 165 million litres of domestic consumption is currently
recycled. That is a total of 68 to 71 per cent of the annual domestic usage that is out there somewhere. Two hundred and sixty million litres are lost because of combustion of engines, but the remainder could and should be recycled.

Worldwide, the sale of new lubricants rises by about five per cent a year, and so does the volume of waste oil. In 1995 it was estimated that only 44 per cent of waste oil was being collected worldwide. It is a responsible government that acts to rectify this problem. For those who are not aware, lubricants are generally produced from base stocks refined from the heavy fractions of crude oil or other hydrocarbons and then various additives are blended into them. Lubricants are used for a wide range of applications, including as engine and transmission lubricants, hydraulic fluids, insulation and process fluids and, of course, greases. During the application, part or all of the lubricant may be consumed. In layman’s terms, it is like when you check the oil in your car. There is no leak but, of course, the oil has to go somewhere and the fact is that some of that oil is burned in the normal combustion process. In another way, anyone who changes the oil in their car at home, referred to in the industry as the do-it-yourself section of the market, will be aware that the balance of the oil that is not consumed is contaminated by water, metal particles, rust, dirt, carbon, lead and other by-products from the combustion process or from the normal wear and tear of an engine.

Used lubricating oil itself has an inherent value. It is currently recycled in Australia as diesel extender, which is predominantly used in remote area power stations, which rely on large combustion engines for power generation. One of these power stations is at the bottom of Western Australia, at Esperance, and a lot of this product goes to it. Fuel diesel is blended with diesel extender, which is made from recycled waste oil. As I said, waste oil is itself also used as an energy source in the production process for goods. The beauty of this scheme is that if manufacturers collect and recycle waste oil, they, too, may be eligible for product stewardship benefits on what they recycle. There are a number of reasons why we should recycle waste oil. It is currently estimated that between 35 million and 50 million litres of waste oil are unaccounted for. It could be in landfill or in the back shed, or dumped on the ground or tipped down stormwater drains. I have a history in the automotive industry and I would not like to see a return to the bad old days, because I think we have recognised the problem and that the collection and processing of waste oils is the responsible way to take care of it. This bill addresses what will happen into the future, and I think that is responsible from not only a government point of view but also an environmental point of view.

According to US EPA studies, just one gallon of used oil leached into ground water can mean one million gallons of water become undrinkable. Marine animals can be affected by oil concentrations as low as one part per million. With pollution, it is often not just the actual loss of animal and plant life per se that is important but also the economic losses of fishing and recreational industries that must be considered as part of the cost. Not to put too fine a point on it, there is one reason why people do not recycle waste oil—that is, there are little or no tangible economic benefits. For many there was a cost involved in the recycling of waste oil, in an industry where margins are tight and business is volatile. Aside from the fact that waste oil itself has an inherent value, which was previously unrecognised, these bills assign waste oil a monetary value, thereby ensuring that it will be recycled.

Under these bills, there will be a financial incentive for oil to be collected, recycled and reused. I am confident this will be a great motivator and will result in a substantial amount of unaccounted for oil being recycled and increasing amounts of oil being accounted for. The Product Stewardship (Oil) Bill establishes the eligibility requirements for the benefits and sets out the benefit rates. The bill also sets up a ministerial advisory council, with broad industry and community representation. I think it is important that small independent companies like Wren Oil are soundly represented on this advisory council.
The three consequential bills allow for the collection of the levy on both domestic and imported oil products by amending customs and excise legislation. With the levy set at 5c a litre, to be paid by producers, it is expected to raise around $25 million per year and that the entire amount collected will be distributed back to waste recyclers and the like in the form of benefits. There is currently a 22 per cent wholesale sales tax attached to oil which, upon the introduction of the new taxation system, will be removed and a 10 per cent GST added on. This should mean that, even if waste oil producers pass on the full cost of the levy to consumers, there should still be a reduction in price. There is currently very strong competition in the lubricants market and this factor, combined with the ACCC, is expected to limit price rises.

What I like about this legislation is that it has been done with minimal government interference. By that I mean that the government has corrected a market failure by introducing a financial incentive that the market will respond to. The legislation also recognises that the producer has some responsibility for where the product ends up. Accountability or stewardship rests in partnership with the oil companies, state and federal governments and oil recyclers. I also think it is important to note that the levy will only be used to pay benefits, and the cost of administering the levy will be met by the transitional funds announced by the Prime Minister on 31 May 2000. This will ensure that the levy is kept at the lowest rate possible.

The increased value of waste oil should flow almost immediately to approved recyclers. This will have the effect of improving recyclers’ operating margins, causing them to require greater quantities of oil. Recyclers will be paid by the ATO for each litre of product delivered from waste oil.

I want to touch briefly on the concept of tradeable certificates which will be trialed. A producer of waste oil would be required to hold certificates to show that appropriate recycling occurred for a designated percentage of the product. These certificates would be supplied to recyclers, thus creating a market in the certificates and adding value to the waste oil stream. This system would allow the minister to set target recycling percentages. This is an innovative approach, and I am pleased that it is being trialed, not only because of the potential benefits that it might yield but also so that smaller oil recycling businesses are not exposed to unnecessary risk.

I mentioned Fred Wren of Wren Oil earlier in my remarks. Wren Oil, a waste oil recycler and a recent winner of the South West 3R recycling award, has one of the most extensive used oil collection catchment areas in Australia. Wren Oil is based in Picton, close to Bunbury in the south-west of Western Australia. Wren’s trucks have a pick-up run which goes as far north as Port Hedland—for those unfamiliar with WA geography, that is 2,000 kilometres away—and as far south-east as Esperance, which is 600 kilometres from the Wren factory and marks the edge of the Great Australian Bight, and to the goldfields to the east.

Fred was a market gardener and started his oil recycling business from scratch in the early 1980s. He began to collect drums of relatively clean, used hydraulic and gear oil, which he mixed into black sump oil, realising that if oil was clean, someone might be willing to use it. The concept led to a search for processes that would turn waste oil into a product that could be reused in its original application or possibly a new application.

Through spare time, research and experimentation, he discovered processes for thin film evaporation and distillation. In 1986, Fred purchased oil cleaning equipment and began selling reconditioned hydraulic and gear oil. A formula was developed to manufacture chainsaw bar oil, and a market developed for both products. With both his sons, Fred began refining sump oil, one drum at a time, on weekends.

In 1992, Wren Oil began to clean black sump oil, utilising chemicals and a centrifuge, which it sold to new users. In 1996, a turnkey module thin filter evaporation distillation re-refinery was installed to recycle oil for new use and eventually back into lubricants. Distillation is at the heart of the re-refining operation. Rather than seeing used
oil as a waste product requiring costly disposal, Wren Oil has built its business on the belief that used oil is a fully recoverable resource and should be used again. Wren’s ability to add value to waste oil by using modern refining techniques and to find consumers who are willing to pay a fair price are the only reasons that there is free used oil collection in Western Australia.

Wren Oil adds value, seeks niche markets and, by competing with new fuel and lubricant products, gains the resources to reinvest. Wren Oil is seeking to place recycled oil on the shelf, but there are still some elements, such as colour bodies and carryover elements from re-refined base oil, which need to be eliminated. Wren Oil collects and recycles about 12 million litres per annum, or about 40 per cent of the reported waste sump oil in Western Australia. Oily waste from the Bunbury region industry and mining companies was also accepted when an abatement notice from the WA EPA meant that it could no longer be sent to landfill. Wren Oil also recycles waste from ship bilge pumps—one to 1.5 million litres each year. To their credit, they also recycle used oil filters from the mining industry. These large filters contain about half a litre of sump oil and were previously being buried. Wren Oil crushes the thousands of filters, removes the oil, and sends the metal to scrap recyclers. In doing so, they prevent over 300 tonnes of metal from going to landfill every year.

Fred Wren has been at the cutting edge of policy in this area and has been involved in the development of the legislation being discussed today. Fred Wren and Wren Oil support this legislation and have actively pursued stewardship at all levels of government and industry. Wren Oil is an active supporter of the concept that responsibility lasts for the entire life of the product. Through research and development, production, distribution, utilisation and, finally, recycling and appropriate waste management, Wren Oil successfully and safely takes responsibility for recycling and waste management components. Wren Oil intends to continue to upgrade its plant and storage capabilities, completing the installation of equipment that will result in a facility which will be able to process between 25 and 30 million litres per year. This figure is significant because it is WA’s total reported amount of waste oil.

Competition from the gas industry and the threat that lower priced gas supplies present to recyclers are what ultimately drive the market and Wren Oil to prepare for the ultimate investment: placing recycled oil back on the shelf—which is, of course, the best form of recycling.

Mr ANDREN (Calare) (5.06 p.m.)—I would like to take the opportunity to make some brief comments on the Product Stewardship (Oil) Bill 2000 and related legislation. Unfortunately, as the four pieces of legislation that make up this package were introduced only last Thursday, I have not had sufficient time to go through them in much detail, but I thought it important to put on the record some of the concerns from my own electorate as well as my support for the initiatives.

Because of the way the bills are being rushed through, I am not in a position to speak on them in detail, but I would like the parliamentary secretary to comment, if she is able, on some of the points I have raised. I want to state from the outset that I am supportive of the thrust of this bill which is to encourage the recycling of oil products in Australia; to set up partnerships between the oil companies, recyclers and the government; and to have the companies progressively assume a greater share of the costs. As the parliamentary secretary said when she introduced the bill, of the 500 million litres—I think that was the correct figure—of oil sold onto our domestic market, currently only 150 million litres finds its way into recycling or acceptable disposal points.

Concerns have been raised with me, however, by regional collectors of waste oils about the proposed framework for the subsidy, which will be paid only to recyclers, and I will place these on the record. Under the proposed scheme, waste oil will be given a monetary value, and financial incentives will be provided for the oil to be collected, recycled and reused. The added value for the oil will be funded by the oil producers and consumers through a levy administered by the Commonwealth. My understanding is
that the proposed arrangements will provide benefits to entities that recycle oil for end use only and not for people who simply collect waste oil. So, if a collector filters and de-waters waste oil which is then sold to a user, that collector is eligible to receive a product stewardship benefit for the oil recycled. However, if the oil is sold to another entity for further processing or refining, the original collector is not eligible to receive a benefit, according to my understanding.

The focus of these measures is on recycling, not on collection. According to Environment Australia, the rationale for this is that there is no immediate link between the collection of waste oil and its recycling or reuse. More collection does not necessarily mean more recycling; it may just mean more oil going into storage and re-emerging later with potential environmental problems. I can certainly see that, and I can see the rationale. By paying recyclers after they recycle, the Commonwealth will obtain defensible environmental outcomes. If collectors were paid before final recycling occurs, the Commonwealth would be paying benefits with undetailed or unknown environmental consequences.

I have received correspondence from a range of regional waste oil collectors, and notably from Sel King, proprietor of the Overlander Waste Oil proprietary company in Orange. In summary, regionally based oil collecting companies are concerned that the stewardship scheme will threaten the viability of their operations and prove counterproductive in rural and regional areas because of the additional costs involved in collecting the waste. According to Chris Newcombe of Northern Lubequip in Tamworth—and I notice the member for New England is in the chamber—there are perhaps 30 or more small family owned waste oil collection and recycling businesses in regional Australia. There are eight large recyclers, and most of these are based in major metropolitan areas. Almost all of the smaller oil collection businesses sell their oil to larger oil recycling businesses. Mr Newcombe claims the larger oil recyclers have overstated to the government and to Environment Australia the cost of collecting oil in the regions. They have apparently stated that the cost of waste oil collection is 8c to 12c per litre, and that they will need financial assistance to collect this oil. He claims the same large companies pay only 5c to 7c per litre for oil the smaller collectors collect from the very same area. The recyclers then sell the oil for around 20c a litre, making a 10c a litre profit. These smaller operators say that the cost of collection is 4c to 5c a litre and that their current profit is between 1c to 3c a litre—a profit margin they are quite happy to carry on with. They say the recyclers are already making reasonable profits without the product stewardship scheme in place.

Mr Deputy Speaker, I have had to pull all this together in a very short period of time. I would like to hear from the government how this measure will ensure that oil is collected and recycled in rural Australia, and what the implications of it will be for the small family collection businesses who fear it will force them out of business. I would welcome the parliamentary secretary’s comments on these concerns. Once again, I raise with the House the inadequate time that has been made available to go through this bill of such admirable targeting in any sort of sensible detail. It is a bill which, in the case of these smaller operators, could have dire consequences.
programs while these more market based mechanisms are developed.

I will go through some of the reasons why that transfusion is necessary and how this package of measures is a positive step forward. Each year in Australia about 30 million to 50 million litres of waste oil is unaccounted for—it may be in storage, it may be inappropriately disposed of, or it may be being used in a manner which is detrimental to the environment, such as simply using it as a dust suppressant or a weed killer. Some of it finds its way to landfill, and some of it, as has been mentioned earlier, is stored. On this side of the House, we are trying to make sure that arrangements are in place whereby waste oil is recognised as a resource that has a value, that its greater recycling and reuse is encouraged and, at the end of the day, its impact on the environment is reduced.

At the moment, we have four oil refineries producing lubricants in Australia—BP in Western Australia, Mobil in South Australia, Caltex in New South Wales, and Shell in Victoria. Between them they produce about 800 million litres of oil a year—well in excess of our domestic requirement, which is around 520 million litres and which has stabilised at around that level for the last 10 years. With demand being static, some of that virgin oil is exported and some of it adds to the world production surplus. We have not seen an increase in demand for those products, which are lubricants at the lowest quality end of the market in world terms. So there has been a contraction of demand for virgin oil at the same time as a domestic overproduction, combined with a large volume of waste oil that is not currently being recovered.

These are the tensions that we are seeing in this oil stewardship debate, where the market is closing in on the whole area of oil production, the sale of virgin oil and the use and recovery of waste oil. This package of bills is designed to recognise that, if not addressed, that market condition could see greater volumes of waste oil not finding its way back into reuse or appropriate recovery. Today we are discussing a series of bills that put some incentives in place for the recovery and reuse of that waste oil in the most environmentally sensible way. The subsidies that are available are graduated. You could say that the higher the environmental virtue of the reuse of the waste oil, the higher the level of subsidy. That is designed to recognise that there are a number of different things that can be done with waste oil—and I will come to some of those points shortly. On the best available figures that we can get hold of, the volume of potentially recoverable waste oil in Australia is between 200 megalitres and 280 megalitres—or 200 million litres to 280 million litres. Of this, approximately 150 to 165 megalitres is collected. Unaccounted for waste oil is where the threat to the environment presents itself, and we need to look at the disposal practices that are in place.

Some of the earlier speakers have talked about the current collection and reuse measures, and I will spend a few moments talking about those. Mr Prosser mentioned that it takes as little as one litre of oil to contaminate a million litres of drinking water and that there are consequences with respect to oil pollution and fire and explosion hazards arising from the incorrect disposal of waste oil. He also mentioned that there is quite a critical occupational and community health and safety issue, as is canvassed in the Environment Australia discussion paper. Of the waste oil that is recovered, an overwhelming percentage is recycled by the least sophisticated methods. In fact, most of it is used as a burner fuel, which is a disposal solution rather than a reprocessing option. When used as a fuel in very high temperature combustion applications, the environmental cost is minimised because the toxic compounds are destroyed in the process. However, lower temperature burning can result in higher levels of air pollution, depending on the number of contaminants contained in the waste oil in the first place. There is some contention in the industry as to whether the use of waste oil as a burner fuel has a long-term future as it comes under pressure from competing fuels such as natural gas and more stringent air pollution regulations. That is an example of what I was describing earlier, where the marketplace is closing in on this recovery and reuse of waste oil. Some of the options that have been attractive in the past for the disposal of waste oil are becoming less at-
tractive as time goes by. Competition from things like biomass energy production from natural gas pipelines and the like, as well as a consciousness about the environmental and air quality impacts of burning waste oil, are all saying to people: ‘Maybe this isn’t the best fuel source available.’

The more sophisticated recycling processes, used far less frequently in Australia, account for only about four per cent of the recovered oil. That is currently processed into diesel extender, and four per cent meets the required specification for addition to diesel fuel. That occurs only at one facility, which is located in Victoria. Again, to illustrate how the market is closing in on that, those in this House who are mindful of the government’s commitment to climate change and some of the other arrangements for improved air quality and amenity in our cities, know that we are moving towards far more stringent diesel quality standards. You will see options such as diesel extender being less attractive where it is producing a quality of diesel that fails to meet those more stringent standards. So there is work to be done there.

Less than three per cent of recovered waste oil is re-refined to base lubricating oil, which is the highest value added recycling process. We are a bit different from Europe where you have the likes of Visco taking lube to lube oil and where they are reprocessing used virgin oil and making it available for some of those higher end uses, such as motor cars. I am told that Volkswagen, Audi and Mercedes actually use some of this reconstituted oil in their products. I was pleased to hear that we have had some assurances from most of the vehicle suppliers in this country that, where the oil meets the specification standards required for it to be put into engines and other parts of the car, it will not void the warranty. So at least there is a consciousness around suppliers of motor vehicles in this country that, on grounds of performance, using recycled oil is not going to be a problem with their product warranty arrangements. That brings me back to that earlier point: that the market is closing in on options such as simply burning waste oil for energy. Whilst there is a diverse range of uses for waste oil, the vast majority of the oil currently goes through that least sophisticated process and is burned. If the market contracts further, as I have suggested it may, there will be even more waste oil to deal with and fewer simple, unsophisticated options to deal with it.

A program of $60 million over four years has been put in place to try to provide some incentives to carve out some new market opportunities. The member for Calare talked about how in some areas some collectors are saying that it is more expensive to collect oil and he asked how this program will help. It will help because, at the end of the day, the end product will be more valuable and those who are in the collection chain will be able to extract a higher price for the quality and volumes of oil that they are looking for. It then goes into a reprocessing market where there is an incentive available to make it more affordable, to make it more attractive in the marketplace. It will encourage oil recyclers and reusers to embrace more sophisticated reprocessing procedures so that we will get the best possible environmental outcome.

As a result of these changes, we have to support that transition. I was saying earlier that some of the traditional reuse areas are contracting with other changes in our economy. So it is almost a lifeline that is being provided to this industry while we work with it to develop alternatives for this waste oil. The minister in his second reading speech and speakers who have followed have talked about how we are opening the door for a certificate based trading environment down the track, where those who create the waste oil will be able to trade and exchange their certificates for the reuse and recovery of that oil. That is not going to happen overnight. That whole trading regime is quite a bold idea. It is something that needs to be put in place to let the market find the most appropriate way of properly dealing with waste oil. But, as I said, that is not going to happen overnight. There are subsidies, incentives and assistance in place to make sure that the industry works to find new solutions for its waste oil and to get this hazardous waste, as it is viewed by so many, recognised as a re-
source that has a value and create a market for its sale.

That will not be done just by people in Canberra looking at what those opportunities might be. The bill also sets up the ministerial advisory council, which will take account of industry and community input and take in that input to help develop the trading regime that will happen down the track. I am encouraged to hear that there will be a large number of recyclers on that council. They will be the ones there providing advice to the government on how to develop a scheme that recognises their interests and goes some way towards dealing with the member for Calare’s concerns, that you might get larger and larger companies vertically integrating in the oil game and freezing out some of the smaller players.

There is a schedule of benefits to be developed that accompanies the subsidies. I just want to spend a moment talking about that. There are less virtuous ways of recovering and reusing waste oil and they will attract the least generous incentive. Those more virtuous ways, such as converting lubricants back into lubricants, will attract the highest level of incentive. So where you have the more sophisticated, the more complex and the more expensive process with the better environmental outcome, that will attract the higher level of subsidy. But what I am hopeful of is that some of that $60 million over the next four years may be available to help the industry tool up to meet those more demanding standards of how to recover the oil and how to make sure it is properly reprocessed and reintroduced into the marketplace.

This is not about the government seeking to override what is going on in the states and territories. The excellent publication produced by Environment Australia Comprehensive product stewardship system for waste oil: a discussion paper highlights how there are differing state and Territory regulatory regimes in place. We as a Commonwealth are not seeking to override those regimes; we are seeking to put in place an arrangement that supports them. Hopefully, as states and territories gain experience with different collection, recovery, recycling and reuse options, you will see the regulatory framework implemented by the states and territories also improving. I know that places like Victoria have a comprehensive regulatory regime. Some other states do not have quite as comprehensive a regulatory regime, and it is my view that is partly why there is a pretty good waste oil arrangement operating in Victoria.

What we are adding today, through this package of bills, is a market based incentive mechanism that will act in conjunction with those existing regimes in the states and territories. The product stewardship arrangements are an innovative approach to addressing an environmental problem which uses market forces in preference to heavy-handed command and control mechanisms. What the government is saying, though, is that we cannot just leave it to the market on its own right now; we have to play an active and constructive role in helping to create a market that recognises the value of waste oil, that prices the recycled product at a price that the market is prepared to pay and that offers incentives for people that are prepared to go the extra yard and extend the environmental virtue of their recycling exercise. Those are the reasons why this package of bills should be supported by this House and the Senate.

Mr ST CLAIR (New England) (5.26 p.m.)—I rise in the House today to support this grouping of bills, the Product Stewardship (Oil) Bill 2000, the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000, the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000 and the Product Stewardship (Oil) (Consequential Amendments) Bill 2000. The purpose of the legislation is to establish a product stewardship system for waste oil for encouragement of recycling and reuse of waste oil. I think all in this House who have been speaking to these bills would certainly agree on, encourage and support the concept behind the bills. The initiative fulfils a commitment that the federal government made in May 1999 as an outcome of negotiations on the implementation of the new tax system. Some of the issues that the member for Calare raised have certainly been raised with
me by Northern Lubequip and other companies in my electorate of New England that are out there being innovative and that are small companies indeed that feel as though they have been, on this particular issue, left out of the equation—but I will get back to that in a moment.

These bills have come about as part of the measures for a better environment package, a commitment which was made to institute product stewardship arrangements for waste oil. Mr Deputy Speaker, $60 million, as you have heard, has been allocated over four years for transitional assistance. Each year more than 500 million litres of oil is sold onto the domestic market and only about 150 million litres of this finds its way to recycling or acceptable disposal routes, while each year in Australia about 35 to 50 million litres of waste oil is unaccounted for. The oil and oil recycling industry is a diverse sector, with a wide range of stakeholders ranging from multinational oil producers, through differing sizes of domestic rerefiners, to small ‘backyard’ family concerns. Those small ‘backyard’ family concerns are still the backbone of employment in this nation. After all, we have seen what the major oil companies can be up to when they do not want to particularly look after small people or the retail sector.

While the market for recycled products varies considerably, recycling operations tend to have tight margins with low levels of profitability. This, combined with the fragmented nature of the recycled oil markets and some consumer reluctance to purchase recycled lubricant to use in engines, acts as a significant barrier to increasing the capture rate of the 70 per cent of the annual Australian lubricant use that is not currently recycled. The most effective long-term solution to the environmentally damaging disposal of waste oil is a product stewardship which links oil companies, recylers, the states and the Commonwealth, and by which the oil companies assume a progressively greater share of the costs. I could not agree more with the sentiments that have been expressed on this issue, that it is a partnership and that it needs to be between all those that are the stakeholders in it. This package of bills effectively achieves all these elements. The primary piece of legislation is the Product Stewardship (Oil) Bill 2000, which is a bill supporting economic recycling options for waste oil and to ensure its environmentally sustainable management, rerefining and reuse. The three consequential bills allow for the collection of the levy on both domestic and imported oil products by amending existing customs and excise tariff legislation.

The Product Stewardship (Oil) Bill 2000 has the objective of developing product stewardship arrangements for waste oil that will ensure the environmentally sustainable management, refining and reuse of this oil. The bill also has the object, of course, of supporting economic recycling options for waste oil. Product stewardship is the concept that producers and users of a good share the responsibility of seeing that that product is produced and used responsibly and is recycled or reused appropriately. This responsibility is a financial one in this instance, rather than being a responsibility to physically return waste oil. Having been involved for many years in an industry where oil is used—and recycled—I can say that it was never the large companies that came to my establishment many years ago to purchase, collect and recycle the waste oil. It was never the major oil companies that came and showed me that recycled oil was a lot cheaper, particularly hydraulic oil that had been recycled by people locally—that is, within a few hundred kilometres. It was not the major oil companies that came and showed me that chain oil for my chainsaws, for example, could be purchased from recycled oil.

Under the product stewardship arrangements in this bill, the waste oil is given a monetary value. Benefits from recycling waste oil will be paid through the mechanisms established in the primary legislation. The added value of the oil is largely funded by oil producers and consumers through a levy administered by the Commonwealth government. This ensures that the cost of providing for proper recycling and reuse is internal to the market. The levy was agreed between the Minister for the Environment and Heritage and the Treasurer, and it was
set at 0.05c per litre. The revenue that is expected to be generated from this scheme is approximately $25 million, increasing as the volume of recycling increases.

The amount of stewardship benefit received will be based on the volume, intended use or quality of goods produced from waste oil and subsequently sold. A system of differentiation will mean that some uses and products of waste oil will attract a different levy of benefits to other uses and products. The government recognises that there are a variety of end uses for waste oil. As the focus of the legislation is environmental, product stewardship benefits will reflect the environmental merits of the products and processes. The decision to differentiate benefits will be based, in part, on a comparison of the environmental footprints for the production of each product.

In the initial stages of the product stewardship scheme, a simple differentiation scheme based largely on sustainability criteria is proposed. Lower levels of benefit will be paid for uses where waste oil is consumed as a fuel. We heard about that this afternoon, and there are major plants in Tamworth, in my electorate, that are burning fuel as a major source of energy. Where waste oil is consumed as a fuel, essentially only the thermal energy of the oil is recovered. Where the waste oil molecules are not consumed—such as when they are turned into lubricant rather than fuel—a substantially higher benefit should apply. Keep in mind that there are a lot of applications for oils, particularly in rural areas. I know that you know this, Mr Deputy Speaker Hawker, because you come from a rural area. Oils such as chain-bar oil cannot be recycled because once it has been used it is gone—that is it. That happens in a large number of situations; there is substantial waste, whether we like it or not. On a practical note, there is substantial waste from blown hoses in the area of hydraulics. That is a major consumer of new or second-hand oil, but not recycled oil.

With oil being a limited natural resource, the differentiation approach is both highly desirable and consistent with the objects of this bill. A key to the successful use of recycled lubricant is the market acceptance and demand for such lubricant, and motor manufacturers are clearly leaders in this market. I could not agree more with that statement, but I would hardly say that the major oil companies are also leaders in this market. Certainly, the small, independent private business owners, such as Northern Lubequip, Kendall and many others, are out there, getting market acceptance for the products.

This bill addresses a number of procedural matters such as the delegation of provisions and the tabling of an annual report—which seems to be mandatory these days. The bill also requires the minister to commission an independent review of the operations of the act within four years of its commitment and to table that review. Along with the member for Calare and many other members of this place, I will be out there making sure that the small companies that are already collecting a lot of this waste oil from smaller towns and villages and country and farming areas are not going to be penalised and pushed out of the industry by the major oil companies as time goes on. I will certainly be monitoring that, and I am sure my colleagues will be as well. Under the provisions of this bill, the minister must commission independent reviews on an ongoing basis at intervals of not longer than four years—in some cases, maybe they should be earlier.

These are the salient points of this package of legislation, which is necessary to give effect to the government’s commitment—with which I agree wholeheartedly—to reduce the amount of waste oil finding its way into the environment. As I said, most of those in this House who come from regional and remote areas know how much black oil used to be used around the place for all sorts of reasons. It is good to see that we are going to see some more recycling of it—let us hope that it is not to the detriment of the small businesses that already collect it. The government’s goal will be accomplished not through a heavy-handed command and control mechanism but through a product stewardship arrangement involving consultation—an arrangement which values the waste oil and gives economic incentives for its recovery and reuse. In the main, this economic incentive is provided by those who
use and derive benefit from the original product. I commend the bill to the House.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (5.35 p.m.)—in reply—In summarising this debate on the Product Stewardship (Oil) Bill 2000, let me thank all of the members who have participated. It has been one of those occasions in the House when each member understood and was supportive of a major new environmental initiative for this country, a country that has seen an inappropriate use of many thousands—perhaps even millions—of litres of oil over the last 100 or so years. There have been all sorts of uses of oil—not all of them good for the environment. When I was younger, I spent many an hour painting stockyards with sump oil. I now understand that that was very bad for my health, and it certainly did not do much for the environment. Those sorts of scenes, hopefully, will be gone with this new and very important initiative.

This package of innovative legislation represents the realisation of a commitment made by the government in the course of negotiations for a new tax system. It contains measures for a better environment. The member for Wills could not resist a bit of a dig while he was complimenting this piece of legislation. In the last few days of panic, the opposition could not resist a reference to the new tax package. Let me remind him that under Labor's regime there was a 22 per cent wholesale sales tax attached to oils and greases. That goes and we have a 10 per cent tax replacing that. And, if you are in business, that is all refundable back to you as part of the cost of doing business. Not only is this an exceptional piece of legislation in terms of the environmental impacts; it is also very good for the economy, like all things that this government does.

I refer now to the contribution made by the member for Forrest, a Western Australian member. He very rightly applauded the work of Mr Fred Wren, an absolute pioneer in the recycling of oil, in particular in that part of remoter Australia. Mr Wren has established a very important and significant business, beginning in a very small way, as the member for Forrest described. He has been very much part of the consultation that has developed this very practical legislation and, we expect, very effective bill. I think it is entirely appropriate that we do acknowledge that in countries like Australia there are lots of small battlers out there who begin with the kernel of a good idea and over the years they do a great job all by themselves. But, when we come to a situation as significant as this, with the need to recycle vast quantities of oil, we have to move beyond small operators in regional parts collecting up oil, sometimes for nothing, given to them by garages and seeing that end up in stockpiles because there is no market for that product and certainly no great incentive to see it moved into a cleaner, recyclable state.

That leads me to the contribution of the member for Calare, who expressed the concern that there are a lot of small regional operators, some of whom have come to him, he tells us, concerned that their small operations collecting this used oil might be jeopardised with a new era where there are incentives to recycle this product and where perhaps you would expect to see greater competition for the used oil, as there is a benefit for the processing and recycling of that oil. The member for Calare also made the comment in passing that he felt he had been somewhat pressured by the time frame of the introduction of this package of bills last Thursday and being debated in the House the following Tuesday. A lot of people wish we would do more of our work in this timely and time efficient fashion.

Let me deal with that issue a bit further and say, before he really does get concerned that he was out of the loop, that in fact there was a very comprehensive process of consultation that went on with this particular piece of legislation which included forums and consultation papers, and the member for Dunkley held up one of those in the House. There was a great deal of one-to-one interaction, including with some of the constituents referred to by the member for Calare. There was also a web site to try and make sure that the industry was fully informed and in fact engaged in the development of this package of bills. I guess we can be very proud and pleased that we have had that time, over six
months of very close work with industry, and we have come up with such a practical and we believe very workable bill that is receiving support from both sides of the House. So the member for Calare can be assured that there was an extended period of consultation. It seems a shame that he missed that. Certainly the particular individual with concerns that he referred to was one of those who engaged directly with Environment Australia and was given personal advice, support and information, and he would be more than welcome to continue with that interaction as time goes by if he continues to have concerns.

The member for Calare was anxious that there are stockpiles of unrecycled oil now, and that related to the concerns of some of his small regional collectors. Yes, we are aware that there are these stockpiles of waste oil in storage, and that is one of the reasons why we believe this bill is going to be effective. There has been no incentive for that oil to be moved, sometimes a considerable distance, to get proper reprocessing treatment. So the economic and financial modelling used to design the arrangements has taken this stored oil into consideration. We want to see this oil flushed out and used appropriately. We consider that this will be recycled during the first six months of operation of the new schemes. The benefits system is not about collectors; it is about processing this product and moving it back into the marketplace. So the system does not provide benefits for stored oil but when the oil is moved on to recycling and onsold for use. That is the crux of this new system and that is why we believe it will be far better than the old system, where there might have been some incentive to collect it but not in fact to go on to the next stage.

We are, of course, concerned about the smaller operators out there who have been, as the member for Calare described, doing a very good job, perhaps on quite low margins, collecting used oil, and sometimes from remote locations. We want them to continue to be in business. The particular constituent that the member for Calare referred to, Chris Newcombe, is amongst a number. We have had other representations here today from regional members concerned that those little collectors could go out of business. We can assure you that we believe that people like Mr Newcombe will be financially better off under this new system because there will be recyclers who will be prepared to pay more for the product they are collecting. There will be a market that will be created through the other special green, alternative fuel initiatives that are in the system, which were referred to by the member for Dunkley, and so under our new system Mr Newcombe will be better off, along with other regional families who have taken on a similar sort of business to his.

So what I am explaining is that it is expected that this balanced approach will expand the competition for waste oil, including in particular in remote Australia. Existing waste oil recyclers, with increased financial support under these arrangements, will be in a position to expand their collection services, whether they directly collect or subcontract this service. Prospective new recyclers such as lubricant refiners have indicated that they are also likely to seek waste oil in remote Australia. As I say, this government of all governments is very cognisant of the difficulties that rural Australians face in the tyranny of distance, and we understand the special difficulties of managing waste oil when it is a long way from a major centre and when the costs arising from isolation constrain local solutions to this problem.

In response to people like Mr Newcombe and others, we have a transitional assistance fund which will be used to develop ways to improve the acquisition of waste oil in rural Australia. We will build strategic partnerships so that as far as possible we develop best practice rural waste oil acquisition and we will aim to solve remote area barriers so that as much oil as possible is recycled not just close to major centres but in remote regions, too. All of us are aware that one of the major blots on the landscape is the old rusting oil drum leaning hazardously against some old garage wall.

Informal expressions of interest in this area have already been received from jurisdictions and industry members. Once the arrangements commence, we will compre-
COMPULSORILY SEEK PARTNERSHIPS OF REPRESENTATIVES OF RURAL COMMUNITIES, STATES AND TERRITORIES, WASTE OIL COLLECTORS AND RECYCLERS. IT IS AN EXTRAORDINARILY IMPORTANT THING THAT WE DO IN ENSURING PRESERVATION AND CONSERVATION OF THE ENVIRONMENT OF AUSTRALIA. I THANK ALL THOSE CONTRIBUTORS WHO, WITH THE GOVERNMENT TODAY, ARE VERY GRATEFUL THAT WE HAVE TAKEN THIS STEP. I COMMEND THE BILL TO THE HOUSE.

Question resolved in the affirmative.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

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

Bill (on motion by Dr Stone) read a third time.

CUSTOMS TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

Second Reading
Consideration resumed from 22 June, on motion by Dr Stone:
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 Dr Stone) read a third time.

EXCISE TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

Second Reading
Consideration resumed from 22 June, on motion by Dr Stone:
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 Dr Stone) read a third time.

PRODUCT STEWARDSHIP (OIL) (CONSEQUENTIAL AMENDMENTS) BILL 2000

Second Reading
Consideration resumed from 22 June, on motion by Dr Stone:
That the bill be now read a second time.
Question resolved in the affirmative.
Bill read a second time.

Message from the Governor-General recommending appropriation announced.

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

Bill (on motion by Dr Stone) read a third time.

COPYRIGHT AMENDMENT (DIGITAL AGENDA) BILL 1999

Second Reading
Debate resumed from 2 September 1999, on motion by Mr Williams:
That the bill be now read a second time.

Mr McCLELLAND (Barton) (5.50 p.m.)—The opposition will be supporting the second reading of the Copyright Amendment (Digital Agenda) Bill 1999 and substantially the entirety of the bill as the government, we understand, will be amending it in the committee stage. We will be proposing amendments which we anticipate that the government will support save for insofar as there will possibly be one outstanding issue. This legislation would be an interesting study for a student of politics in terms of the procedures that have been followed to achieve the outcome that we have before the House. There has been detailed advice by committees of experts. This process was started under the Labor government but, in fairness to this government, carried through ongoing public consultation procedures. Ultimately, after the bill itself has been tabled, there has been further consideration by a parliamentary committee. When you have the procedures right, you are more likely to get the policy right.

While this topic may be regarded as quite dry by ordinary Australians, nonetheless it is a very important topic. The protection of
intellectual property through copyright is vital to Australia’s new economy, to the exploitation of intellectual property, whether it be in the realm of computer software, music or other areas of the arts, or in regard to literature. It is very important to properly protect that intellectual property. Equally, on the other hand, it is important to balance the ability of ordinary Australians to access information so that they can develop skills. The interaction between the protection of intellectual property and providing fair and appropriate access to the users of this material is a very difficult balance. Ultimately, neither side will be completely happy with the balance that has been achieved, but I think it is fair to say that, in respect of this legislation, if any particular side were entirely happy, then the balance would be wrong. I say that at the outset before focusing on the bill.

We have, as I have indicated, the creators of copyright material on the one hand, together with the collecting societies that represent their interests, such as the Copyright Agency Ltd and Screenrights. They argue that copyright is necessary to protect the interests of creators. We have the users on the other hand, including students, researchers, members of the public, universities, libraries and cultural institutions. They argue that copyright must ensure that people can obtain fair access to copyright material and, in some instances, that that access be provided free of charge so that research and education, for instance, are not impeded. Then we have the third players in the equation, the copyright communicators. Increasingly, they are becoming important in this technological age. They include the Internet service providers, telecommunications companies and, as we move into the digital television area, those who control that means of communication. They have an interest to ensure that they are not improperly exposed to actions because of a breach of copyright by someone who has provided them with information.

As I said at the outset, while this is perhaps not an issue that inspires great public interest or awareness, it is of considerable and indeed passionate interest to those who are directly involved. I dare say that many members of parliament have—as I know that I have—received numerous representations from those who have a direct interest in the industry. No doubt their views will be reflected by those speakers who follow me. Essentially, there has been, through the process that I outlined at the start, a substantial coming together of the differing positions between the parties and probably equally as much within the major political parties.

The central aim of the bill is to ensure that copyright law continues to promote creative endeavour and, at the same time, allows reasonable access to copyright material through these new technologies. I will spend a little time mentioning the international context in which the legislation has come about before moving on to the bill directly. Significant developments in the area of copyright as it is applied to the electronic media were the World International Property Organisation Copyright Treaty of 1996, which deals with works; and the WIPO Performers and Phonograms Treaty, which deals with the right of performers and the owners of copyright and sound recordings. Both treaties introduced a new package of digital standards. Those standards are important and have been substantially adopted in the framework of the bill.

Firstly, the treaties refer to the broad based right of communication to the public through wireless and cable transmission. Secondly, there is a new right of making available to the public that which covers non-broadcast transmission, such as uploading works or other subject matter to a web site. Thirdly, there are sanctions against the abuse of technological copyright protection measures, such as measures used to make access to copyright material conditional upon payment or subscription. That happens, for instance, with fee gateways or password restrictions to material. Fourthly, there is the outlawing of deliberate alteration or removal of electronic rights management information, such as those things that are referred to as watermarks, even though there is no water used in the process—that is, some insignia or trademark on a particular product which is retained in an electronic form. These reforms contained in the bill are broadly consistent
with the treaty, and there is no doubt that the bill presents a major step in aligning Australia’s laws with those treaty obligations.

It is fair to say that the law has maintained a distance behind technological change. It must be realised that technological change is moving so quickly that that will inevitably be the case. While this bill does include enforcement measures, it may well be the case that technological change is so very rapid—for instance with downloading of MP3 sound recordings—that other measures are required. No doubt the government will be looking at that very closely, as indeed will the opposition.

The developments that have occurred have been necessary. For instance, the current law does not recognise a diffusion right for sound recordings, which has allowed cable transmission through pay TV and the Internet of sound recordings without there being a breach of copyright in those sound recordings. A further problem is that broadcast is currently defined as being by wireless telegraphy, which means that broadcasters do not have a cable transmission right in their broadcasts. This in turn has allowed cable TV operators to retransmit broadcasts without having to obtain a licence from the primary broadcaster. That has been brought up to date somewhat with amendments to the Broadcasting Services Act, but this is necessary to backfill in respect of that area and to specifically identify and recognise the rights.

Recent litigation has also demonstrated that uncertainty exists in a number of areas regarding the extent of exclusive rights, the liability of Internet service providers and retransmission rights.

For instance, in 1997 there was a case of APRA against Telstra that concerned whether there was any fee payable in respect of use of on-hold music by Telstra. That transmission was held to constitute a broadcast and transmission of music for the purpose of the Copyright Act. In 1996, there was a case that was eventually resolved without deciding the point, where APRA had alleged that Ozemail had contravened their rights by supplying cable diffusion of musical works to subscribers connected to Ozemail. As I mentioned, that matter was settled without resort to litigation. Nonetheless it indicates that a problem exists. Equally, with Amalgamated Television Services v. Foxtel in 1996 questions were raised regarding the interpretation of section 194 of the Copyright Act regarding the retransmission by pay television operators of material contained in a free-to-air broadcast. Again, this bill will focus on those issues.

Importantly, the bill itself will include a right of communication to the public which is a broadly based, technologically neutral right. It will replace and extend the existing technology specific broadcasting right which is limited to wireless transmissions. It will also replace the limited cable diffusion right. In addition there will be a new right which will encompass the making available of copyright material online through on-demand interactive services and the right of communication will subsist as an exclusive right in all protected subject matter except for published editions.

There will be a number of important exemptions. These exemptions go to that issue which I mentioned at the start—the need to balance the rights of copyright owners—that is, researchers, students, schools, universities, libraries and cultural institutions. The bill will contain an important package of exemptions and they, as far as possible, will replicate the balance struck between the rights of owners and the rights of users as apply in the print environment. The purpose of the bill is to replicate those as far as possible in the online environment. The existing fair dealing exemptions will apply to the new right of communication to the public. The reasonable portion test has been extended to apply to the reproduction for the purposes of research or study of literary and dramatic works in electronic form. The bill extends the existing exemptions for libraries and archives to the reproduction and communication of copyright material in electronic form. The existing statutory licence scheme for copying by educational institutions has been extended to the reproduction and communication of material in electronic form and the bill establishes a similar statutory licence for the electronic use of copyright material by institutions assisting persons with print and intel-
lectual disabilities, which of course is vitally important. The bill also introduces a new exception for temporary copies made in the course of the technological process of making or receiving communications. This issue was a subject of consideration by the House of Representatives Standing Committee on Legal and Constitutional Affairs. I will speak in a little more detail on that shortly.

The bill introduces three major enforcement measures. The first will place civil remedies and criminal sanctions against the manufacture and dealing in devices for circumvention. These circumvention devices are devices which get around fee gateways or password gateways to get access to material. The second area of enforcement is in respect of providing civil remedies and criminal sanctions against the intentional removal or alteration of electronic rights management information—that is, such things as watermarks and insignia to identify the authenticity of a product. The third new enforcement regime provides both civil remedies and criminal sanctions against the manufacture of and dealing in devices for unauthorised reception of encoded subscription broadcasts. That is very important with respect to areas such as the broadcast of sporting material via satellite. It is common for those broadcasters to encrypt or code the material so that it can only be loaded at a specific site. Increasingly, evidence suggests that apparatus are being purchased which can decode and download that material, for instance into a local hotel.

Another area which the bill addresses which I have touched on is the area of carrier and Internet service provider liability. In particular, carriers and ISPs will not be directly liable for communicating material to the public if they are not responsible for determining the content of the material communicated. Typically, the person responsible for determining the content of the copyright material online would be a web site proprietor and not the carrier or the ISP. The bill also provides that a carrier or ISP will not be taken to have authorised an infringement of copyright merely by providing the facilities on which the infringement occurs. Those exemptions or 'defences' are important because we want to encourage the development of online communication.

The other area particularly relating to television or moving into the digital television environment is the retransmission of free-to-air broadcasts. The bill provides a statutory licence scheme for the payment of equitable remuneration to the underlying rights holders whose works are contained in retransmitted free-to-air broadcasts. That will apply where one or more of the collecting societies will collect and distribute payments under the new scheme. If agreement cannot be reached, the matter can be arbitrated by the Copyright Tribunal. Consistent with the Broadcasting Services Act, the scheme will require transmitters, subject to certain exemptions, to seek the consent of the owner of the copyright in the broadcast signal before retransmitting the broadcast. As I understand it, when these provisions come into force they will substantially replace those which operate in the Broadcasting Services Amendment Act (No. 1) 1999.

Moving on to the phase of consideration of the bill by the House of Representatives Standing Committee on Legal and Constitutional Affairs, it is not possible in this brief speech to identify fully the contribution made by the committee, except to say that it made a very substantial contribution and it is an excellent example of the committee system in operation. Some of its recommendations are controversial. The government has not adopted all the committee's recommendations; and nor does the opposition, for that matter, believe that all the recommendations should be adopted. But the committee's report is certainly worthy of reading by anyone interested in this area because its ideas down the track may well be ones which come into play, depending on how this legislation pans out in operation.

The first major recommendation of the committee was to provide copyright owners with the exclusive right of copyright in relation to the conversion of copyright material from hard copy to digital or other electronic machine readable form. The committee recommended that the exclusive right should be subject to some limitations but not to the totality of the exemptions that currently ap-
ply in the fair dealing exemptions. So the opposition had difficulty with that recommendation, and the government also shared those concerns. There appeared to be an inequity, for instance, in that journalists and lawyers would have been exempted from this first digitisation concept, but researchers, students and teachers would not. We agreed that that would have been inappropriate. We were also concerned, as I understand the government was, that it might have prevented material that currently exists in a printed form ever becoming an electronic form, certainly without the consent of the owner, and possibly in exchange for a fee.

We were concerned that that recommendation would have been particularly harsh on people living in rural and regional areas—people who did not have the capacity to attend a local library to undertake photocopying but who may have been connected, as increasingly people are in remote rural and regional Australia, to the Internet and who could have received material via the email. Equally, we were concerned, as the government was, with the potential effect on the disabled and the elderly who may not have been able to access their library. The committee recognised these potential difficulties and therefore recommended a four-day exception, whereby someone who was more than four days by post away from their local library could receive the material. But we were concerned that that in itself involved some impracticalities, in particular: how do you determine whether someone is four days away by post; does it apply for all purposes in actual fact or is it anticipated postal delay? So these things had their own complications.

But, be that as it may, the government have appropriately picked up the substantial reasoning of the committee and the need to protect or place particular emphasis on this point of first digitisation because it is significant when something goes into the digital environment. It has to be acknowledged that the ease of transmission and downloading, indeed plagiarism, is enhanced. So the government will amend the legislation, with our consent, to explicitly recognise the right of first digitisation as a subset to the right of reproduction; to substantially increase criminal penalties for infringement; and to include an explicit power for a court to award additional damages on a civil action where infringement has occurred at that point of first digitisation.

The other more controversial committee recommendation which has not been adopted was to remove the insubstantial portion test from educational institutions. This test, which currently applies in respect of the print media, enables educational institutions to copy two pages or, if it is in excess of 200 pages, up to one per cent of the work—a very small amount for entirely educational purposes. So this will relate to a lecturer or a teacher copying extracts of material for the purpose of handouts to their students. We in the opposition have discussed this matter and, again, have had a variety of views, but we concluded that it would have imposed an additional and inappropriate burden on educational institutions. We note that there are additional protections: the use of this material in an electronic form must be separated by 14 days and that those portions downloaded cannot be made simultaneously available online.

Another controversial committee recommendation which was not adopted was for the removal of the exemption from infringement for temporary copies made in the course of a communication. This is important because virtually any time anyone uses the Internet, for instance, there is a temporary copy of that screen made for the purpose of the access by the user. Simply removing that exemption could have caused all kinds of problems; for instance, parents who did not know what their kids were downloading when researching for a school project could have been liable to some form of licence fee for temporary copies. There were technical suggestions to address that situation, but none in our view were satisfactory or reasonably workable, and we agreed that it was appropriate to remove that exemption. In the consideration in detail stage the opposition will be moving several amendments which, I understand as a result of discussions, the government might accept at least in substantial part. I will touch briefly on those now,
but focus on them in greater detail at the consideration in detail stage.

Firstly, the opposition believes that the government should accept recommendation 7 of the House of Representatives Standing Committee on Legal and Constitutional Affairs report, which was that the bill be amended to provide that a preservation reproduction not be made available online within the premises of a library or archive unless the work has been lost, has deteriorated or has become so unstable that it cannot be displayed. Labor recognises, as the bill provides, that it is important for people who work within the administration of those archives or libraries to be able to download the material for administrative purposes, but we think that making material available to the public should only be done in those circumstances where the work itself is at risk from the exposure to the public. In terms of that access, the bill will provide, as currently drafted, that the display to the public will be on a discrete machine which is not connected to a printer or other means of copy or online communication. That amendment, we believe, will be addressed ultimately by agreement with the government.

The other area where the opposition believes amendments are required is in respect of circumvention devices, and I refer to recommendations 12 to 14 of the committee report. While we recognise that the bill contains a procedure by which persons who seek to use a circumvention device—these are the devices to get around fee gateways on the Internet, for instance—are required to complete a declaration setting out that they are doing so for a permitted purpose, it is our view that that is not in itself sufficient to protect the underlying rights of copyright owners. While the declaration is an appropriate mechanism, we think that stronger safeguards are needed to ensure that circumvention devices are not used in a widespread fashion to defeat copyright protections. So the opposition will be introducing amendments to substantially increase those requirements and, in particular, to define who is a qualified person and also to prescribe in more detail what is required in those forms of declarations. We will also be making it more straightforward for a copyright owner to bring a civil proceeding if they believe there has been an unlawful use of a circumvention device. In particular, if the use of the device is established at a civil level the amendments we will propose will place a reverse onus on the user of that circumvention device to prove that they did have a lawful purpose.

We will also be recommending that recommendation 28 of the committee’s report be accepted. That recommendation was that the proposed part VC of the bill be amended to include film directors amongst the class of rights holders who are able to receive remuneration under the statutory scheme introduced by that part. We understand that will be a controversial amendment and not accepted by the government, but our reasoning is that these reasons are happening rapidly in the United Kingdom, for instance, and other European jurisdictions which have already recognised directors’ copyright. We believe that it is appropriate to recognise the contribution of directors so that directors are included among the group of underlying rights holders who are remunerated for retransmission of free-to-air broadcasts.

There are a number of other amendments of a technical nature and some of a more substantial nature which we understand the government will be moving in light of the recommendations of the legal and constitutional committee report. We think they are appropriate. Equally, we have reached agreement with the government in respect of those recommendations that it will not be adopting. I should say that, while this bill is a balance, in many ways we have to taste it and see what happens for the future. An early review is imperative. The government has committed itself to a review within three years. If elected to office, we would also review this legislation within that first year of office.

Finally, lest I be seen to be ungrateful, I should acknowledge the assistance provided to the opposition by the offices of the Attorney-General and the Minister for Communications, Information Technology and the Arts in going through what has been quite a complicated exercise. Specifically, I note the
Mr PYNE (Sturt) (6.20 p.m.)—The Copyright Amendment (Digital Agenda) Bill 1999 represents one of the most comprehensive reform packages to Australian copyright law since the enactment of the Copyright Act 1968. I have spoken in this House on several occasions about copyright, and specifically about the relationship between copyright and parallel importing. In previous debates in this House, and in particular the debate over parallel importing, the opposition has had some difficulty in comprehending the general concept of copyright. Copyright, in that debate, is regarded as a non-tariff barrier to trade. But of course it is not that. Copyright is broadly understood to be a form of property that is founded on a person’s creative skill and endeavour. Copyright is designed to prevent the unauthorised use of a creator’s work or idea, and confers an economic right on the owner which includes the right to sell, copy, publish, broadcast and publicly perform the copyright material.

Traditional notions of copyright have been, and will continue to be, challenged by advancements in technology and communications and by the extraordinary expansion of the Internet. There are now a number of new ‘acts’ which can be done in relation to material in electronic form. Old copyright laws could not possibly have anticipated the emergence of MP3 files, CD burners and the freewheeling ethos of the Internet. Digitisation has had a profound impact on the information economy. Apart from its performance features, digitisation has created new opportunities for the use, storage and transmission of information. Digitisation has turned copyright law on its head. It is now so cheap and easy to copy any type of information and to disseminate it on the web that existing copyright laws are being exposed as inadequate.

The transmission, storage and copying of music clips via the Internet is a case in point. It is also an excellent example of how technology and its relationship with copyright evolves. A short time ago web sites existed that stored pirated copies of music in the MP3 format, which allowed CD-quality songs to be quickly distributed online. The majority, if not all, of these web sites were shut down by music industry lawyers. The functions that these web sites were serving were quickly replaced by the Napster program. Napster started out as a community college of students just over a year ago. It has now developed into a real threat to the international sound recording industry. Using Napster, music fans are able to simply type in the name of a band or song and the program searches the computer programs of Internet users who are online worldwide and automatically downloads the request from the quickest available source. In return, other Internet users who are online can download any music that is stored on your computer. Typically, it is possible to access up to a half a million pieces of music using the Napster program. Now there is a new program called Wrapster, which allows any program, not just music, to be listed on the Napster network and swapped among users. One report indicates that there are as many as 70,000 new copyright-infringing MP3 music files appearing every month on the web.

The Recording Industry Association of America launched a copyright infringement suit against Napster last December and, in recent developments, the band Metallica employed the services of an Internet private detective service to compile the Internet addresses of people who used the Napster service over one weekend. The detectives returned with an astonishing list of 317,000 names. The band has also launched legal proceedings against Napster—naturally. The people behind Napster are unlikely to take these challenges lying down. They have already revealed that they have employed the services of the lawyer who led the United States government’s successful case against Microsoft’s anti-trust structure. In that case, due to go before the Federal Court in San Francisco next month, the Recording Industry Association of America will contest that ‘over 10 million Napster users are sharing tens of millions of copyrighted music files’. The industry further contends that Napster is guilty of contributing to copyright infringe-
ment because it knows of the practice, profits from it and has the technology to detect it. The industry supports its claims by producing a survey that shows that 22 per cent of Napster users said that, because of Napster, they did not buy CDs anymore or that they bought fewer CDs.

But conflicting evidence has emerged from the Digital Media Association that indicates that 59 per cent of Napster users claim that downloading music had led them to later purchase the music retail. Other studies and anecdotal evidence show that, in the United States, CD sales are down by as much as 24 per cent in university towns, where Napster software is most popular. Some affected music retailers in those towns have already shut their doors.

Mr Emmanuel Candi, who would be well-known to people in this House, who is the Executive Director of the Australian Recording Industry and who does an excellent job advocating for his industry, was recently quoted as saying that the industry hoped that, by the end of the year, they would have the technology to make illegally copied recordings self-destruct. There are also arguments for the use of technologies such as encryption, digital signatures and digital watermarks and for improvements in the policing and enforcement of copyright statutes. But these will probably only be bandaid approaches. The fact is, whenever there is a battle between copyright and technology, technology is likely to be the winner. As soon as Internet users have enough bandwidth, there could be global anarchy as Internet users freely exchange feature movies in DVD format, computer software, CDs, and just about everything else that can be digitised.

So how do we as legislators meet the challenge of the digital age? A recently published book entitled The Infinite Digital Jukebox, written by Chris Gilbey, argues that online music is driving the digital revolution faster than the industry has the capacity to react. Gilbey points out that musicians can use this in their favour by publishing on the Internet themselves rather than dividing their revenues with traditional record companies. Gilbey is not a lone voice. Some commentators such as Graeme Philipson of the Age subscribe to the theory that copyright ‘will prove to be a temporary phase in human history’ and that it ‘is an aberration and technology will ensure its demise’. Philipson appears to advocate the dismantling of copyright laws and regulations on the basis that they are futile in preventing the unfettered transferral of information. One of Philipson’s columns likens large cartels to gatekeepers controlling the flow of information in the digital age.

Philipson’s argument is a brave one, one that may yet prove to be correct as the Internet continues to develop. Alan Kohler seemed to concur when he wrote in the Australian Financial Review:

The Internet has slipped under their guard. For the music industry, it is already no longer a question of whether the companies can keep control of their system. It’s a question of whether they can get it back. It looks doubtful.

Peter Cochrane, the head of research for BT Labs in Martlesham in the United Kingdom argues that:

the ancient paradigm—

of copyright

has now moved into the world of software and is often an impediment to progress.

As legislators we are required to attempt to strike a balance between the creators of an idea and the users of that idea. Laws need to ensure that those who create something are not denied reward. Indeed, it is a basic tenet of liberal philosophy that individuals are rewarded for high endeavour. I am yet to be convinced that dismantling copyright laws will protect and maintain incentives for the idea makers in our society.

In the United States, Congress tried to resolve some of these issues with the Digital Millennium Copyright Act 1998. Among its more significant provisions, the legislation makes it illegal, from later this year, to break through passwords, encryption and other technological defences that companies erect around their Internet content. The bill presently before the House contains similar provisions. The influential Washington think tank, the Progressive Policy Institute, has also called for legislation to force companies
such as Napster to hand over the names of their subscribers so that the users themselves can be sued. There is little doubt that technological advances in the digital age threaten the delicate balance that exists between the rights of copyright owners and the rights of copyright users. The provisions of this bill will help meet this challenge and its impact will be to attempt to ensure that copyright law continues to promote creative endeavour while simultaneously allowing reasonable access to copyright material in the digital environment. This bill and the Copyright Amendment (Computer Programs) Act 1999 are key features of the coalition government’s strategy to develop a legal framework that encourages online activity whilst promoting the expansion of the information economy. The provisions of the bill currently before the House are consistent with new international standards to improve copyright protection in the online environment. These standards were established in the 1996 World Intellectual Property Organisation’s Copyright Treaty and the Performances and Phonograms Treaty. Australia was an active participant at the diplomatic conference that agreed to the World Intellectual Property Organisation treaties. The enactment of this bill will be a significant step towards harmonising Australia’s—

Sitting suspended from 6.30 p.m. to 8.30 p.m.

Mr PYNE—Before I was so rudely interrupted, I was talking about the WIPO treaties that the government was involved with. I was about to say that the enactment of this bill will be a significant step towards harmonising Australia’s copyright regime with the obligations embodied in the treaties. One of the central principles of the 1996 WIPO treaties is the necessity to extend to the digital environment the balance that exists between the rights of copyright owners and the rights of users in the print environment. Accordingly, this bill introduces a new, broadly based, technology neutral right of communication to the public. The new right will exist as an exclusive right in literary, dramatic, musical and artistic works, as well as in sound recordings, films and broadcasts. The new right of communication to the public extends the existing technology specific broadcasting right that applies to wireless broadcasts and replaces the limited cable diffusion right.

The right of communication will include the making available of copyright material online, which will have the effect of providing protection to material made available through on-demand, interactive transmissions. The new right will improve protection for industries that publish or distribute copyright material on the Internet and will also protect copyright material included in cable pay TV broadcasts. Being a technology neutral right, it will also mean that the development of new technologies such as Internet broadcasting will not require repeated technology specific changes to the Copyright Act.

To ensure the efficacy and workability of this new initiative, this bill also provides several exceptions to the new right of communication to the public. The exceptions provided for in the bill reflect the balance that has been struck in the print environment between the rights of owners of copyright and the rights of users. The existing exceptions for fair dealing will apply to the new right of communication to the public. The fair dealing exceptions permit the use of copyright material for purposes including research or study, criticism or review, and reporting news. Existing exceptions also need to be extended for libraries and archives to the reproduction and communication of copyright material in electronic form. The definition of ‘archives’ is being clarified in this bill to include museums and galleries that satisfy various requirements which are presently specified in the act. These measures will allow libraries, museums and galleries to take advantage of the exceptions in the bill that apply to archives. These exceptions promote reasonable access to copyright material in electronic form whilst simultaneously protecting new commercial markets for online material.

The government’s copyright reforms also extend the existing statutory licences in the Copyright Act for copying by educational institutions to the reproduction and communication of copyright material in electronic
form. The new statutory scheme for the electronic use of copyright material by these institutions is drafted in broad terms to give it flexibility to allow it to adapt to future advancements in technology. In those circumstances where agreement between the relevant parties cannot be reached, the Copyright Tribunal has new jurisdiction to determine these matters.

This bill establishes a similar statutory licence for the electronic use of copyright material by institutions assisting persons with print and intellectual disabilities. In drafting this legislation, it has been a paramount consideration of the government that the technical processes which form the basis of the operation of new technologies, such as the Internet, are not jeopardised. This bill allows for exceptions for temporary copies made in the course of the technical processes of making or receiving a communication, including the browsing of copyright material online.

The provisions of this bill are supported by workable enforcement measures in response to the problems posed for copyright owners by new technologies. The first is the provision of criminal sanctions and civil remedies against persons who manufacture, deal in, import, distribute or make available online devices, or provide services, for the circumvention of technological protection measures designed to inhibit the infringement of copyright. Examples of such measures include password protection and computer program locks. Similar to the American legislation, the new enforcement measures are subject to important exemptions which will allow a person to undertake the proscribed activities for specific permitted purposes.

The second new enforcement regime is the provision of criminal sanctions and civil remedies against the intentional tampering with or removal of electronic rights management information. Rights management information usually includes details about the copyright owner and the terms and conditions on which the use of the material is or will be permitted. It is intended to include, for example, digital watermarks which are attached to or embodied in copyright material in electronic form.

The third enforcement regime will provide criminal sanctions and civil remedies against persons who manufacture, deal in, import, distribute or make available online devices for the unauthorised reception of encoded subscription broadcasts. Such devices include decoders which allow the unauthorised reception of pay TV signals. These provisions will enable subscription broadcasters to control the reception of their encoded broadcasts.

The new economy holds enormous potential for Australia. In a recent article by Lenore Taylor in the Australian Financial Review, President Bill Clinton’s former Internet adviser, Ira Magaziner, was quoted as saying:

I think Australia could emerge as one of a handful of countries that lead the world in Internet technology and business.

He goes on to explain:

... while Australia did not have the scale nor the incentive to lead in the manufacturing age, the Internet age is a natural for Australian business. It requires educated people, intellectual capital and entrepreneurship, all of which Australia has in abundance.

New technology is changing rapidly. If Australia is going to stay ahead of the pack, we need to ensure as legislators that we nurture the new economy and do not tie it down with unworkable outdated regulations. The provisions of this bill contemporise copyright law in Australia and strike a balance between copyright owners and copyright users. I am pleased to say that there is an inbuilt review in the bill. As I was discussing with my friend the member for Bonython, I have no doubt that in a few years time it will be a very necessary aspect of this legislation, because this is an area that changes so rapidly and so dramatically that it is almost impossible to keep pace with new technology.

In its legislation, the government attempted to ensure that there are inbuilt methods to stay abreast of technology. For that reason, there are wide definitions and gaps that will allow future interpretation so that the parliament does not have to necessarily return this legislation. I am sure the review in
a couple of years time will find that there will need to be more changes. I am sure it will also find that the government made the right changes with respect to this bill. I am glad that the Labor Party are generally supporting the tenets of this bill. They have moved some amendments, some of which the government will consider; others which the government has already indicated it will reject. I hope that, when this bill gets to the Senate, it will find few hurdles placed in its path so that it can be implemented into law as quickly as possible. I commend the bill to the House.

**Ms ROXON (Gellibrand)** (8.08 p.m.)—In speaking on the Copyright Amendment (Digital Agenda) Bill 1999 tonight I am wearing two hats and, accordingly, I would like to make my speech in two parts. Unfortunately, due to unavoidable electorate matters the member for Denison, our spokesperson on arts issues, is not able to be here during this debate. He has asked me to record his views on a number of issues that are of great importance to him both as our spokesperson in this area and also as a committee member. I will also separately go through some views of my own in some detail but, firstly, on behalf of the member for Denison, I will record his views on this matter.

An issue of particular importance to the member for Denison is whether or not directors should be recognised as rights holders. This was a recommendation of the House of Representatives Standing Committee on Legal and Constitutional Affairs, following its review of this matter. It is one of the recommendations that the Labor Party has been intent on pursuing, but which the government has not seen fit to take up. The member for Denison is keen to put on the record his concern that this issue will not be dealt with.

The bill provides for the remuneration of owners of copyright in literary, dramatic, musical and artistic work, sound recordings and cinematographic films included in a broadcast. The bill stipulates that the owner of the copyright is the producer or the production company and that directors therefore have no underlying rights at all in this retransmission scheme. The member for Denison acknowledges, as I think is also in the committee’s report, that this puts Australia at odds with a number of other European jurisdictions that have recognised directors’ copyright. During the committee hearings, persuasive arguments for the inclusion of directors as copyright holders, for the purposes of the retransmission scheme in the act, were given by the Australian Screen Directors Association, the Australian Screen Directors Authorship Collecting Society, the Australian Copyright Council and the Arts Law Centre of Australia. The opposition believe it is entirely reasonable and equitable for the contribution of directors to be acknowledged in the retransmission scheme. We will be moving amendments to this effect. The argument from the government that this is not the time or place to give directors a retransmission right is not acceptable. Mr Kerr, the member for Denison, is very keen to have Labor’s views on this issue specifically recorded. No doubt when the bill comes before the Senate those matters will be discussed again with the government.

He also wanted his views recorded on the issue of first digitisation, which is one area where the government has not picked up the full extent of the proposals made by the committee. The member for Denison has expressed particular concerns that writers should have the right to control which format their works are reproduced in and, therefore, should have much stronger control over whether or not their work should be converted to digital form than it appears the government is prepared to accept. Further, the member for Denison is very keen to address an issue which our shadow Attorney-General has already raised—that this is an area which must be monitored closely because it is a changing area and because the technological developments in the digital arena are moving so fast that it is something that we will need to look at in an ongoing way. The shadow Attorney-General has already indicated that, although the government has committed to a three-year review timetable, if Labor were to be re-elected, the opposition is committed to a review within one year of its re-election. Certainly Labor is committed to this being an issue that needs to be dealt with rather promptly. I am sure
that there are many other matters that the member for Denison would seek to specifically raise if he were here, but those are at least the brief matters that he wanted recorded.

I will move on to the other hat that I am wearing in my speech tonight, which is that of deputy chair of the standing committee that reviewed this bill. I spoke briefly on the tabling of this report, although we were very restricted in time. I expressed a view that there were very contentious issues that the committee needed to deal with in reviewing this bill. All of the government advisers, and certainly those government members of parliament who have been involved in this area, know that there are a lot of contentious issues that need to be dealt with. The committee certainly was full of very strong views and strong personalities, and I think it was quite a feat that, at the end of the day, we came up with some good compromises in a unanimous report that made some recommendations to the government.

Whilst obviously as a member of a committee one has some ownership in the recommendations that were made, I must say that the government’s assessment of those recommendations and its picking up of some of the recommendations, but not all of them, has been extremely fair. Interestingly, the issues where the government has not gone as far as the committee as a whole recommended are probably the ones that were the most controversial and the ones where the views amongst the committee were probably the most divided. I think that credit must be given to the government for its response in this area, and it should be acknowledged that it was difficult to achieve a decent balance. It appears that that decent balance has been achieved, with a number of exceptions that the shadow Attorney-General has already gone through.

I think the government has recognised that there are always competing interests in copyright matters, but it is a difficult area, particularly for the Labor Party because there are two groups that have always been called, if you like, constituents of ours: the creative and artistic community and, equally, individual users, where our concern is to ensure that there is equity and access to researchers, students and schools. We have been keen to protect both those groups in a range of our policy statements. In this copyright area those different interest groups are often pitted against each other, which makes it a tricky balancing act at any time. The government, having picked up some of the key recommendations of the committee—which shows that the committee process has contributed in a significant way to protecting those important interests, some in the areas of protecting creators’ rights, particularly in the enforcement area, and others in protecting users’ rights—has sought to achieve a decent balance.

The government’s explicit recognition of the right of first digitisation is important. It does, if you like, give a signpost to the community that we regard the digitisation of material—that is, turning print material into a digital form—as something that is significantly different. The government has sought, in the way that it has accepted some of the committee’s recommendations and not others, to be fairly consistent and has not picked up our recommendations which have suggested a different standard for the digital environment to that in other environments. I think the government has been consistent in indicating that it was keen to have a technology neutral copyright act. But the concerns that were expressed by the committee were very practical concerns raised with us particularly by copyright owners and authors. In practical terms, once material is in a digital form, the capacity for breach and the possibility of breaching copyright on a much larger scale in an easier way is certainly apparent to all of us who have become avid users of computers. While I can understand the government’s response in wanting to keep the bill technology neutral, it does mean that we will have an obligation in the future to look fairly quickly at the general standards in the Copyright Act to see whether the general standards need to change in this new environment where more and more material is going to be used in a digital form.

The proposals that have been put by the shadow Attorney-General, which I under-
stand are being given serious consideration by the government, particularly in relation to infringement and the use of circumvention devices, should at least give copyright owners and the creative and artistic community some comfort that, where breaches are occurring, they will have effective remedies. In copyright, the existence of rights is one issue but the actual enforcement of them and turning them into something that is really a protection of a creator’s interest is very difficult. I would urge the government to consider in detail those foreshadowed proposals of the shadow Attorney-General. They pick up a number of the committee’s recommendations—that, at this stage, have not been accepted by the government. I think they are worthy of serious negotiation and will provide some comfort, which I think is due to the copyright owners who may be concerned that, because of some of the other committee recommendations that have not been accepted, some of their rights are being whittled away. Those issues have been touched on already by other speakers. The main one is where the government has not accepted a recommendation on behalf of the committee to change the exemption for insubstantial parts and the use of small amounts of copyright material for research purposes. As I said at the beginning of my speech, this was a controversial area because it involves a balancing act between the legitimate rights of creators and copyright owners and the significant public interest we have in ensuring that there is a free flow of information, that there is access through libraries and educational institutions and that research is promoted as something that there is a public interest in.

Labor has made a decision to support the government’s position in declining to accept those recommendations of the committee. I think that will provide some satisfaction and comfort to students across a broad range of institutions. But, as I said earlier, it is something that will clearly need to be reviewed. I think the saying ‘There are only two things that are certain in life: death and taxes’ might need to be changed. I think there might need to be three: death, taxes and an ongoing debate about the right balance in copyright matters, because it does seem to go on forever. Others who have been in this place much longer than I seem to have had an ongoing argument for 10 to 15 years, and probably well and truly beyond that, trying to achieve the right and fair balance between different interests. I note that the chair of the committee, the member for Menzies, is smiling at this. He is one of the people who has been involved with these issues for a long time and would be the first to agree with me that the only thing that is certain about this bill is that, when it becomes legislation, it will continue to be reviewed and will continue to be an issue that will need to be debated within the community.

I will also speak briefly about another recommendation that has not been accepted by the government. Labor is going to propose some amendments to recommendation 7 and we would like to encourage the government to pick up on them. It probably seems like a small matter. It is in relation to galleries making preservation copies, normally of pieces of art. When galleries purchase a piece of art, they are entitled to make a digital copy or a digital picture—sometimes it will not be a copy because it might be a sculpture or something else—for their own administrative purposes; that is, archival purposes, cataloguing, providing information when preparing exhibitions and those sorts of things. But there is a second clause which seeks to allow the display of that digital copy in circumstances other than what was really intended. Making a preservation copy and providing that it can be displayed only when the original is so deteriorated that it cannot be displayed or where the ongoing display of it will cause further deterioration, really restricts the times where a gallery can choose to do that.

I certainly have a strong view that in any other circumstances a gallery should be obliged to negotiate with the copyright owner for the use and display of their artwork in a different form. There is no reason in the future that a gallery cannot negotiate that, as part of its purchase, it purchase the rights to display a digital copy of an artwork within their gallery. There is no reason that they could not contact an artist following that if they sought, at a later date, to use it.
If the government does not pick up this recommendation, we will have the rights of galleries vastly extended beyond the intention of the original exemption, which was to protect the public interest in being able to view materials that would otherwise be deteriorating, but not to allow those copies to be used in all other circumstances where there is not any deterioration or risk or when there could be appropriate negotiation of payment to the copyright owners. It is also an issue of moral rights, which Labor is hoping will be picked up in the debate at the introduction of the copyright moral rights bill, where an artist may well have legitimate concerns for not having their piece displayed in digital form. It would be particularly easy for members of the House to imagine that a sculpture might actually be presented in a completely different form if it were in digital form, compared to what it would look like if it were displayed in the sculpture garden, for example, at our national gallery. So, whilst that is a small point, it is something that is important to recognise and we hope that the government will take up our suggested amendments in that area.

The shadow Attorney-General has already spoken in detail about the opposition’s view and its agreement ultimately with the government’s position on the issues of first digitisation in substantial proportions and temporary copies. So I will not go over those again other than to say, as I have already, that, clearly, Labor does have a commitment to the people who will benefit from those changes; that is, the researchers, the teachers, the students, people living in rural and regional areas, and I think the shadow Attorney-General mentioned access to the disabled and elderly. But we would like to caution the government as well in that the discussion in the committee’s report that leads up to our recommendations about the issue of first digitisation do express a lot of the legitimate concerns that copyright owners have as to how these provisions might be abused. Whilst I think that the government has struck a sensible balance on which recommendations it has accepted, we would be letting down copyright owners seriously if we did not undertake to review carefully how the operations of these provisions will work in the digital world and to indicate that, when there is a review of the Copyright Act generally, it might be appropriate at that time to see whether the standards that have applied for many years in a print environment may no longer be appropriate in a digital environment. I hope at that time that the committee’s report will be taken into account.

I do not think that there are any other specific issues that I would seek to raise at this time other than to indicate, as a number of other speakers have before me, that the committee’s work in this area, the discussions with the government and some of the ongoing discussions over amendments have been one of the few examples—since I have been in this House anyway in the last 18 months—where the parliament has really worked as it should, which is that it is not especially a party political matter; it is just a complex matter where as many people as possible giving thoughtful consideration to it is helpful. But it is difficult because it probably means there are as many views on what the correct balance is in this area as there are people dealing with it. So I am happy to speak on this bill and to welcome the government’s response on these matters. I encourage the government to take up the proposed amendments that have been foreshadowed by our shadow Attorney-General. I would like to record, as I did at the beginning of this speech, the views of our shadow minister for the arts, the member for Denison, and formally record his apologies for not being able to speak on this bill tonight.

Mr ANDREWS (Menzies) (8.27 p.m.)—At the outset may I endorse the remarks of the honourable member for Gellibrand who spoke before me about the workings of the parliamentary committee system within the House especially in relation to the Copyright Amendment (Digital Agenda) Bill 1999. The House of Representatives Standing Committee on Legal and Constitutional Affairs has had a long record of being able to work together across party lines in order to address important legislation which comes before the House from time to time. Members have been able to ignore or put aside partisan party differences in an attempt to arrive at
what is improving legislation before the parliament. This bill is no exception to that course.

We live in an information age characterised by widespread use of all types of information in the business, leisure, social and cultural aspects of our lives. It is reported, for example, that Australians have one of the highest per capita usages of the Internet of any nation in the world. In fact, according to the Australian Bureau of Statistics, half of the households in Australia—that is, some 3.5 million households—had a home computer in February this year and 28 per cent—namely, 1.9 million households—had home Internet access as of February this year. That is by way of comparison with just one year before, in February 1999, when 45 per cent of Australian households, some 3.2 million, had a home computer and 18 per cent, 1.3 million, had home Internet access. In fact, in the period of one year from February 1999 to February 2000, the increase in the number of households with home Internet access, some 662,000 households, was more than double the increase in the number of households with home computers, some 332,000 over that 12-month period. If you measure, as the ABS did, statistics for the 12 months to February 2000, you will find that an estimated six million Australian adults—namely, some 43 per cent of Australia’s adult population—had access to the Internet over that period of time.

As Barry Jones remarked a couple of years ago, Australia is essentially an information society. I will quote from what he said then:

Forty per cent of workers are now essentially symbolic analysts. The central element of information or knowledge work is the generation, manipulation, storage, retrieval and application of symbols, words, numbers, sounds, images or symbolic objects, banknotes, cheques, letters, certificates, printouts, photographs, films, invoices. Information products can be reduced to signals, sent through the air or along a wire and reconstituted at the other end. Industries such as film, music, entertainment, media are among the world’s most powerful.

This information revolution which we are all living through became possible because of the creation of an amazing range of new technologies which allow the manipulation and rapid transfer of words, sounds and images. I can recall—and it does not seem that long ago—in grade 6 at school learning to write using a fountain pen dipped in an inkwell. When I—as probably you do, Mr Deputy Speaker—visit primary schools today, the pupils are learning to use computers. Laptops are commonplace, as young people check their email, download their favourite music or surf the web to find information for their school projects. As well as all these advantages which we are coming to appreciate, this information revolution has also brought us challenges. One of the challenges is in relation to the way in which we as a society generally react to this new technology and the amazing abilities which it brings forth. This bill, in a sense, is part of a series of pieces of legislation over the past few years—and no doubt over the next few years—which try to bring the law and society’s expectations and parameters into line with the new technological revolution. I think it was the late Mr Justice Windeyer of the High Court of Australia who said words to the effect that the law is always loping along somewhere in the trail of advances in science and technology. It would seem that, in this respect, this area is probably no different to many other areas. Nonetheless, the bill which is before the House tonight is an example of the Australian people, through the parliament, endeavouring to provide a new set of parameters for the new circumstances in which we find ourselves, insofar as the information, and in particular the digital, revolution is concerned.

I wish tonight to primarily address one aspect of this legislation which has been reviewed by the House of Representatives Standing Committee on Legal and Constitutional Affairs, which I have the honour of chairing; that is, the provision relating to the first digitisation of material. I suspect that for people who may be listening to this debate tonight, or reading it subsequently in Hansard, the concept of first digitisation is something which is not well known, except among computer buffs. I think it is worth explaining what we are talking about here tonight. It may well be that our 7-, 8-, 10- and 12-year-olds well understand what we
are talking about, but I suspect that many people of our age are less cognisant of concepts that are an important part of this bill.

Ms Roxon—I am younger than you!

Mr ANDREWS—I say that with due respect to the honourable member opposite, the deputy chair of the committee. Perhaps I should have said the 20- and 30-year-olds as well! We all understand that material in hard copy form can be reproduced in certain ways. Let me take the example of a book. We can reproduce it; we can do it by taking it to a photocopy machine, and we will get a copy of each of the pages. But there are certain limitations in the ability to do that. Firstly, we can only copy a page or two at a time, and if we want to copy a book such as this, which runs to more than 200 pages, then we have to stand in front of a photocopy machine for at least the period of time that it takes to photocopy each of those pages. Secondly, we either have to own or have access to a photocopy machine. In the case of someone who borrows such a book from the library, that could mean putting some coins—or at least a card which has some monetary equivalent on it—in a slot in order to make copies of the book. Thirdly, no matter how good the photocopier we are using, each copy which we take is of diminished quality compared to the book that we originally copied from. If we wish to copy again from the copy that we have taken, that copy will, again, be of further diminished quality. So, if we were to photocopy a copy of a copy a number of times, at the end of that process we would have something of much lower quality than the original that we had in the first place.

However, if we transfer that book to a floppy disk—which is so commonplace in today’s society—then we can copy it not only one or two times but dozens, if not hundreds, if not thousands, of times without reducing its quality. On every occasion that we make a copy from a previous copy, we will have made, in effect, a mint copy of what we had in the first place. One can then multiply or compound that effect. If I take the copy of the book which is on the disk and I put it into my computer, with the simple press of a button on my computer I can email that copy of the book to dozens, hundreds, thousands, indeed millions, of people right around the world—provided I have their addresses—and the copy that they receive will be a mint copy of the document I had in the first place, with no diminution of quality.

I illustrate that to try and come to the nub of what the legal and constitutional affairs committee was concerned about when it actually examined this bill. Its concern was that the creator of a book such as this should be able to have some say in what happens in the copying of that material. Copyright is a balance of interests. To put it simply, it is a balance between on the one hand the owner or the creator of material who, having a property interest in that material, is entitled to say whether they want it passed on, whether they want it passed on for a fee or whether they want it passed on freely to somebody else, and the other interest which is incumbent in this debate, and that is the way which we as a society, through our parliaments and through the enactment of the laws, say that there is an advantage in much information being available to as many people in the community as possible. In this country the way in which we have largely done that is by saying that there are certain exemptions to the right of the copyright owner to be able to control the use of the creation which he or she has. Those exceptions and exemptions are largely in relation to public libraries: if books are placed in public libraries then what we are encouraging is the widespread dissemination of information and therefore that people should be able to have access to it and they should, within reasonable limits, be able to take a copy of that information.

We have also said that it is important for the purpose of study and research that people should be able to take copies of information in order to enhance the work that they are undertaking via their studies and research. There are a number of other exemptions. For example, in parliamentary proceedings we think it is important that members of parliament be able to refer to whatever material should be relevant to their work. Equally, we say as a society that in judicial proceedings there should be an exception to the strict laws of copyright whereby the owner can...
control the material. If it is needed for the determination of an issue of justice before the courts, there should be an exception to the copyright laws. There are also some other exemptions, for example, for people who are handicapped or disabled as to their being able to see material.

The concern that the committee addressed was that, whilst a creator may say that a published hard copy is allowed to go into a library and therefore it is subject to certain exemptions, once that is transformed over to a floppy disk or to a digital form on email then there are very few physical and financial limitations to the way in which this can be disseminated not just throughout this country but effectively throughout the world. It was for that reason primarily that the House of Representatives committee said that, when we are as a parliament for the first time deciding what the law should be in relation to copyright so far as digital material is concerned, there should be recognised in the law for the first time a right of first digitisation. That means that the owner of the copyright, the person who has created the material, should have some say in whether or not the hard copy is then transferred over to a floppy disk or to a digital form, which can be disseminated so much more readily, easily and inexpensively compared with taking the hard copy.

The second reason we advanced the notion of first digitisation was that we envisaged that access to copyright material would not be hindered by requiring the consent of the copyright owner to first digitisation. If you are the author of a work, presumably in almost all cases your reason for writing the work is to disseminate it to the world. It would be unexpected that, if you put some work together in a hard form, you would not want it disseminated to the rest of the world and therefore there would be an advantage in having that material disseminated in a digital form.

Thirdly, as I think the previous speaker, the member for Gellibrand, alluded to, we believed that the digitisation of material was akin to a form of publication and that this was akin in fact to a moral right; that if I create some work then I have some moral right about the way it is reproduced. That may not be much of an argument in relation to a book, but if I am a sculptor and I create a piece of work then I think that there are some moral rights in the way in which that is transmitted in the future. If one simply takes a photograph of it and that is a pretty awful photograph or it does not show off the work in the way in which the creator thought it ought to be shown off, there are, we believe, some moral rights which attach and continue to attach to the creator.

It was for those reasons that the committee recommended that there be this right of first digitisation in this particular bill. I am pleased that the government has accepted in part the recommendation from the committee to recognise the right of first digitisation as a subset of the right of reproduction. As has been pointed out by previous speakers in this discussion, the way in which the government has chosen to do that is slightly different from what the committee recommended in its report, but I think that overall what is important is that we recognise this right of first digitisation, that that is much more important than the mechanism by which we achieve it in the bill itself.

The government has said that there will be a substantial increase in the criminal penalties for infringement, which involves the first digitisation in the copyright material, and that the bill will include an explicit power for the court to award additional damages on a civil action where an infringement involves the first digitisation of copyright material. In addition to that, in its response to the committee’s report the government has said that the regulations will be amended to require that notices under the Copyright Act explicitly refer to the additional criminal penalties and civil damages which I have referred to and, finally, that the deeming provision in section 40(3) facilitating fair dealing for the purposes of research or study applies only to the copying of a reasonable portion of an article and not the communication of such material.

The committee made 38 recommendations in its report, of which some 21 have been accepted by the government in one form or another and form the subject of amendments
which will be moved in the committee stage of this bill. As a number of speakers in this debate have pointed out, copyright is a matter of balancing the rights of the creator, the owner of the copyright material, versus our desire as a community and a society to have information available and ready through the community itself.

In relation to how we achieve this balance, I note that we have not satisfied all those who have an interest in this—neither the government nor the committee, for that matter—in terms of the recommendations. I suspect it would be very difficult to satisfy everyone. I note that the Copyright Agency Ltd are still concerned about the way in which the right of first digitisation, which has been recognised, will actually be set out in the bill. All I can say to all those who are involved in this long debate and discussion about this bill is that what we are seeking to do is achieve a balance. It is important that there is a review of this legislation in place. That will give us an opportunity after a couple of years to see whether or not the balance which the government has sought to achieve has in fact been achieved and we can continue to review it. At the end of the day, the balance between protecting and encouraging creators to be creative and come up with new ideas and new contributions to learning information in society is important and that has to be balanced against the right for all of us to know. (Time expired)

Mr MURPHY (Lowe) (8.47 p.m.)—I rise to support, in the main, the Copyright Amendment (Digital Agenda) Bill 1999. For the past 40 minutes, I have been listening to the comments of the member for Menzies and the member for Gellibrand. I record my appreciation and acknowledgment for the good work done by the member for Menzies and the member for Gellibrand particularly. The member for Menzies is the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs and the member for Gellibrand is the deputy chair. They have shouldered the principal responsibility for the inquiry and have brought a significant degree of intellectual rigour to it in going through the advisory report clause by clause. As a member of the legal and constitutional affairs committee, I was very impressed by their dedication and hard work and appreciated the job that they did.

As you know from the previous speakers, the bill amends the Copyright Act 1968 to ensure that Australian law sufficiently governs copyright in the digital environment consistently with international standards which are contained in two major international treaties: the World International Property Organisation Copyright Treaty of 1996 and the World International Property Organisation Performance and Phonograms Treaty of 1966. The bill explores how to legislate on the electronic environment, including new technologies such as the Internet, with respect to how the copyright on electronic material can be protected. I believe that the regulation of such electronic tools is important to protect the rights and interests of copyright owners, as we have been debating tonight. Because copyright is defined as a type of property which is founded on a person’s creative skill and labour, it gives the owner of that creative skill exclusive economic rights to do certain acts with an original work or their subject matter. Those rights include the right to copy, publish, broadcast or publicly perform the copyright material.

This definition has been the legal position in Australia since the Copyright Act came into effect in 1969. Until recently, the act sufficiently protected those rights of the creator in relation to the control of his or her material. However, the public interest is provided for as exclusive rights belonging to copyright owners do not entirely prohibit access to materials. By law, libraries, archives, students and educational institutions still enjoy fair and reasonable access to copyright materials. The bill is about achieving a balance, that is, reasonable access to copyright materials via the digital environment without impeding on the exclusive rights of the copyright owner.

The report by the legal and constitutional affairs committee looks at a number of important definitional changes and exceptions, including the definition of ‘library’ to exclude libraries which are owned by persons conducting business for profit. Exceptions
for museums and galleries have been broadened to allow such institutions to digitally copy artistic work for preservation purposes and communication works for the public on the premises and a statutory licence scheme for electronic use of copyright material by educational institutions. The main provisions in the bill which I wish to highlight this evening include preventing the construction and supply of devices designed to encourage breaches of copyright in the electronic environment, thwarting the manufacture and supply of broadcast decoding devices used to perpetrate pay TV piracy, providing remuneration to the owners of copyright in works, films and sound recordings when free-to-air programs showing copyrighted materials are shown on pay TV and clarifying circumstances where carriers and carriage service providers, including Internet service providers, will be held responsible for infringements of copyright which occur via their facilities. I will deal with each of these in turn.

With regard to the new enforcement provisions relating to the manufacture and supply of devices which may encourage copyright infringement in the digital environment, I believe these enforcement provisions are important because the Internet and other electronic forms of data increase the opportunity to breach copyright laws. Electronic data can be duplicated and dispersed far more efficiently than material which is in a hard copy format. Given this fact, it is increasingly difficult to police the distribution of copyrighted materials in the electronic environment.

It is important to refer to chapter 4 of the committee’s report, which discusses technological safeguards and includes discussions about the use of electronic rights management information, giving copyright owners the ability to identify their work and the terms and conditions under which the work or subject material may be used. This, along with effective technological safeguard measures such as access control measures which include password protection, file permission and encryption, allows the copyright owner increased control of his or her work or subject material. The bill provides that these measures are lawfully allowed to ensure the rights of copyright owners in a digital environment. I support the recommendations of the committee’s report relating to enforcement measures.

I would like to record now that I also support the opposition’s foreshadowed amendments to ensure that procedures which accompany lawful use of the circumvention device are tightened. The circumvention device is defined on page 62 of the report as:

... a device (including a computer program) having only a limited commercially significant purpose or use, or no such purpose or use, other than the circumvention ... of an effective technological protection measure.

However, recommendation 12 of the report extends this definition to include:

... devices which are promoted, advertised, or marketed as having the purpose of circumventing an effective technological protection measure.

I would go further to say that it would be pragmatic to implement recommendation 14 of the committee’s report to ensure that it becomes a civil offence to:

Intentionally use a circumvention device for the purpose of infringing copyright in a work or other subject matter, regardless of whether the copyright in the work ... is infringed.

As the amendment indicates, it is necessary to narrow the procedures by which circumvention is lawfully permitted, to reduce the risk of copyright piracy via electronic means. ‘Permitted purposes’ exceptions include educational institutions, the Crown and public libraries. As the committee report says, there is a need to allow copyright users to use circumvention devices in pursuit of legitimate purposes such as system administration and library collection preservation.

I turn now to the copyright issues surrounding pay TV, which I have previously mentioned. I will firstly deal with the issue of pay TV piracy. Pay TV broadcasts can be accessed through reception equipment which decodes the encrypted signals. It is possible to acquire unauthorised decoding equipment and access the broadcasts without any effective legal recourse against signal piracy. Under present laws, the unauthorised reception of pay TV broadcasts does not amount to an infringement of the copyright in the en-
encrypted signal. The bill works to provide civil and criminal penalties for unauthorised commercial dealings which sell decoding devices which allow access to encrypted broadcasts. However, this bill does not actually provide that those using the devices are committing a crime. In short, the provisions will allow a pay TV operator to bring an action against a person who, without the permission of the operator, makes a broadcast decoding device, commercially deals or imports with the intent of commercially dealing a broadcast decoding device or makes a broadcast decoding device available online to the extent that it will affect unjustly the pay TV operator. However, these provisions are balanced by proof that the defendant knew or must have reasonably known that the device would be used to enable a person to access an encoded broadcast without authorisation.

With regard to the issue of retransmission of free-to-air broadcasts on pay TV, the bill acts to overturn a decision made by the full Federal Court in 1996 in the case of Amalgamated Television Service Pty Ltd & Ors v. Foxtel Digital Cable Television Pty Ltd & Anor. The finding in this case was that under the provisions of the Broadcasting Services Act 1992 and the Copyright Act 1968, cable television was permitted to retransmit free-to-air television services without remunerating copyright owners or requesting permission from the free-to-air broadcasters. The passage of this bill will, firstly, ensure that pay TV operators recognise that broadcasters have a copyright in their signal and will, secondly, work to provide a statutory regime to provide copyright owners with fair compensation for the use of their work. This regime will include an arbitration mechanism to come into effect where those wishing to retransmit and copyright owners cannot agree on equitable remuneration.

I would also like to discuss the implications of the other main provisions with regard to the liability of Internet service providers and carriers. Under the bill, the circumstances under which carriers and Internet service providers will be held liable will not include instances where their customers have breached copyright laws. The bill also ensures that exceptions will be made for Internet service providers if they make temporary copies in the course of technical processes of transmission or incidental copies while browsing on the Internet. I believe these provisions adequately protect Internet service providers and carriers from fortuitous infringements which could occur in an electronic environment.

I turn now to support a further foreshadowed opposition amendment which will allow cultural institutions, such as non-commercial libraries and archives, museums and art galleries, to make a digital reproduction of a work for administrative purposes but not for display without reasonable remuneration to the copyright owner. In particular, I would like to discuss the ‘fair dealing’ exceptions mentioned on page 12 of the committee’s report. These exceptions look in detail at how to determine whether a dealing with a copyright owner is fair. These factors include purpose and character of the dealing, nature of the work or adaptation and the effect of the dealing on the potential market for, or value of, the work or adaptation. In the past, a copy has been deemed to be fair if it constitutes not more than a ‘reasonable portion’—that is, 10 per cent of the number of pages in a published edition of a work, or the whole or part of a single chapter of the work. However, in the digital environment, the bill expands the definition of reproduction to include conversions from print to digital form and vice versa. Fair dealing is deemed to have taken place if the existing standards have been conformed to.

I fully endorse recommendation 1 in the committee’s report, which states:

The Committee recommends that the Copyright Act 1968 and the Copyright Amendment (Digital Agenda) Bill 1999 be amended to provide copyright owners with the exclusive right of copyright in relation to the conversion of copyright material from hardcopy to digital or other electronic machine readable form. That exclusive right should be subject to the following exceptions only:

- Fair dealing for the purpose of criticism and review;
- Fair dealing for the purpose of reporting news;
• Fair dealing for the purpose of judicial proceedings and providing professional advice;
• Reproducing and communicating copyright material for preservation and other purposes (the other purposes contemplated are those in sections 51A and 110B including proposed amendments contained in the Bill); and
• Reproducing and communicating copyright material by libraries and archives at the request of users who, by reason of their location, cannot obtain a hardcopy of the work within four days through the ordinary course of the post.

The foreshadowed opposition amendment takes this concept one step further and in fact acts to protect the right of copyright owners by looking to provide a reasonable amount of remuneration if copied works are digitised. With reference to the foreshadowed opposition amendment calling for recognition of a film director’s copyright interests in cinematographic films, film directors must be included in the class of underlying copyright holders who are to receive remuneration under the statutory licence scheme introduced by the bill.

In concluding, I wish to make a few remarks about the future review of copyright legislation. We have seen enormous developments in electronic, digital and other information technologies in the past two decades and we can only assume that these technologies will continue to develop. I am of the view that this House must continually review the legislation pertaining to copyright of electronic materials. As parliamentarians, we have the responsibility to ensure that a relevant equilibrium is maintained between the interests of copyright owners and the public interest. Reviews must take place at least every three years to ensure that Australian copyright law remains appropriate both nationally and internationally.

This bill is not going to please everyone. You cannot please all the people all the time—we know that. No author, creator, composer or artist should have their work stolen. That is accepted. Authors, creators, composers and artists should be protected, and in the main this bill addresses their concerns and in fact achieves that. But equally, in the public interest, students, researchers, schools, universities, libraries and archives will have reasonable access to information—which can only promote a knowledge nation and thus be good for our country. I support the bill, with the rider that those amendments foreshadowed by this side of the House are addressed at a later time. We are all conscious that there is going to be an early review of this legislation. That is intended to ensure that there is a balance between the owners of the copyright and the users of the copyright. Over the next one, two or three years the legislation can be put to the test to see that the concerns expressed to us at the public inquiries conducted by the legal and constitutional affairs committee and in the numerous written submissions to us are adequately addressed. At the end of that period, if the concerns of the owners of the copyright and of the users, particularly those in the public interest that I have referred to, are not adequately addressed, we can revisit this legislation. Hopefully, we on this side might be sitting on the other side of the chamber by the time this legislation comes back to the parliament.

Mr Baird—You wish.

Mr MURPHY—I notice that the member for Cook, who is the next speaker in this debate, says he wishes. He is a reasonable person and he has an acute sense of political survival himself. He has spent a lot of time in the New South Wales parliament—in the bearpit—and here in the national capital. The day will surely come when those who are sitting on this side of the House will be sitting on the other side of the House. Perhaps by the time this bill comes back for review in this chamber, we will be able to review those concerns I referred to earlier that have been raised by those who own the copyright and those who use the copyright.

By way of finality, I conclude where I began by paying tribute to Kevin Andrews, the member for Menzies and chairman of the legal and constitutional affairs committee, and Nicola Roxon, the member for Gellibrand and deputy chair, for all their hard work. They largely shouldered the burden of this inquiry. They did a great job in a very difficult environment and they made a great contribution to this bill before us tonight.

Mr BAIRD (Cook) (9.05 p.m.)—It is my pleasure to speak on this Copyright Amend-
ment (Digital Agenda) Bill 1999 tonight. I commend the Attorney-General, for his role in bringing this bill forward, and those involved in various committees who considered it and made the recommendations. It is a bill that provides an appropriate balance. I am sure over time there will be changes as new developments in terms of digitisation occur. The bill brings into line the requirements of copyright as it related to the print media with copyright laws of the digital age.

The bill provides increased protection for copyright owners in the digital environment while maintaining reasonable access to copyright material for copyright users, including students, researchers and library patrons. I, myself, have attended a number of meetings of the Attorney-General, Justice and Customs Policy Committee—a backbench committee. I have also met with the Copyright Agency Ltd on the issue and attended private meetings with them. I understand the concerns of CAL. I also understand the requirement of libraries that this bill provide balance in providing access while protecting the rights of those who initiated the documents in the first place.

The member for Mitchell spoke in a joint party meeting on the question of the threat of the brain drain that might develop unless appropriate protection occurs. Through copyright protection enforcement, the rights of authors and artists have been jealously guarded throughout the legislation development process by bodies such as CAL which stress that copyright is a legal right with an economic impact. CAL has been an effective lobby agent on this issue and should be satisfied with the increased protection of copyright we have afforded its members. CAL’s aim for the protection of the rights of authors was summed up in its submission to government entitled ‘Get it right on copyright’ and subtitled ‘Copyright law: contributing to Australia’s economy’.

Also recognising the imperative of best practice in this area at the start of the digital age is an impressive paper by Henry Ergas, Chairman of the independent Intellectual Property and Competition Review Committee. His paper ‘The fair dealing provisions in the new technological age’ stressed that getting our IP—intellectual property—laws right is now more important than ever. His view is that:

We need to have in place a framework of IP laws that provides and protects the incentives for investment in creative effort. At the same time, it must recognise the community’s interest in access to the fruits of that effort, and the reality that as a nation we are, and will remain, a substantial net importer of copyrighted material. Striking a balance between these factors is not an easy task but one that needs to be faced bearing the wider national interest firmly in mind.

Mr Ergas’s paper balanced the concerns of CAL with those of others in the community. These concerns were passionately expressed by the Sutherland Shire Council recently, which covers part of my electorate, in a letter to me on 30 June 2000 in which it highlighted the concerns of a whole number of Australians—not least of which were the libraries—about the restrictions placed on libraries, the material that they can communicate electronically to remote users, and the supposed limiting of public access to digital resources. I am satisfied that this legislation strikes the right balance, despite the concerns of CAL, libraries and those who are rightly trying to protect the rights of authors.

In consideration of this bill, my government colleagues and I have been careful to ensure that this bill protects the first digitisation right; secondly, that it recognises the differences that exist between print and electronic media; thirdly, that appropriate penalties for breach of copyright exist; and, fourthly, that a warning regime exists to educate users of materials about copyright and the penalties applying to breaches of copyright.

I will address the main components of the bill in turn. Firstly, on the right of first digitisation, the government will accept the recommendation of the House of Representatives Standing Committee on Legal and Constitutional Affairs on that in part. It has also addressed the committee’s concern about the ease with which digitised material under copyright can be reproduced and disseminated. The government proposes a more effective enforcement regime for authors and artists. For example, there will be sanctions against the manufacture and dealing in cir-
cumvention devices and the removal of electronic rights management information. This bill explicitly recognises the rights of first digitisation as a subset of the right of reproduction. The penalty for breaches of this right will be substantially increased: a court could fine an individual up to $93,000 and a corporation up to $467,500. Section 132 of the Copyright Act 1968 will be amended to increase the penalty by over 50 per cent. I believe these changes to penalties are appropriate. This is certainly a disincentive for those who wish to circumvent the requirements of this bill.

In terms of access for students, which I understand has been of concern to the various committees that have looked at the legislation, here again the balance is appropriate in terms of fair access for students in the amendment of the deeming provision, which ensures that a reasonable proportion of the work in question can be copied for research purposes, which I think is appropriate. This, importantly, does not relate to the transference of this material between users. There is also a change in the definition of a library. The government is accepting the LACA committee’s recommendation to remove the proposed definition of a library. The government initially intended that libraries operating on a for-profit business basis would be excluded from the library exceptions, but it is now considered that they should be included. The initial proposal would have restricted the ability of private libraries from participating in an interlibrary loan system and from providing material to public libraries.

In terms of the copying of insubstantial portions of work by educational institutions, the LACA committee recommended that the government not enshrine in the digital legislation one of the rights ensured under legislation governing copyright of printed material. It recommended not to legislate that one per cent of material, being an insubstantial portion, can be copied by a university or school for free. By not ensuring the same right in the copying of digital information would lead to uncertainty and to an increase in legal action being brought. It would also greatly add to administrative costs and impinge on the fair access by students which is currently guaranteed. I think this is also appropriate and a fair balance. The government has ensured that people cannot evade paying for material by copying an entire work or a substantial part in small pieces and then putting it together and distributing it for their own commercial gain.

In relation to the use of circumvention devices, authors are currently making works available online, and experience has shown that people can hack into commercial databases and download a chapter or an article for study or research even if the copyright owner is making the work available for a fee. This is equivalent to theft and should be treated appropriately. Protection of copyright is made through processes such as watermarking and tagging, which provide audit trails by which the distribution of materials can be traced. Commercial dealings with a circumvention device to get around these ‘rights-ensurance tools’ should therefore be prohibited.

The Copyright Agency Ltd has argued that the market for online works will be a sufficient mechanism to ensure the availability of works, as works unreasonably withheld by the copyright owner will quickly find their market diminishing. I think that is appropriate. The more restrictions placed by the owner of the work, the less likely it will be accessed in the future and the market will determine the outcome. Devices used to infringe the copyright of authors are of great concern to the government. There is a civil remedy in relation to the use of circumvention devices to breach copyright in item 97 of this bill. The government feels it is more effective to work against the manufacture and dealing in such devices, rather than to focus on preventing individual users using this technology.

Overall, we can see that in this bill we have a balance, a balance between providing appropriate protection of the original authors and owners of the documents and providing access to libraries owned by both public institutions and the private sector. We are ensuring that the rights of the owners are protected and that the access is also there for students and libraries. The material can be
passed on as long as the fees are paid and, for those who use it illegally, it can be traced by tagging mechanisms and watermark mechanisms. Also, those who want to circumvent these requirements face appropriate penalties. I am glad to see that the penalties are increased by some 50 per cent. There will be access for students who want to download material, as long as it is an insubstantial part of their own research requirements and, when it is intended for digitisation purposes, restrictions will apply. I believe that is appropriate, because the material can be put together in small parts and then onsold for commercial gain. The ability to do this is taken away.

For those who want to access material, pay the fee, download the material and pass it on—whether it be libraries or individuals passing it on—and they satisfy the requirements, this bill protects those rights. It does provide appropriate safeguards, penalties and a means of following up where breaches occur. It is a significant effort to try to bring the original copyright legislation, which was tied in to print media, into the digital age and provide an appropriate balance. As the previous speaker, the member for Lowe, mentioned—although he was optimistic as to where he would be sitting in the chamber in the future—this as an area which is likely to be changed in the future as we come to terms with new technology. The principle will continue to apply for some time—that is, getting the appropriate balance between the owners of the information and those who want to access it. As a net importer of information in Australia, we need to make sure this balance is preserved. I commend those who developed this piece of legislation. I support the bill before the House tonight.

Mr Snowden (Northern Territory) (9.18 p.m.)—I too thank the member for Menzies and the member for Gellibrand for the work they put into the development of the advisory report of the House of Representatives Standing Committee on Legal and Constitutional Affairs on the Copyright Amendment (Digital Agenda) Bill 1999. I have noted the comments of the various speakers in the debate thus far, but it is important to understand that there are critics of this legislation—the copyright owners being one group. There is a view that the government should have picked up more of the recommendations in the report of the legal and constitutional affairs committee, particularly those recommendations on the separation of print and digital copyright environments, the question of the inclusion of separate definitions and provisions for commercial public libraries and the inclusion of provisions for carrier and Internet service provider liability, remedies and accountability for carriage of infringing copyright material.

The bill proposes to transfer existing print environment ‘fair dealing’ exceptions to owners’ fundamental and exclusive reproduction rights into the digital environment. It is argued, therefore, that it fails to recognise digital reproductions as new material forms of owners’ copyright material for trade in new markets of the ‘new economy’. As a result, it also provides free resource in copyright and commercial advantage to users and vested interests in new communications services—it is argued—at the expense of owners and the national interest in Australian copyright industries. I understand the arguments which are coming from the government, and indeed members on this side of the House, but it is important to comprehend the views of some of the people involved in copyright.

There is a view that the result of this legislation will be to strip copyright owners of fundamental and exclusive rights under article 15(c) of the International Covenant on Economic, Social and Cultural Rights by allowing third parties to reproduce and supply hard copy copyright material in digital and electronic machine readable forms in commercial global online markets without owners’ knowledge, authority, licensing arrangements or adequate technical protection. It is also argued that the legislation will enable libraries and other users to derive commercial profit from supply of owners’ copyright material in digital forms and online markets as content for new services, including online databases, mobile text and even datacasting. It is argued that the bill will usurp copyright creators and owners’ legitimate income from their work and investment.
in copyright. It is argued, again, that it will undermine the copyright creators and owners rights and opportunities to trade in their copyright material in new digital forms and new markets of the 'new economy'. It is also argued that it will undermine markets and investment in Australian copyright material and cultural and innovative industries.

I know that these views will not be shared by everyone but I think it is important to understand that hard copy copyright is subject to existing commercial contracts and copyright licensing arrangements—that is, in publishing contracts in domestic and international markets, film options, research and development contracts, performance adaptations, photographic reproductions, contracts for exclusive use of analog film footage for new film productions and digital new media and online contracts. The private sector copyright owners, the TV networks and government agencies such as the Australian Film Commission, Film Australia, the ABC and SBS all have a significant investment and administrative interest in existing copyright material—that is, in analog film—in various national and international markets.

Under the current act, copyright entitles the owner of copyright to control the use and adaptations of their work in various technological material forms and markets. Licensing allows third parties to create wealth from the work of creators or owners of copyright material, with acceptable remuneration to the copyright owner from various products and markets as income for their work. Copyright creators are one of the most poorly remunerated sections of the work force under the existing copyright regime. I know, for example, that the Australian Society of Authors has significant reservations about the legislation, not least for that reason.

It is argued that the proposed exceptions in this legislation to owners’ exclusive rights to the first digitisation will undermine the entire licensing and investment structure for copyright owners and industries. Digitisation constitutes the creation of a new material form of owners’ copyright material for a new market. The proposed exceptions to owners’ rights to first digitisation signals the government’s departure from precedence in respect of owners’ rights in the development of copyright law in the context of new digital technology and markets. For example, when computer disks were invented, owners’ rights from copyright extended into the new technical form and market in which copyright was used and exploited. By contrast, the government has in the current legislation extended the exceptions to owners’ rights in the existing technology, print, into the new online technological arena, rather than legislating to protect owners’ rights into the new markets and developing exceptions for fair dealing relevant to the new digital technology and commercial environment.

Libraries and archives do not own copyright contained in works held in their collections unless, of course, this copyright is assigned to them by the owner, under contract. As we know, this rarely occurs. It is argued that it is possible that the government’s well-funded programs, which are currently under way, to digitise national collections at the National Library, the Australian Archives and the film and sound archives, are or are likely to be infringing the rights of Australian and international authors and copyright owners under the current act. The technical form of owners’ copyright material available to libraries, the public and markets is a fundamental right of the owner to determine, as it applies under the current act, in line with the owners’ fundamental and exclusive rights under article 15(c), which I previously referred to.

One of the issues close to me is the possible impact and threat that this legislation has for indigenous culture and intellectual property. The proposed exceptions to owners’ rights to first digitisation in this legislation will, it is argued, enable third party users to digitise indigenous cultural material held by libraries such as AIATSIS, including ethnographic and genealogical data, photographs, archival films, including footage of important ceremonies, and other sensitive cultural information without the permission of the copyright owner. We had an example of that recently in this parliament when I raised the question with Mr Speaker about the ownership of the intellectual property involved in artworks available in this place in relation to
Aboriginal cultural matters. I think this matter has been referred to the Attorney-General, but I am absolutely 100 per cent certain, very confident, that the response from the Attorney-General will be that the intellectual copyright is retained by the creators of the copyright material because it is their intellectual property.

So I am concerned about the possible impact of this legislation on indigenous Australians in relation to their cultural and intellectual property. This legislation will enable third party users to digitise indigenous art and designs with no redress to the owners, and I think this is a very important matter that needs to be contemplated. It is a further threat to the indigenous art industry, which is already subject to exploitation and inadequate protection under the existing act and bill. It will enable third party users to digitise, use and sell indigenous cultural and intellectual property in biotechnology. I think that is something that has not been properly considered. These are very important issues. I am conscious that the government, and indeed opposition members, talked about ongoing review of this legislation, but I want to personally ensure that the interests of those people whom I represent are being properly addressed. Frankly, I am not too confident that they have been. They may well have been. If they have I am prepared to accept that they have, provided I am given evidence of that fact. To date, I have not received it.

One of the groups of people concerned about this legislation in its amended form is the Australian Society of Authors. The key issues for them are, firstly, the failure of this legislation to implement a first digitisation firewall. The main objections they have to the amendments in the bill are that they do not implement the Andrews committee recommendations that exceptions to copyright not allow the first digitisation of material in non-digital form. While that recommendation itself did not meet all the concerns that authors put to the committee, it did address some of them. The amendments make some references to the first digitisation by confirming that, ‘Reproduction includes first digitisation.’ Including first digitisation is for a court to take into account in determining whether an infringement has been flagrant and, thus, whether the infringer should pay additional damages. However, the amendments do not give effect to the Andrews committee’s recommendations.

The second matter which is concerning them is the failure to give recognition of important differences between digital and non-digital environments—something which I have already referred to in passing. The failure to implement the Andrews committee’s recommendations indicates that the government has failed to grasp the important differences, recognised by the Andrews committee, between the analog and print environments, and thus the inappropriateness of extending exceptions applying in the print environment into the digital environment. In particular, the government is still making references to ‘balance’ without saying what it thinks that balance should be. It is contended that the balance should refer to the three-step test set out in the international treaties, which I have referred to.

Another issue of concern to authors is that hacking is still allowed. The amendments have not changed the permitted purposes for which technological protection measures may be circumvented. The bill therefore would still allow hacking by libraries, educational institutions and governments, in relation to both published and unpublished material. On the other hand, the amendments would change the bill to the detriment of authors. The question of free copying by corporate libraries is also at issue. The amendments in the bill would mean that the free library copying provisions could be used by corporate libraries. This would not have been allowed by the original version of the bill, and it is an aspect that the libraries strongly object to.

Another issue of concern is that libraries may reproduce and supply from any library’s collection. The amendments would allow a library to reproduce and supply material from any library’s collection to another library. The original bill allowed reproduction and supply only from the library’s own collection. The amendment seems to be based on the Andrews committee’s recommendation that the National Library should be able
to supply smaller libraries with material from overseas collections, through services such as Supply 1, but it has a much wider effect than that, and it has a wider effect than that described in the supplementary explanatory memorandum, which is, of course, very long and very detailed. There is a small concession to copyright owners in the new requirement that a library destroy a digital version of a work made to supply another library.

Another matter of concern to authors is the question of free copying of so-called ‘insubstantial portions’ by educational institutions. The amendments do not implement the Andrews committee’s recommendations that the free copying of so-called ‘insubstantial portions’ by educational institutions should not be allowed.

There is a very strong view by some that this bill is biased towards users rather than protecting Australian copyright material, existing markets and innovative industries, which depend on strong copyright protection to attract investment and remain viable in media and other domestic and international markets, particularly in a global marketplace and with the way in which technology is changing. It is argued, and I think it is a reasonable assumption from this point of view, that the bill is biased against owners’ rights to exploit their work in new online markets.

This is a very detailed piece of legislation. The bill proposes that owners carry all costs associated with infringement in the global online marketplace. That is untenable, as the bill potentially allows untraceable mass infringements through exceptions to owners’ rights to first digitisation. The public will not benefit from a decline in copyright output or the demise of cultural and innovative industries. Only users and vested interests will benefit from exceptions to owners’ first digitisation rights through free plundering of existing copyright to shore up failing online services in the short term.

The proposed review of the act in three years needs to be brought forward if exceptions to owners’ rights to first digitisation are to be properly protected. Irreparable damage will be done to copyright owners, industries, investment and markets in that time, through what some believe will be a digital heist.

This is very important legislation, but I am personally very concerned that the interests of Australia may well not be deemed to be properly protected. I note the opposition’s foreshadowed amendments, and they have my full support.

Ms JULIE BISHOP (Curtin) (9.34 p.m.)—About two weeks ago, at a conference in Taipei, the World Congress on Information Technology, the doyens of the information technology world—Bill Gates, John Chambers of Cisco Systems, Robert Young of Red Hat Inc., Carly Fiorina of Hewlett-Packard, and others—shared their thoughts, insights and vision for the way of the future in the use of technology and its potential impact on our lives. They spoke of a digital world beyond PCs, where computers and communications merge to unleash unprecedented ways to communicate, where virtually any and every device capable of transmitting information will be Internet enabled and where advances in wireless technology will transform the dissemination of information.

They spoke of the rise of online communities, the world of e-business—b2b and b2c—of building the first truly global Internet economy, and changing forever the way consumers and businesses do business, citing the changing rules of engagement for companies and countries. Equally profound will be the social impact of a truly high technology world. The phenomenon presents challenges to many, including challenges to governments in meeting their responsibilities to legislate in ways which will enhance the positive opportunities and eliminate the potential negatives of the new technologies.

The advent of digitisation and new and emerging forms of communication has posed some fundamental challenges to legislators, perhaps particularly in the area of copyright and copyright laws. The amendments to the Copyright Act to accommodate the extraordinary expansion in digital technologies and publishing are the most important and substantial revision of the copyright laws of this nation since the introduction of the act in 1968. The basis of the amendments lies in the coalition’s 1998 election promise to create a modernised intellectual property re-
gime, serving consumers and producers alike.

Mirroring our pioneering immersion in Internet technologies, Australia is one of the first nations in the world to seek to adopt the proposed copyright protection standards outlined in the World Intellectual Property Organisation Internet treaties. Despite the global nature of 21st century technology, there is not yet an international harmonisation of laws in this area, but that is no reason for Australia not to act or not to take the initiative wherever possible. Australia’s actions follow the passage of the Digital Millennium Copyright Act in the US Congress and the adoption by the European Parliament and Council of the Directive on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society.

At the heart of copyright law is the attempt to effect a balance between the owners of copyright material and those who wish to use that material. The vexing question has always been how to effect that balance and to what end. The owners of copyright material and the users of that material might both have legitimate claims to enforce their respective rights. The House of Representatives Standing Committee on Legal and Constitutional Affairs, of which I am a member, heard a great deal of evidence that went to this dilemma faced by copyright laws in attempting to reconcile the various interests. The dilemma was neatly described in an article by Jeremy Waldron, entitled ‘From authors to copiers: individual rights and social values in intellectual property,’ where he said:

Clearly, our concept of the author and concept of the copier are two sides of the same coin. If we think of an author as having a natural right to profit from his work, then we will think of the copier as some sort of thief; whereas if we think of the author as beneficiary of a statutory monopoly, it may be easier to see the copier as the embodiment of free enterprise values.

This government is seeking to assure the author of a fair return, while permitting creative uses which build upon the author’s work. The reforms are a necessary component of the government’s commitment to encourage the growth of the information economy. The progress of this particular bill is well known to the House, but it bears repeating as much attention has been paid to the significance of the provisions of this bill.

Following the initial drafting and introduction of the bill in September 1999, it was referred to the House of Representatives Standing Committee on Legal and Constitutional Affairs for consideration and comment. The committee considered the bill closely and made 38 recommendations in relation to it. I am very pleased that the government, in redrafting the bill, has fully implemented 15 of those recommendations and partially implemented a further six. The centrepiece of the reforms is the copyright owner’s new exclusive right of communication to the public. This provision is based upon Article 8 of the WIPO Copyright Treaty and is intended to subsume the copyright owner’s exclusive right to broadcast the work and to transmit it to subscribers to a diffusion service. This new right will apply to works currently under part III of the Copyright Act—it covers literary, dramatic, musical and artistic works and applies to sound recordings, films and broadcasts. The right is not intended to be technology specific, unlike the existing broadcasting right which is technology specific to the extent that it applies only to wireless broadcasts. By virtue of the new definition of communication, it applies to electronic transmissions and material available online through the Internet.

One important recommendation made in the committee’s report was the principle of first digitisation. The government has not embraced entirely the committee’s recommendation in this regard, but I do appreciate the comments of the member for Gellibrand in particular. She was a most conscientious deputy chair of the committee, and I note her acknowledgment of what the government is seeking to achieve in its explicit recognition of the right of first digitisation as a subset of the right of reproduction. At this point, I should also digress to pay tribute to the member for Menzies for his fine chairmanship of the committee.

In considering the enormous potential for the unauthorised use of digital material and
the threat such misuse represents to the interests of the authors of the material, the committee suggested that an effective firewall be established between the frontiers of print and digital production. Under such an arrangement, it would be the considered decision of an author—or, rather, the copyright owner—as to whether their work was digitised. In other words, the copyright owner would be entitled to control the first digitisation of their work in the knowledge that digital technology does make the copying and distribution of otherwise original work relatively easy.

What the government has achieved is a clarification of the meaning of the term 'reproduction' with respect to works that are stored in electronic form, specifically providing that the conversion of a work to or from a digital form is a reproduction of the work. With the specific recognition of first digitisation and a more effective enforcement regime, I believe we will achieve what is required to ensure that the existing balance between the interests of copyright owners and users is carried over into the electronic environment, and that the two environments—print and electronic—are treated equivalently. Along with the explicit recognition of first digitisation right, the criminal penalties for the infringement of the first digitisation right will be substantially increased. Section 132 of the act will be amended so as to increase the maximum penalty to $93,500 for an individual, or up to $467,500 for a corporation.

Potential transgressors of first digitisation rights will face a further disincentive because the bill includes an explicit power by which a court can award additional damages arising from a civil action where an infringement involved the first digitisation of copyright material. These are significant protections for copyright owners. The government’s amendments to the original bill address first digitisation without harming access to information sought by those involved in education or libraries or those people with print or intellectual disabilities. As such, the deeming provision allows ‘fair dealing’ for the purposes of research or study, although only as that action applies to the copying of reasonable portions or articles and not to the communication of that digitised material with others.

Concerns have been expressed by some that this will allow libraries to compete with digital publishers, thereby usurping new markets for this material. The House of Representatives committee, in accordance with the Copyright Law Review Committee and the Intellectual Property and Competition Review Committee, found that it would be highly unlikely for a library, restricted as they are by the limitations on library copying, to compete with a publisher in the manner envisaged. Where digital material is available commercially, libraries are unable to supply that material to other libraries.

Another area of amendment to the copyright laws which I found of particular interest, given the new means of communication, was the government’s response to the concerns of carriers and carriage service providers, such as Internet service providers. Debate in the United States concerning ISP liability under existing copyright law focused on the theories of contributory infringement versus vicarious infringement—the former requiring the defendant to have knowledge, actual or constructive, of the principal infringement or to have materially contributed to it. The latter, vicarious infringement, requires the defendant to have practical control over the principal infringer and to financially benefit from the principal infringement. There have been a number of cases in the United States that have considered the liability of ISPs. In a number of well-known cases, including one involving the Playboy company and the unauthorised use of photographs and graphics from Playboy, they have been found liable. The US Digital Millennium Copyright Act now clarifies that ISPs will not be liable for third-party copyright infringements unless they receive notice of the allegedly infringing material and fail to remove it or block it within an expeditious time frame.

Here in Australia there was a High Court decision in APRA v. Telstra, where Telstra as carrier was held to be liable for the unauthorised playing of music on hold—music in which APRA owned copyright—by its sub-
scribers to their clients. There was a deal of uncertainty about the circumstances in which carriers could be held liable for copyright infringements of their customers. To deal with that uncertainty, the amendments provide that carriers and ISPs will not be directly liable for communicating material to the public if they are not responsible for determining the content of that material. This acknowledges that the content provider will not generally be the ISP. So the carrier or ISP will not be taken to have authorised an infringement of copyright merely through its provision of facilities. Authorisation liability is clarified by codifying the factors relevant to determining whether an authorisation of an infringement has occurred.

This bill seeks to ensure that copyright law continues to promote creative endeavour while allowing reasonable access to copyright material, including on the Internet and through the new communications technologies. The balance is particularly acute if one is concerned with fostering the use of emerging technologies, such as the Internet. We are being cautious about this. As use of the Internet grows, the more important it will become for creativity to be protected and any inconsistency between rights in cyberspace and rights in the real world could render real world rights redundant. In recognition of the tremendous pace of technological and use changes that will affect the Copyright Act in the future, the amendments made under this bill will be reviewed after three years. The development and reform represented by this bill have real and positive implications for the information technology industries in our nation. The amendment of the Copyright Act will not only assist in the development of an appropriate legal and regulatory regime for the information technology industries in our nation. The amendment of the Copyright Act will not only assist in the development of an appropriate legal and regulatory regime for the information technology within our borders but also open up trade and exchange opportunities with the rest of the world. I commend this bill to the House.

Mr SERCOMBE (Maribyrnong) (9.48 p.m.)—The Copyright Amendment (Digital Agenda) Bill 1999 and debate on it arise in the context of the quite revolutionary changes to our society brought on by the digital, electronic and information age. New technology is rapidly changing the way business is done, the way we work, the way communities function, the way we are educated, the way we are entertained and so on. The new technology, particularly the Internet, is very powerful and potentially liberating in its effects. It can remove the tyranny of distance. It can give access to a wealth of information otherwise very difficult or time consuming to access. It can create new media opportunities for new creative talent and give access to new ideas which would otherwise be difficult to achieve or, in fact, frankly inconceivable. For these sorts of reasons, authoritarian regimes attempt to block the new technology. For example, a couple of years ago when I was in Syria the Internet was not available for the abovementioned sorts of reasons, and that is fairly common. I am not quite sure what the situation in that particular country is, but I think it may still not be available. In Australia, where we do not have the same sort of authoritarian regime, we still see the federal government, for example, involved in debacles such as its attempt to block porn, and we have seen the flip-flops that it has engaged in in the digital television debate.

There are, of course, significant potential downsides to this information society. The gap between information poor and information rich is a most pressing issue, and this of course involves very significant regional issues as well as income dimensions. Obviously, the question of the degree of information poverty as compared to information richness depends to a significant extent on where one lives as well as what one’s income is. There is a fundamental public policy interest in creating equality of opportunity of access. Indeed, the same technology, which is very much capable of contributing significantly to equality if it is in the appropriate policy setting, can also contribute very significantly to quite the reverse—it can exacerbate differences on the basis of both income and place of living.

In the debate about copyright there is, of course, another important interest as well, and that is the interest in seeing that creativity in the arts and other areas is encouraged and that works receive a proper return. This is indeed a most important consideration in
terms of giving attention to getting the policy blend right. Of course, no-one is clear about exactly how this bill strikes the appropriate balances between these two competing interests. We have seen, for example, in the very good report, in general terms, of the House of Representatives Standing Committee on Legal and Constitutional Affairs, a call to review after three years significant portions of the policy approach that has been taken on this. That is clearly an indication of how rapidly these areas of technology are moving and is a clear indication that no-one is quite sure that the appropriate balance is being achieved in this bill.

I generally support the Labor Party’s approach to the bill and in general terms support most of the features of the bill. However, I think all members need to be somewhat cautious about some of the hype often promoted by commercial interests in this debate. We need to understand that the owners of rights who, it is claimed, are sometimes ripped off are not always struggling artists attacked by unscrupulous pirates. Certainly, artists are entitled to the fullest possible protection but, if the anecdotal stories are to be believed—and indeed many of them are consistent—sometimes, frankly, it is tough-minded commercial operators who are likely to rip off creative artists and struggling artists. Frankly, I do not know that their interests, the interests of significant commercial operators, ought to be as delicately handled and protected as those of some of the individual artists. After all, commercial operators ought to understand the risks involved in the new technology and their rights ought not to be unduly reinforced at the expense of social and community access to the equalising benefits of the technology.

There is a strongly held view in some sections of the community that copyright really only works where people respect it. There is certainly a view that the copyright legislation generally, not just copyright legislation in relation to digital matters but more generally, is unnecessarily complex, unjustifiably discriminatory and technologically challenged. Just so I am not infringing copyright, I am quoting from an article produced in February this year by Associate Professor Andrew Christie, who has written a quite good article ‘Simplifying Australian copyright law—the why and the how’. I think that complexity and those potentially discriminatory aspects of copyright law often do tend to affect community perceptions, particularly amongst younger people, to bring copyright law into some disrespect. Of course, as the point was made earlier, if a law is fundamentally not respected within a community, it is not likely to be a particularly effective law. I referred a moment ago to some of the hype that surrounds this debate about copyright and, in particular, its impact on digital media. In that context I ought to refer the House to a couple of articles that I picked up in the press recently. For example, in the Australian Financial Review over the weekend of 3 and 4 June there was a very interesting article by John Davidson headed ‘How big business can fight net piracy’. I will refer to a couple of sections in that. The article starts off:

You’d think there was a bloody war. You’d think pop stars were dying of starvation, besieged by the swarming masses of modem-toting teenagers intent on strangling their art. And you’d think Edgar Bronfman Jr, the chief executive of one of the world’s biggest record companies ... Universal, was marshalling the troops to stage a counter-offensive.

The story goes on:

He warned that if internet piracy of songs and movies continued, it would lead to the downfall not of media companies like Universal, but of the internet itself.

Bronfman was quoted as saying:

“If the Internet should [allow] an unfair and unjust paradigm to perpetuate itself, then it, too, will crack, crumble and collapse.

I was referring to hype before and there is an example of it. The article goes on to say:

... Universal may have more of an ally in the internet than it figures, especially in its battle to prevent its movies suffering the same fate as its pirated music.

... ... ...

Despite the fears of many in the media industry, most of the cable, satellite and ADSL companies that have rolled out high-bandwidth internet connections to consumers have done so in a way that helps companies hold on to their intellectual property, by stopping consumers from using their
personal computers as efficient hosts for pirated material.

It’s the fertile individual consumers playing host to stores of pirated material that the copyright industry most fears.

The article continues:

This “peer-to-peer” model of data exchange, in which there’s no central repository of data and so no clear target to sue, is what Gnutella, Napster and their clones use to escape (they hope) the wrath of the courts, leaving the media companies with the unenviable task of suing hundreds of thousands of mini pirates individually.

The article goes on—and I am not going to quote too much from it—to quote the chief technical officer of Excite@Home as saying: “My own bet is you will find the music industry is not as stupid as people think, and they’ll come up with a new way of distributing music electronically that will be cheap enough that piracy will drop because it will be easier, it will be legal and it will be inexpensive to purchase music through an internet.

The point I am trying to make, by extensively quoting from that article, is that some of the hype that comes from commercial interests is not necessarily as justified as perhaps some of their more exaggerated claims would make. In fact, I must say that I am one of those who take the view that somewhat lighter handed regulation in these technological areas is, frankly, a better approach. Another article, one that appeared not that long ago in the Courier-Mail in Brisbane on Saturday, 22 April, was headed ‘Grand Theft Audio’. This particular article discusses some of the ways of gaining access to music on the Internet. It talks about Napster, which is the brainchild of a 19-year-old computer science student who last August wrote a software program making it easier to steal music from artists and recording companies, bypassing copyright laws. The story says:

While the Net can be a cheap promotional tool for upcoming young musicians and filmmakers—and it talks about the Blair Witch Project, which was heavily promoted on the Internet last year to very lucrative effect—

... democratising information can also infringe copyright law.

That is certainly a most concerning aspect of this debate if in fact information that is being provided on an equitable and democratic basis can easily—as suggested—fall within the net of copyright and commercial interests. The article says:

Napster allows people to download and exchange songs stored on computer hard drives in MP3 music format—a method of compressing and sending music quickly through the Internet.

... ... ...

So although it’s no surprise the Recording Industry Association of America is suing Napster for copyright violations, alleging Napster “is operating a haven for music piracy on an unprecedented scale”, the charges may not stick.

The article quotes a musician, Dave McCormack, singer and songwriter from Custard and The Titanics, who is said to have no gripe with the new MP3 world. He is quoted as saying:

“The artist gives away the rights to their music when it goes to the record company, so it feels very threatened.

Indeed. McCormack is further quoted:

“When the artist is assigned to a record company the artist is only getting a $1 or $2 royalty from a CD anyway. I think most artists would be in favour of freely available and downloaded samples of their music.”

The article continues:

If the public like it they will buy the CD, McCormack says. The Titanics are distributed exclusively through online music e-tailer ChaosMusic, which McCormack finds very lucrative.

Once again, I make the point that this matter is not necessarily as simple as some of the stronger, more powerful, vested commercial interests would suggest. In fact, if one looks at a great deal of what they say, one sees that they are principally concerned about protecting their existing business model rather than necessarily ensuring that the appropriate balances are achieved in terms of the accessibility of the creative work of artists. The article I referred to earlier mentioned ChaosMusic. ChaosMusic is a company that makes its products available over the Internet in MP3 form or in a format called ‘liquid audio’. This is a format that many artists speak very highly of. They believe that it serves their interests in terms of promoting their creative skills to the broader community in a way that is undoubtedly upsetting.
the business model approaches that significant commercial interests in this area adopt. But, as I said, protecting the business models of existing, substantial cultural organisations is not necessarily something that ought to be done at the expense of ensuring the freedom and the liberating influences of the Internet to provide access for people to a range of cultural materials, irrespective of where they live or what their income is. I do not believe that those commercial interests ought to necessarily have the balance of advantage tilted as strongly in their favour as is presently the case. Certainly one needs to ensure, as I indicated earlier, that the interests of artists, particularly newly emerging artists, and their creativity are appropriately protected and appropriately rewarded. This issue comes down very much to the question of achieving those balances. I have expressed my view on where some of those balances ought to lie. We ought not to be necessarily accepting all the hype that comes with this. We ought to be ensuring real balances and the fundamental public right of access to a wide and rich array of cultural materials, available to people irrespective of where they live or what their income is.

Mr NEVILLE (Hinkler) (10.03 p.m.)—I rise tonight to make a small contribution to the Copyright Amendment (Digital Agenda) Bill 1999. In doing so, I have to say that the House of Representatives Standing Committee on Legal and Constitutional Affairs has done a magnificent job, and I am pleased that the government has taken on board, in toto or in part, 21 of their 38 recommendations. I am Chairman of the House of Representatives Standing Committee on Communications, Transport and the Arts. Our involvement with the bill was not to the same extent as that of the other standing committee, but one of the chief focuses of our committee was the matter of libraries. I am pleased to see that in this bill libraries are given a fair amount of latitude along the lines that currently exist on the print media. As the Attorney-General said in his second reading speech on this bill:

As far as possible, the proposed exceptions replicate the balance that has been struck in the print environment between the rights of owners of copyright and the rights of users. The extension of this balance into the digital environment was one of the fundamental principles underlying the 1996 WIPO treaties.

With regard to the electronic sector in libraries, this bill allows for the copying of works and unpublished sound recordings to supply individual users for research and study purposes. It also allows for the copying of works to supply another library with a copy for the purpose of inclusion in that library's collection or to enable that library to supply a copy to a user who requires it for his or her research or study purposes. What I also like about the bill is that it allows for the copying of manuscripts and other original material for preservation purposes where the original has been lost or stolen or damaged. I think that is a sensible measure. But probably what takes a lot of the angst out of it for those who wanted a fairly tight regime is that those libraries that use their facilities for commercial purposes will not be entitled to these privileges, and I applaud that.

Digital technology and the Internet are revolutionising the way we communicate, learn, do business and spend our leisure time. The standards and quality of communications equipment have vastly improved in recent years and will continue to improve. We have seen the proliferation of digital mobile telephony, the Internet and multimedia production, and we will soon have digital television. This new area in communications technology is making information easier and cheaper to obtain. However, it also poses many challenges to the protection and enforcement of copyright throughout the world, and in much more detail than the library section I just referred to. The bill we are debating tonight is the government's major copyright priority and will help develop a framework for the protection of copyright in the digital environment. The reforms in the bill aim to encourage online activity and promote the growth of the information economy.

There is a delicate balance that must be maintained between the rights of copyright owners and the rights of copyright users. The government is keen to encourage creative endeavour and ensure that people who create material, whether that be music, literature or something else, can claim copyright for that
material. But we still want to allow reasonable access to copyright material on the Internet and through new communications technologies which are evolving every day. We do not want material locked up in such a way that no-one can get at it for legitimate purposes such as research and education. Measures in this bill, as I said earlier, reflect that. Debra Cassrels recently wrote in the Courier-Mail about some of the potential copyright dilemmas that can arise when dealing with the Internet. She said:

While the Net can be a cheap promotional tool for upcoming young musicians and film makers, democratising information can also infringe copyright law.

The concern is that, if an artist invests a substantial amount of money in recording his or her music or writing a novel and everyone can get it free, fundamentally there is no return on that particular artist’s investment.

Let us take music as an example. Music can now be compressed, downloaded and sent as a digital file and played on portable digital players, like MP3s. There are also programs now available that can convert MP3 files back to CD readable tracks, which can then be burned onto a CD and played on a stereo. Just diverting for a minute, I have noted that the bill has quite severe penalties for those people who manufacture and supply devices designed to aid the infringement of copyright—electronic devices, for example. It also prohibits the manufacture and supply of broadcast decoding devices used to commit TV piracy. So from that point of view the government has been sensitive to that particular aspect of the electronic agenda. Yet, while there is a potential for artists to be exploited, many are embracing the new technology, as the previous speaker said. In March this year author Stephen King published a new novel called Riding the Bullet on the Internet. Within two days, 500,000 copies of the book had been downloaded. Well-known Australian musician Dave McCormack, who was referred to by the previous speaker, a member of the band the Titanics, is distributing CDs through an online music e-tailer, Chaos Music. In the article ‘Grand Theft Audio’ in the Courier-Mail recently, Mr McCormack said that, instead of the normal $1 or $2 royalty he gets per CD for CDs distributed through record companies, he is getting a return of $20 through Chaos Music. This situation is quite unique. There are a growing number of MP3 sites legally publishing music for the exclusive use of online artists. So it is important that in setting those boundaries we do not lock up a burgeoning industry that wants to take advantage of the electronic forms of distribution.

The centrepiece of the bill is a new technology neutral right of communication to the public. This new right will replace and extend the existing technology specific broadcasting right which currently applies to wireless broadcasts. The new right of communication to the public also includes provisions for making copyright material available online. In addition, the new right will improve protection for many industries that publish or distribute copyright material on the Internet and will protect material included in pay TV broadcasts. The government has decided to introduce a technology neutral, general means for protecting copyright because new technologies for conveying information are continuing to evolve. This will help ensure that the act will remain relevant even as new ways of communicating information and new electronic technologies arise.

The bill also includes an important package of exceptions to complement the introduction of the new right of communication to the public. The proposed exceptions generally replicate the balance that has been struck in the print environment between the rights of owners of copyright and the rights abuses, as the Attorney-General so eloquently pointed out. Existing exceptions that apply to such institutions as libraries, museums and galleries and the statutory licences currently held by educational institutions will be extended into the digital environment, albeit with the new definition of libraries that we spoke of earlier.

The key role that telecommunications carriers and Internet service providers play in the online delivery of content and the operation of the information economy has also been recognised by the government. It is vi-
tal that we encourage continued investment in these new businesses. The amendments in the bill respond to the concerns of carriers and carriage service providers, such as Internet service providers, about the uncertainty of circumstances in which they could be liable for copyright infringements by their customers. Typically, the person responsible for determining the content of copyright material online would be a web site proprietor, not a carrier or Internet service provider. That is a very important distinction.

A major issue of concern for copyright owners is the enforcement of copyright in the digital environment. There is little or no cost associated with the transmission of multiple infringing copies of copyright material using digital technology—that is the great danger. The potential for the making and communication of unauthorised copies in the electronic environment is limitless. Going back to the example of music and the MP3 files, various analysts have claimed that 75 to 90 per cent of MP3 music is being distributed illegally. The time is late and, as my colleague the member for Calare wishes to speak on this bill, I will shorten my comments somewhat.

The government has taken the view overall that it is more effective for copyright owners to be able to seek remedies against people who make and commercially deal with various devices, rather than attempt to seek remedies against individual users. Clearly the new devices that I referred to earlier will do the work. Practitioners using them will not necessarily be the most guilty parties. The bill also provides for criminal sanctions and civil remedies to discourage commercial dealings in unauthorised decoding devices, as I said before. Examples of these devices include decoders that allow the unauthorised reception of pay TV signals. The provisions in the bill will enable subscription broadcasters to control the reception of their encoded broadcasts.

Finally, the reforms provided in this bill are at the cutting edge of online copyright reform and clearly place Australia among the leaders in international developments in this area. New technologies are changing rapidly and we need to embrace the potential these changes offer. We will need to ensure that an appropriate balance is maintained between the rights of copyright owners and, as I said before, the rights of copyright users.

Mr ANDREN (Calare) (10.17 p.m.)—The act which the Copyright Amendment (Digital Agenda) Bill 1999 is amending, the Copyright Act 1968, has been a contentious one in recent years, even before the need to adjust it for the digital age. Several years ago, APRA, the Performing Rights Association, had a savage clamp-down on small businesses which were said to be abusing copyright by playing radio stations on their premises. I remember well the lonely butcher in Yeoval at 11 o’clock on a high summer day, the street almost deserted, the women yet to come into town for shopping in the relatively cooler afternoon or perhaps gone to the larger air conditioned shopping centres like Dubbo or Wellington, avoiding the small town altogether. The revenue flow is not spectacular at the Yeoval butcher, as is the case in other shops in town, but the product is good and the rent is low enough to maintain a modest business. To fill the time between customers, the butcher listens to the local radio station and its mix of news, talk and music. One day, the man from APRA steps into the shop, hears the radio playing and several weeks later a letter of demand arrives for the copyright licence fees. Forget that the local radio station has already paid licence fees on the music; forget our businessman is listening mainly for the companionship of the news-talk program.

In yet another more recent case—still awaiting resolution—the delightful Orange children’s amateur singing group, the Warrendin Warblers, is caught up in the rigorous application of copyright on sheet music which requires, as I understand it, slight rearrangement to meet the capabilities of inexperienced young singers, but so far they are arguing their case without success. You might guess that I am no great fan of this inflexible enforcement of copyright. It really comes down to the way in which legislation is framed. We need a balanced approach to copyright and I hope, with the amendments the government is introducing here to its own bill, that we get that balance.
should be a property founded on a person’s creative skill and labour. It should reward that skill, but the flip side is that the work of art, or science, or education, once rewarded, also promotes the author’s further work and contributes to the enjoyment and study of that particular work. In other words, should copyright return go on ad infinitum or is there a point at which use of that material for non-commercial purposes should not attract a fee but should be freely available?

As the explanatory memorandum to this bill states, ‘giving copyright owners the exclusive right to control most acts in relation to their material potentially empowers copyright owners to lock up their material, by withholding all access, or by making access available only on unreasonable terms’. My earlier example of the heavy handed APRA approach to the Yeoval butcher was in my estimation ‘unreasonable’. As the Attorney-General said in introducing this bill, the aim is to ‘ensure that copyright law continues to promote creative endeavour and at the same time allows reasonable access to copyright material in the digital environment’. The complexity of this digital environment and what constitutes reasonable access in the digital world is amply demonstrated by the more than 100 government amendments needed for this bill, most in the wake of the House of Representatives Legal and Constitutional Affairs Committee report on this legislation. I would like to add my comments of congratulations to the committee for the work they did.

I will restrict my comments to the concerns expressed by various bodies within my electorate on this bill, such as councils with their public lending libraries and Charles Sturt University. It seems to me the major concerns of public libraries have been addressed in this bill, especially with the addition of sub-section 104B to the effect that a library or archive providing electronic access to audio visual material will not be regarded as allowing infringing copies if copyright warning provisions are drawn to the attention of users. As well, concerns over the supply of electronic works by libraries and archives to their users also appear to have been satisfactorily addressed.

The concept of fair dealing for libraries appears to have been well guarded. However, the definition of library, which draws a distinction between public libraries and those attached to businesses run for profit and libraries owned by a person or persons carrying on business for profit, is of concern to some. I am unsure from this reading of the definition whether the concerns of, say, the land information service in Bathurst, formerly the government owned Central Mapping Authority, will be disqualified as a library under this definition. I would seek a clarification from the minister if possible.

As the Land Information Centre stressed to me, libraries supporting cooperative private and/or public sector research projects could be faced with far more complicated copyright compliance. The librarian at the Land Information Centre made a very compelling argument to me, detailing how private sector libraries are a vital part of the cooperative national interlibrary system through which increasingly specialised information sources are shared. If in fact an organisation such as the Land Information Centre is decreed to be a private organisation, having been privatised by the government, then its valuable land information data, which would be and is of immense value for non-profit research, would still appear to fall outside the definition of library under this act.

I would like to move on to universities, given that Charles Sturt University and the Orange campus of Sydney University are in my electorate. In its submission to the inquiry, the Australian Vice-Chancellors Committee pointed out the complexity and cost of the existing system of statutory licences under the Copyright Act to the point of almost making it unworkable. As the vice-chancellors said, the AVCC will have spent almost $1.5 million in legal fees during 1998-99 in relation to disputes with collecting societies before the Copyright Tribunal and Federal Court. The vice-chancellors gave clear examples of the dangers of any strengthening of the position of copyright owners to maximise economic return rather than balancing the rights of creators with rights of students. Whereas now a student...
can enter a university library and browse, borrow or copy within the fair dealing sections of the current act, under proposals in the originally drafted bill the mere act of making material available electronically would be an act of copyright which would have become, under proposed division 2A, remunerable by the university or education facility.

However, I have spoken with Stuart Hamilton, executive director of the Australian Vice-Chancellors Committee, on his reading of the government’s amendments—albeit via a brief conversation with him in Jakarta yesterday—and he thinks the amendments do address the committee’s concerns. Universities are happy that the revised bill does not interfere with the statutory licence arrangements and that the right of first digitisation will not attract additional fees at the original download. So the right of fair dealing has been protected. The universities tell me that they have no problems with provisions protecting copyright on the communication of such material, but they will be closely examining opposition amendments and any planned Democrat changes when this legislation reaches the Senate in the spring.

I note that the chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs has welcomed the government’s decision to accept the committee’s principal recommendations. I wish to comment briefly on two clarifications in this bill relating to retransmission of free-to-air broadcasts on cable. This legislation overturns the 1996 Federal Court decision in the Foxtel case and recognises that broadcasters have copyright in their signal and it provides underlying copyright holders with equitable remuneration. I support these changes. The liability of Internet service providers for copyright infringement by their customers has also been addressed in this bill. For the aggrieved owner of copyright, there are substantial increases in penalties, with the current maximum monetary penalty lifted by over 50 per cent.

It is interesting to note, as we move more and more into the Internet and digital age, the words of the bill’s digest, which says, among other comments:

> . . . there is practically no way that infringement of copyright can be effectively policed in the electronic environment.

While protection measures to regulate access are being developed, so too are circumvention devices. I note the opposition amendments in this regard and will listen with interest to the minister before deciding on their necessity. I do, however, support the amendment pertaining to film directors’ ownership. While the bill includes provisions which target commercial dealings in circumvention devices and in works in which rights management information has been removed, it underlines the increasing complexities of protecting both copyright and rights of access as technologies develop. A man who knows far more than I ever will about these things, Graeme Philipson, commented recently in the *Sydney Morning Herald* that:

> . . . the simple fact is that it is ultimately impossible to legislate against technology.

I may have some advice for Mr Philipson on sentence construction, but certainly not on information technology. As he says:

> When the technology exists to make everyone a publisher, or a TV station, or a record factory, all the laws in the world and all the enforcement of those laws will not prevent them from occurring.

So take heart, my butcher constituent in Yeo—oval—and take note APRA. I commend the bill and these amendments to the House.

Mr WILLIAMS (Tangney—Attorney-General) (10.27 p.m.)—in reply—I would like to sum up the debate on this interesting bill and, in doing so, I would like to thank the members for Barton, Sturt, Gellibrand, Menzies, Lowe, Cook, the Northern Territory, Curtin, Hinkler, Maribyrnong and Calare for their valuable contributions to the debate on the bill. I introduced the Copyright Amendment (Digital Agenda) Bill 1999 to this House in September 1999. As I said at that time, these reforms will update Australia’s copyright standards to meet the challenges posed by rapid developments in communications technology, in particular the huge expansion of the Internet. This extraordinary pace of development threatens the delicate balance which has existed between the rights of copyright owners and the rights of copyright users. The central aim of the
The shadow Attorney-General and member for Barton has already commented on the exhaustive and, I might say, exhausting consultation process that has brought us to this point. I express my thanks to all the individuals and interest groups who have contributed so effectively to that process. Their views have been invaluable, not only in forming the development of broad policy but also in ensuring that the technical detail of the bill is correct. I would also like to record my appreciation for the work of the House of Representatives Standing Committee on Legal and Constitutional Affairs, in particular the chair, the member for Menzies, and the deputy chair, the member for Gellibrand. While the government has not accepted all of its recommendations, the committee’s work has certainly resulted in significant changes to the bill as introduced.

Before turning to the issues raised during the debate on the bill, I wish to table a correction to the explanatory memorandum for the digital agenda bill. This correction will insert two new paragraphs into the explanatory memorandum to reflect a recommendation of the Standing Committee on Legal and Constitutional Affairs. The correction will clarify that the enforcement measure provisions in the bill are not intended to operate so as to make computer system administrators liable when acting in the proper pursuit of their functions. Specifically, system administrators should not be liable for their activities if they do not result in an infringement of copyright and are within the scope of the permitted purposes exceptions in the bill.

Debate interrupted; adjournment proposed and negatived.

Mr WILLIAMS—I turn now to address three issues raised by honourable members during the debate on this bill. The member for the Northern Territory expressed concern that the exceptions in the bill would undermine the markets of copyright owners. However, the exceptions in the bill have been carefully crafted to ensure that the legitimate markets of copyright owners are encouraged whilst protecting the right of all Australians to have appropriate access to information. The digital agenda bill has recently been considered in the interim report of the Intellectual Property and Competition Review Committee chaired by Mr Henry Ergas. This committee has undertaken an extensive review of Australia’s intellectual property laws in the light of competition principles. A large number of copyright interests have made submissions to the committee and provided evidence in proceedings. In the Ergas committee’s view, the digital agenda provisions will not allow libraries to compete in the emerging market for the delivery of copyright material nor have the effect of destroying an emerging online market for articles and portions of works. In addition, the library exceptions are consistent with international developments. For example, the United States copyright act permits United States libraries to supply via electronic means ‘small portions’ of material to users who make specific requests. The small portions that are typically communicated are chapters and articles similar to the ‘reasonable portions’ that may be communicated under this bill. The extension of the library exceptions into the digital environment has been carefully crafted so as to prevent competition with emerging commercial markets. In recognition of the greater risk to copyright owners, the library exceptions have been far more narrowly applied to the digital environment.

The member for the Northern Territory also expressed particular concern about the impact of the bill on indigenous artists. As well as the new enforcement tools introduced by the bill, the government is working with cultural institutions on sensitive uses of indigenous material. The member for Calare who spoke just before I started expressed concern about the exclusion of private sector libraries from the exceptions under the Copyright Act. I can inform the honourable member that one of the government’s amendments will implement the standing committee’s recommendation that this issue be further considered at a later date. There are a number of proposed government amendments standing in my name—102, to
be precise. For the most part, these amendments implement the government’s response to the recommendations of the Standing Committee on Legal and Constitutional Affairs. This bill is a landmark in the government’s ongoing agenda for copyright reform. I am pleased that the bill has obtained such broad support on both sides of the House. I commend the bill to the House.

Question resolved in the affirmative.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Debate (on motion by Mr Williams) adjourned.

ADJOURNMENT

Motion (by Mr Williams) proposed:

That the House do now adjourn.

Child Support Agency: Client Confidentiality

Mr SCIACCA (Bowman) (10.34 p.m.)—Tonight I want to talk about a cause of recent concern to one of my constituents in Bowman which amounts to a monumental breach of client confidentiality by the Child Support Agency. I do not normally criticise the Child Support Agency as they do a lot of good work, under fairly heavy circumstances from time to time. Indeed, the other day I attended a lone fathers meeting in my electorate where representatives of the Child Support Agency in Queensland were prepared to come along and answer questions in a fairly heated emotional atmosphere. I remarked on the day that they were tremendous in the way that they did their job. Having said that, I have to say my constituent is like many single mothers in my electorate, and many fathers for that matter, who have a lot of problems from time to time with the Child Support Agency. I do not wish to speak on the substantive issues of this particular case because I have written to the minister in respect of the case and I think it is fair that I give him the opportunity of replying.

Disputes with the Child Support Agency are an issue of great concern to my constituents of Bowman. I am often approached by lone fathers associations who believe the system does not work or by single mothers who are left to grieve by a former partner’s reluctance to pay child support. It is a contentious issue and one that I accept is very difficult to administer. However, the matter that I wish to raise tonight represents a very serious breach of the Child Support Agency’s duty to its clients and in this sense I must be critical of their actions. Members will be aware that the child support legislation provides a mechanism to review the amount of child support payable under an assessment in instances where circumstances change. I understand that this is the process my constituent was undertaking when this dispute arose. On 8 June 2000 she approached members of my staff in an extremely distressed state following the release of her confidential and personal documents by the Child Support Agency to her ex-husband. Prior to applying for her review, my constituent had contacted the Child Support Agency and explained that she was in fear of her ex-husband. In fact, in the past her ex-husband’s harassment had been such that she was forced to seek a domestic violence order. My constituent states that she was advised by the Child Support Agency that in view of the circumstances of the case any documents that she did not want sent to her ex-husband should be highlighted and marked ‘confidential’. The agency assured her that these documents would not be passed on.

The documents concerned included her current address, her silent phone number, a private investigator’s report suggesting her ex-husband was in fact working, her private medical records, a report by her child’s guidance officer providing evidence of the need for additional tuition, and a number of receipts that she had provided as evidence of her expenditure in respect of her children. Unbeknown to my constituent, the documents were inadvertently passed on to her ex-husband. Members can appreciate her dismay when he contacted and threatened her. Whilst this has been reported to the Queensland police, they are unable to lay
any charges against him until he proves to be a physical threat. Since this incident, my constituent has been extremely concerned for her safety and that of her children. She owns the home she currently lives in and therefore is unable to relocate her family as readily as she did last time to escape her ex-husband’s threats.

I believe this case highlights the need for the Child Support Agency to be very careful when dealing with confidential information. I understand that aggrieved partners have a right to know what the other partner is claiming when making statements to the Child Support Agency. I also agree that this information should be freely available, but this need not extend to a free exchange of private and confidential information, as in this case. I have urged the minister to launch an immediate investigation into this matter; but, as my constituent points out, the damage is done and there is little that can be done about it now. She is determined to make the government more aware of the problem and she is hopeful that similar incidents can be avoided in the future.

My colleague the member for Barton has quite rightly been critical of the Federal Privacy Commissioner for not immediately investigating a number of matters relating to privacy that have arisen recently in relation to GST and other matters. In any case, I believe that it is a fundamental principle of government that the public has confidence in the professionalism of its public administrators. As my constituent’s case proves, a breach of this duty can have detrimental consequences in the most extreme circumstances, and governments of all persuasions should bear this in mind.

Education: Funding for Government Schools

Mr BARTLETT (Macquarie) (10.39 p.m.)—In recent weeks, I have received a number of letters from schools, P&C associations and teachers expressing their concerns about school funding—in particular, the inadequacy of resources in many of our government schools. They are finding it difficult to keep up with the growing expectations of what their schools need to deliver and the inadequacy of resources to deliver on those expectations. Their anxiety about this is being exacerbated by a steady drift of students from the public to the non-government sector—at least in New South Wales schools. This has led, understandably, to a growing sense of frustration, anxiety and anger amongst our teachers, P&C associations and parents within some of our New South Wales schools. Unfortunately, it has led them to misdirect their feelings of anger against the federal government, sadly, because of what has been a deliberate campaign of misinformation and distortion by many who have got a vested interest in this issue.

I would like to make three main points on this issue. The first is to clearly state the coalition’s strong commitment to public education. This is particularly important to me; as someone who has taught in both the public and the non-government sector, I am particularly keen to see that the government steadily increases its funding for public schools in New South Wales—and the coalition has done this. In the last four years, the Commonwealth government has increased spending for public schools from $1.5 billion to $1.96 billion. In the last four years, this government has increased direct Commonwealth funding to New South Wales public schools from $528.4 million to $649 million. That is an increase of 25 per cent in just the last four years, with forward estimates over the next four years of a further 21 per cent increase in direct funding for our public schools.

The second point is that the coalition government is committed to not only providing the funding but seeing that it is used appropriately and effectively, and that standards are raised. As part of that, we have introduced the national literacy and numeracy standards, benchmarking and testing in years 3 and 5 to make sure that by the time our children leave primary school they are literate and numerate. If our school system cannot guarantee that our children on leaving school have basic acceptable standards of literacy and numeracy, it has failed badly. After some reluctance from state and territory ministers, we have managed to achieve the agreement of all of them to this level of benchmarking.
The third point I want to make is that the state government in New South Wales has failed badly the public education system. In New South Wales, we have seen the most rapid drift of students from the public sector to the non-government sector—in fact, the rate is several times higher than in the other states. This is because the New South Wales government is badly failing students in its public schools. The state government’s lack of commitment is obvious when you look at the funding figures. As I have said, over the past four years the Commonwealth government has increased direct funding by 25 per cent. The New South Wales government has failed to even come close to matching this in its funding for its own schools. Last year, it increased funding by a miserable 1.7 per cent; this year by a pathetic 1.9 per cent—nowhere near the growth that the Commonwealth government has delivered. The state government in New South Wales has not even managed to keep up the appropriate share—the proportion of the financial assistance grants that it gets from the Commonwealth government—to fund its own school system.

In recent years, we have been increasing financial assistance grants, general revenue grants, to the New South Wales government by around five per cent per annum. They are not even maintaining an appropriate or constant proportion of that to their own schools, having raised funding by less than two per cent in each of the last two years. The New South Wales government has failed abysmally to adequately support its own public education system. It is not helpful for those involved in the debate to create animosity between our school systems. I am saddened, in fact, to see growing division between our public and our non-government school systems; but, worse, I am angry that the New South Wales government has failed our students. (Time expired)

Geelong Football Club: Mr Gary Hocking and Mr Tim McGrath

Mr O’CONNOR (Corio) (10.45 p.m.)—Australians generally are quite fanatical about their sport and none more so than the followers of our great Australian football code. The electors of Corio are no exception in this regard. The city has a strong historical regard. The city has a strong historical association with Australian football. The Geelong Football Club was among the first team established to play the code and a Geelong man played a prominent role in developing the rules of the game. So the passion runs deep in Geelong when it comes to Australian football. On Saturday the passions ran high at the club down at Kardinia Park as it honoured two of its favourite sons who have made a magnificent contribution to the club and to Australian football over the last decade. I refer to Gary ‘Budda’ Hocking, who played his 250th game last Saturday, and Tim McGrath, who played his 200th AFL game. I understand that he has played around 150 games with the Geelong Football Club.

Tonight on the floor of the House I would like to pay tribute to both players, but in particular Gary Hocking for his outstanding contribution to Australian football. Hocking has attained legend status in the game. His 250th game on Saturday was both a local and a national milestone and a very proud event and cause for celebration by the football fraternity in Geelong. Gary has reached this milestone despite having suffered serious injury during his career and several trips to the tribunal and subsequent suspensions—events he would probably like to forget. He has acquired legend status in the game because he plays it with a vigour and a passion that few can equal. It has become a hallmark of every game he plays. Gary Hocking possesses exquisite football skills on both sides of his body. He is good in the air for his height, he has lightning reflexes, innate toughness and a capacity to terrrify opponents with his fierceness at the fall of the ball. Every Saturday when a pack forms over the ball, Hocking is invariably at the bottom of the pack and the last man to get to his feet clutching the ball, to be the one to pass it to the umpire. It is a statement in itself of the fierce desire to possess, to dictate to opponents and to have the last say.

Hocking has matured over the years and his trips to the tribunal have become less frequent, reflecting that new-found maturity. I read that Budda has his sights set on 300 games and I am sure that, with astute and careful handling by the club, we will get to
celebrate again the achievements of a great Australian sportsman. Budda Hocking is a household name in Geelong and today in the national parliament, on behalf of the Geelong community, I would like to thank Gary Hocking for the many hours of exciting football entertainment he has provided to the people in Geelong in what, even now, we acknowledge to be an illustrious football career.

In the same game, Tim McGrath celebrated his 200th game of AFL football, around 150 with the club. Our congratulations to Bluey McGrath, also for reaching this important milestone. Bluey McGrath came to Geelong from North Melbourne and has become the rock on which Geelong’s defence has been constructed. A dashing red-headed backman, McGrath has become one of Geelong’s favourite football sons. We hope that he has many more seasons with the Cats and that in the future we have the opportunity to celebrate his 250th game.

Mr Speaker, as you would know, I did play the game with a passion myself. I think I am the only member of this parliament who still claims to play the game. I do so with the Geelong veteran football club. In my concluding moments I must say that I did take exception to the remarks that were levelled the other day in the adjournment debate by the honourable member for Corangamite who suggested I should be hanging up my boots. I will do no such thing. I could give a non-core promise that I will retire, but let me say that I hope, like Gary Hocking, that I have a few more miles in the legs and a premiership within my grasp. I do wish Gary Hocking the opportunity to play in a Geelong premiership. (Time expired)

Cook Electorate: Sutherland to Surf Race

Mr BAIRD (Cook) (10.49 p.m.)—I refer the House to the events of last Sunday in the electorate of Cook. The annual Sutherland to Surf race was a great event. The race is some 11 kilometres in length with a prize of $2,000. On this occasion, because of the very fine weather, there were some 5,000 participants in the annual Sutherland to Surf event. I am very pleased to say that an Ethiopian Australian, Mizan Mehari, did it in 30 minutes and 44 seconds, 150 metres ahead of the guy who came second, David Evans from the Australian Institute of Sport. No. 3 was Darren Wilson, a Sydney runner.

Mr Melham—What did the first woman do it in?

Mr BAIRD—I am very pleased that you should mention that. Liz Miller was the first female runner. She is 36 years of age. The Ethiopian Australian who won is 20 years of age. Liz Miller ran in a time of 35 minutes and 56 seconds, which was also excellent. It shows the talent that is in Australia and in the shire. In fact, the eighth place was given to a Cronulla triathlete and Olympic qualifier, Peter Robertson. We were very proud of his performance on that occasion. I was there to cheer them on at the finishing line and to welcome them. It was a great tribute to the Wanda Surf Club.

The Wanda Surf Club is one of four surf clubs in my electorate. The others are Elouera Surf Club, North Cronulla and Cronulla Surf Club. All of them have a very fine tradition. It is these teams that lead the Australian competition in surf club placings in the various national competitions that take place. Trevor Elliott, the President of the Wanda Surf Club, was, with his committee, the organiser of this event. I commend him and all the members of the organising committee from Wanda Surf Club. I also commend Tynan Motors which have shown themselves to be great supporters of local sport and local sports people. They are distributors of cars in the area and they have shown a particular commitment.

There was reluctance from some supporters and sponsors that we would normally see involved in national events. In fact, the organisers on this particular occasion were able to make a film of the event. It was a beautiful day. It was the type of day that makes you realise how good it is in the Sutherland Shire and what a great place Australia is—with the surf down at Wanda and celebrating the excellence of the Australian sports people. It was a tribute to not only the Wanda Surf Club, the organisers and sponsors but also those who participated in making it a great event. I would particularly like to commend the local police force in the way that they monitored the route, ensuring that the King-
sway from Sutherland to Cronulla was protected from local traffic by diverting traffic. I also pay tribute to the ambulance staff who assisted with those who had some problems because of the heat on the run down to the surf and to those who provided massages at the end of the race because of muscle cramping, et cetera. The Rotary clubs were there in force, providing breakfasts for the runners and drinks, et cetera, and, of course, they made some reasonable money for the various charitable events that Rotary is responsible for.

Overall, it was a great success. In addition to the runners, a number of walkers took part in it. It was an event for families as well. The two walkers who led were Keith Knox, with a time of 58 minutes, 26 seconds, and Nicolle Mitchell. It was a great event for the Sutherland Shire. Of course, Wanda Surf Club are very pleased with it and the commercial returns that are going to assist them in continuing the work of looking after those who surf at Wanda Beach.

Gellibrand Electorate: Local Artists

Ms ROXON (Gellibrand) (10.54 p.m.)—I would like to speak tonight in the adjournment debate about the situation of artists in my electorate of Gellibrand and some bigger and more important issues about our national and cultural identity. Many people would not be aware that the electorate of Gellibrand, and particularly Footscray and Yarraville, has over the last 10 to 15 years become the home for a large number of Melbourne’s younger and more established and successful artists. It is something that the community is incredibly proud of. We have a large number of self-employed people—musicians, visual artists, photographers and performing artists—who have chosen to make the City of Maribyrnong their home, and they add great colour and excitement to our community.

In particular, although it is not limited to these people, I would like to mention a selection of some of our most successful and well-recognised artists and acknowledge their contribution—but just as an indication of the contribution that is made by so many other artists in the community. I would particularly like to mention the Womens Circus, which is internationally renowned and based at the Footscray Community Arts Centre, Big Fish, the Snuff Puppets, Chalk Circle, Beverley Isaac, Donna Jackson, Sharon Jones—a photographer whom I have used—and Julie Bilby, an artist whom I have also been able to use in the production of our Christmas cards. The reason I raise the pride which we have for our local artists is that the government have recently, under sustained pressure from Labor and the Democrats, seen the error of their ways in taxing low income artists. They have decided to accept a proposed amendment which was going to apply only to hobby farmers, not to anybody else. The artists community lobbied very successfully on this issue and pointed out that many successful and leading artists spend a large part of their life earning very little, and certainly well under $40,000 a year, and that, in order to be able to contribute to our cultural life and identity as a nation, they, too, needed to be able to claim an exemption in a similar way that the government were intending to allow farmers to claim their farm losses against non-farm incomes.

Our shadow minister for the arts, the member for Denison, has said in the past that there was no justification to deny low income artists the right to claim the losses of their art practices against their non-art income. If farmers are given equivalent exemption from the government’s tax crackdown on non-commercial losses, there is no reason that artists should not be able to receive a similar exemption, particularly when account is taken of the vital role they play in helping to establish our cultural identity. So it is with great pleasure that I am able to speak this week, the very week that the government have indicated they will accept a change to their proposal. Although artists will, of course, have to pay a GST on many of the things they purchase for their trade, they will actually be able to offset their losses in a way that will make it much more equitable for them to do so.

I think it is a nice change to be able to speak in this House on cultural issues. It is a place that many of us know can tend to be a little devoid of culture and art at times, al-
though we do have a fantastic art collection in the House. Some of my more cultured colleagues and I were having a discussion prior to this debate about the importance of art, particularly film making, in establishing some sort of national identity. Whilst we have some very well-known Australian film makers, we were all taken with some of the famous film makers of other countries, people like Steven Spielberg, really a quintessential American film maker who highlights American culture, Leni Reifenstahl for her portrayal of Nazi Germany and whose name is synonymous with that era through these amazing films that she produced and, perhaps, Alfred Hitchcock in the UK. If we were to stifle our artistic community and the low income earners who are often contributing greatly to not just my electorate but also the national cultural environment, I think we would be losing something that is very valuable, not just currently but in the future, in helping people to identify what it is that we stand for as a nation, which must be more than just taxes. It must also go to our cultural environment. I encourage the government to take up the amendments proposed by the Democrats and Labor. They will be of great benefit to the many artists in my electorate of Gellibrand.

Question resolved in the affirmative.

House adjourned at 10.59 p.m.

NOTICES

The following notices were given:

Mr Truss to present a bill for an act to amend legislation relating to agriculture, fisheries and forestry, and for related purposes.

Mr Anderson to present a bill for an act to amend the law relating to civil liability for pollution damage, and for related purposes.

Mr Anderson to present a bill for an act to amend the Trade Practices Act 1974, and for other purposes.

Mr Reith to present a bill for an act to amend the Workplace Relations Act 1996 in relation to procedures for Australian Workplace Agreements, and for related purposes.

Mr Williams to present a bill for an act to establish an Administrative Review Tribunal, and for other purposes.

Mr Williams to present a bill for an act to protect United Nations and associated personnel, and for related purposes.

Dr Kemp to present a bill for an act to provide targeted financial assistance to advance the education of Indigenous persons, and for related purposes.

Mr Entsch to present a bill for an act to repeal the Coal Industry Act 1946, and for related purposes.

Mr Entsch to present a bill for an act to amend the Trade Marks Act 1995, and for related purposes.

Dr Stone to present a bill for an act to amend the Defence Act 1903, and for related purposes.

Mr Price to move:

That this House:

(1) notes the Report by the Committee of Sydney Inc “Sydney's Gateways In The 21st Century - Part 1: The Airports”, prepared by Access Economics and Maunsell McIntyre Maunsell, dated June 2000 which states amongst other things:

(a) on a neutral set of assumptions, operations could commence at Badgerys Creek Airport (BCA) in 2020. To achieve this relies on a subsidy in the first two years and no interim measures to prolong Kingsford-Smith Airport (KSA) and, in the absence of other interim measures to prolong KSA (like Bankstown or speed rail), 2020 is the optimal start date for BCA;

(b) the earlier BCA commences the greater the economic negatives. If a private owner of Sydney airports is required to commence operations at BCA before it is economically viable, potential bidders will deduct an amount reflecting the cost of the subsidy from their bid price. For example, to commence BCA in 2015, the operational subsidy costs $160m in the first year, gradually reducing to zero as BCA becomes viable in its own right. The total subsidy outlay from 2015 to 2019 is $570m. To commence in 2010 the cost rapidly escalates to $270m in the first year and $1,700m in total from 2010 to 2019 (in 1997 dollars); and

(c) a $1,700m subsidy to commence operations at BCA in 2010 will cause little reduction in KSA noise while accelerating the introduction of noise over Western Sydney. Reducing noise over inner Sydney would require an even larger subsidy; and
(2) urges the Minister for Transport and Regional Services to have an Independent Commission of Inquiry into Sydney’s Transport Needs and examine all options including Speed Rail, Interim measures to extend KSA, BCA and other alternative sights for Sydney’s Second Airport.

Mr Martin Ferguson to move:
That this House:

(1) recognises the valuable role played by the Australian civilian ships in supporting the Interfet Force deployment in East Timor without which, as Commander Peter Cosgrove stated in his letter to the Maritime Union of Australia of 15 October 1999, the deployed Forces' logistics build up would have been severely hampered;

(2) recognises that the role played by Australian civilian ships in East Timor continues the enormous role the Australian Merchant Navy has played historically in our ever expanding peacetime carriage of trade both domestically and internationally and through its service in two World Wars at cruel cost, with one seafarer in every eight dying and many more disappearing unrecorded in the ships of many nations;

(3) supports the International Maritime Organisation’s recognition of maritime workers and the importance of merchant shipping, including Australian coastal shipping through the celebrations of Maritime Day on September 24; and

(4) believes that World Maritime Day should be regarded as a day of maritime pride and history and that the Australian Government should promote the flying of the Australian Flag rather than Flags of Convenience.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Repatriation Pharmaceutical Benefits Scheme: Entitlements**
(Question No. 1204)

Mr McClelland asked the Minister for Veterans’ Affairs, upon notice, on 6 March 2000:

(1) To what extent has the Repatriation Pharmaceutical Benefits Scheme replaced entitlements previously available to veterans under the Veterans’ Entitlements Act (VEA).

(2) In respect to each instance where an entitlement has been replaced, what is the Government’s rationale for replacing those entitlements which were previously available under the VEA.

Mr Bruce Scott—The answer to the honourable member’s question is as follows:

(1) and (2) The Repatriation Pharmaceutical Benefits Scheme (RPBS) has not replaced any entitlements available to veterans under the Veterans’ Entitlements Act 1986 (VEA). In fact, the VEA is the legislative authority for all aspects of care, compensation and commemoration applying to veterans, war widows and other entitled dependants and the provision of the RPBS is authorised by, and subject to section 91 of the VEA.

**Repatriation Pharmaceutical Benefits Scheme: Available Medications**
(Question No. 1205)

Mr McClelland asked the Minister for Veterans’ Affairs, upon notice, on 6 March 2000:

(1) Has the Government removed items from the list of medications available to sick veterans which were previously available on the Repatriation Pharmaceutical Benefits Scheme, if so, which items.

(2) Will veterans now have to pay the full price for those medications.

Mr Bruce Scott—The answer to the honourable member’s question is as follows:

(1) The provision of pharmaceuticals available on prescription to eligible veterans through the Repatriation Pharmaceutical Benefits Scheme (RPBS) is achieved on the recommendation of my Department’s Repatriation Pharmaceutical Reference Committee (RPRC). The RPRC is an expert committee which makes recommendations to me on the availability of drugs through the RPBS. The Committee ensures that the medications commonly prescribed to veterans and war widow(er)s are the most appropriate to meet their special needs.

Changes to the listed medications are made for several reasons, such as brands of pharmaceuticals being delisted because they are no longer manufactured, the form of the medication may change (for example tablets to capsules), the commercial pack size may change, or the strength of the medication may change with the former strength deleted from the listing.

Product delistings since February 1999, and the reasons are:

. Pedoc powder, lack of efficacy compared with more modern antifungals;
. Pedi-Derm powder and solution, discontinued by manufacturer;
. Ecostatin topical and vaginal cream, and pessaries, discontinued;
. Rohypnol 2 mg tablets, discontinued by manufacturer;
. Nitro-Dur 7.5 patches, discontinued by manufacturer;
. Canesten cream 1% 20 G cheaper brands available;
. Atarax capsules, 25 & 50 mg, discontinued by manufacturer;
. Gold Cross Vitamin C 250 mg tablets (unflavoured), discontinued by manufacturer;
. Gyne-Lotrinnin pessaries, discontinued by manufacturer;
. Ukidan injections, both strengths, discontinued by manufacturer;
. Micropore Skintone RF 7 & 8, both sizes of skin tapes, roll, discontinued by manufacturer;
. Ukidan injection set, 100,000 i.u. and 500,000 i.u. and solvent, discontinued by manufacturer;
. Nicotinell 10, 20, and 30, 7 transdermal patches packs, discontinued by manufacturer.

(2) Veterans will not have to pay the full price for any formerly listed pharmaceuticals since the majority are no longer available, except for:
. Pedoz powder, which is no longer recommended by the RPRC for supply on the RPBS due to more effective modern alternatives being available, and
. Canestin cream 1% where an equivalent cheaper brand is Scheduled.

Telstra: Retail Outlet Expansion
(Question No. 1432)

Mr Andren asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 12 April 2000:

(1) Has the Minister’s attention been drawn to the concerns of computer retailers and resellers, particularly in major regional centres, about Telstra’s plans to extend its Telstra Shop retail outlets from 90 to 200 by the end of 2001.
(2) What is the Government’s view on Telstra’s expansion into the computer retail, and other new markets.
(3) Is the Government concerned that Telstra’s entrance into the computer retail market could threaten the viability of a range of small businesses in regional Australia.
(4) Will the Government consider restricting Telstra’s entrance into the computer retail sector, if not why not.
(5) What legislative or other safeguards are in place to ensure that Telstra does not misuse its position in the computer retail market and does the Government consider these protections adequate: if so, why.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) Yes, I am aware of the planned expansion of this marketing channel and of some sensitivity to the expansion by some computer resellers and retailers.

Telstra has advised that it is proposing to introduce licensed stores, owned and operated by independent retailers who will use the Telstra brand name subject to a number of licence conditions.

Since October 1999 eleven licensed Telstra shops have opened including the six pilot shops. They are located largely in regional and metropolitan areas in NSW, Victoria, Queensland and South Australia. Twelve other licences are nearing issue, including two stores in metropolitan Perth. Telstra has advised that it expects to issue approximately 100 licences by June 2001 so that there will be a total of 200 stores with approximately half remaining under direct Telstra ownership.

Telstra has also advised that the product range offered by all Telstra shops will include the ‘Gateway’ brand of computer equipment. Gateway currently relies largely on the Internet as a sales channel. Telstra has indicated that it will use its retail arm to market Gateway product and will not be selling multiple brands of computer equipment.

Given the convergence of the IT and telecommunications industries, the sale of computer equipment represents a natural progression for telecommunications retailers.

(2) While Telstra is partially Government-owned, Telstra has been an independent corporation since 1992. Its Board and management are responsible for investments, company policies and operational management decisions. The Government’s role is to establish the regulatory and policy framework within which all telecommunications service providers (including Telstra) must operate.

In particular the Government is concerned to ensure that Telstra acts within the regulatory framework that applies to communications and other businesses in Australia. Within this framework Telstra makes its own decisions about entering into new markets where it has a competitive advantage and where it can improve its competitive position.

As majority shareholder the Government is interested, at a strategic level, in new activities that Telstra intends to engage. The Government, like other shareholders, expects the Board and management to fulfil their duties and act in the best interests of the company. The Board and management are expected to be continually reviewing opportunities to grow the business and enhance the shareholder value of the company.

(3) The Government is concerned that regional and rural communities share in the benefits of the economic growth that has occurred since the Government took office in 1996. Decisions about the disbursement of the proceeds of the T1 and T2 share sales reflect this concern.
Telstra’s initiative will provide opportunities for individuals to develop businesses in regional communities. The licensees who will own and operate the new shops will themselves be small business people.

(4) No, essentially there is no legal or policy basis for the Government to seek to restrict, influence or direct Telstra in relation to this matter.

(5) The Government would be concerned by inappropriate conduct by Telstra or any other business, where that conduct constituted a breach of Commonwealth legislation. Telstra is subject to the same legislative arrangements as other businesses operating in Australia including the competition law principles contained within the Trade Practices Act 1974 (TPA). These provisions are administered by the Australian Competition and Consumer Commission.

Part IV of the TPA deals with various forms of restrictive trade practices, such as misuse of market power and price fixing. All corporations in Australia are subject to these provisions. In addition, there is a telecommunications-specific regime in part XIB of the TPA to regulate anti-competitive conduct in the telecommunications market.

The Government believes that the general provisions within Part IV of the TPA and the specific provisions of Part XIB together form adequate safeguards against anti-competitive conduct involving telecommunications carriers at this time. The adequacy of these arrangements is subject to ongoing monitoring and review.

**What Works Report: Recommendations**

*Question No. 1506*

Mr McClelland asked the Minster for Education, Training and Youth Affairs, upon notice, on 10 May 2000.

Will the Government implement the recommendations and summary of intentions contained in the report prepared for his Department titled *What Works—Explorations in Improving Outcomes for Indigenous Students*; if so, (a) when and (b) what additional funding will the Government provide for this purpose.

Dr Kemp—The answer to the honorable member’s question is as follows:

*What Works?* - the report of the National Coordination and Evaluation Project for the IESIP Strategic Results Projects provides the platform of evidence to underpin the National Indigenous English Literacy and Numeracy Strategy. A copy of the National Strategy has been distributed to all members of Parliament.

The National Strategy was launched by the Prime Minister the Hon John Howard MP on 29 March 2000. The Strategy will focus on the literacy and numeracy skills of Indigenous students and on other factors, which influence their level of achievement, particularly school attendance. Its six key elements are:

- lifting Indigenous school attendance rates to national levels;
- effectively addressing hearing and other health problems that undermine learning for many Indigenous students;
- increasing access to pre-school opportunities;
- getting and keeping good teachers in areas with the greatest need;
- using the most effective teaching methods to improve literacy and numeracy; and
- having clear measures of success.

Education providers will be encouraged to adopt approaches to teaching that have shown, especially through the Strategic Results Projects, to make a real difference and to build on initiatives already being implemented in schools across the country.

Funding for the implementation of the Strategy will come from both the Commonwealth’s programs of recurrent assistance for school and from specific supplementary arrangements to support improved outcomes for Indigenous students. This includes funding of $1.5 billion over the four years from 2001-2004 to improve educational outcomes for Indigenous students. Of these funds, $27 million will be provided specifically for literacy, numeracy and attendance levels in the most disadvantaged areas of the country. The Commonwealth Minister for Health, Dr Michael Wooldridge has also committed a
18390 REPRESENTATIVES Monday, 26 June 2000

further $2 million from the Health portfolio to trial nutrition approaches and other health elements of
the Strategy.

Sri Lanka: Internal Conflict
(Question No. 1554)

Mr Murphy asked the Minister for Foreign Affairs, upon notice, on 11 May 2000:
(1) Is he able to say whether there has been a heightened state of war in the Republic of Sri Lanka in
the last few months.
(2) If so, will he request the Permanent Representative for Foreign Affairs of Australia to the United
Nations, Ms Penny Wensley, to make representation on behalf of Australia as a member nation to the
UN Department of Political Affairs.

Mr Downer—The answer to the honourable member’s question is as follows:
(1) Yes, the Government is aware of, and deeply concerned about, the recent intensification of
hostilities in the Jaffna Peninsula region of Sri Lanka. The Government is continuing to monitor the
situation, particularly the humanitarian aspects, and urge, along with other members of the international
community, that the principles of international humanitarian law be respected by all combatants.
(2) The UN Secretary General issued a statement on 9 May calling on both sides to do what they
could to minimise the harm to non-combatants.

Australia has consistently maintained that a lasting solution to Sri Lanka’s ethnic conflict cannot be
achieved by military means. Accordingly Australia has urged and continues to urge all sides to the
conflict to engage in negotiations for a just and permanent political settlement. Australia sees value in
third party facilitation or mediation, provided it is acceptable to all parties to the conflict. In this
context, Australia welcomes and is supportive of the recent efforts by Norway to try and assist in
bringing both sides to the negotiating table.

Australia therefore sees no reason, at this stage, to raise the matter with the United Nations
Department of Political Affairs. However, the Australian High Commission in Colombo is in regular
contact with UN representatives on the ground in Sri Lanka.

Iran: World Bank Loan
(Question No. 1576)

Mr Danby asked the Minister for Foreign Affairs, upon notice, on 30 May 2000:
(1) Did Australia join the United States in voting against, or Canada and France in abstaining from,
the decision in the World Bank on 19 May 2000 to loan Iran $US200 million; if not, why not?
(2) Is he able to say whether the three Western governments referred to in part (1) were concerned
that the World Bank loan approval would signal indifference in democratic countries to the espionage
trial in Shiraz of a butcher, a rabbi, a grave-digger, a 16-year-old and nine other Iranian Jews.
(3) Did he, the Prime Minister, the Minister for Trade or the Member for Farrer representing the
Government, give a blanket assurance to the recent Iranian delegation to Canberra that Australia would
support this loan, regardless of internal developments in Iran such as the show trial in Shiraz.

Mr Downer—The answers to the honourable member’s question is as follows:
(1) Australia’s long standing policy is to consider World Bank loan proposals on their technical and
developmental merits. The proposal to provide Iran two loans totalling USD232 million were assessed
by Australia to be soundly based and focused on areas of high development priority – a sewerage
project and a health and nutrition project. Australia was prepared to support deferral of consideration of
the loans if a consensus among the World Bank Board of Directors emerged to do so. The World Bank’s
management recommended that the loans be approved and in the event, consensus to defer was not
achieved. All Executive Directors - including the Executive Director representing Israel (Holland) -
supported the loans going ahead, save for the US which opposed the loans and France and Canada
which both abstained. In supporting the Bank management’s recommendation that the loans be
approved, Australia acknowledged concerns over aspects of governance in Iran at the present time
which may affect the broader lending environment.
(2) I am not in a position to comment on the views of the three Western governments, referred to by
the Honourable Member, concerning possible signals that a vote in favour of the loans might send in
regards to the trial of 13 Iranian Jews and 9 Muslims. I can say, however, that Australia’s approval of
the loans is quite separate from our position in relation to the trial of those accused of espionage. Australia is at the forefront of countries with diplomatic relations with Iran in highlighting concerns about the trial, being one of the few countries which has maintained a representative in Shiráz for most hearings held to date.

(3) No blanket assurance was given to the Iranian delegation, or any other Iranian official, by anyone connected with the Australian Government that Australia would support the loans.

**Parthenon Marbles**

(Question No. 1583)

Mr Latham asked the Minister for Foreign Affairs, upon notice, on 30 May 2000:

(1) Was Australia represented at the international conference on the Parthenon Marbles held in Athens on 22-23 May 2000 under the auspices of the Greek Government and the Greek national committee for UNESCO.

(2) Since his answer to my question No. 1159 (Hansard, 4 April 2000, page 14695), what steps has he taken to be apprised of the proceedings of the conferences on the Parthenon Marbles.

Mr Downer—The answer to the honorable member’s question is as follows:

(1) No.

(2) As I have already indicated in my answer to question No. 1159, Australian embassies and High Commissions receive numerous invitations to attend conferences every day. Due to other operational demands, no-one from the Australian Embassy in Athens was able to attend the conference on the Parthenon Sculptures and I am not apprised of its proceedings.

**Canning Electorate: Unemployment Rates**

(Question No. 1588)

Ms Gerick asked the Minister for Employment, Workplace Relations and Small Business, upon notice, on 1 June 2000:

(1) What are the unemployment rates for the areas covered by postcodes from 6107 to 6112 and 6208 to 6215.

(2) What is the youth unemployment rate for (a) men and (b) women in these areas.

(3) What is the unemployment rate for (a) men over 50 and (b) women over 50 in these areas.

Mr Reith—The answer to the honourable member’s question is as follows:

(1) The Department of Employment, Workplace Relations and Small Business (DEWRSB) does not produce unemployment rates by postcode. The Department does, however, publish unemployment data by Statistical Local Areas (SLAs) in the *Small Area Labour Markets* publication. The SLAs of Mandurah, Murray and Waroona are covered by postcodes 6208 to 6215. The combined unemployment rate in the March quarter 2000 for these three SLAs was 12.1 per cent. This compares with an unemployment rate in March 1996 of 14.6 per cent. As postcodes 6107 to 6112 do not concord directly to a discrete set of SLAs, it is not possible to calculate an unemployment rate for the area they cover. The only other source for unemployment rate data by postcode is the five yearly Census of Population and Housing. Given that the Census was last conducted in August 1996, it is not possible to provide current data for the postcodes specified.

(2) DEWRSB does not produce youth unemployment rates disaggregated by gender at either the postcode or SLA level. The only source for this information is the Census of Population and Housing.

(3) DEWRSB does not produce unemployment rates disaggregated by age and gender at either the postcode or SLA level. Once again, the only source for this information is the Census of Population and Housing.

**Sudan: Civil War**

(Question No. 1595)

Mr Murphy asked the Minister for Foreign Affairs, upon notice, on 15 June 2000:

(1) Is he able to say how [many] civilian casualties have arisen from the ongoing civil war in Southern Sudan.
(2) Will he request Australia’s Permanent Representative to the UN to call upon the UN Department of Political Affairs to provide a UN presence in Southern Sudan, up to and including a peace keeping force.

Mr Downer—According to the records held by the Department of Foreign Affairs and Trade, the answer to the honourable member’s question is as follows:

(1) The US State Department Human Rights report for 1999 (released on 25 February 2000) says the civil war ‘is estimated to have resulted in the death of 2 million persons’. The recent Amnesty International Report ‘Sudan: The Human Price of Oil’ also estimates the number of people to have been killed at ‘almost two million’. The Report by the Special Rapporteur of the Commission on Human Rights on the Promotion and Protection of the Right to Freedom of Opinion and Expression on the situation of human rights in Sudan (17 May 1999) estimates the number to be approximately 1.9 million people.

(2) The Australian Government continues to support efforts to end the conflict and hopes that Sudan will join with other regional parties in finding lasting solutions to the region's social, political and economic problems. Australia has supported the efforts of the United Nations in urging Sudan to commit itself to participate in negotiations sponsored by the Inter-Governmental Authority on Development (IGAD).

Australia again co-sponsored the Resolution on the situation of Human Rights in the Sudan at the Fifty-Sixth session of the Commission of Human Rights in April 2000. The resolution ‘expresses its deep concern at the impact of the current armed conflict on the situation of human rights and its adverse effect on the civilian population, and at serious violations of human rights, fundamental freedoms and international humanitarian law by all parties to the conflict’.

The Report on Civil and Political Rights, by the Special Rapporteur of the Commission on Human Rights on the Promotion and Protection of the Right to Freedom of Opinion and Expression, including the Question of Freedom of Expression (3 March 2000), notes the Sudanese Government's efforts to bring the law into line with international standards but says that the information he received ‘concerning the period following the adoption of the new Constitution, which was characterized by the violation of political freedoms and human rights abuses, fails to demonstrate a serious effort on the part of the Government to move in this direction’.

There has been no discussion of stronger UN action to deal with the political conflict beyond existing mediation efforts, and no discussion of a UN presence or peacekeeping force.