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

EDUCATION SERVICES FOR OVERSEAS STUDENTS BILL 2000

First Reading

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

Second Reading

Dr KEMP (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (9.31 a.m.)—I move:

That the bill be now read a second time.

The Education Services for Overseas Students (or ESOS) Bill 2000 is being introduced with four other Bills including:

- the ESOS (Consequential and Transitional) Bill 2000
- the ESOS (Assurance Fund Contributions) Bill 2000
- the ESOS (Registration Charges) Amendment Bill 2000, and also
- the Migration Legislation Amendment (Overseas Students) Bill 2000.

We are introducing these bills to provide a more effective regulatory framework for the education and training export industry, which we know to be of great value to Australia. The new ESOS Act will protect and enhance the industry’s integrity and quality, and will assist in reducing abuse of the student visa program.

The industry strengthens our relations with the region and with countries from which students come. It yields valuable revenue. It provides a cross-fertilisation of ideas and cultures, and the internationalisation of education enhances the quality of education for all students. It is enjoying a record year, with over 180,000 international students enrolled with Australian institutions: fifteen per cent up on 1999. It now earns Australia $3.7 billion a year in export dollars, comparable to wool or wheat. The continuing value of the industry depends on the service it provides to overseas students and on public confidence in its integrity and quality.

- The main ESOS Bill will replace the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991 (the old ESOS Act). That act was introduced to ensure:
  - that international students in Australia are treated with equity and fairness;
  - that there is a positive basis for promoting Australia’s international reputation as a provider of reliable, high quality education and training; and
  - that taxpayers’ funds are not required to recompense international students who have been let down by individual education and training providers.

The old ESOS Act pursued protection of Australia’s international reputation by establishing key national elements for the regulation of the industry. It has been amended and extended since its introduction, increasing industry responsibility and improving protections for students. However, as the industry has developed, new regulatory challenges have emerged, and it has become clear that a more effective framework is required. We are introducing the Education Services for Overseas Students Bill 2000, building on the strengths of the old ESOS Act, but also providing new and more effective measures relating to both quality and integrity.

This bill has been developed following a review of the old ESOS Act, and a process of consultation with industry, states and territories and the Department of Immigration and Multicultural Affairs. The review considered the problems facing the industry: the uncertain financial protections for students’ pre-paid course fees; the emergence of a small minority of unscrupulous providers; nationally inconsistent quality assurance; and the need to strengthen public confidence in the integrity of the student visa program.

Some successful measures to increase monitoring of student visa compliance were undertaken during 1999. As a result, the cancellation rate for breaches of student visa conditions has grown significantly. It increased by 19 per cent during 1998-99 and by 36 per cent for 1999-2000. The bills will help to ensure that students admitted to Australia to study do just that, and that those stu-
students receive the education to which they are entitled.

The new ESOS Act will:

• provide overseas students with stronger protection for pre-paid fees and continuing education if their provider collapses, through an industry-based assurance fund;

• establish a legally enforceable national code providing nationally consistent standards for the registration and conduct of providers, which will deliver improved and more reliable quality assurance across the states and territories;

• create new obligations for providers to report student breaches of their visa conditions through the Electronic Confirmation of Enrolment system;

• make it an offence to be a bogus provider—that is, to fail to provide genuine courses to students and in doing so intentionally or recklessly facilitate visa breaches;

• provide powers for my department to investigate possible breaches of the act and of the national code; and

• allow greater powers to impose suspension and cancellation action and other conditions on providers that breach the provisions of the act or the national code.

Assurance fund

The ESOS Bill 2000 requires providers to belong to an assurance fund, which will be established under the Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000. The ESOS assurance fund will provide greater security for overseas students’ pre-paid course fees. It will replace the old ESOS Act requirement on providers to deposit pre-paid fees into a notified trust account. Those accounts were open to abuse. When an unscrupulous provider collapsed, we found that the trust account was empty; it had failed to achieve the objective of the act to protect student fees. The assurance fund will avoid that difficulty because an independent fund manager will control it.

National code

The ESOS Bill 2000 establishes a new national code, which will provide legally enforceable and nationally consistent standards for the registration and conduct of registered providers. Providers will be obliged to comply with it; the states will use it when considering initial and ongoing registration of providers; and DETYA will be able to take action where providers are not complying with the code. I expect shortly to publish an exposure draft of the code.

Electronic confirmation of enrolment (eCoE)

The ESOS Bill 2000 places reporting requirements on providers concerning their students, through a new, secure electronic confirmation of enrolment system. This system is being developed co-operatively between my department and the Department of Immigration and Multicultural Affairs. It will bear down on the fraudsters that have been found to be misusing the old paper based system that was introduced in 1995. The electronic system will also provide evidence as a basis for monitoring compliance with the new act, and allow my and Mr Ruddock’s departments to cooperate in minimising the presence in the industry of providers lacking integrity, or who facilitate student breaches of their visa conditions, or collude with non-genuine students.

With that aim in view the new electronic confirmation of enrolment system will, once fully operational, enable more effective exchange of information between relevant Commonwealth and state government agencies. This bill also obliges providers to report students who are not meeting course requirements or not attending classes. Complementary measures in the Migration Legislation Amendment (Overseas Students) Bill 2000 will then trigger automatic cancellation of the student’s visa in certain circumstances.

DETYA investigations

Under the ESOS Bill 2000 the states will retain first-line responsibility for the oversight of the providers whom they approve. But the bill will provide new powers for my department to investigate breaches of the act and code where states fail to act in a timely or adequate manner. These powers will be used to ensure that only education and training providers of high quality and integrity are allowed to provide services to overseas
students by identifying those against whom action should be taken.

This will mean the Commonwealth taking a more proactive role in the registration and regulation of the education export industry, and will involve increased costs. The ESOS (Registration Charges) Amendment Bill 2000 will increase industry contributions in order to offset some of the additional costs that the Commonwealth will incur under the reforms. The maximum increase in registration charge per provider is $2864 a year.

Sanctions

The ESOS Bill 2000 provides powers for the minister for education to suspend or cancel the registration of providers, in cases of breaches of the act, the code, or of conditions of the provider’s registration.

Minister for immigration’s emergency power

In addition, this bill provides an emergency power for the minister for immigration to issue a certificate suspending visa grants to students enrolled with a provider of concern for a period of six months. Such an emergency power is necessary to enable the government to act quickly to safeguard the reputation of Australia’s education export industry.

The circumstances in which this power would be used will be identified in detail with the international education industry, which strongly supports this measure. They will cover those circumstances where a significant number of non-complying overseas students are identified with a particular provider of concern.

The six months suspension will allow the relevant authorities to undertake investigations and give the provider time to get its house in order.

Continuing provisions

The more effective requirements of the old ESOS Act will be maintained in the new one, including the obligation for providers to be registered on CRICOS, the Commonwealth Register of Institutions and Courses for Overseas Students, to belong to a tuition assurance scheme, to refrain from misleading or deceptive recruitment of students and to refund student money in cases of default.

The ESOS (Consequential and Transitional) Bill ensures that the transitional conditions relating to the new ESOS Act are unambiguously stated, and that the requirements for education and training providers are clearly stipulated, including:

- notification requirements for the starting day of obligations for registered providers
- carryover requirements for accepted international students and registered providers as the new ESOS Act is introduced;
- national code compliance conditions;
- amendments to the Migration Act 1958 to allow for the disclosure of information to relevant agencies and the making of necessary regulations under that act. It is intended that, where such regulations involve the disclosure of personal information, they would be drafted in consultation with the Attorney-General.

Review arrangements

The bills are intended to address problems in the industry. They will be reviewed in 2005 in terms of their effectiveness in addressing these problems and any new problems that might emerge over the intervening period. The review will be comprehensive, covering both their effectiveness and efficiency and the ongoing needs of the industry for regulation.

Conclusion

The five bills provide a new approach to regulating this industry. They protect students by replacing the notified trust account with the requirement to belong to an assurance fund. They establish a national code for the registration and conduct of providers and enable the Commonwealth to investigate and impose sanctions on providers who breach the act or the national code. They strengthen the operation of the student visa program by requiring the electronic confirmation of enrolments. The migration amendments will improve monitoring and compliance in the overseas student industry and streamline the process for student visa cancellation.

The financial impact of the bill will be minimal.
I present the explanatory memorandum to this bill.

Debate (on motion by Mr Lee) adjourned.

**EDUCATION SERVICES FOR OVERSEAS STUDENTS (ASSURANCE FUND CONTRIBUTIONS) BILL 2000**

First Reading

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

**Second Reading**

Dr Kemp (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (9.44 a.m.)—I move:

That the bill be now read a second time.

The purpose of this bill is to impose the requirement to pay annual contributions and special levies to the ESOS Assurance Fund.

This is being done in a separate bill as the compulsory contributions to the assurance fund could constitute a tax. I must emphasise, however, that the ESOS Bill 2000 provides that these contributions may be used only for the purposes of the fund and that, if the fund is ever wound up, any surplus in it will be returned to the members then current. This bill is an important adjunct to the main bill, which provides detailed provisions for the assurance fund, and which I have already addressed in detail.

The financial impact of the bill will be minimal.

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

Debate (on motion by Mr Lee) adjourned.

**EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT BILL 2000**

First Reading

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

**Second Reading**

Dr Kemp (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (9.45 a.m.)—I move:

That the bill be now read a second time.

This bill has the purpose of introducing changes to the annual registration charge, ARC, for education and training providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). Industry contributions to the costs of the regulatory system are required under the Education Service for Overseas Students (Registration Charges) Act 1997.

This bill is an adjunct to the main bill, as it will provide the resources for the new proactive Commonwealth role, which I have already covered in detail.

The financial impact of the bill will be minimal.

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

Debate (on motion by Mr Lee) adjourned.

**EDUCATION SERVICES FOR OVERSEAS STUDENTS (CONSEQUENTIAL AND TRANSITIONAL) BILL 2000**

First Reading

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

**Second Reading**

Dr Kemp (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (9.46 a.m.)—I move:

That the bill be now read a second time.

The Education Services for Overseas Students (Consequential and Transitional) Bill 2000 will repeal the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991, the old ESOS Act, and provide introductory and transitional conditions for the Education Services for Overseas Students Act 2000, the new ESOS Act.

This bill is an important adjunct to the main bill, which I have already addressed in detail. Its financial impact will be minimal.

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

Debate (on motion by Mr Lee) adjourned.
Bill presented by Dr Kemp, and read a first time.

**Second Reading**

Dr KEMP (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (9.48 a.m.)—I move:

That the bill be now read a second time.

This bill complements the Education Services for Overseas Students Bill 2000 and the Education Services for Overseas Students (Consequential and Transitional) Bill 2000.

1999-2000 was a record year for overseas student numbers. Over 120,000 student visas were granted—an impressive nine per cent increase over the previous year. This growth reflects the effective marketing of Australian education overseas. Successful overseas students are increasingly becoming an important part of the skilled migration program and, consequently, of the Australian society of the future.

But there was also an increase in student visa cancellations as well as activity by a small number of unscrupulous education providers and education agents to subvert the integrity of the student visa program.

The government values the contribution to Australian society made by successful overseas students and appreciates the enormous importance of the education export industry. However, we also recognise the need to protect the integrity of the student visa program.

This bill, the Migration Legislation Amendment (Overseas Students) Bill 2000, provides for a number of measures to improve monitoring and compliance in the overseas students industry.

The first measure is the introduction of a more streamlined process of student visa cancellation.

Under present, voluntary, arrangements, education providers undertake to notify the Department of Immigration and Multicultural Affairs when a student is not attending classes or is not demonstrating satisfactory academic performance, thereby not complying with the conditions of his or her visa.

DIMA receives hundreds of non-compliance notices from education providers each month. Effective management of these notices is an enormous task and must be streamlined.

To make the process more effective, the new regime introduced by the Education Services for Overseas Students Bill will require that, where a student is not complying with course requirements, the provider will send a notice directly to the student, copied to the department of immigration, warning the student that their visa will be cancelled within 28 days if they do not report to the department.

Complementary measures in this bill will provide that, if the student does not report within the 28 days, their visa will be automatically cancelled by operation of law.

A student who reports within 28 days and is able to show good reasons for their apparent non-compliance with visa conditions will be able to resume studies.

Complementary amendments to the migration regulations will ensure that students are required to maintain their most current address with their education provider.

A further safeguard is the built-in provision to apply for revocation of the cancellation. Merits review of a delegate’s decision to refuse revocation will also be available.

The international education industry has been consulted about these changes and strongly supports the automatic visa cancellation proposal as it considers that it will provide a significant deterrent to overseas students considering breaching visa conditions.

This bill also introduces enhanced powers for authorised officers to obtain from education providers, and to search provider premises for, information relevant to compliance with student visa conditions.

Finally, the bill provides for increased flexibility in the use of the ‘no further stay’ visa condition, allowing for closer manage-
ment of the temporary visa program including student visas.

At present, a non-citizen whose visa contains a ‘no further stay’ condition may not apply for any other class of visa after entering Australia, other than a protection visa or a bridging visa.

This bill will enable the migration regulations to provide for modified ‘no further stay’ conditions to allow non-citizens, including students, to apply for a wider range of temporary entry visas. Thus, students, for example, may have a visa condition applied which permits only the grant of a protection visa, a bridging visa, or a further student visa with limited work rights, once they have commenced their studies in Australia. This will enable immigration officers to use this condition more flexibly and also more extensively than is presently the case.

These measures—streamlined visa cancellation, new investigation powers, and increased visa condition flexibility—are complemented by measures in the Education Services for Overseas Students Bill, giving the immigration minister powers to suspend further student recruitment by a provider whose students are of immigration concern. In addition, measures in the Education Services for Overseas Students (Consequential and Transitional) Bill provide the framework for better information sharing between the Department of Immigration and Multicultural Affairs, the Department of Education, Training and Youth Affairs and relevant state bodies. That bill also allows for the making of necessary regulations under the Migration Act. It is intended that where these regulations involve the disclosure of personal information, they would be drafted in consultation with the Attorney-General.

In conclusion, the Migration Legislation Amendment (Overseas Students) Bill sends a clear message to unscrupulous education providers, agents and non-bona fide overseas students. They are part of a package announced by the government in March this year to promote the integrity and growth of the overseas student program.

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

Debate (on motion by Mr Lee) adjourned.
parents have ongoing contact with their children, they are also more likely to meet their child support obligations.

The measure used to set the upper limit, or cap, on payer taxable income that can be subject to child support formula assessment will be aligned with that used in relation to the payee’s income. The result will be a lower cap of around $79,000. The current level of the cap means that some high income payers are paying more in child support than the costs of their children. The new level of the cap will address this. The new cap will still see resident parents of these children receiving child support of over $12,000 a year for one child, $18,000 for two children, and higher amounts for three or more children.

Parents who take on additional work to support their new family will be able to apply to the Child Support Agency to have the additional income excluded from the assessment of child support. Parents will have the income disregarded only if they can demonstrate that the income was earned for the sole purpose of providing support to the children in their new family. To qualify, the additional income cannot be earned as part of the normal earning pattern of the parent prior to establishing the new family. The amount of income that can be excluded will be limited to a maximum of 30 per cent of the parent’s total income. This measure will assist parents in their efforts to improve the position of their new family, without unduly affecting their first family.

The fairness of the means testing arrangements for government provided family assistance will be improved by allowing a full deduction for all child support paid. Currently, if a payer forms a new family, only half of the child support they pay is deducted from their household’s income when their entitlement to family assistance is calculated. A full deduction will mean that child support payers with children in new families will have their family tax benefit and child-care benefit assessed on income that reflects the actual income available to their new family.

Among the non-budget measures in the bill are changes that reflect the relocation in late 1998 of the Child Support Agency from the Australian Taxation Office to the Department of Family and Community Services. These changes will mean that the Commissioner of Taxation is no longer the Child Support Registrar. Instead, the registrar will be the General Manager of the Child Support Agency. The changes are designed to ensure a seamless transition to the new arrangements and will ensure the CSA continues to operate effectively by preserving the existing arrangements for exchange of information between the ATO and the CSA.

Amendments made by the bill will also enable the registrar to issue a departure prohibition order to prevent a payer who has persistently failed to meet his or her child support obligations from leaving the country. In practice, the CSA will use this power if the payer is able to pay the outstanding debt but has consistently refused to do so and other attempts to collect this debt have been unsuccessful. If the payer makes satisfactory arrangements to pay the debt, the CSA will be able to revoke the order and will also be able to authorise a specific departure if appropriate. The provisions are consistent with the existing departure prohibition order scheme in place in relation to taxation debtors.

The requirement is being removed, in the CSA’s change of assessment process, for the CSA to provide each party with a copy of all documents provided by the other in support of his or her application—instead, the CSA will provide only the application without the supporting documents. This change is intended to protect the privacy of both parents in that process.

The bill will set up a regulation making power to allow certain amounts to be excluded from income so that the current $260 annual minimum child support liability will not apply.

Other amendments will overcome problems that have arisen when a child has, effectively, run away from his or her parents to live with a third party against the parents’ wishes, and the third party carer applies for child support from the parents. This change relates to situations in which the child is living with someone other than his or her parents. The carer in this situation will not gen-
erally be an eligible carer if the parents have not consented to the child living with that person. However, if it would be unreasonable for the child to live with the parents, because there has been extreme family breakdown or the child’s safety would be at risk, the person can be an eligible carer.

A range of technical amendments are also being made to overcome drafting errors or omissions, and unintended consequences of previous changes to the legislation.

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

Debate (on motion by Mr O’Connor) adjourned.

GENE TECHNOLOGY BILL 2000
Cognate bill:
GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000
GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000
Second Reading
Debate resumed from 29 August, on motion by Dr Wooldridge:

That the bill be now read a second time.

Mr ANTHONY (Richmond—Minister for Community Services) (10.01 a.m.)—This has been an interesting debate, to say the least. As many opposition members have conceded the Gene Technology Bill 2000 is the proud product of a particularly open and engaging consultative process. Rightly, our consultations on this bill have attracted consistent praise from stakeholders, even those who oppose the use of the technology itself. I note that even the member for Bruce had positive words to say about the efforts of the International Office of the Gene Technology Regulator, and this is as it should be. Over 10 months the IOGTR has conducted face-to-face consultations with over 2,500 people and corresponded regularly with around 4,000 individuals and organisations. Importantly the IOGTR has forged strong partnerships with every state and territory. The IOGTR has put us in a position, for the first time in a decade, of actually being able to achieve a national uniform regulatory system for GMOs. The government has repeatedly stressed the fact that Australia must have legislation passed in each state and territory to ensure the most effective regulatory base for this country.

I note with interest that a number of premiers have written to the Senate inquiry in support of the bill. Some of the reasons this government and the states considered that this bill should go through without amendments include the fact that it establishes an independent regulator, free from political and industry interference. Further, it delivers science based decision making with a world first capacity to take into account ethical and community considerations, but in a way that ensures that the decisions are objective and not swayed by interest or lobby groups. I should also mention that the entire system is underpinned by extensive and ongoing community consultation on not only individual applications but also the policy that drives the scheme—again, a world first.

No government at Commonwealth or state level would be interested in implementing anything other than the most stringent and rigorous legislation, which is what we have before us. No government would put the Australian community or the Australian environment at risk, and this legislation well and truly covers all risks. What this legislation does not do is give comfort to those who would see a moratorium on gene technology introduced by stealth. This legislation will enable the use of technology within appropriate controls. It will not be a backdoor mechanism for stymieing our research and development or the appropriate commercialisation of products by inappropriate and heavy-handed, unnecessary or hysterical measures. We will have world’s best practice with this legislation. Australia will set the benchmark for the rest of the world. This is the reason this legislation enjoys the support of the states.

I thank all members for their contribution to this debate. I commend this bill to the House.

Question resolved in the affirmative, Dr Theophanous dissenting.

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 Mr Anthony) read a third time.

**GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000**

**Second Reading**

Consideration resumed from 22 June, on motion by Dr Wooldridge:

That the bill be now read a second time.

Question resolved in the affirmative, Dr Theophanous dissenting.

Bill read a second time.

**Third Reading**

Leave granted for third reading to be moved forthwith.

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

**GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000**

**Second Reading**

Consideration resumed from 22 June, on motion by Dr Wooldridge:

That the bill be now read a second time.

Question resolved in the affirmative, Dr Theophanous dissenting.

Bill read a second time.

**Third Reading**

Leave granted for third reading to be moved forthwith.

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

**WORKPLACE RELATIONS AMENDMENT (SECRET BALLOTS FOR PROTECTED ACTION) BILL 2000**

**Second Reading**

Debate resumed from 26 June, on motion by Mr Reith:

That the bill be now read a second time.

Mr BEVIS (Brisbane) (10.09 a.m.)—The Labor Party will be opposing the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000, which continues the very sad record of this government, and particularly the Minister for Employment, Workplace Relations and Small Business, in pursuit of a very biased industrial relations agenda. This government, following its foray into industrial relations changes last year in the second wave, has continued to persist with that failed effort, and this is another slice of that failed second wave now presented to the parliament as a fresh bill. The government has thrown aside any pretence at neutrality in the way in which it has approached industrial relations. It is without doubt the most partisan and biased government in the way in which it has dealt with industrial relations in recent times. I will now formally move the amendment that has been circulated in my name rejecting the bill, condemning the government, and setting out principles that Labor believes the government should be supporting in order to establish a fairer and more reasonable system of industrial relations determination in Australia. I move:

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

“the House rejects the Bill, and:

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

(a) further entrenches unfairness and bias in the industrial relations system; and

(b) further weakens opportunities for employees to organise and bargain collectively;

(2) condemns the Government for encouraging industrial action by employers, such as lockouts; and

(3) calls upon the Government to support amendments which:

(a) deliver fair and equitable outcomes for all Australians;

(b) ensure all parties negotiate in good faith;

(c) provide for an independent commission with full powers to deal with all industrial matters, to prevent and resolve disputes and to act in the interests of fairness and the national interest;

(d) provide jobs and income security; and

(e) provide a framework of rights and responsibilities for employers and employees, and their organisations, which supports fair and effec-
tive bargaining and ensures that they abide by awards and agreements applying to them’.

I mentioned that this is a recast version of the failed second wave laws that produced such widespread and deep objection within the Australian community. Last year we saw a Senate inquiry bombarded with critique from one end of Australia to the other, from one part of our community to another, opposing the legislation that the government put forward. So strong was the opposition that the government decided not even to put the matter to a vote in the Senate. Rather than do that, this government, in a half smart way, has now proceeded to introduce a range of bills into this parliament designed to pick up that second wave agenda in pieces. Indeed, we have had, I think, five such pieces of legislation introduced into the parliament. We have one bill in the Senate at the moment, the pattern bargaining legislation. Yesterday in this chamber we saw a performance by the Minister for Employment, Workplace Relations and Small Business referring to that and complaining that the pattern bargaining bill now faces defeat in the Senate because it does not enjoy the support of a majority of senators. At that time the government in this House and outside it complained about a 24-hour strike that occurred yesterday in Victoria in the metal industry. It needs to be placed clearly on the record that in the course of the last year in Victoria we have seen, for example, at ACI’s operation at Box Hill in Victoria, that very large manufacturer lock out their workforce—that is, they had an employer strike. They shut the gate and prevented workers from working for five months and demanded that the workers accept their terms of employment rather than negotiate meaningfully. There was a five-month lockout in Victoria in this industry, but there was not one word of criticism by Minister Reith, by John Howard or by the government in any guise.

But that was not the worst case that could be cited. Also in Victoria, in the course of the last year we have seen a lockout at G&K O’Connor meatworks in Pakenham which went for nine months. They locked the gates and told workers they could not get employment for nine months unless they all signed agreements. At the end of the day they wanted them all to be forced onto individual contracts that involved pay cuts of between 10 and 17 per cent. They had to take it or leave it, and they were locked out. This was militant industrial action by employers.

I might say that the ACI lockout that I referred to a moment ago actually commenced on Christmas Eve last year. That was the Christmas present that employer gave their workers and their families. They locked them out, threw them on the streets and refused to pay them for five months. Yesterday there was a one-day strike and the government howled criticism about that as if the sky was going to fall in. Civilisation as we knew it was under threat because there was a one-day strike. The fact that this government and particularly this minister think that it is fine to lock workers out for nine months or for five months—that they can do that, that employers can take militant, radical action and that that is okay—and that that has incurred not one word of criticism, not one question in question time, not one press release, not one Dorothy Dix question in the parliament demonstrates this government’s hypocrisy and bias. The government supports that action, but when workers have a strike for one day then the national economy is under great threat. The absolute hypocrisy of this minister and this government in dealing with industrial relations could not be better exemplified. Sadly, the bill before us today continues with that same deceptive, biased approach.

The Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 is promoted by the government as a bill designed to improve democracy in the workplace, requiring secret ballots to be held prior to industrial action. It is a bit like the legislation that the Minister for Employment Workplace Relations and Small Business introduced last year—the second wave laws. That bill was actually called ‘More Jobs, Better Pay’. Usually, when you say that in a group of people who were involved in the debate, they just laugh, because there is not a person in Australia who believes that the real intent of that law was to create more jobs or to provide people with more pay. If it was,
one might have thought that a majority of the Senate would have supported it; but, as I have already said, that was not to be and the bill has been withdrawn in disgrace. This government has made a practice of deception in the way in which it presents its industrial relations agenda, and that is exactly what it is doing here by parading this bill as some sort of effort at industrial democracy, providing greater rights to workers.

Let me go to some of the specifics referred to in the legislation and deal with the issues directly concerning strike ballots and how they are conducted. The government does not want to admit in this debate that the current legislation provides for ballots to be conducted on orders of the Australian Industrial Relations Commission. In fact, there is a power now, as the minister well knows, for the commission to order a secret ballot of workers in an industrial dispute situation, if they deem it is necessary. That law has been there for some years and, in fact, is seldom used. In a more frank moment—and they are not very common, I must say—the minister for workplace relations actually admitted that fact. In a paper that he put out in August 1998 he referred to the fact that that power now exists. He said that, in the past, provisions for secret balloting had been used sparingly. They have. They have been used sparingly because the participants in industrial relations have not seen the need to use them by and large. When the matters have gone before the commission, and they have hardly ever gone before the commission, the commission has seldom said that circumstances warrant it.

Let us actually get to the hub of this and have a look at the record. Since 1 July 1996, a grand total of nine ballots have been required to be held—that is, the commission has full power to order a secret ballot of workers in an industrial dispute situation. That power is there now. Anyone who thinks that it should be used is quite able to front up to the commission and seek to have that order made. With that power, on how many occasions has the need been identified and used? It has been used nine times in three years. It was used twice between the end of 1996 and the middle of 1997, it was used six times in 1997-98, and in the last year for which I have statistics, 1998-99, it was used once. If we take the most recent year for which statistics are available, there has been one occasion throughout all of Australia where the commission has said that there is a need to conduct a secret ballot of workers before industrial action occurs—one example in the last year in all of the country. Against that background, this government says that it should legislate to require that secret ballot provision be applied every time. Even though employers and employees and the commission have not seen a need for it, this government says that it is going to make unions conduct ballots whether anyone wants it or not. That is quite typical of this government's approach.

The minister is fond of talking from time to time about wanting to empower the commission, and I heard him say it again yesterday in relation to his pattern bargaining bill—very deceptive. What this government is about is providing a bigger stick. At no point in the process has this government ever sought to provide greater independence and greater neutrality for the commission; it just wants to provide bigger sticks. This is one of those examples where the commission's independence is under threat. This is one of those examples where the commission's prerogative is about to be overruled, because what this minister really wants to do is to say to the commission, 'I don't like your decisions. I reckon you're wimps.' This minister wants to say, 'Even if you don't think there should be a secret ballot, I'm going to make you run it anyway. I am going to make you run it because the law at the moment says you have the discretion as an independent tribunal to decide whether or not it is necessary; I am going to take that discretion away from you.' This minister and this government have perpetually sought to undermine the independence of the commission, and this is simply the latest example. This is the minister saying to the Industrial Relations Commission, 'You will no longer have any discretion or any opportunity to make judgments about these matters.'

The intriguing thing is: why would the government want to do that? You might un-
understand it if in fact there had been a rush of cases, if there had been mass industrial disputation. The minister is fond of referring to the reduction in industrial disputes over the last couple of years. In fact, you can plot it back over the last 10 years. But the minister on the one hand says, ‘We have record low strikes,’ and then on the other hand says, ‘Strikes are such a problem we must do everything we can to stop them and we must force people to have secret ballots even if the commission says it is not necessary.’ That is what this law is about; that is the hypocrisy.

Mr Reith—So you didn’t think yesterday’s strike was a problem?

Mr BEVIS—I am glad the minister raised yesterday’s strike, because he was not here to hear my earlier comments. I am glad he is now in the chamber, because I will go back over a little bit of that. This is the minister who to this very time has failed to utter one word of criticism of ACI for locking out its workforce for five months or G&K O’Connor for locking its workers out for nine months. Indeed, he implied in an interview published in one of the daily papers that other companies should look to G&K O’Connor specifically and ACI as examples: ‘Lock your workers out for nine months and tell them that if they want to have a job they get it on 10 per cent less money than they are currently earning.’ Nine-month lock-outs are fine and supported and encouraged by this minister, but if you have a one-day strike—and here he is again saying it by interjection—the nation’s economy is under great threat; civilisation as we know it is going to end. What absolute cant and hypocrisy, and everyone in Australia knows that is your form.

It is not just the Labor Party who hold this view that there is no need for changes in the law dealing with secret ballots, that the existing laws are more than adequate. Let me quote one of the largest representative business organisation groups in the country, Australian Business Ltd. Last year, when these matters were considered in detail by the Senate inquiry, they said, referring to that power in the industrial act at the moment for the commission to order ballots in strike situations:

... while the number of applications is small, the existing provisions appear to be working adequately. It should, however, be noted that the existing provisions are considerably less complex than the proposed amendments.

This is Australian Business Ltd. What did they say to this government? Effectively, that the current law, the one I was just talking about that gives the commission the power to order these ballots, is fine: it works adequately. What is more, the changes this government is proposing are far more complex. Why would the government want to do that? It is not in the interests of business; it is not in the interests of unions and workers; and it is clearly not in the interests of sustaining a neutral, independent industrial commission. It is in the interests of pursuing this government’s political agenda, something it has done, it has to be said, with vigour in industrial relations, but at a cost to people’s rights—not just workers’ rights but employers’ rights—and also to the detriment of the important and fundamental issue of maintaining an independent and neutral authoritative umpire.

Last year, when this matter was before the parliament as part of the second wave, it drew criticism, as did the rest of the second wave legislation. One of the more interesting critiques of that second wave legislation was an open letter written by 80 of Australia’s leading industrial barristers and solicitors, including, I might say, a number of QCs. They made this observation about this minister’s record and his legislation. They said:

The bias in the current legislation—that is, the law that we have now before we go to these even more biased changes—was clearly recognised by the Committee of Experts of the International Labour Organisation (ILO) who determined, after careful examination, that the Workplace Relations Act was in breach of Australia’s obligations under Convention No 98 ... and No 87 ... The Howard government now intends to tip the balance further and markedly in favour of employers ...
That was the assessment made by 80 of Australia’s leading industrial relations barristers and lawyers. They went on to set out five areas in which that was most prominently the case. In broad terms, they were critical of the proposal to do five things. One of those five things is related precisely to this bill. When those 80 lawyers sat down to identify the five worst aspects of that entire second wave package, one of the matters they identified was this issue now returned to the parliament as a slice of the old second wave. They referred specifically to further restricting ‘the right of workers to take industrial action by severely limiting the circumstances in which such action may be taken’. Eighty of our most prominent and eminent legal people have said there are five fundamental problems with that entire second wave package. This government has decided to resurrect two of those five fundamental flaws because, frankly, it does not care about those considerations. It has its own agenda, and it is clearly not an agenda that large sections of Australian business endorse.

The process that is envisaged in the legislation is quite a prolonged process and quite a detailed process. It is designed not to facilitate democracy in the workplace but to restrict opportunities for employees to take industrial action. Mind you, there is no suggestion that employers should have any similar restrictions placed on them when they, for example, want to lock their workforce out for five months, starting on Christmas Eve, as ACI did. There is no suggestion that there should be any restriction on that—only that we should restrict workers when they seek to take industrial action of any sort for any length of time. So there is a very convoluted and prolonged process that in fact would take some weeks from start to finish. Anybody who has had any first-hand experience of industrial relations would understand how stupid it is to suggest that you should have a process in these situations that requires some weeks—which also encourages opportunities for appeals along that time line—before industrial action could be taken by either side.

One of the interesting aspects of the bill is that it requires great detail of the timing and nature of the dispute to be set out and then locked in concrete. That presents some interesting dynamics. If you have a process that requires unions to identify exactly the time and the day on which something is to occur, and you then have a process that requires weeks and weeks before you actually get to that date when you can take your industrial action, there are some interesting questions about the dynamics of how that would operate. If, for example, during the course of those weeks there were some signs of progress, but not yet concluded negotiations, what do you think might be the options confronting unions and employees when they contemplate whether or not they would persist with the strike action? If you knew that you had to wait another three or four weeks before you got a second opportunity to go on strike, there is no doubt you would take the opportunity you have already set in train, even though negotiations may be well advanced. This point was made clear to the government and the parliament by submissions in the second wave inquiry, and I want to quote from one of those that was referred to in the Labor senators’ report last year. It said:

The proposals on the secret ballots, if ever implemented, would put people in the position of nominating specific days. If when you came to the day on which you proposed to have action you decided that perhaps there were prospects for further negotiation, you would be stuck with it. It seems to me a proposal which, if it were seriously implemented, would push people into taking industrial action when there may well be alternatives.

That is, this would entrench a process. It would put people on an irreversible track. That is a very foolish position.

Mr Reith—So why did the UK Labour Party think it was a good idea?

Mr BEVIS—I will come to the UK later. In your typical fashion, you again misrepresent the UK. You forget that the people you
spoke to last year in the UK are the same people who spoke to me. I know what they said to you and I know how you have misrepresented them. I will come to that in a minute.

Mr Reith—Don’t they have secret ballots?

Mr BEVIS—You have been caught with your hands in the cookie jar again, Pete. One of the other provisions in this bill is a requirement that there be a 50 per cent approval of eligible voters. On the face of it, you have to say that that sounds sensible enough, but it does throw up a couple of interesting anomalies, again pointed out in the second wave Senate inquiry. I quote from the Labor report:

Two examples should be considered, both involving workplaces of 100 employees. In the first, 49 employees in the ballot all vote in favour of strike action. In the second, 50 employees vote, 26 of them in favour of the strike.

In that first example, 49 vote yes. In that situation, under this minister’s proposal, that would not be a lawful strike. On the second occasion where 50 people vote and 26 vote in favour, that would be approved. That throws up a clear anomaly. It is clear, in any reasonable interpretation of that, if you have 49 people out of 100 voting in favour and they are the only people who cast a vote, you might think that that was a pretty solid result, but this law would say no, that is not a lawful strike. In the second case, only 26 people vote in favour and it is a lawful strike. The simple fact is that the government has set the bar up in an effort to stop industrial action and that is simply one of the mechanisms for doing it.

If indeed this was to be an even-handed approach and if this is about democratising the workplace, the minister might like to comment on why we do not require a ballot to stop strikes. Why would we allow union officials and union executives to end a strike, which presumably would be the case under the legislation as it is now, if this is truly about empowering workers in a democratic fashion? Why does the government not insert amendments under the same terms to require a ballot to be conducted to end a strike? If workers vote for a five-day strike and two days into it get a result that they are happy enough with, why should the union officials just be able to call off the strike? If this is about democracy, surely those people should have to ballot again. There is no proposal from the government to do that, any more than there is a proposal from the government to place some similar requirement on employers.

I have mentioned two lockouts. I could actually mention a number of others: for example, Joy Mining in New South Wales, three months on a rolling basis, it would seem. There is no requirement for any vote of shareholders to decide whether or not they should be taking industrial action. The government is not proposing that there should be. So one executive in a company is free to decide to shut the gates and lock the workers out, as they have done for nine months at G&K O’Connor. The courts have recently made a very interesting decision about the behaviour of G&K O’Connor and the workers are now looking forward to very substantial pay-outs as a result of the wrongdoing of that company. Leaving that point aside, the government is not proposing that there should be any democratic process on the employers’ side for having a lockout or taking
industrial action. This bill is not about democracy in the workplace.

One of Australia’s most authoritative industrial relations practitioners and academics, who is internationally recognised and, to my knowledge, is the only Australian on a presidential panel advising the United States on industrial relations matters, is Professor Ron McCallum. He made some interesting observations about this provision in the legislation when he appeared before the Senate inquiry into the second wave. The minister also quoted Ron McCallum in a speech in 1998, which I will not go into, because it is not worth it. I would think the minister regards Professor McCallum as an authority because he has certainly quoted him in the past. Professor McCallum said:

... I suspect, from my long experience in labour law, that such a bureaucratic system will drop industrial action down from union executives and union secretaries to wildcat action. I think we will see an increase in short-term wildcat action, and there will be a series of legal decisions seeking to assert that wildcat action on the shop floor can be sheeted home to trade union officials. Similar case law occurred in England in the 1960s and early 1970s.

There is also an interesting observation from people in Western Australia where they have legislation not dissimilar to the sort of draconian laws which this minister failed to get through last year and will fail to get through again this year. The practice in Western Australia is that the law is an ass and the law is ignored. The minister knows that. There has not been enforcement of these provisions in Western Australia. The unions ignore it because the provisions are unworkable. Employers ignore it because they know it is unworkable and the government in Western Australia, with the same political motivation as this minister, having got the law through, know that they cannot enforce it—it is unworkable.

Maybe this minister is more zealous and will want to take matters to court or bring in the troops, or do something exciting. This minister probably regards his Western Australian counterparts as wimps for not having done that, but he will find, as the Western Australian government have found, that, were these laws to be enacted, they would be of no consequence. I want to make some comment about the UK in the two minutes left to me because the minister is very keen to talk about the UK legislation and really does misrepresent the situation.

Mr Reith—They do have secret ballots, don’t they?

Mr BEVIS—Peter, you should tell the truth. In the United Kingdom they do in fact have secret ballot legislation, and it is nothing like this government’s legislation. In fact, like the minister, I have spoken to key government, union and employer groups in the UK and they had made it clear to him that is the case, and they are quite perplexed that he continues to parade their laws as somehow relevant to his. For example, the long time lines that this minister seeks to include in this bill are nowhere evident in the United Kingdom legislation. Most importantly, in the United Kingdom there is no requirement to insert details of the date or nature of the dispute. There is a very simple question: are you in favour of taking industrial action? That determined, it then applies for a period of weeks, and it is then a matter for the unions strategically to decide whether or not they activate that authority. This minister is not suggesting that that be the case.

Mr Reith—But you would not support me if I did that, would you?

Mr BEVIS—You are never going to find out because you never going to do it. You will not have the guts to do it. This minister has continued to verbal the UK Labour government at every opportunity on this issue. The Democrats have made it clear in relation to the second wave that they oppose this. They said:

The provisions of this Schedule add little to industrial democracy and add greatly to impediments to unions to undertake legitimate industrial action, while opening up the prospect of longer disputes and litigation. This Schedule should be opposed outright. It does not add to industrial democracy.

That was the view of the Democrats on exactly this section of the second wave, and I would be amazed if they have changed their view since then. So we have the government persisting with a discredited second wave agenda. The most egregious parts of the sec-
ond wave are now back before this parliament, and we will vote against them. They deserve to be condemned and they will be defeated. *(Time expired)*

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

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

Mr LINDSAY (Herbert) *(10.39 a.m.)*—In 30 minutes of the shadow minister’s speech, I am quite surprised to see that there has not been any reference to the particular group in the community who are actually involved in all of this, and that is the work force of this country and the impact the legislation will have on them. The principle has been to look after the work force, and in this speech I am going to indicate to the shadow minister the benefits this particular piece of legislation, the Workplace Relations Amendment *(Secret Ballots for Protected Action)* Bill 2000, might have had in real circumstances where the workers and their families have basically been very badly impacted on by union thuggery. Perhaps I am just a simple person, but I would have thought that having workers choose and putting in their hands the ability to choose whether they have a strike or not was perfectly democratic. I just wonder why the Labor Party is opposing this. Perhaps it is for the same reason that they are opposing moves to fix the electoral fraud that has been going on around the country. The Labor Party is voting against its own interests so that it can maintain what has been going on, the rigging of the electoral rolls and so on.

Mr Reith—Someone went to jail in Townsville.

Mr LINDSAY—The minister is right. And it is the same in relation to the electoral fraud that has been happening. The Labor Party is voting against its own interests so that it can maintain what has been going on, the rigging of the electoral rolls and so on.

Mr Reith—Someone went to jail in Queensland.

Mr LINDSAY—Someone went to jail in Townsville, Minister.

Mr Reith—A member of the Labor Party.

Ms Macklin—What is going on in Ryan?

Mr LINDSAY—The electoral rolls are not being rigged, that is for sure. Let me bring the member for Jagajaga back to the Sun Metals dispute last year in Townsville.

Mr Bevis—Did that go for five months?

Mr LINDSAY—It went for five weeks, actually. In relation to that, the workers on that site wanted to work. The local paper was continually polling the workers and saying, ‘Do you want to go back to work?’ They would say, ‘Yes.’ ‘Why don’t you go back to work?’ Of course, it was the union thuggery that was affecting them and not allowing them to go back to work. They were on the picket lines day after day, and a secret ballot in that particular situation would have solved the problem. The Sun Metals refinery was the largest investment by a Korean company in Australia ever. Can you imagine how the management of that company, not only the Korean management but also the Australian management, felt when this major new investment in the country was being held to ransom by some union bosses? It was a union turf war. It was not anything about the workers, it was not anything about looking after the workers and their families—it was a turf war about who should be represented on the site and who should not be represented on the site. The majority of the work force wanted to return to work but they could not. If this legislation had been in place at that stage, there would have been no dispute and the work force who wanted to go back to work would have gone back to work.

It is going on again in Townsville at the moment on the Lavarack Barracks site. The government is trying to spend $139 million on the barracks site. The local economy benefits very significantly from that particular investment by the government and so does the work force on that site. But what is happening is that the latest polling by the newspaper at home indicated that 65 per cent of the workers did not want to go on strike but, because there were no secret ballot provisions, what happens is that they are forced to go along with the tide, otherwise they get belted up. Quite literally you get a visit. How can we run industrial relations in this country on the basis of if you do not vote the way that the union wants you to vote publicly or the union bosses want you to vote you get a visit from a thug? We are supposed to be in a
modern day economy, and to have that happening is just disgraceful.

I say to the shadow minister: here is the opportunity to protect the people you purport to represent; here is the opportunity to protect the work force in this country. This legislation gives the work force the right to say yes or no, to say ‘we do’ or ‘we don’t’. It does not take away any of their rights, but it gives them an additional right. It takes away the power of the union thuggery that has been going on, thuggery which certainly has been going on in my patch in Townsville to the detriment of the workers in Townsville and to the detriment of investment in the city and in our country. Overseas investors say, ‘How can you run an industrial relations system like this? How can major investments in the country be stalled because a couple of union bosses want to run a turf war? How could that be?’ We have to address that. I know that it has been a long struggle. It is to the credit of the current minister that he has taken the hard decisions, that he has attempted to fix these problems in the interests of the work force in this country but also in the interests of the country itself. The unions are continuing, in their own self-interest and in nobody else’s interest, to oppose modern, sensible legislation, and the Australian people will certainly see the results of that.

The coalition’s 1998 workplace relations policy of More Jobs, Better Pay contained commitments to further legislative reform in our second term. The Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 is intended to reflect both the policy and the legislative drafting of the More Jobs, Better Pay program in relation to secret ballots. This reform will require a secret ballot of affected employees to be held before the right to strike can be lawfully exercised. It has been said time and time again that the coalition government is all about choice. It is about giving people choice when it comes to whether or not they enter into an agreement. We are all about choices whether or not you are in a union, and we also believe that people should have the choice as to whether or not they go on strike. That choice should be a real one. I underline that: it should be a real one. It should be a choice free of intimidation, and it should be a choice that people are able to exercise by way of a secret ballot. The workers at Sun Metals did not really have a choice. They were stripped of their basic democratic right of choice and, more importantly, they were threatened if they chose the democratic right of choice over subversiveness. We saw this injustice in Townsville.

This legislation was coalition policy at the last federal election. The Minister for Employment, Workplace Relations and Small Business advised members that the government was still resolute in its support of this policy, and government members certainly backed the minister. I am still resolute about the importance of secret ballots, which, I might add, were endorsed by the Australian people at the last election. The government is prepared to sit down and negotiate with the Democrats about the details of such provisions. The Democrats have time and time again stated that they have no intention of being obstructionist in the Senate and that they will carefully review legislation, suggesting ways to make it work better if possible. We, the coalition government, believe the principle is certainly important and of significance. It was voted on and endorsed by the Australian people, and I think it is another test of the Labor Party as to whether they support the rank and file trade union members or whether they simply do as the trade union leadership and elites tell them to do. There is no doubt that this measure would give real power to rank and file trade union members or whether they simply do as the trade union leadership and elites tell them to do. There is no doubt that this measure would give real power to rank and file trade union members in deciding whether or not they should participate in strike action. Labor will, of course, vote against the principle of secret ballots because they are opposed to giving workers a say. Labor believe in increasing the power of unions and widening the role of the Australian Industrial Relations Commission. These policies are not to be wondered at when Labor’s parliamentary ranks are stacked with ex-union officials. The government make that point time and time again, but it is a real point. The unions’ wish list is forced on the ALP by the millions of dollars in political donations made to the ALP during each federal election campaign.
Mr Reith—A point Carmen Lawrence was making.

Mr Lindsay—That is correct, Minister. If those opposite returned to the treasury bench, they would take Australia back to 1970s policies which would hinder Australia’s performance in the international economy. Their backward policies would cost Australian workers their jobs, undermine their security and damage the investor confidence which is required to further reduce unemployment. The point I wish to make in this speech to the parliament is that this is not about the rights of workers, it is not about their families or their ability to make sure that if they want to work they can work; it is about the union officials and the Labor Party’s kowtowing to that group. Labor act as a negative spoiler in this parliament, blocking and opposing job creation initiatives and proposals. They would give back to unions the effective veto over every workplace agreement by returning the right for uninvited union intervention in agreement making and by providing a right of entry into every Australian workplace, whether or not the affected workers want the unions there. They would abolish thousands of workplace agreements legally made between individual employers and employees in favour of union control over collective bargaining. ‘One size fits all’ arrangements would be imposed on unwilling businesses and unwilling employees. This would allow unions to discriminate against non-unionists and would enable powerful unions in sensitive industries like mining and building to acquire even more power. That is not good for the country. Labor would even try to force non-union employees to pay compulsory fees to unions for services they did not request. That is just amazing.

Labor’s union sweetheart deals are already being implemented by state governments in New South Wales, Tasmania and, of course, Queensland. Look at the result in Queensland for some of the employees. Look at the teachers’ situation in Queensland. The former coalition government offered the teachers quite a significant pay rise. The Beattie opposition then pandered to them and said, ‘No, that’s not enough.’ But when Beattie came to power, he actually offered the teachers less than the coalition government was offering. That makes the point the minister often makes that under this government real wages have increased whereas under the previous government they actually fell. That example further supports my point that this is not about the workers; this is about the power of the unions.

We have people opposite who do not oppose union plans in New South Wales that were actually endorsed by the New South Wales IR minister to force every non-union employee to pay amounts equivalent to annual union fees—that is, between $200 and $500 a year—to a union of the ALP’s choice. They will use Commonwealth powers to override workplace agreements made under state industrial relations systems and force workplaces, particularly small businesses, out of state systems into federal awards. They will compromise the rights of agreement making and freedom of association by abolishing the Federal Office of the Employment Advocate. In January 1998, Labor deliberately removed any voluntary unionism protection from its final policy platform, despite it being there in an earlier draft. They will rope small, non-employee, independent contractors into the federal industrial relations system regardless of whether they consent or not. They will allow unions to be above the law, if engaging in secondary and primary boycotts, by repealing sections 45D and 45E of the Trade Practices Act 1974, thus creating more strikes, industrial unrest and job insecurity. These policies will see a massive increase in unfair dismissal claims, causing unjustified expense for small businesses and worsening the prospects of unemployed Australians seeking work.

I want to make it quite clear in the parliament today that I strongly support this legislation. I believe that it is in the interests of the workers of this country. For members of this parliament that is where the primary interest should be, not the interests of sectional groups and power groups that sit behind the scenes and try to manipulate the rights of ordinary workers and their families in this country. I put on record today my strong support for this bill.
Ms GILLARD (Lalor) (10.54 a.m.)—I welcome the opportunity to speak in this debate on the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 and to second the amendment moved by the shadow minister for industrial relations. I also welcome the opportunity to follow the member for Herbert’s contribution. As we are all aware, the number of contributions he will get to make in this place is limited given that he will not be returning after the next election. I also note his concern, or professed concern, for so-called thuggery in industrial relations and I look forward to the contribution he will no doubt make to this House on the question of the government’s thuggery on the waterfront.

Presumably, he will make a very strong and strident speech condemning the thuggery that was engaged in there by the Minister for Employment, Workplace Relations and Small Business.

As the shadow minister has stated, this bill is part of the minister’s plan to introduce in this House, in a piecemeal fashion, aspects of the so-called second wave of industrial relations reform that was defeated in the Senate with its rejection of the completely ill-named ‘More Jobs, Better Pay’ bill. The minister sells this bill in his second reading speech as a benign democratisation of the process of making decisions regarding the taking of industrial action. However, if this bill is properly analysed, there is nothing benign about it. Rather, it is a strident attempt to completely disarm workers and their unions in the collective bargaining process.

To explain that contention, we really need to analyse the context in which this bill is being pursued. Australia now has a dual track industrial relations system where bare minimum conditions are located in awards, and for wages and conditions improvements workers are told to bargain individually or collectively. This government—and this minister—has made no secret of its clear preference that workers bargain individually, notwithstanding the fact that for the vast majority of the workforce the power imbalance between them and their employer means they have little or no bargaining power and that they are effectively price takers in the market for labour. If any government members are in doubt about this, I would be more than happy to introduce them to the outworkers I met when practising industrial law as a partner at Slater and Gordon. Each of these women, invariably from non-English-speaking backgrounds, had a tale of exploitation to tell and it was clear listening to those stories that they had no bargaining power when dealing directly with their employer.

But the focus today is not actually on that section of the workforce who, at best, get to rely on the bare minimum conditions in the award or who, at worst, get forced to sign a completely exploitative agreement. The focus today is on that section of the workforce that is seeking to collectively bargain for better wages and conditions outcomes. The collective bargaining system permits both workers and employers to take action against each other; action which would otherwise be unlawful. Of course, to render such action lawful, certain procedural conditions need to be met—being in a bargaining period, complying with a notification period and so forth. But, once those procedural requirements are met in the collective bargaining stream, workers can take industrial action which would otherwise be unlawful and employers can engage in tactics, like lockouts, which would otherwise be unlawful. It should be noted, just in dealing with this collective bargaining stream, workers can take industrial action which would otherwise be unlawful and employers can engage in tactics, like lockouts, which would otherwise be unlawful. Despite some of the more hysterical performances by this minister during question time, the incidence of industrial action is not increasing despite the fact that it has been institutionalised as part of the collective bargaining system.

Mr McArthur—What about Victoria?

Ms GILLARD—I will come to Victoria. The member opposite is clearly worried about it and perhaps he might be worried about some of the lockouts that have occurred there, but we will come to those later. It is important, in dealing with the industrial relations system, to look at what this government was expecting when it designed this collective bargaining system. Clearly, it was expecting that workers would move away from traditional unions and engage in non-
union bargaining or bargaining through newly created enterprise based employee associations. Much of the Workplace Relations Act is given over to trying to create those bargaining streams—non-union bargaining or bargaining through newly created enterprise based employee associations. This was the government’s expectation, that workers would be weakened in their capacity to industrially organise because they would move into such structures. At the same time the government expected employers to be robust in using the lockout provisions.

In realising this vision of an industrial system under which employers have a strengthened hand and workers have a weakened hand, the government has had only limited success. Certainly, many employers have been robust in the use of lockout provisions, but there has not been the widespread development of enterprise employee associations or the widespread use of non-union bargaining; rather, workers have collectively bargained through union structures. In some quarters in the union movement, the implied message of the Workplace Relations Act has been heard loud and clear. That message is: get out into the field and bargain; do whatever you have the capacity to do to force the best possible bargain out of your opponent. It seems to me that it really ill behoves members opposite to criticise the taking of industrial action in the way in which they do, for example the industrial action taken yesterday in Victoria. There were strident criticisms of that kind of industrial action, yet we hear absolutely nothing said about lockouts, which are judicially referred to as ‘baseball bat lockouts’. We hear not one word of criticism in relation to those employer tactics, but if unions take some form of industrial action the criticism flows.

What is forgotten by the members opposite when making those criticisms is that the taking of such industrial action is the inevitable consequence of the design of these laws, in which there is a collective bargaining stream and you are saying that you need to get out there in the field and do what you can to get the best possible bargain. If you create that stream, how can you act amazed, distressed, surprised and somewhat hysterical when people actually do what you have told them is the system? I note that the minister has entered the house and is listening to the debate. He may learn something, which would be a good result.

**Mr Reith**—If you could say something that was new and novel and different and worth listening to—

**Ms GILLARD**—Just wait. If the minister was a bit more silent and listened a little bit more he would have the opportunity to learn a bit. The government’s vision in creating this collective bargaining stream was clearly one of robust employers and workers in weakened industrial structures going head to head. The robust employers engaging in lockouts and the like would win that industrial confrontation. But, as I said before, the government’s vision has not come entirely true. There is that section of the work force that is out there, through its union structures, bargaining collectively and bargaining effectively. Because of that, the government seeks to introduce this piece of legislation.

Having failed in relation to the second wave of industrial relations reform, the government now seeks to introduce this bit of legislation to bolster the chances of employers when bargaining is happening in the field and to weaken the ability of unions and workers to secure results when bargaining is happening in the field. That is what happens through this piece of legislation simply by the imposition of a technical, time consuming and costly ballot process on unions and workers if they seek to engage in industrial action. However, employers who seek to engage in lockout action in pursuit of their bargaining strategy get to do it in line with the current legislation. There are no new requirements and there is no secret balloting for them. So we see a tipping of the scales where, once again, workers and their unions face additional hurdles. Employers do not face those hurdles. They want a bargaining arrangement under which workers in weakened industrial structures and with weakened bargaining powers meet employers whose hands have been strengthened.

When we look at this bill and forecast what would will happen if it were adopted by the parliament, we can see two possible out-
comes. I think we will see both outcomes in different sections of the work force. Clearly, in the most industrially militant section of the work force, this bill will be ignored. Workers and their unions will simply take the risk of engaging in illegal industrial action. It should be noted that this has been the experience in Western Australia, which has ballot provisions. The shadow minister, in his contribution, referred to the words of Professor Ron McCallum, who predicted this result, and now we have evidence which was taken in relation to the Western Australian system. The players in that system have provided the following description of how it works:

... our members have never completed a secret ballot for industrial action since the legislation has been in place, and they will not. They have made clear decisions not to comply with that legislation, I should tell you. They have indeed engaged in industrial action ranging from stop-work meetings through to full-blown stoppages that have lasted for 6½ to seven days without complying with the secret ballot legislation. Ultimately, their voice will not be silenced in the way they feel ... Inevitably, occasions arise where the union officials are not even aware in the first instance that members have walked off the job, and this indeed did happen in the instance I am citing. We came in after the event. Members were angry about health and safety breaches and left the workplace—quite rightly, in our view. It is impossible in a scenario like that for the legislation to work efficiently or to work at all.

That was evidence from David Robinson. So we have it clearly on the record, predicted by industrial relations specialists, that this sort of legislation will not make any difference in the most industrially militant section of the work force. Industrial action will still be taken, but the government will have tilted the law so that it favours employers in that setting. Employers will be able to take protected action and will be able to lock workers out without any fear of legal consequences, whereas workers who engage in industrial action—not having complied with this technical, time consuming secret ballot process—because their action will not be protected, will be liable to the usual range of common law sanctions and torts.

Can anybody really suggest that this is a step forward in industrial relations—that we predicate a return to a time when industrial matters were largely litigated at common law, with employers bludgeoning workers and their unions with injunctions, fines, contempt actions and, potentially, jail? Is that really a step forward in industrial relations? You could only really view that as a step forward in industrial relations if your preferred vision for industrial relations was that, in the unionised section of the work force where action might be taken, that always be in a setting of maximum confrontation and division. If that was your vision—and one wonders, given the waterfront experience, whether that is the vision that the government has for industrial relations—you might think that that was a good thing. But I do not think that your ordinary Australian, who does not like to see that kind of confrontation, would think a system which was predicated on that occurring was a good thing.

Other unions seeking to bargain collectively will try to clear all of the hurdles that this legislation sets in front of them and go through the ballot process, but let us put ourselves in the shoes of people who will be engaging in a collective bargaining strategy that has that kind of ballot process as part of it. If you are required to go through this procedural nightmare before you take industrial action, will you just put bans on? Of course you will not. If you are going to go through this very complex procedure, you will obviously take a severe form of industrial action rather than a weaker form of industrial action. You will not go through a ballot process asking members whether or not they want to put bans on; you will go through a ballot process only if you are asking members whether they are prepared to engage in full-scale industrial action such as striking.

This legislation requires that the union seeking to take industrial action, as it goes through the secret ballot process, clearly telegraph its punches. It requires the union to clearly describe what sort of industrial action it is going to take. If a union is required to telegraph its punches, it is not going to telegraph a weak punch. By being required to telegraph its punches, a union will telegraph the strongest possible punch. No-one will go
through this ballot process saying, ‘Let’s have six hours of industrial action or 12 hours of industrial action.’ They will go through this process seeking authority for indefinite strikes. The whole psychology and methodology of disputes will be affected by this kind of system, so they will become bigger, more bitter and less easy to resolve. The overseas experience shows that secret ballot provisions lead to lengthier industrial disputes. There is no reason not to expect the same result here.

Mr Reith—Is that true in the UK?

Ms GILLARD—The minister, by way of interjection, seeks to draw an analogy between this proposal and the UK legislation. It is simply not a valid analogy. As the minister well knows, these provisions bear no relationship to the provisions in the United Kingdom.

In calling on this parliament to reject this bill, apart from the reasons that I have already advanced I would like to conclude with some observations about the nature of democracy. This bill is sold by the minister as being about democratic change, but democracy is not just about ballot or referendum processes. If democracy were just about ballot or referendum processes, we would not have this parliament and we would not have executive government. If democracy were just about ballot or referendum processes, maybe the government might like to have decided by referendum questions involving petrol, the GST and excise. Maybe they would like to hear the Australian people on those questions. Democracy is not just about ballot and referendum processes; democracy also has a participative side, whereby people entrust others to act on their behalf. Our parliament is predicated on that kind of system.

Of course, that has a role as well in the trade union system. The thing that this government just cannot get over—the thing that they just cannot swallow—is that, for all their rhetoric about union bosses, union leaders are elected in ballots run by the Australian Electoral Commission, the same commission that runs the elections that elect us. Union leaders are elected in fair ballots. The government just cannot get over the fact that union leaders who do not agree with them have a democratic mandate and have been endorsed by the members of that union. The government just cannot get over the fact that many of the union leaders who they vilify day after day in this place have been elected by their membership and enjoy high degrees of electoral support. The government just cannot get over that fact. They need to always try to render illegitimate the union leadership, but when you stand back from it, it is clear that many of the union leaders that this government most despises have a high degree of support amongst their membership.

In terms of our theories of representative democracy, there is no reason why—and the minister has not advanced a reason why—the decisions of those democratically elected leaders, in relation to matters involving the union and union membership, are not legitimate decisions. There is no reason at all. If you say that an elected representative does not have a mandate to take those sorts of decisions, one wonders what you would be doing sitting in this place.

Democracy also has a participative side, and the culture of trade unions has been to use meetings and participative forums to make decisions about the taking of industrial action. This enables workers to hear each other’s views—it enables debate, and out of that can emerge a consensus. This minister has given no clear explanation as to why this is an inappropriate structure. Meetings can overcome language and other barriers in a way that a piece of paper—written in English and which just turns up in the post—cannot. I have been at workers’ meetings in clothing factories where workers have been broken up into their language groups and had the information given to them in their own language. The minister apparently cannot understand this. He has probably never dealt with a work force that is predominantly non-English speaking and which needs this kind of assistance. Union organisers go into those factories and are often drawn from the ethnic groups predominantly represented in those factories. The workers are spoken to in language groups, and the meeting is then brought back together. I have physically seen these meetings in progress—where there are
simultaneous translations in six or seven languages so that everybody in the meeting can understand what is going on and everybody in the meeting has an opportunity to participate.

How can you replicate that in a secret ballot process? You could say, ‘Oh well, we could get the ballot paper translated.’ You might want to think about the logistics of that—translation of all of these documents into a multiplicity of languages would be an enormous logistical problem. In addition to that, a lot of these people are not literate in their own language, which is why a participative structure is best—where things are explained orally in their own language.

I say in conclusion that this parliament has already rejected this minister’s nightmare vision of the industrial future by rejecting the second wave of industrial relations legislation. It is time to reject that vision again by rejecting this bill.

Mr McARTHUR (Corangamite) (11.14 a.m.)—I am delighted to participate in this debate on the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 and to refute some of the allegations and suggestions from the other side of the parliament. I note the shadow minister was talking about industrial democracy. I should have invited him to come down to Victoria yesterday to see the sort of industrial democracy we have down there—where the unions, as of right, called a statewide strike demanding higher rates of pay and a reduction in working hours. That is his basic suggestion. I am sure the people of Victoria would be happy to enlighten him on industrial democracy as they see it.

The member for Lalor provided a legalistic view of industrial relations, coming from that well-known firm Slater and Gordon. I would advise her to get out into the workplace to see where cooperative enterprise agreements are working—at Alcoa, down in Geelong, and at the Ford Motor Company. She talked a lot about the lockout by employers. I draw to her attention what is happening in Victoria, where the building industry are locking out the building sites, and I will talk more at a later time about that.

Ms Gillard interjecting—

Mr McARTHUR—She is suggesting that, in Victoria, under a Labor government there is no lockout by employees, and that is typically what is happening. I acknowledge the presence of the minister at the table, who has done a remarkable job in bringing about a fundamental, historic change to industrial relations in Australia. He was much maligned for the changes on the waterfront. He alone introduced the changes, against the might and power and entrenched views of the MUA.

Mr Bevis—All those Rottweilers with nothing to do!

Mr McARTHUR—There was no industrial democracy at the MUA on the waterfront, I can tell you that. It took the strength of purpose of the minister at the table and those people who wanted to bring about change on the waterfront to bring about better productivity and enterprise agreements, and the result has been an improvement in the productivity and reliability of the Australian waterfront, which has not been the case for 100 years. I acknowledge the persistence and the courage of the minister at the table in bringing about these changes, when those opposite did not have the ability or the courage to make any impact in that area.

This debate is fundamentally about the improvement of enterprise agreements that the minister at the table initiated, which the government introduced in 1996 and improved upon. We see a situation where unemployment has been reduced to record low levels, and that is a factor of a more flexible industrial relations system where people are able to seek jobs and rates of pay and conditions that are more flexible and more compatible with other industrialised nations. We see a changed situation where 42 per cent of people are now on enterprise agreements. Even the shadow minister and his former Prime Minister agree with enterprise agreements, because they initiated that, although they have gone back on that attitude by turning back to a standardised system. Twenty-two per cent remain on old-style awards and the shadow minister at the table comes out of that era of standardised awards.
Gradually the Australian work force is moving towards a more flexible set of arrangements. Another 22 per cent are on over award payments and non-registered agreements, 14 per cent are on individual contracts, whereas 10 years ago only 15 to 20 per cent were on awards. So you can see from those figures, Mr Deputy Speaker, that there has been a dramatic change in the way in which the Australian work force organises itself, as between employees and employers. The shadow minister at the table and the Leader of the Opposition have agreed to remove the Australian workplace agreements. It is about the only possible policy position they have. On everything else they have no policy.

Ms Macklin—Rubbish!

Mr McARTHUR—The shadow minister for health only wants to get rid of private health insurance, or she is not sure—she might, she might not. But certainly the shadow minister will remove the workplace agreements. There are about 100,000 Australian workplace agreements in place at the moment, and that is a remarkable change of attitude in the Australian industrial relations context. I again compliment the minister at the table—it is because of his perseverance that this subtle change of making sure that employers and employees can reach a set of terms and conditions compatible to their workplace could be brought about. For the purposes of this debate it is worth quoting from the 1999-2000 OECD Economic Surveys: Australia, an independent authority that had a look at Australia’s industrial relations system. I will quote the whole paragraph under the heading ‘Labour market policies: industrial relations’ because it does set in context what this debate is about. It says:

As noted above, promoting productivity through labour market arrangements that are more adaptable to a rapidly changing economic environment has been a reform priority in recent years. A major step in this direction was the implementation of the Commonwealth’s Workplace Relations Act 1996 (WRA) at the beginning of 1997, which sought to enhance the regulatory flexibility in the labour market by shifting the focus of workplace relations away from centrally-determined awards—

which the shadow minister is very keen to retain—
towards bargaining of wages and employment conditions at the enterprise level.

And I emphasise that. It goes on:

To further advance this process of workplace reform, the Government in June 1999 proposed further changes to refine and reinforce the enterprise focus of the WRA. The intention was to build on and widen the progress already made since 1997 to ensure continuing gains in flexibility in productivity.

So we can see that this is a continuing part of the legislation to improve those situations in the industrial relations arena, which world commentators have agreed have improved Australia’s position. The background to this particular legislation is, ironically, that there is no general right to strike in Australia. You would not think that when you consider the waterfront or the building industry in Victoria, or in a number of other industries, where people strike as a right and continue to put a point of view. However, it was the Labor Party in 1993 that suggested they give a limited right to strike during the enterprise bargaining negotiations. That was quite a reasonable situation, compatible with what was happening in Japan and the USA, where enterprise agreements were reached in the automobile industry and in the manufacturing industries over a three-year period. Experience in those countries suggests that it was reasonable for both parties to negotiate, which often resulted in the strike situation—not altogether desirable, but in the interests of harmony, peace and genuine negotiation that situation did sometimes arise.

What the minister and the government are suggesting is that, if a strike does arise and the parties are unable to get together to discuss their terms and conditions for the next period of an enterprise agreement, the strike would be protected by law and that, to reach that situation, a ballot should be undertaken. That is quite reasonable and I cannot understand why the shadow minister could not agree to a very simple and genuine position, which the former Keating government agreed to, that is, that there be a ballot of the members at the workplace, that 50 per cent of them should vote and that more than 50
per cent who vote should agree that strike action be undertaken. That is a very reasonable, sensible and straightforward proposition. How the two members opposite could possibly disagree with that democratic and orderly approach, I just cannot understand.

Mr Reith—They are union types, that’s why.

Mr McARTHUR—Unions do not really agree with democratic processes, as we saw at the Hobart conference. They fix the numbers before they start. Whilst they mouth support for democratic processes here in the parliament, they are not too keen when a legislative program provides the ability for employees to cast a vote as to whether they will proceed with strike action. The other part is to ensure that pattern bargaining, which union leaders in Victoria have undertaken to undermine the enterprise agreements, is not pursued with such vigour.

We see an interesting example in the UK, which again the shadow minister at the table has been challenging. The Thatcher government introduced pre-strike secret ballots, and the Blair government, the third way government, have now supported that set of arrangements which is being confirmed by the minister.

Mr Bevis—And how do they operate?

Mr McARTHUR—And I would rely on the minister more than the shadow minister for this sort of information. We see in the UK where unions are required to hold secret postal ballots—

Mr Bevis—Keep going.

Mr McARTHUR—They are secret, postal, and they hold a ballot before they can endorse action. The unions will be up for legal action and tort if the majority do not agree to proceed.

Mr Bevis—What is the process and what is the question?

Mr McARTHUR—It is quite a democratic process, and that is happening in the UK under your Labour leader—under Mr Blair. Ballots have to be held within range of the industrial action and they have to be carried out by a simple majority of the ballot votes cast. That comes from a background in the UK where we all know there was a remarkable amount of industrial difficulty before the Thatcher government introduced major changes to the industrial relations legislation. It is interesting to look at the figures—and the shadow minister says that the UK legislation has nothing to do with us here in Australia. With the introduction of pre-strike ballots, which coincided with a substantial reduction in industrial disputation in the UK:

... in 1992, a record low of 528,000 working days were lost through strikes compared to the annual average in the 1970s of 12.8 million; in 1993, 211 stoppages were reported, the lowest number since records began in 1891.

So you can see that there was quite a big impact on the number of working days lost. We have the situation where the UK agrees with the general principle of a ballot before strike action is taken.

I would like to talk about this whole argument about secret ballots. I used to discuss these matters with the former minister, the Hon. A. A. Street, my predecessor. He was always concerned about the constituency and the ability to take ballots in the workplace. That situation has now changed. We can identify the workplace, and this legislation indicates that persons at the workplace can participate. We are suggesting that the ballots be compulsory, so you overcome apathy in the workplace. We all know that is one of the difficulties facing both the employers and the employees: the apathy, and the active few can provide an outcome that is not always advantageous to the enterprise.

I have a background in the shearing industry, and in the shearing sheds we have secret ballots on wet and dry sheep. In the citadel of the AWU, for 100 years you have had a position in the shearing sheds where a secret ballot takes place about the shearing of wet and dry sheep; and the shadow minister might be aware of it. The shearers themselves can make a declaration about whether they wish to shear on, because if the sheep are wet the shearers are concerned that they might get a cold or some other ailment, and if they are dry they can shear on. They take a secret ballot on the board—they write ‘W’ for wet and ‘D’ for dry—and the decision of
The workers on the site is agreed to. So we have the AWU, a very powerful part of the opposition, agreeing to a secret ballot in the workplace, which has been tried and has worked very well. By the way, it is compulsory. Everyone votes and the decision that is finally derived will be agreed to by the shed. The shadow minister should take that as an example of how secret ballots work in the industrial situation.

We have heard a lot about pattern bargaining and the activities in Victoria, and it is worth noting what is going on there. Under a Labor government, we have a situation of industrial mayhem. There has been a challenge to enterprise agreements, and certain rogue unions are now moving towards destroying the very good industrial relations structure that the minister at the table has set up with this government. In the building industry, even the Labor government in Victoria acknowledges that things are difficult in the building industry. Martin Kingham, the union chief, is well known to Victorians for his very strident approach to industrial relations, and he is doing his best to remove enterprise agreements. Of course, there is no ballot and no industrial democracy down there in Victoria. It is straight out ‘We’ll go on strike,’ and we saw that activity yesterday, didn’t we, Minister?

Mr Reith—Yes.

Mr McArthur—we called the strike and there was no vote by anyone. The situation was reported independently in the Age by Tony Parkinson. He talks about the union campaign on the building sites and the activities of Mr Martin Kingham. I would like to quote from the article, which talks about industrial democracy as it is practised in Victoria, and both members opposite would be aware of it. You will see that we do need ballots to ensure that the members are able to participate. The article states:

The arm-twisting is under way to force contractors to yield to the CFMEU’s claim for a 36-hour week and a 24 per cent pay increase over three years. The first phase has been the rolling one-day strikes at major building sites, notably in the CBD.

The campaign has brought the return of the old syndrome of ‘concrete interruptus’—the costly delay or interruption of concrete pours. Likewise, small operators in the industry report that the ‘homer’ is back in fashion, where workers walk off sites for the day in protest about health and safety issues or by invoking the contentious ‘inclement weather’ clauses of the Victorian Building Industry Agreement.

In one recent example, labourers working on a factory extension in Melbourne’s western suburbs downed tools and left for the day after a mouse was seen in the amenities room.

That is the situation you have in Victoria, where there is no industrial democracy as we know it.

There was a report in the Financial Review in January about Craig Johnston and Campaign 2000. The shadow minister would be aware of Campaign 2000. It is a campaign to ensure that those unions with industrial muscle in Victoria can have their way. Even the Bracks government are concerned. They know that investment will leave that state and that these rogue unions are not doing anything for their fellow workers and their fellow Victorians. Craig Johnston is out there with Campaign 2000 doing everything he can to undermine the enterprise agreements and the arrangements that are in place which have brought about record employment levels in Australia due to the activities of the Minister for Employment, Workplace Relations and Small Business and the changes that have been brought about in the industrial relations system.

As I mentioned, as late as yesterday there was a strike. It was claimed that 25,000 employees did not show up for work, affecting 1,000 companies across the state of Victoria. Is that the industrial democracy that the shadow minister for industrial relations and the member for Lalor talk about—and, no doubt, the member for Batman will talk about when he makes his contribution? Godfrey Hirst, a company in my electorate of Corangamite, was affected. People just walked off the job, which meant the profitability of that company was affected. Were the employees consulted about whether they would like to have a strike? That was brought about by the union bosses who have their own industrial and political agendas. So we have the situation where strikes have been undertaken—unlawfully, I might say,
under the current situation with the statutes, but they have taken place nevertheless.

I commend the legislation. I encourage the Democrats to pass the legislation this second time. They have seen the situation in Victoria, where enterprise agreements on the waterfront have allowed Alcoa and Ford and smaller enterprises to build up structures of cooperative activity between employees and employers. They have seen improvements in productivity, as the company reports are now demonstrating. We have seen prosperity in Australia, which has not been seen for 25 years, partly due to the industrial reforms introduced by the Minister for Employment, Workplace Relations and Small Business. This is a further addition to encourage, yet again, employees and employers to develop sensible outcomes to improve productivity and compatibility between the workforce and management to make Australia a better place. So I would, in good faith, encourage the Democrats to pass this legislation. It is put forward in the good faith that it will improve the situation and that democracy will take place—which the shadow minister is so keen to talk about. The Australian Electoral Commission can conduct ballots, if necessary. So people will have a say in the workplace. They will be able to conduct their affairs in a sensible way—unlike the situation we have in Victoria where employees are forced by the union bosses to go on strike day in and day out. (Time expired)

Mr ZAHRA (McMillan) (11.34 a.m.)—I welcome the opportunity to speak in this debate on the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000. Let me state upfront my support for the position of the opposition in relation to this legislation. I think you have to consider the legislation in the abstract. I think you have to consider the legislation in relation to the impact that it has in particular situations and particular workplaces. In particular, I think it is worth mentioning the two industrial disputes which have taken place in my constituency—the situation at G&K O’Connor abattoirs in Pakenham and also the Yallourn Energy industrial dispute. It is worth mentioning some of the comments which people in the judiciary have made about the actions of G&K O’Connor in relation to its industrial dispute which took place in Pakenham. This is a dispute which took place with the endorsement and support of the minister for workplace relations, who is sitting opposite. I will quote from a comment which was made by Justice Spender in the Victorian registry of the Federal Court on 4 October. Dr Jessup, acting on behalf of G&K O’Connor, said:

In any event, however one looks at it the notice is not simply say ‘it will be a lockout.’ They said, ‘It will be a lockout,’ which as it were sets the scene and gives it a context in the industrial vernacular which most people would understand and it’s not as though this is any particular fancy kind of lockout. This is a fairly unsophisticated one; it’s an all or nothing—

Justice Spender interrupted him and said:

In any event, however one looks at it the notice is sufficient here that our client didn’t simply say ‘it will be a lockout.’ They said, ‘It will be a lockout,’ which as it were sets the scene and gives it a context in the industrial vernacular which most people would understand and it’s not as though this is any particular fancy kind of lockout. This is a fairly unsophisticated one; it’s an all or nothing—

Justice Spender interrupted him and said:

Who Incorporated, your Honour?
I suggest Dr Jessup should go back and read a little about industrial history and understand exactly what it means when someone refers to a company such as Pinkerton Inc. in an industrial relations context. It was, of course, a company in the United States which was involved in all sorts of industrial relations thuggery, all sorts of criminal behaviour aimed at union busting and all sorts of action which people in Australia would consider outrageous in an industrial context. But here is a justice of the Federal Court referring to this lockout at G&K O’Connor’s abattoirs at Pakenham in my electorate as a lockout which is similar to the type of action which that company in America would have been involved in.

It is worth noting that the minister for workplace relations at the table has endorsed the actions of this company. In a personal interview one or two months ago he talked about how he thought about a company such as G&K O’Connor in Pakenham and how this was something which was really important to him. He said he could understand and was supportive of what they were trying to do. Yet a Federal Court justice considers the actions of that company so outrageous that he referred to them in his own terms as ‘a baseball bat lockout’. And this is the action which is being supported by the federal government; this is the action which is being endorsed by the minister for workplace relations. I consider it outrageous that we have seen no disassociation whatsoever by the minister from the company. In a recent Federal Court decision—

Honourable members interjecting—

Madam DEPUTY SPEAKER (Hon. J.A. Crosio)—I am loath to do it to the honourable member for McMillan, but I feel sure that if the minister and the shadow minister wish to have a conversation they can remove themselves to behind the chair. The honourable member for McMillan has the call and I ask him to continue.

Mr ZAHRA—The minister for workplace relations might not like this, but he will have to listen to it. He will do well to have a listen to it. He has an opportunity now to publicly distance himself from the action taken by G&K O’Connor. Up to this point he has not done so, but he needs to explain to all of the families that have been affected by the action taken by G&K O’Connor’s abattoirs whether or not he was on the side of the company, as he said he was, or whether he has now back-pedalled and changed his mind. He needs to come out very clearly and respond to the concerns which people in my constituency have expressed as to whether or not the quite barbarous action taken by G&K O’Connor’s abattoirs has been supported by the minister for workplace relations.

It is worth reminding the House and the minister of exactly how much hardship has been endured by the people of the Pakenham and district community as a result of this dispute. Some 350 workers were stood down during this dispute and locked out of their workplace because of the actions taken by the company. For nine months—which I think is the longest lockout in Australia since the Depression—not one comment has been made by the minister for workplace relations that this dispute needs to end, that this needs to stop, that we need to find a resolution, that we need to find a way through this or that we need to try and find some remedy to this industrial dispute. We have had only tacit endorsement of the action taken by G&K O’Connor. In that personal interview which the minister gave he talked about the significance of this struggling company there in Pakenham and how he really empathised and understood what they were trying to do by locking out their 350 workers and driving many of them into desperate circumstances. He said he could really relate to that. Now he has the opportunity in this debate to state very plainly to the House and to the people of Australia whether or not he condones the action of G&K O’Connor, whether or not he endorses the action taken by G&K O’Connor in locking out their 350 workers and driving many of them into desperate circumstances. He said he could really relate to that. Now he has the opportunity in this debate to state very plainly to the House and to the people of Australia whether or not he condones the action of G&K O’Connor, whether or not he endorses the action taken by G&K O’Connor in locking out their 350 workers and driving many of them into desperate circumstances. He said he could really relate to that. Now he has the opportunity in this debate to state very plainly to the House and to the people of Australia whether or not he condones the action of G&K O’Connor, whether or not he endorses the action taken by G&K O’Connor in locking out their 350 workers and driving many of them into desperate circumstances. He said he could really relate to that. Now he has the opportunity in this debate to state very plainly to the House and to the people of Australia whether or not he condones the action of G&K O’Connor, whether or not he endorses the action taken by G&K O’Connor in locking out their 350 workers and driving many of them into desperate circumstances. He said he could really relate to that. Now he has the opportunity in this debate to state very plainly to the House and to the people of Australia whether or not he condones the action of G&K O’Connor, whether or not he endorses the action taken by G&K O’Connor in locking out their 350 workers and driving many of them into desperate circumstances.
no longer meet the loans they had for their cars. All of this is the silent toll of industrial disputes such as the lockout which was created under the minister’s laws and with his tacit endorsement.

In this place we have talked in an economic context about the invisible hand. I would like to learn a little bit more about exactly what the role of the minister was in this dispute. The minister is now making a few comments, sniggering away in his usual smug way. In his remarks in this debate, I challenge him to state plainly what has been the role of his department, of his advisers and of all the other people who usually line up on his side to try and support companies acting in this type of reckless, aggressive manner. He should come clean. He should state very plainly once and for all whether or not he endorsed or endorses the action of G&K O’Connor and whether or not he, his office or the department has been involved in supporting the action which has caused a lot of hardship in my constituency. It is all right for the minister with his penthouse in Melbourne and all his mates with their fancy private school educations. I am not surprised at all that someone such as the minister for workplace relations cannot understand the significance or the impact of the Pakenham abattoir dispute on ordinary working people. What more could you expect from someone who was educated at Brighton Grammar School? What more could you expect? You could never expect someone who has come from that background to understand the significance of industrial relations to ordinary working people. They have gone nine months without pay, nine months without any support at all. They have been locked out for nine months.

It is worth noting, and I am sure that other people will mention this in their contributions, that last week the Federal Court in relation to this dispute—and it has been an ongoing dispute which no doubt has given the lawyers a lot of money as a result of the litigation which has been involved—handed down a decision whereby the Federal Court found in relation to some 35 workers who were locked out during the dispute that they were in fact entitled to back pay from the company. That will mean that the company, G&K O’Connor, will have to pay them between $10,000 and $20,000 each for the duration. So this is the wash-up of this dispute. It is ongoing. You have a situation where 350 workers have been locked out. Some of them are going back after nine months of lockout, others cannot get work anywhere else, others dribble into other jobs around the place; but there is complete destruction of the cooperation which once existed at G&K O’Connor’s abattoir.

This is the type of stuff which the minister for workplace relations wants to see. This is the type of behaviour which he wants to encourage. This is the nature of his actions. It is a race to the bottom rather than a race to the top. It is about encouraging the type of aggressive and confrontational behaviour which leads to situations where you have the breakdown of families as we have seen in the Pakenham abattoirs dispute as opposed to cooperation which leads to more flexibility in the development of these enterprises and the participation of the work force so that there is a real feeling that they are as much a part of the future of the enterprise as those people who own and run the company.

I challenge the minister, in his remarks, to come clean in relation to that. The people of Pakenham and district and all of the workers and their families want to know whether or not we have a minister of the crown who has been involved in a partisan way in supporting a company’s aggressive tactics against its work force, which has led to some 350 people suffering enormous hardship for all of that nine months.

Can I also bring to the House’s attention a dispute which is still under way in the Latrobe Valley.

Mr Reith—Madam Deputy Speaker, I rise on a point of order. I do not know which dispute the member for McMillan intends to refer to, but this is a bill about secret ballots.

Opposition members interjecting—

Madam DEPUTY SPEAKER—Excuse me, I have not ruled on the point of order. At this stage the minister is able to finish.
Mr Reith—I only ask that he be something within cooee of being relevant to the bill.

Madam DEPUTY SPEAKER—There is no point of order. The title is Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000. An amendment has been moved. I have listened to the debate by both the government and the opposition. The honourable member for McMillan is in order to continue in the debate.

Mr ZAHRA—Thank you, Madam Deputy Speaker. It seems that the minister for workplace relations just hates to hear the words ‘Latrobe Valley’. He just hates to hear any reference at all to the Latrobe Valley. I am reminded of a time when he actually came to the Latrobe Valley and spoke at a forum which the Australian Institute of Management organised for him—very kindly, I would add—in Churchill. He was asked by a punter in the crowd about unemployment in the Latrobe Valley. The punter said to him, ‘We have 17 per cent unemployment in the Latrobe Valley; you’re the minister for employment, what are you going to do about it?’ The minister said, ‘Basically, all of the problems in the Latrobe Valley are being created by industrial relations; that is really why we have got such high unemployment.’ What a ridiculous answer. We have gone from having around 12½ thousand to about 2½ thousand jobs in the power industry in the Latrobe Valley over a period of five or six years. We managed to achieve that in the Latrobe Valley without any major industrial disputation. It is a credit to the unions and people involved in the negotiations. What we have seen, though, with the introduction of Peter Reith’s act and the entry of an aggressive international company like Powergen International is that they will use the mechanisms provided in Peter Reith’s act—

Madam DEPUTY SPEAKER—Please use the minister’s full title.

Mr ZAHRA—Sorry, the minister for workplace relations’s act, to achieve their ends, which is all about breaking the influence of any workplace union representative. They will use whatever mechanisms are available under the minister’s legislation to achieve their ends, without any concern at all for the impact that that is having on the workforce, on the wider Latrobe Valley community or on the state of Victoria. We have gone from such a large work force of 12½ thousand to 2½ thousand with very little, if any, industrial disputation or power disruptions for the first time in a long time in Victoria with the entry of a new company and a new piece of legislation. That really demonstrates the type of outcome you get when you have a minister for workplace relations such as we have now, and the type of legislation which he encourages and has enacted, at least to some degree, and the type of behaviour which he wants to encourage and support.

I want to mention an industrial dispute taking place still in the Latrobe Valley, at the Yallourn power station about 10 minutes drive from Moe. This dispute has gone on for maybe a little longer than 10 or 11 months. People will remember that this was a dispute in which the maintenance workers were actually locked out by the company for some 63 days. It led to power disruptions in the Latrobe Valley and right across Victoria. It created a lot of difficulty and a lot of uncertainty for the workers involved. I have to say that this is the type of behaviour and action which is encouraged by the minister for workplace relations and by his legislation.

I mentioned before that we had moved from having around 12½ thousand to about 2½ thousand jobs in the power industry in the Latrobe Valley over a period of five or six years. We managed to achieve that in the Latrobe Valley without any major industrial disputation. It is a credit to the unions and people involved in the negotiations. What we have seen, though, with the introduction of Peter Reith’s act and the entry of an aggressive international company like Powergen International is that they will use the mechanisms provided in Peter Reith’s act—

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He wants to see more lockouts. He wants to see more uncertainty amongst workers and he really does not care about communities such as the Latrobe Valley, as demonstrated by his blase response to that person who asked him the question about the employment situation in the Latrobe Valley. I would say to the company involved in the dispute—Powergen International—that there are many of us who have worked very hard for many years trying to build a positive industrial reputation for the Latrobe Valley—many of the companies have been involved in doing that—

Mr Reith—Madam Deputy Speaker, I rise on a point of order. Obviously, in a bill relating to workplace relations amendments, a fairly wide scope is fair enough, and I do not have any objection to people raising pretty well any workplace relations matters, but the young member for McMillan has not even referred to the substance of the matter which is before the House. Fair is fair—there has to be some relationship to the matter which is actually before the House.

Madam DEPUTY SPEAKER—Order! You have expressed your point of order.

Mr Reith—Before that—

Madam DEPUTY SPEAKER—Read the amendments.

Mr Bevis—Further to the point of order, the minister was not here at the start of the debate, when I moved an amendment. I suggest he look at the amendment; he will see that the amendment to which the member is speaking covers the full range of industrial relations matters, including a criticism of this government for its actions and including a set of principles that we have said the parliament should adopt in pursuing a decent industrial relations policy. Clearly the debate is within those bounds and the member is well within the standing orders.

Madam DEPUTY SPEAKER—I am well aware of that. Previously, when a point of order was taken, I was looking at the amendment. I suggest that both sides of the House read the amendment that has already been moved and has been accepted in the debate before the chair. There is no point of order. The honourable member for McMillan will continue in this debate.

Mr ZAHRA—Thank you, Madam Deputy Speaker. As I was saying, there has been a lot of good work done in the Latrobe Valley to build a positive industrial reputation for our district. Many of the other power companies have been involved—Loy Yang Power, Hazelwood Power, Energy Brix—and many of the other employer organisations in the district have been involved. I remember that in 1995 we launched a document called the ‘Latrobe Valley Development Agreement’ which brought together the Australian Chamber of Manufactures, VECCI, the Gippsland Trades and Labor Council, and a battery of other organisations to try to promote development in our district. It was a landmark agreement and we were all very proud of that.

It is all for nothing—it is as if that effort was for nothing—when you have a major industrial dispute such as Yallourn Energy’s dispute, which creates an impression of the Latrobe Valley as being an industrial hot spot, which it is not. That is the type of behaviour that is encouraged under the legislation of the minister for workplace relations. That is what he wants to see more of, without any consideration for the toll which that type of action extracts from our community.

Mr Reith—Tell your union mates to stop their industrial action.

Mr ZAHRA—The minister says I should tell my union mates to stop their industrial action. He should tell his mates at Powergen International to stop using the lockout as a mechanism for trying to resolve its industrial disputes. He should tell his mates at Powergen International to stop taking this type of reckless industrial behaviour that leads to uncertainty in our community. (Time expired)

Dr NELSON (Bradfield) (11.54 a.m.)—I consider it a privilege to be able to contribute to the debate on the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000. It is interesting to look back over the course of your life. The member for McMillan has a relatively short life to look back upon, which is obvious from his
Mr Zahra—Were you in the Labor Party when you were 10?

Dr NELSON—I am about to deal with that. Most of us do everything that we can to establish a relationship with our children. My father worked in the maritime industry. He was a marine chief steward. I used to go onto the ship when the ship was in port and mix with my father’s workmates, including the able seamen. I had a friendship, I suppose, with a number of the seamen who worked on the ship, and one particular seaman used to let me ride a bicycle that he used to bring down to the ship, which for a young kid like me was a great experience. I remember one day seeing him and his wife having an argument next to their car on the wharf. I did not know what it was about, but it worried me. I will not name this person, because he may still be alive, but I said to my father, ‘Why are they having a fight?’ Dad said, ‘Oh, the ABs are going to have a strike.’ I did not know what that meant. He said, ‘They have basically decided that they are going to go out; they are not going to work and the ship will not be sailing.’ For me as a 10-year-old that was good news because it meant that I would see more of my father. But I said to him, ‘If they’ve decided to do that, why is he upset about it?’ My father said, ‘He doesn’t have any choice. He has to be a part of the strike.’ I said to my father, ‘He doesn’t have to strike. Why can’t he just work?’ He said, ‘Son, if he doesn’t go on with the strike he will find himself over the side of the ship with a broken leg or worse.’

I can tell you that as I grew up and became a teenager I saw the worst excesses of unionism in the maritime industry—and not just the painters and dockers, the able seamen’s union and the Cooks and Stewards Union, of which my father was a member and an active supporter for a period of time. I saw the way it affected him. He ended up losing his job for a year because of the behaviour of that union. The member for McMillan sought to bring some ‘class-ist’ language into his contribution, but I can assure you that I do not have a privileged background. I remember a year of my life when my father did not have a job because of the union that he had spent much of his life supporting, because the union had a rule that the last on was the first off—it did not matter how good you were. My family spent a lot of time just struggling to keep a house and keep us fed. That is what life was about.

As we come to this particular bill and the whole question of whether there ought to be a secret ballot or not, what many of the members on the opposite side need to understand—and two-thirds of them come from a union background and have been delegates, representatives or employees of unions in some way—is that only one in five Australians whom we represent who are listening to this debate are actually members of unions, members of the organisations which this bill refers to and affects. You say to yourself, ‘What might be the reasons for that?’ I will give you one insight. We have recently had Patrick McClure from Mission Australia conduct a national review of income support and welfare programs. The ACTU did not make a contribution. Are the unions unconcerned about people who do not have work? Are they unconcerned about those who rely on the taxes and hard work of workers in Australia? I have been having quite a serious look at employee share ownership. The unions tend to take the attitude that this is something they do not really want to get involved with. In fact, the union approach is summarised by the title of its paper, ‘Handled with care’. Yet every day workers want opportunities to actually have some active participation in the company for which they work, to have some shares in that company. If the unions were smart, they would be setting themselves up as advisers in this area.

Yesterday, for example, as members would be aware, we saw the Metal Trades Federation of Unions in Victoria going for a 15 per cent pay increase over 33 months. Business Intelligence Australia has estimated that the cost of this campaign in lost production will be around $70 million. Yesterday alone, it is estimated that workers and families lost $5 million and the Victoria government lost $2 million. Email, Austrim, Southcorp, Cadbury Schweppes and Amcor—all up, 1,000 companies were targeted and
25,000 workers, everyday men and women who are struggling to pay mortgages, raise kids and meet their car payments, basically were told by the unions that they could not go to work and they did not have an opportunity for a secret ballot to decide whether or not they would participate in that campaign. The reason why a secret ballot is so important is that people are vulnerable to intimidation of the worst possible kind when others know how they are voting. When the member for Lalor spoke in relation to this bill, she used terms like ‘thuggery’ and ‘abuse’. It is interesting that that sort of language seems to colour much of the contributions that relate to the behaviour and regulation of unions.

Even the Australian Industrial Relations Commission does not have the power to prevent pattern bargaining. That begs the question: why should any of us worry about pattern bargaining? Why should we worry about secret ballots? Why should we worry about pattern bargaining? Why should we worry about the worst excesses of the unions in this country? When in 1991 the Commonwealth Statistician announced the September growth figures in GDP as 0.34 per cent, not only did it signal the end of a recession—the recession that everyday men and women were told by the then Treasurer, Mr Paul Keating, that they had to have—but also it heralded the beginning of an extraordinary decade of growth. When those September figures came through, the all-ordinaries, as BRW recently reported, sat at 1,650 points. Unemployment was in excess of 11 per cent. Over one million Australians did not have a job and many of them had not even a reasonable prospect of getting one. Mortgage interest rates were 13 per cent, which was down from 17 per cent only a year earlier.

Last year, after almost four years of a Liberal coalition government, the economy in this country grew at 4.3 per cent, with neither an inflation break-out nor a wages break-out. Currently, unemployment is 6.3 per cent, trending towards six per cent. That is something that you would think both the unions and the Australian Labor Party would celebrate. I have not yet heard a word said in this parliament by a Labor representative applauding the fact that we are at 6.3 per cent and heading towards six per cent and in particular, as you would be well aware, Madam Deputy Speaker Crosio, towards four per cent in traditionally the worst affected areas in the western suburbs of Sydney.

In less than five years, real wages for the lowest paid workers in Australia have increased by 9.6 per cent in real terms. That is a real increase in the value of the dollar that the everyday man and woman looking for footie results in the Daily Telegraph today have in their pockets. In contrast, under the policies implemented—not proposed—by Labor governments through the Hawke-Keating years, real wages dropped by seven per cent. The value of the money that workers had in their pockets was declining because the Labor Party had an arrangement with the unions, by whom they are controlled, that there would be an accord, that there would be a restraint in wages, in return for which we saw excessive levels of public and government expenditure, that there would be no attempt to reform the inflexible taxation system, which we have recently managed to reform, and no real enthusiasm for introducing necessary and overdue reforms into the Australian economy. The question is: why then are we now doing so well? Why is it that everyday working men and women are now better off than they were five years ago? There are four reasons.

One reason is structural reforms. The painful reforms in the energy industry in the Latrobe Valley, to which the member for McMillan referred, have played a critical role in creating wealth and increasing the standard of living for all Australians, contributing to high levels of growth so that governments can distribute money to people who have neither power nor influence. The second reason is that as a nation we are smarter about the way we use capital. Capital has shifted into more productive industries and enterprises. The third is that we have also seen a move from low to high productive industries. The fourth and probably most important reason is that we have seen deregulation of the labour market, some of it initiated by the Keating government, from which the current opposition wishes to re-
treat. As pointed out by the Governor of the Reserve Bank, Mr Ian Macfarlane, the deregulation of the labour market essentially means that it is easier for workers to negotiate working arrangements with their employers and has created an environment in which we can grow our economy without having a wages and inflation break-out—things with which we were painfully familiar under successive Labor governments.

The Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 requires that a secret ballot of affected workers be held before the right to strike can be lawfully exercised. Although provision for secret ballots at the federal level has long been available, they have not been a precondition to industrial action. Secret ballots are fair. They are effective. It is a simple process to determine whether or not a group of workers really want to take industrial action. This principle has long been held by the Liberal Party. It is one of the tenets for which the Liberal Party stands. The Liberal platform issued by the federal secretariat of the Liberal Party in November 1948 said:

Restoration of democratic control of their own affairs by unionists, by means of the secret ballot both in relation to the election of officers and other specified industrial decisions.

In the 1949 election policy speech, Robert Menzies said:

Industrial democracy we propose to give back to the rank and file of the unions and other registered organisations by providing that the rules of each organisation shall contain provisions for the election of officers and the taking of decisions involving stoppages by secret ballot.

And here we are half a century later still having a debate in the federal parliament about whether everyday workers should be free to exercise the right, if not be required to have the right, to choose to have a secret ballot before they take industrial action. We are actually having to have a debate about it. Yet in other parts of the world, in some countries which are leaving us behind in this sense, led by Labor governments, this is an accepted part of the industrial framework, if not considered desirable. What this bill does is propose what the vast majority of fair-minded Australians generally and workers specifically would consider to be plain commonsense, and that is that a postal or similar ballot process should be undertaken before accessing industrial action.

The member for Lalor, in referring to the bill and this proposal, said, ‘Unions will take the risks of involving themselves in illegal industrial actions.’ She went on to cite the Western Australian case of the unions saying that it is not a problem for members in relation to taking illegal industrial action. What is it about unions that gives them the right to defy the laws of the land? If this parliament decides that we are going to have secret ballots for industrial action, does that mean we are going to have more unionists out the front of this building? Does that mean we are going to have more people trying to break down the walls of this building to get in here?

Mr O’Connor—What about your minister? What about the dogs and the balaclavas on the wharves?

Dr Nelson—I would foreshadow now that unions will have a very strong presence at the Melbourne trade negotiations that are imminent. I will be most interested to see what nature and behaviour those demonstrations actually take.

Under this bill, the ballot requirement would apply to both members of a union and a group of unrepresented employees in a workplace who are negotiating a federal certified agreement. If a union applies for a vote, only union members will then participate. If on the other hand a group of employees in the workplace apply for a ballot, all eligible employees will be entitled to vote, and at least half must vote and more than half must approve the ballot to take industrial action against the employer. Amongst the many things agreed to by the Australian Labor Party when it went to Hobart was that we would see a situation develop where essentially if you had 100 employees in a workplace and you had one member of that union,
one of those 100 employees in the workplace, then all of those employees would have to abide by whatever that single member of that union wanted to do, that a union would have to be involved. This is one amongst a whole range of other things that were proposed in Hobart by the Australian Labor Party federal conference to roll back those things that have given effect to the economic and social development of this country over the past four years.

Prior to the 1998 federal election, the Australian Democrats proposed to the Australian people that they would introduce secret ballot requirements before the taking of protected industrial action. As I understand it, the Australian Democrats run by the dictum that they should ‘keep the bastards honest’. I am struggling to understand why it is, 18 months after the federal election, that the Democrats do not yet seem to have given effect to their pre-election commitment. On 29 November last year, for example, Senator Meg Lees, the Leader of the Australian Democrats, for whom I have a very high personal regard, was asked by Mike Jeffries on Radio 2GB in Sydney:

But as a general principle wouldn’t you support secret ballots?

Senator Lees said:

Oh absolutely, and indeed the government has been quite clever in the way that it has actually put this legislation together and the emotive issues that it has highlighted such as secret ballots...

Jeffries then said:

But why not just have all ballots secret as a matter of course?

To which she replied:

If we could go back to the government and talk to them as you’re talking to us, you know, in what I would describe as a reasonable and logical fashion—

for which the minister has a very strong reputation, I might add—

then the answer comes out as yes, there should be that provision.

So, for those Australians who chose in a democratic society to give their support to the Australian Democrats, I can only urge you to contact your appropriate Australian Democrats representative, if not Senator Lees, and ask the Democrats to support their pre-election commitment to support a secret ballot, which this bill proposes. I also note that the Melbourne Age of 23 June, in covering this issue in its editorial, said:

Secret ballots of union members to authorise industrial action are a good thing too because they prevent people being intimidated at an open meeting into voting against their wishes. And conducting union ballots by post under the supervision of the Australian Electoral Commission is also a good thing because it eliminates the possibility of corruption.

It is interesting that these terms often spring up when we are talking about unions and their leaders in deciding what their members, the everyday workers, are actually going to do.

This is a bill whose time has come. This legislation, if enacted, will mean that everyday workers will have the chance to have a real, unintimidated say in what their union is going to do in relation to industrial action. Paradoxically, if it is enacted, I think that unions will actually find it easier to recruit members, because they will have the opportunity to have a say without some of the thugs standing over them telling them what they are going to do. (Time expired)

Mr LAURIE FERGUSON (Reid) (12.14 p.m.)—Clearly, the lack of passion in the contribution preceding me relates to the continuing association of the member for Bradfield with an organisation of which he was a leader. If any organisation in this country acts in restraint of trade, it is that organisation. There are two possible analyses as to the motivation behind the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000. On the first hand, it could be an attempt by the government to exploit for electoral purposes what they perceive as the unpopularity of the union movement. Alternatively, it could be a belief held by the Minister for Employment, Workplace Relations and Small Business that through it he will succeed in further undermining the trade union movement and members’ rights and in further driving home inequities in this country. I prefer the latter explanation. The minister is a student of
history. He hankers for the shearers’ strikes of the 1890s and the use of militias and Gatling guns. He hankers for the 1920s and 1930s and the Bruce government which attempted to expel—

Mr Reith—The member for Flinders.

Mr LAURIE FERGUSON—As he remarks, the member for Flinders was involved—a predecessor of his. He harks back to the attempts by the Bruce government to expel from this country Walsh and future Premier of New South Wales Heffron in regard to their citizenship in order to further undermine the unions. He is, of course, associated with one of the most aggressive acts against members’ rights—an act which occurred in the maritime area. All of this is indicated by his comments in Perth in 1998, which many other speakers have cited. He was speaking on a matter that was very dear to his heart. He felt very strongly when he told those employers:

Never forget the history of politics and never forget the side we’re on. ... We’re on the side of people owning capital.

Mr Reith—What is wrong with that?

Mr LAURIE FERGUSON—He says, ‘Sure.’ Business Review Weekly is apparently wrong. Quite frankly, the Democrats and the Australian public think that he has been particularly interventionist. When we refer to the Democrats and where they should stand on this legislation, we should remember the kinds of comments that he made back in 1996. It was all very rosy then. He made one of his attempts to revise his actions in industrial relations. He would say that what he tried to do last week was wrong and that he was going to make another effort. He would say, ‘Situations change; we need new legislation. I did not really understand that things were going to move in this direction. I will try again.’ Of that effort then, he said:

The genuine concerns that have been put to us by the Australian Democrats were indicative of the legislation that we came up with.

He said:

... we wanted to ensure that it was a fair deal in the end.

Following that, a large number of Australian people would have thought that we had reached some conclusion, some finality, in regard to where he was going. He said to the Australian people that he had been persuaded by the Democrats, that he had been moved towards fairness, that maybe he had been wrong about some aspects of the legislation. But since then we have seen a constant endeavour to further undermine the trade union movement in this country and to drive down wages and conditions. We have seen a belief that our future lies in Asia and that we must consequently be competitive with it. This is despite the very poor research and development effort in Australia, a fact which he is well aware of. We need to drive down wages and conditions: that is the fundamental thought behind his actions. I note the contribution from the member for Corangamite.

Mr Reith—How come our wages have gone up?

Mr LAURIE FERGUSON—That wages and conditions might be changing in this country might reflect the overall economic situation. I refer to the remarks of the member for Corangamite. He came up with this simplistic kind of stuff too. He said that, if you deregulate the labour markets, automati-
cally wages are improved. As the minister is quite aware, this is a spurious argument and I do not need to cite hundreds of articles to undermine that argument. I will just refer to the research efforts of the Parliamentary Library in a document entitled ‘Australian Labour Market Deregulation: A Critical Assessment’.

On the surface, the US performance is impressive but the linkage between deregulation, wage dispersion and lower unemployment is based on a selective and misleading analysis of US labour markets. In terms of jobs-growth rates, Washington’s Econmic Policy Institute shows the US only averaged one per cent per annum between 1989 and 1996—a rate which was much lower than other more regulated labour markets such as the Netherlands (1.5 per cent) and Ireland (2.3 per cent). Examples like this suggest that there is little in the way of a neat correlation between jobs growth and the degree of labour market regulation. Additionally, it is almost identical to Australia’s performance during this period (0.9 per cent). Indeed, if the comparison extends back to the 1980s—before labour market deregulation—when Australia’s job-growth rate outstripped the US (2.4 per cent against their 1.7 per cent), Australia’s employment performance is actually superior to the US. The United States’ impressive unemployment rate of 4.7 per cent is related primarily to the slowdown in labour force participation growth to about half the rate of the 1960s and 1970s.

That is about the question of job creation, and similar provisions apply in regard to wage movement.

Mr Reith—Where is all that going?

Mr LAURIE FERGUSON—I am answering the member for Corangamite’s argument that there is a clear correlation between labour market deregulation and jobs growth.

Mr Reith interjecting—

Mr LAURIE FERGUSON—What did you say?

Madam DEPUTY SPEAKER (Hon. J.A. Crosio)—I am sure he did not say anything. The minister will have his right of reply; he will be able to take copious notes and reply.

Mr LAURIE FERGUSON—A similar view is given by Anis Chowdhury in ‘Centralised vs. decentralised wage-setting systems and capital accumulation—Evidence from OECD countries, 1960-1990’ in the Economic and Labour Relations Review. The article says:

Perhaps the best statement in relation to labour market policy is made by Argy that one cannot be dogmatic. Furthermore, as the variation within each group shows, it is not at all clear that a policy which appears to improve the macroeconomic performance in one economy can be transplanted to another economy with similar effectiveness. Yet based on the findings of section IV, one can make some tentative judgements. Both the UK and the USA are among the worst performers (in terms of investment/GDP ratio) despite the fact that union density in the two countries is significantly different. Both, however, share the characteristics of the absence of a corporatist spirit.

So the argument of the member for Corangamite that if we further undermine the union’s influence in the Australian economy all will be rosy—we will have growth in employment and we will have real wage improvements—is very questionable.

I really have to question the member for Herbert’s deep concern with this South Korean corporation that he comes in here every day of the week to praise. This is a party which, through the Greenfields Foundation, is very inclined to be secretive about its donations, and I would have some doubts about the degree to which his motivation is really about industrial relations.

Mr Reith—On a point of order, Madam Acting Deputy Speaker: this latest line of argument or submission or contribution from the member—

Mr Slipper—You couldn’t call it a contribution.

Madam DEPUTY SPEAKER—The minister is on his feet with a point of order.

Mr Reith—is neither relevant to the bill nor relevant even to the amendment, which I think is justifiable. But even looking at the width of the amendment, which covers everything plus the kitchen sink, a personal attack on the member for Herbert is not relevant. Furthermore, I am not sure what personal accusations he wants to make but if people want to make personal accusations of that sort, which he seems to be heading towards, they have to do so by substantive
motion, as you well know, Madam Deputy Speaker.

**Madam DEPUTY SPEAKER**—I am aware.

**Mr Reith**—So he is clearly completely out of order and I ask you to require him to stick somewhere within the confines of the bill and the incredibly wide amendment.

**Madam DEPUTY SPEAKER**—As the minister would be aware, it has become a very wide debate, even in the short time that I have been in the chair. I take the point of what you have said and the member for Reid will take on board that, if he wishes to criticise another member of the House, he will use another action, not this particular bill.

**Mr Slipper interjecting**—

**Madam DEPUTY SPEAKER**—Order! If the parliamentary secretary wishes to speak, he too can raise his hand. The member for Reid has the call.

**Mr LAURIE FERGUSON**—With respect, this is not the first occasion on which we have heard impassioned pleas from the member for Herbert about the situation of his South Korean corporation, and of course here today he told us how dreadful the view of the South Koreans was about Australian industrial relations and that they are a model that we should perhaps emulate.

**Mr Reith**—That is not what he said.

**Mr LAURIE FERGUSON**—It is what he said.

**Mr Reith**—No, he said he was worried about the reputation.

**Madam DEPUTY SPEAKER**—Order! The minister, in his right of reply, will have a right to differ. The member for Reid has the call.

**Mr LAURIE FERGUSON**—He cited the views of South Korean corporate representatives. Talk about wild allegations. He made unsubstantiated claims that people were bashed up—no citation of any articles, no police reports, no investigations; nothing whatsoever—just a broad brush claim that in the town of Townsville, if anyone disagreed with the unions at a meeting, they were bashed up. He went on to cite—in the one citation he did make—newspaper polls ringing up workers at their homes in regard to what they thought about an industrial dispute. He claimed that there were articles in some Townsville throwaway that members at home had certain views.

Quite frankly, one can question the degree to which in any organisation a show of hands implies a degree of community pressure upon the others. There can be an argument of that sort in any organisation—a football club or a trade union. One might argue that perhaps people do feel under some pressure on either side of the debate—whether they go on strike or do not go on strike. But to come here and cite some alleged union poll where people are getting a phone call from a local newspaper—which is probably as influenced by this South Korean corporation as the honourable member seems to be—saying, 'Do you agree or disagree with this strike?' is just preposterous. It is quite likely the newspaper is going to get over the phone a degree of concern. Obviously, the person at the other end of the phone knows who they are ringing, because they are not ringing everyone in the street; they are ringing up members of this trade union in this strike. They know who the person is. The person knows they have been identified and knows that they can suffer intimidation from companies. Yet the newspaper supposedly says this poll means that people do not want to strike.

**Mr Reith**—So there should be a secret ballot.

**Mr LAURIE FERGUSON**—For the member for Flinders, who has seemingly very little knowledge of the realities of some of these polls, I will cite some leading examples in this country. For instance, the One Nation Party—whether people believe it or not—poll significantly better on election day than they do in any public opinion poll. I wonder why.

**Mr Reith**—Because of the secret ballot.

**Mr LAURIE FERGUSON**—Because people are embarrassed by their views.

**Mr Reith**—It is because of the secret ballot issue.

**Madam DEPUTY SPEAKER**—Again I call the minister to order. The minister has a
right of reply. The member for Reid has the call.

Mr LAURIE FERGUSON—As I said, the situation is about the great reliance that can be placed upon this ballot. The member opposite was talking about ‘democracy’. He was saying that the motivation behind this is to give people rights. Let us have some concern about the perpetrators of this legislation. If we were to go around this country at the moment, what would we see? We would see the offices of Senator Calvert and Senator Abetz being involved in branch stacking against Senator Watson. We would see a situation where Senator Brandis in Queensland, an associate of the person interjecting now—

Mr Slipper—On a point of order, Madam Deputy Speaker: you pointed out that the amendment before the chamber is certainly very wide ranging, but it does not relate to the internal workings of any particular political party. I think it is outrageous that the member opposite makes these allegations, which are quite false. He is out of order and you should shut him up.

Madam DEPUTY SPEAKER—Your point of order is taken. I will not shut him up. He has the floor in debate, but I take on board your point of order and I will rule that way. We will confine the debate on the floor to both the bill and the amendment.

Mr LAURIE FERGUSON—With respect, whilst in a broad manner this question of secret ballots and the Liberal Party’s internal affairs might seem to be distant, this is a party coming before the Australian parliament, coming before the people, and saying its motivation is democratic and that it is interested in widening rights. Obviously, the experience of Mr Michael Johnson in regard to recent secret ballots in Ryan does lead to some doubts about that.

Mr Reith—On a point of order, Madam Deputy Speaker: this is a clear breach of the ruling that you have just given. The member for Reid has clearly come into the House today to use this bill as a vehicle for making all sorts of other allegations. The legislation before the House is the workplace relations—

Madam DEPUTY SPEAKER—The minister, on his point of order, has expressed the point that he is putting.

Mr Reith—I am, I think, entitled to make my point. It is the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill. That has a fairly narrow set of parameters to it. There is a wider ambit obviously available under the amendment moved by the opposition, but the reference to a Mr Johnson or any other personalities within the Liberal Party in Queensland is clearly totally and completely outside it. I ask you to ensure that he does not, for the third time, breach the ruling that you first gave.

Madam DEPUTY SPEAKER—The minister will resume his seat.

Dr Nelson interjecting—

Madam DEPUTY SPEAKER—I am sure the minister does not require help from the member for Bradfield. I have ruled previously that the honourable member for Reid will stay within the confines of the debate and the amendment before the chair without bringing any extraneous actions into it.

Mr LAURIE FERGUSON—Obviously, Madam Deputy Speaker, we can take it as read that there are some doubts about the honesty and integrity of the government pursuing this matter over a concern for democratic processes, given this recent history of its own internal affairs. What essentially does drive this, as I said earlier, is an overall attempt to undermine conditions, to ensure that trade union activity is stymied and interfered with, in that there has to be a notification to the employers in this secret ballot, as the member for Bradfield notes.

Dr Nelson—Democracy is a collective right.

Mr LAURIE FERGUSON—He nodded to the point I was making, that essentially part of the motivation behind this legislation is the need to give employers some notice of the motion to be put to these secret meetings and the nature of the trade union activity, the duration of it and the timing of it. All of those aspects are obviously to be indicated prior to the ballot and the employer shall duly receive notification of that situation. To
my mind, the essential motivation is, as I said, to ensure that conditions further deteriorate in this country. Stephen Long, in the Financial Review of 12 March last year—

Mr Reith—Oh, yeah.

Mr LAURIE FERGUSON—another person with whom the minister does not agree—said:

“At the centre of the new economic system ... is the rotating worker—and this is a reality in this country—write Larry Elliott and Dan Atkinson in their book The Age of Insecurity, “forever in danger of being revolted out into the market to be replaced by cheaper labour from outside. The internal market, the process whereby employees live in a state of constant competition against each other and against external contractors, is the final development in the transformation of work from a sort of quasi-tendency from which the employee could be evicted only on payment of redundancy money into a fleeting, transitory experience, infused with terror at the prospect of it ending, akin to a teenage love affair.”

A recent article by Iain Campbell in the Journal of Australian Political Economy—another magazine that I know the minister would have some disdain for—entitled ‘Age and Gender in the Process of Casualisation in Australia’ drives home very fully the situation in this country of the further casualisation of the work force to the point where casualisation is becoming a long-term career situation. It is not an ephemeral, short-term transition; it is part of a situation that is becoming far more pronounced. This article also made the important point that the degree of compensation to casuals in this country is far worse than in most nations around this earth. I have not seen too much activity on the part of the minister, who is so interested in the conditions of workers that he wants to give them secret ballots, to try to rectify the situation. As we heard earlier, we have not seen too many loud-mouthed speeches from him in relation to lockouts around the country, where people are thrown out of work for month after month. He has been very silent. The article made the point that:

... whereas the trend in European countries is towards a mitigation of the disadvantages of fixed-term employment—most recently through the EU Fixed-Term Directive ... — the trend in Australia appears to be towards an exacerbation of the disadvantages of casual employment.

Mr Reith—That is not true.

Mr LAURIE FERGUSON—There are no facts to back your argument. This suggests that the problem of casual employment in Australia is even more marked than is apparent from the simple cross-national comparison. Mr Campbell goes on:

New Zealand has ‘casual employees’, but these are covered by statutory regulation that extends paid annual leave and paid sick leave to all employees ... He further says in that article:

The best indicator here is a lack of entitlement to paid annual leave. Here the anomalous position of Australia stands out even more clearly. In most OECD countries—

and I admit that the minister is right: in South-East Asia they do not have these conditions—

there is comprehensive statutory regulation that gives all employees a minimum entitlement to paid annual leave (though the length can vary), and as a result the figure for employees without such an entitlement will be close to zero. What we are seeing in the work force in this country is further casualisation and further undermining of people’s rights in a situation where they are constantly threatened. The minister does nothing about these threats to individual employees; all he does is come into this House with a bit of rhetoric about how a party associated with ballot rorting, which attempts to get rid of Senator Watson, is interested in people’s rights and secret ballots.

Mr ST CLAIR (New England) (12.34 p.m.)—I rise today in support of the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000. This nation has a great history of hard and dedicated workers in a wide range of industries. Having been involved in small industry for 32 years, 26 of which I spent in my own business employing people, it is a great pleasure to stand here today and reflect on a few of the things that are happening and what is coming from the other side. In the last few decades, there has been a move to destroy the individuality of the Australian worker. This push is coming through the unions and
ex-union officials on the opposite side of the chamber, the Labor Party, as well as the Democrats in the Senate. It is a shame that there are many members elected to this place who have the sole intention of destroying the Australian work force. Unlike this government, the Labor Party and the Democrats are out in force to stop any reforms to these workplace relations acts. The reforms that have been put up by this government, only to be knocked on the head by the opposition, are vital to future generations of Australia.

The Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000 is another step in the process of workplace reforms for this nation. This bill introduces a postal or similar ballot process for the purpose of providing access to protected industrial action for both members of an employee organisation—for example, a union—or a group of unrepresented employees in a workplace who are negotiating a federal certified agreement. Thus the provisions will not apply to award negotiations or to Australian workplace agreement negotiations. Nor will it apply to employers, for example the shareholders of companies, which initiate industrial action against their employees. Two streams of employees are envisaged to be able to access the provisions. Where the application is by a union, only union members will be able to vote. Where application for a ballot is by a group of employees in a workplace, all eligible employees will be entitled to vote. In such a ballot 50 per cent at least must vote and more than 50 per cent must approve the ballot to take industrial action against an employer.

The ballot paper will advise them that they are not bound to take any industrial action even if they have voted for it. Without such a ballot, protected industrial action will no longer be authorised by the Australian Industrial Relations Commission. Application for protected action can be accessed only during a defined bargaining period. The stated justification for these new procedures is that they will ensure that those who take the action have made the decision. There is no provision requiring a ballot to lift or to cease protected industrial action. The coalition’s Workplace Relations Act 1996 allows employees and employers to negotiate improved pay for improved productivity at the enterprise level. The act provides for a genuine award safety net for low paid workers and establishes the right to freedom of association.

Since 1996, the coalition has averaged 92 working days lost per 1,000 employees due to industrial actioned compared with Labor’s average of 190 working days lost per 1,000 employees. Most industrial action that occurs today is in Labor governed states. In February, 92 per cent of industrial action was in Victoria, New South Wales and Queensland.

Mr Reith—Labor policy in action.

Mr ST CLAIR—As the minister said, Labor policy in action—demonstrated and proven. This government has an outstanding record of achievement when it comes to workplace relations and industrial relations reforms. I would like to remind the House of a few of these highlights since this government came to power in 1996. The government has increased total employment to a historic high of 9,008,200 jobs seasonally adjusted, up by 699,600 from when Labor left office in 1996. In April, Australia broke the nine million jobs mark—an extraordinary effort. This rate of job creation has been twice as fast as jobs growth under Labor. Average annual jobs growth under the coalition is 171,300 jobs compared with just 70,600 under Labor.

Full-time jobs have been the coalition’s hallmark. Over the year to April 2000, employment increased by a seasonally adjusted 291,900 jobs, of which more than 70 per cent were new full-time jobs. Full-time jobs have grown by more than 381,000—over seven times more new full-time jobs than Labor created in its last two terms of government. The coalition reformed the waterfront. With the assistance of the government’s industry funded redundancy scheme, overmanning has been dramatically reduced. Net rates of 30 containers per hour are now being achieved, almost double the previous performance. I had the pleasure of being at the Fremantle ports the other day and noticed the gains they have made in productivity in their container ports. These rates are being achieved with gang sizes that are half of
what they were. Productivity is therefore approaching a 400 per cent improvement. The government has fulfilled its commitment to increase the number of apprenticeships. Apprenticeships hit 264,210 up to March 2000 this year. An extraordinary effort—tremendous. The government has introduced the Work for the Dole Scheme, strengthening the experience, skills and work ethic of those seeking employment in small business.

One of the key problems facing job seekers is the current unfair dismissal legislation. The unfair dismissal system cost jobs and broke the confidence of employers to hire new permanent staff. It also introduced suspicion and antagonism into the workplace. Even after the 1996 and 1998 elections, Labor combined with the Australian Democrats four times to vote down the coalition government’s legislation to exclude small businesses with fewer than 15 employees from the unfair dismissal system. If that new legislation had gone through, in my electorate alone—even in the small town that I come from—it would have created thousands of long-term jobs. The unions have restricted employees and employers in the agreement outcomes they could opt for, thereby limiting the scope to obtain improved pay in exchange for productivity improvements and reform of conditions.

Unions were provided with power in the industrial relations system which they had not earned as effective service providers for workers. Between 1990 to 1999, unions lost 781,400 members—a 29 per cent loss in membership. Today NRMA has as many members as the combined memberships of all unions put together, even though NRMA is a single motoring organisation based in one state. Unions became distanced and aloof from workers and formed super unions which functioned like monopolies. Union rorts went unchallenged at the expense of ordinary workers and small business.

This government, compared with the Labor Party of Australia, has encouraged high labour productivity, higher wages, workplace choices and individual freedoms. This legislation will streamline and simplify the workplace relations system, putting the emphasis on the workers and business, not on institutions. It will ensure unions operate on the same basis as other service organisations and that they win membership by offering improved services, not by special legislative privileges.

Union bosses are now equal under the law and cannot inflict illegal economic damage without being accountable to the ordinary courts. Labor Party policies on workplace relations are nothing short of a joke. No Labor Prime Minister or Labor industrial relations minister ever attempted to establish a scheme to protect workers’ pay and entitlements from business insolvency. Eight separate accords, negotiated with the unions over 13 years, did not offer any solution. The ACTU’s own figures suggest that 221,000 workers were left unprotected by the Labor Party and lost around $1 ¼ billion of their entitlements. Employees were not able to make a free choice as to whether or not they wished to be a member of a union and received limited assistance if they confronted any difficulties in exercising their rights. Indeed, union closed shops and union preference clauses were encouraged.

Labor believe in increasing the power of unions and widening the role of the Australian Industrial Relations Commission. These policies are little wonder when Labor’s parliamentary ranks are stacked with ex-union officials. Labor are opposing the implementation of the coalition election promise that we would deliver more jobs and better pay. The unions’ wish list is forced on the ALP by the millions of dollars in political donations made to the Labor Party during each federal election campaign. In 1983 union bosses controlled less than a third of Labor’s Senate seats; whereas today over two-thirds are ex-union officials. Of the members on Labor’s front bench here, 71 per cent are ex-union officials, union lawyers or student union officials. I am not sure how many have ever worked in small business.

Labor would take Australia back to the 1970s policies, which would hinder Australia’s performance in the international economy. Labor’s backward policies will cost Australian workers their jobs, undermine their security and damage investor confidence, which is required to further reduce
unemployment. Let us now look at the Labor Party’s agenda for workplace relations and industrial relations. The Labor Party if ever re-elected—and God help us and small business if they are—would act as a negative spoiler in the parliament, and I have seen that in the last 20 months, by blocking and opposing job creation initiatives and proposals every step of the way. They would give back to unions the effective veto over every workplace agreement by returning the right for uninvited union intervention in agreement making and by providing a right of entry into every Australian workplace, whether the affected workers want the unions there or not.

If re-elected Labor would abolish thousands of workplace agreements, legally made between individual employees and employers, in favour of union control over collective bargaining. ‘One size fits all’ arrangements will be imposed on unwilling businesses and employees. If re-elected, Labor will allow unions to discriminate against non-unionists and will enable powerful unions in sensitive industries such as mining and building to acquire more power. Labor would even try to force non-union employees to pay compulsory fees to unions for services they did not request. Labor’s union sweetheart deals are already being implemented by state Labor governments in New South Wales, Queensland and Tasmania. They support the NSW Labor policy to force every non-union employee to pay amounts equivalent to annual union fees—about $200 to $500 per year—to a union of the ALP’s choice.

Mr Reith—it’s just a new tax.

Mr ST CLAIR—A new tax. The people and small businesses in my electorate and all round Australia need to know what these plans and proposals are. Labor will use Commonwealth powers to override workplace agreements made under state industrial relations systems and force workplaces, particularly small businesses, out of state systems and into federal awards. If elected Labor would compromise the rights of agreement making and freedom of association by abolishing the federal Office of the Employment Advocate. In January 1998 Labor deliberately removed any protection from voluntary unionism from its final policy platform, despite it being there in an earlier draft. If elected they would rope small non-employee independent contractors into the federal industrial relations system, regardless of whether they consent or not. They would allow unions to be above the law if engaging in secondary and primary boycotts by repealing sections 45D and 45E of the Trade Practices Act 1974, thus creating more strikes, industrial unrest and job insecurity. They would allow massive increases in unfair dismissal claims, causing unjustified expense for small business and worsening prospects for unemployed Australians seeking work.

The bill before the House is an important one. It gives members of an employee organisation or a group of unrepresented employees in a workplace who are negotiating a federal certified agreement the right to use a postal ballot or similar process. I believe this is important for this nation to move forward, and particularly for small business in this nation to move ahead as well. I commend the bill to the House.
deal with one issue at a time on a specific and limited basis.

Senator Murray is further on the record, during the inquiry by the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, as saying:

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

No doubt Senator Murray meant what he said when he said it, but he must have forgotten that the Democrats were prepared to deal with industrial relations legislation proposed by the Labor government in omnibus form. It is a tribute to the patience and reforming commitment of the Minister for Employment, Workplace Relations and Small Business, the Hon. Peter Reith, that this bill has now emerged to take account of the Democrats’ concerns. I have no doubt about the honesty and sincerity of Senator Murray, and I hope that the Democrats keep to their own commitment to ensure that the government actually implements what it promised to deliver prior to the last election.

However, there is already a question mark over that fundamental position of the Democrats. The first of the bills which formed part of the original omnibus bill, and which dealt with pattern bargaining and related matters, was passed by the House of Representatives on 1 June last. It remains languishing in the Senate, in the face of opposition from the ALP and the Democrats. We can only wonder and be concerned about the fate of this bill, although, again, the Democrat Senator Murray stated last November that his party were ‘generally supportive of direct democracy’ and also strongly supportive of the democratic protections afforded by secret balloting processes.

We can all understand the reasons for the fierce opposition of the ALP as the measures proposed by the government, and agreed to by the people at the 1998 general election, empower employees and severely limit the power of the union bosses. But the opposition of the Democrats is harder to fathom if we are to believe that they agree that a reformed industrial relations system is in the best interests of employees, employers and the wider community. The reality is that the provisions of this bill are simple, clear and just. They seek to extend the worker’s right to have a secret ballot prior to the taking of protected industrial action. As the minister said when introducing this bill:

Secret ballots provide a fair, effective and simple process for determining whether a group of employees in an enterprise want to take industrial action.

It is a straightforward proposition, but one which is absolutely fundamental to our democratic process and critical to ensuring that the rights of individuals are not tampered with. Any fair-minded person would naturally agree with this proposition. However, should this bill hit a wall in the Senate because of the Democrats, we all know who the winners are going to be: the demagogues who dominate the trade union movement and their personal little empires that give them the power to decide who in the ALP will receive the party’s precious endorsement for safe seats.

The fact is that Commonwealth industrial relations have provided for secret ballots for many years. Despite the rantings of the member for Brisbane and the member for Reid, this has been quite commonplace, and I would like to take the House back to the very first time secret ballot provisions were introduced into Australia’s industrial relations legislation. Was it 1999, 1998? No, it was 1904—and the ALP is still opposed to it, although they have had little breaks in the past, which I will get to shortly. It was the Conciliation and Arbitration Act 1904. If we go further on in Australian history, the Chifley ALP government in 1947 introduced a measure that would allow for court controlled secret ballots for the election of union officials and which gave the then Commonwealth Court of Conciliation and Arbitration the power to order a union ballot if it believed such a ballot had not been properly conducted. That was the Chifley government of 1947.

However, the opposition has had a change of heart in the past, and the former Labor government, when the opposition leader was a senior minister, introduced the Industrial
Relations Act 1988, which empowered the Australian Industrial Relations Commission to arrange for secret ballots to test union members’ attitudes in relation to an industrial dispute or where industrial action was being taken or threatened, impending or probable. It was a Labor government that gave the commission additional powers to arrange secret ballots for the approval of a proposed certified agreement and for the taking of industrial action in relation to a bargaining period where discovering employees’ attitudes may help to prevent such action. Thus, when the ALP government faced the hard realities of running the country, the ALP had a rather different attitude to the principle of secret ballots. Of course, those were the days when the ALP, to stay in government, actually had to appeal beyond the walls of the trade unions and trades hall.

The fact is that all the wonderful arguments that the ALP advanced in favour of secret ballots 12 years ago boiled down to one thing: the right of all people to make up their own minds about what they do without the threat or prospect of retaliation. What has happened since 1988 for the ALP to so radically change its corporate mind on this fundamental issue? The reality is that they lost government, and they lost the loyalty of so many Australians and became once again the captives of the trade union bosses. However, there are other governments that have not fallen victim to this intellectual imprisonment. The third way of Blair’s Labour government in the UK—which seems to have become the lost way—is much lauded by the opposition as a marvellous example of enlightened leadership. They have retained the secret ballot provisions for industrial action in their Employee Relations Act 1999. This was introduced by the Thatcher Conservative government in 1984 and gives union members a direct say in the authorisation of industrial action. It has, in fact, significantly reduced strike activity and has actually had the support of UK union leaders. Not so in Australia, of course.

The industrial relations reform in the UK, begun by the Conservatives and continued wisely by the Blair government, has had some dramatic outcomes. The use of secret ballots of members to decide strike action has been a key factor in achieving those outcomes. Let me share with the House some of the results of UK industrial disputes, after some 10 years of secret ballots. In 1993, for example, there were 211 stoppages reported in the whole year. In 1992 there were 528,000 working days lost in the UK because of strikes. But wait for it—what was it back in the 1970s, before the reforms? An incredible and staggering 12.8 million. The results speak for themselves. At present the number of reported stoppages in the UK is the lowest since records began in 1891—absolutely extraordinary. Those are the sorts of results that can be achieved. No wonder the ALP are tied to their trade union bosses.

Let us go on to the benefits for workers, because there have been tremendous benefits for workers in this as well. Between 1985 and 1992 in the UK, the proportion of yes ballots rose from 78 per cent to 95 per cent, while a British Trades Union Congress biennial survey of unions showed that the proportion of ballots producing yes votes had risen from 66 per cent in 1995 to 81 per cent in 1996. The conundrum in this is that only 37 per cent of yes ballots actually led to industrial action, with the remainder resulting in settlement. Observers believe this outcome is a direct result of the fact that unions that are armed with the moral and legal authority of a yes vote from their members have an increased bargaining position. Union leaders can go in with the authority of their members to speak honestly with the mandate they have been given and not just recite outdated slogans. British workers, knowing that voting for a strike actually produces results in some 37 per cent of cases, are happy with the opportunity to participate and vote yes, often for the very good reason that they know that it will give their leadership a strong bargaining position without the necessity of an actual strike. For the workers and the union movement in the UK, the outcome, originally feared as a strike against them by a Conservative government, has been extremely positive. Is it any wonder that workers and union leaders alike supported the retention, under the Blair Labour government’s legislation, of these proposals?
However, as we have seen, there is a big difference between Blair’s government and the opposition here. The union movement here and its representatives in this House are not moved by this sort of factual evidence; they are firmly locked into a class warfare time warp of long, long ago—in fact, right back to 1904. The reason the ALP is so desperately fighting this bill is that it also gives the right of a secret ballot to determine strike action to non-union members who are negotiating a federal certified agreement. There are thus two streams of employees who are able to access the provisions. Where the application is by a union, only union members will be able to vote, and that is fair and reasonable. In such a ballot, at least 50 per cent must vote and more than 50 per cent of those must approve any industrial action. It is proposed in this bill that the ballot paper will advise that they are not bound to take industrial action even if they have voted for it.

Under the proposals of the bill, protected industrial action will not be authorised by the Australian Industrial Relations Commission with such a secret ballot.

I spoke earlier about the question mark over the Democrats and this bill, despite all of the soothing and rational noises being made by the Democrats. It is a matter of great regret that, as Minister Reith said, the Democrats’ voting record—because that is what really shows form—since 1997 ‘belieς their claim that they have assessed on merit coalition workplace reform proposals’. Let us have a look at their record.

Mr St Clair—It is not very good.

Mrs DE-ANNE KELLY—It is not very good. I would like to quote the minister again from 13 July. On the subject of the Australian Democrats, he said:

... both their voting record, and the manner in which they have dealt with workplace relations legislation, show a marked difference by the Democrats in their approach to Coalition reforms and those of the previous Labor government.

Never in the life of the Hawke/Keating government did the Democrats reject outright industrial reform proposed by Labor in each of their five terms.

Never did the Democrats reject outright legislation proposed by Labor relating to industrial relations. The minister went on to say:

The fact is that the Coalition’s second term policy mandate, More Jobs Better Pay, was a detailed statement of legislative intent released before the October 1998 federal election.

... the Democrats have opposed, when it has come to the crunch, every legislative measure that has sought to implement that policy. When we look at the record, we see that the minister is absolutely right. Between 1988 and 1996, Labor moved 17 pieces of industrial relations legislation through the Senate. Between 1996 and 2000, the coalition moved 16 pieces. How many of Labor’s bills were referred to Senate committees? Three. However, 11 of the coalition’s bills were referred to Senate committees. That is three for the Labor Party and 11 for the coalition. On average the Democrats spent 49 days deliberating on bills for the Labor Party. How many do you suppose they spent on coalition bills? 149 days. All Labor proposals put before the Senate were passed, some with amendment. And every time there was a vote on Labor’s industrial relations legislation the Democrats voted in favour. The Democrats have only ever voted in favour of two of the coalition’s bills, with a third passing without a vote. In the life of this parliament there has only been one coalition industrial relations bill passed through the Senate—the youth wages bill of 1999. It was actually the opposition that allowed that through. The Democrats still voted against it.

Let us look a little further at the record of the Democrats. They voted down four coalition industrial relations bills, disallowed three regulations and delayed another bill until it died at the last election. Currently, four industrial relations bills before the Senate are blocked and another four are on their way. Now is the time for the Democrats to recognise that the government has a mandate to implement its publicly announced policy, because the reality is that the Democrats are going to be very poorly exposed at the next election. In my electorate, there is no doubt that a vote for the Democrats is in fact a vote for the Labor Party. They are not holding the
balance of power. They are not, as they charmingly say, ‘keeping the bastards honest’. They are in fact totally under the wing of the ALP and the union bosses when it comes to industrial relations. The current minister and the government have bent over backwards to accommodate the various demands of the Democrats, who objected to the omnibus bill. Four separate bills have now been drawn from the original bill blocked in the Senate.

I certainly have concerns about this current bill, despite the claims of the Democrats. Do you know why? Because they rejected secret ballot proposals before they had even seen the bill and half an hour before the minister introduced it into parliament. That is hardly what one would call a balanced and thoughtful reaction to coalition legislation. Despite Senator Murray’s honeyed words and the posturing of Senator Stott Despoja that the Democrats are prepared to work for what she calls the promotion of employee participation and industrial democracy, the reality is that the Democrats’ record does not show that they keep to their word at all. If this bill does not promote employee participation and industrial democracy, it is pretty hard to imagine what would.

I know that Minister Reith, true to his form, will be prepared to patiently and conscientiously negotiate with the Democrats to achieve the policy outcomes in this bill that were obviously supported by the Australian people at the last election. The ALP will again be pushed to the irrelevant margins, where they can spend their time bleating about an assault on the unions—an assault, if it ever comes, that would have been driven by their own disgruntled and ignored members. There can be no better policy than the one in this bill, which seeks to empower people as individuals and to strip power from those who arrogantly seek to represent their views. I commend the bill to the House.

Mr Reith (Flinders—Minister for Employment, Workplace Relations and Small Business) (1.10 p.m.)—I want to thank all honourable members for their contributions to this debate. I thank the member for Dawson for her considered and very well researched contribution. The member for Dawson is a very strong advocate for the people in her electorate. I was in Dawson recently. I am not surprised that she focused on benefits for workers as one of the themes for her address today. I thought it was interesting that she went back into the history of the Labor Party’s side to reflect how in the past its members have supported the idea of secret ballots. But it is a very different Labor Party today; it is not prepared to give basic rights to workers. Ben Chifley would turn in his grave if he knew how the Labor Party had moved away from supporting the rights and interests of workers.

I thank the member for New England. He picked up on a couple of themes. One was the strong jobs record of this government, which is worth looking at. In the end, whatever changes we are making we are trying to ensure that more people have a job and, furthermore, that in the jobs they have got they have high real wages. He demonstrated that wages under this government have been rising higher than they did under Labor. In fact, under Labor, for all its claims to represent workers, workers were worse off. So that was a powerful point that he made.

The member for Herbert referred to his own practical experience in Townsville and how workers were denied a say in whether or not they undermined a business in which they hoped to work. The member for Corangamite presented a strong speech and made the point that, if it is good enough in the United Kingdom for Tony Blair and the Labour Party to have secret ballots, why can the Labor Party in Australia not allow workers to enjoy that basic right?

We also heard the member for Bradfield speak. We needed him to explain some of the medical terms employed by the member for Corangamite in his contribution. The member for Bradfield, amongst other things, also made a powerful point, I thought, when he referred to the fact that, in the past, the Democrats have supported secret ballots. So why is it that they are not prepared to support secret ballots today, which was a theme picked up by the member for Dawson in her remarks?
We heard other contributions, including one from the member for McMillan. I am so pleased that he is still in the House.

Mr Zahra—When are you going to answer the questions?

Mr REITH—I am going to answer the question. First of all, the member for McMillan had a lot to say about G&K O'Connor because he completely misrepresented a recent Federal Court decision. There was no finding in respect of underpayments. The court found that the OEA had used the right instrument for the purposes of the no disadvantage test. That was the preliminary point made. His second point, which was picked up by the shadow minister, shows how the Labor Party does not do its homework. Its members really do not have a clue—no idea whatsoever. It shows how stupid you people can be. The complaint about G&K O'Connor was their use of protected action in respect of Australian workplace agreements.

Mr Zahra—And you did nothing to fix it.

Mr REITH—You should listen, because you need to learn a few things. Your basic complaint and the complaint made by the shadow minister was by G&K O'Connor, the employer, of the protected action provisions in respect of Australian workplace agreements. The government has proposed in legislation before this parliament that those protected action provisions be removed. The Labor Party has been opposed to removing those provisions.

Mr Zahra—But you’ve supported BHP’s lockout.

Mr REITH—Don’t you understand a simple point? You are complaining about a provision, but when we proposed to remove it you voted against it. How stupid can you be? You do not do your homework. You do not even understand what you are saying. You are so in the hands of the trade union movement and following a line that you do not understand what is being said.

I noticed a very interesting little piece in the paper this morning by Alan Ramsay about question time and how three times since 1998 you have put up with Leo McLeay and other members of the frontbench denying you a basic opportunity.

Mr DEPUTY SPEAKER (Mr Hawker)—I am sure the minister will refer to members by the names of their electorates.

Mr REITH—The point Alan Ramsay makes is that so fearful are these backbenchers of losing their overseas trips that they are not even prepared to stand up and ask a question, to exercise a basic right of a private member.

To demonstrate hypocrisy I will finish off on this point in respect of the member for McMillan. He uses an accusing tone about my saying that there is nothing wrong with people owning private capital. This is a shocking thing! He has this quote of mine that he thinks is the greatest quote he has ever got. ‘Young Trotsky’, as he is called on this side, has a bit of form when it comes to owning capital. In fact, I have here a letter of his to the Registrar of Members’ Interests. We find that he has a financial interest in the following managed funds.

Mr Horne—Mr Deputy Speaker, I rise on a point of order.

Mr REITH—He raised the issue. It cannot be irrelevant; he raised it. I am just summing up.

Mr Horne—My point of order again questions relevance. The minister is quoting from a public document that is available. The minister may think it is relevant to quote the interests of the member for McMillan, but I certainly do not.

Mr DEPUTY SPEAKER—There is no point of order. The minister is summing up the debate.

Mr REITH—We find that this member is into the BT Future Goals Fund, the BT International Fund, the BT Australasian Bond
Fund and the BT Global Bond Fund. If members think that is not enough, a couple of months later he advised that he is in the BT Time Fund as well. Just for good measure, our little socialist here from McMillan, still wet behind the ears, has private health insurance to boot. The hypocrisy of these people is absolutely mind-boggling. He is a budding little capitalist if ever I saw one—and good on him. It is good to see him saving and putting his funds away into these capitalist funds.

The member for Reid had nothing to contribute to this debate. He obviously came in here to talk about the member for Ryan, which was completely unrelated to the issue. He obviously had no idea of what was in the bill and his speech ended up being a ramble when he was stopped from talking about that and started talking about casualisation. Two points can be made about casualisation. One is that since we have been in government we have arrested the increase in the rate of casualisation. Furthermore, one of the practical reasons employers have employed people as casuals is that they are fearful of being caught up in the unfair dismissal regime. A slice of employers say, ‘I will only put you on as a casual because I do not want to get caught up with the unfair dismissal law.’ So the Labor Party complains about casualisation, but the big increase in casuals in Australia occurred when Labor was in office. Now when it is in opposition it is opposed to us fixing the problem by legislation. Legislation which the Labor Party has voted against in the Senate. It is one incredible piece of hypocrisy piled upon another.

The amendments proposed by this bill represent a significant enhancement to the rights of employees. When all is said and done, all we are proposing in this bill is the adoption of a simple principle, namely, that workers ought to have the right to have a say in whether they are going to undertake industrial action. In fact, the member for Reid got so confused that halfway through his speech he actually put the case for a secret ballot but had not realised that we were actually all talking about secret ballots and that he was the only one who was not. This would allow employees to decide whether or not they would take industrial action. This places decision making powers in the hands of the very people most affected by those decisions.

The Workplace Relations Act provides protection from civil liability for industrial action taken in pursuit of enterprise agreements. In other words, the coalition government has accepted that people have a right to strike. However, that right has to be exercised responsibly and exercised within certain rules. We believe that when that right is exercised the people most affected by it—namely, the employees—ought to have a say as to whether or not it will be so exercised. Needless to say, if employees go on strike, it does have pretty serious repercussions. If employees take strike action, it can undermine the security of the job that they have. If employees take strike action, they certainly lose the pay that they otherwise would have brought into the family budget from their work. So it is important, and we therefore think that it is reasonable, for employees to have this democratic choice.

I saw the UK’s trade union secretary—Bill Kelty’s equivalent—when I was in the UK a couple of years ago, and I said to him, ‘Why is it that Tony Blair has accepted the legislation introduced by Margaret Thatcher?’ He said to me, ‘Oh, it’s very simple: it is hard to take away rights once you have given people basic rights.’ In a sense, that is not an extraordinary comment. It is pretty obvious. If people have basic rights, they do not like them taken away. But here, when it is put in the Australian context, it is a big statement. It is a big statement because it supports what the government is doing. For the unions, this is absolute anathema. Fancy asking the workers for their say! Fancy letting the rank and file have a say! Oh, no, that is the last thing trade union bosses in Australia would ever want to do! The last thing these trade union bosses want to do is actually ask the workers for their opinion. One of the reasons that trade union membership in Australia has fallen so dramatically—

Mr Horne—You got rid of the workers. That’s why.

Mr REITH—That is an interesting thing to say. The member for Paterson is so far out
of date, so far out of touch. His eccentricity and his complete inability to understand what happens in the real world is his one endearing characteristic. It is the one thing we like about him, but no-one could possibly treat him seriously. There are over nine million workers in Australia—more than ever.

In relation to the decline in union membership, his response to my statement was, ‘Oh, well, it’s something that the coalition has done.’ Well, the trade union movement needs no help to lose members, because they were losing members long before we ever came to government. In fact, you can go back many years. The trade union movement has been losing members because they do not take the views of their members into account. They do not look after their members. They are not interested in their members.

There are people like Craig Johnson, who is just running a political agenda. He is running an ideological campaign. He is running class warfare against whoever is within his ambit. That is what he is on about. Most workers say, ‘If you want to go on strike action, I want to have a say,’ because most people have worked out that if they strike they can undermine their job. There was a strike yesterday in Victoria in the manufacturing sector. Most people can remember that 10, 15, 20 or 25 years ago we had great Australian companies in manufacturing. They have gone out of business because they were destroyed by the senseless, lunatic sort of behaviour we had yesterday from Labor’s mates in the trade union movement in Victoria.

Honourable members interjecting—

Mr REITH—There are too many examples to go through, but it is quite clear that most workers, if given the opportunity, would like to have a say and they would exercise that say responsibly. The union leaders do not like that because they like to have the power. They like to have the political power that goes with being able to decide these issues. In the last few days we have had an example in the state of Victoria of this very point I am making. The Labor Party’s attitude to secret ballots is not to say that they are opposed to secret ballots in principle, even though they are. They know that for them to say that undermines their own credibility, because most people agree that secret ballots are a good idea. Instead, they say, ‘Oh, it’s just not necessary. It’s not that we’re opposed to it, but it’s not necessary.’ Then they say, ‘Oh, it has hardly ever been used.’ The reason it has not been used is that it is a cumbersome process. You have to go down to the commission to make an application. There was a case in the last few days in Victoria where, in fact, an application was made for a secret ballot. That application, in the end, was not resolved satisfactorily by allowing people the right to vote. Labor is saying it is not necessary. There is a classic example. It is no wonder people do not make application. It is very hard to get a secret ballot. Anyway, why should an employee’s right to have a say be conditional upon a third party deciding whether or not that person has that right? We say the parliament ought to decide that people have a right and provide people with that right. That is what parliaments do; they make the law, they defend the rights that people should have, and they establish those rights and give people basic human rights that we believe ought to operate.

The current arrangements are clearly inadequate. The commission’s approach to secret ballot orders currently is one of last resort rather than as a dispute prevention or settlement measure. The figures the member for Dawson quoted are tremendously powerful in establishing the case that in more cases than not if you give people an opportunity to have a say you will in fact get a lot fewer strikes. To me, that is commonsense, because most people can work out what is in their best interests. If they are given a say, then that is what they will work out. We have seen a significant reduction in the level of strike action in the UK as a result of the introduction of secret ballots, and I believe that is what would happen here in Australia.

These proposals were part of the government’s 1998 election policy. I believe we have a mandate for the introduction of secret ballots. I think it is quite wrong for any party in the Senate to block a government from introducing a policy which it promised the Australian people it would introduce. If the
Democrats stick to their motto of ‘keep the bastards honest’, they should make sure that we fulfill the promise that we made. In other words, they should work to make sure that this goes through instead of working—

Mr Horne—That’s an innovation.

Mr REITH—It would take a Labor Party person to think it is an innovation for a government to want to complete its promises. We want to fulfill our promises. The opposition so degraded in so many areas commitments that they made that I am not surprised they say what they say. It is incredible.

The Australian Democrats, in my view, should also support this bill because not only do we have a mandate but it is right in principle. In the past the Democrats themselves have publicly advocated secret ballots. If they publicly advocated them, it is not much good their saying, ‘Oh, we are still in favour of them but we are going to vote against it.’ If they are still publicly in favour of them and if they are going to be consistent with what they have said and if they do not like the detail, I think the onus is on them to say, ‘Well, we want to debate the detail.’ In that regard, we certainly have an open door policy to discuss any amendments that the Democrats wish to discuss with us. I am the first to say there is more than one way to achieve our objective. I believe that we can do it. If they do it in the UK, there is no reason we cannot do it here. This is an important matter. It is an important matter of the rights of workers. I believe it has practical consequences in prospect, in reducing the level of strikes. Not only do the Labor Party not do their homework; the fact of the matter is that they just do what the trade unions tell them, because most of them owe their preselections to the trade union movement. This is more important than the movement itself; it is about the rights of workers within the trade union movement and rights of workers generally. I commend this bill to the House. I can assure the House that this government is determined to press this matter. We think it is the right thing to do.

Question put:

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

The House divided. [1.34 p.m.]

(Mr Deputy Speaker—Mr Hawker)

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

AYES


NOES

Livermore, K.F. Macklin, J.L. Secker, P.D. Sliper, P.N. 
Martin, S.P. McClelland, R.B. Somlyay, A.M. Southcott, A.J. 
McFarlane, J.S. McLeay, L.B. St Clair, S.R. Stone, S.N. 
McMullan, R.F. Molham, D. Sullivan, K.J.M. Thompson, C.P. 
Morris, A.A. Mossfield, F.W. Thomson, A.P. Truss, W.E. 
Murphy, J. P. O’Byrne, M.A. Tuckey, C.W. Vale, D.S. 
O’Connor, G.M. O’Keefe, N.P. Wakelin, B.H. Washer, M.J. 
Pilbersek, T. Price, L.R.S. Williams, D.R. Woonbridge, M.R.L. 
Ripoll, B.F. Roxon, N.L. Worth, P.M. 
Rudd, K.M. Sawford, R.W * Baynes, A.N. 
Sciacca, C.A. Sercombe, R.C.G * Adams, D.G.H. 
Sidebottom, P.S. Smith, S.F. Beavis, A.R. 
Snowdon, W.E. Swan, W.M. Corcoran, A. 
Tanner, L. Thomson, K.J. Crean, S.F. 
Zahra, C.J. * denotes teller 

PAIRS 
Downer, A.J.G. Brereton, L.J. 
Howard, J.W. Beazley, K.C. 
Vaile, M.A.J. Byrne, A.M. 

Question so resolved in the affirmative. 

Original question put: 
That the bill be now read a second time. 

The House divided. [1.39 p.m.] 
(Mr Deputy Speaker—Mr D.P.M. Hawker) 

Ayes............ 73 
Noes............ 60 
Majority........ 13 

AYES 
Abbott, A.J. Anderson, J.D. 
Andrews, K.J. Anthony, L.J. 
Bailey, F.E. Baird, B.G. 
Barresi, P.A. Bartlett, K.J. 
Billson, B.F. Bishop, B.K. 
Bishop, J.I. Brough, M.T. 
Braithwaite, C.G. Calder, R. 
Causley, I.R. Charles, R.E. 
Costello, P.H. Draper, P. 
Elson, K.S. Enck, W.G. 
Fahey, J.J. Fischer, T.A. 
Forrest, J.A * Gallus, C.A. 
Gambaro, T. Gash, J. 
George, P. Haase, B.W. 
Hardgrave, G.D. Hockey, J.B. 
Hull, K.E. Jull, D.F. 
Katter, R.C. Kelly, D.M. 
Kelly, J.M. Kemp, D.A. 
Lawler, A.J. Lieberman, L.S. 
Lindsay, P.J. Lloyd, J.E. 
Macfarlane, I.E. May, M.A. 
McArthur, S * McGauran, P.J. 
Moore, J.C. Moynihan, J. E. 
Nairn, G. B. Nehl, G. B. 
Nelson, B.J. Neville, P.C. 
Nugent, P.E. Prosser, G.D. 
Reith, P.K. Ronalson, M.J.C. 
Ruddock, P.M. Schultz, A. 

NOES 
Adams, D.G.H. Beavis, A.R. 
Andren, P.J. Burke, A.E. 
Burke, P. Cox, D.A. 
Crosio, J.A. Edwards, G.J. 
Emerson, C.A. Ferguson, L.D.T. 
Fitzgibbon, J.A. Griffin, A.P. 
Hall, J.G. Hallon, M.J. 
Hoare, K.J. Horne, R. 
Irwin, J. Jenkins, H.A. 
Kernot, C. Kerr, D.J.C. 
Latham, M.W. Lawrence, C.M. 
Lee, M.J. Livermore, K.F. 
MacKinnon, J.L. Mickle, R.B. 
McLeay, L.B. McLeay, L.B. 
McLeay, L.B. McMullin, R.F. 
Mossfield, F.W. O’Byrne, M.A. 
O’Keefe, N.P. Pibersek, T. 
Price, L.R.S. Plibersek, T. 
Roxon, N.L. Ripol, B.F. 
Sawford, R.W * Rudd, K.M. 
Sercombe, R.C.G * Sciacca, C.A. 
Smith, S.F. Sidebottom, P.S. 
Swan, W.M. Snowdon, W.E. 
Tanner, L. Thomson, K.J. 
Zahra, C.J. * denotes teller 

PAIRS 
Downer, A.J.G. Brereton, L.J. 
Howard, J.W. Beazley, K.C. 
Vaile, M.A.J. Byrne, A.M. 

Question so resolved in the affirmative. 

Bill read a second time. 

Third Reading 
Leave granted for third reading to be moved forthwith. 
Bill (on motion by Mr Reith) read a third time. 

FAMILY LAW AMENDMENT BILL 1999 

Second Reading 
Debate resumed from 17 August, on motion by Mr Williams:
That the bill be now read a second time.

Mr SIDEBOTTOM (Braddon) (1.41 p.m.)—Family breakdown and divorce touch the lives of almost half of all Australians. Tragically, 43 per cent of relationships today fail. According to the Australian Institute of Family Studies, two in five marriages will end in divorce and one in five children will be affected by family breakdown during their dependent years.

It is against the backdrop of these alarming statistics that we are revisiting some of the issues of the Family Law Act 1975 and hence the Family Law Amendment Bill 1999. I agree that family law reform is long overdue. We are seeing lengthy delays in dealing with Family Court cases, children not having access to both parents, failure in the Family Court to enforce orders in relation to children, a lack of funding and resourcing to the Family Court system and a lack of educational programs for parents. In my electorate of Braddon, the Family Court has an 18-month backlog of cases in relation to property and children’s matters. In November 1999, there were 62 cases listed for hearing and a mere 13 were resolved.

The issue of enforcement of Family Court child contact orders and child support maintenance payments remains a major concern. This aspect of our Family Court system has been the subject of public debate for a long time with no resolve. Despite the legislative measures in place to protect our children caught in the crossfire of relationship breakdown, too many Australian children live in impoverished conditions and do not have a relationship with both parents. Tensions between the ideal of continuing shared parental responsibility in relation to financial support and post-separation parenting arrangements are all too evident in what many argue has become a fragmented family law system. In the past, reform has been pursued with a vision of the post-divorce family as something like harmonious, where cooperative parenting practices are the norm and both parents remain involved with their children emotionally, practically and financially.

From the number of constituent cases dealt with by my office and information from the community services sector in Braddon, it is evident that this scenario is not the norm. What I am about to share with members is too often the norm instead of the exception. John and Anne—not their real names but they are real people—separated after two years of marriage. Their son, Paul, 12 months old, remained with Anne. Anne refused to grant access for Paul to see his father. John, the father, became depressed and was referred by his GP to a local agency for counselling. He had been involved in counselling for six months and decided to seek legal help in order to gain access to his son. It took approximately six months for John to be granted two hours access to his son per week. Anne was ordered by the court to drop off the child at a neutral meeting place, a counsellor would supervise the access visit and she would return after two hours to pick up her son. This arrangement continued for three months only and then John’s lawyer made an application to the Family Court for increased access time.

Anne’s behaviour suggested that she felt like she was emotionally losing her son to John and made it very difficult for the father to see his son on a regular basis. Her response to this was to move to another town, approximately two hours drive away. The relationship that John was building up with his son was severely damaged and the reality was that, even with parenting orders in place from the Family Court, Anne did not continue to honour these. Over a period of three months she breached the court orders eight times. The court fined her $25 for breaching court orders and she was ordered to grant access of her son to his father again. Sadly, that was 12 months ago and John is still battling through the Family Court system to see his son regularly. He has had to leave his job and relocate to have any hope of seeing his son on a regular basis.

The point is that, even with court orders in place, the system is not working. What I have just described would be replicated throughout Australia. The Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act in its report in 1992 advised that it had received a number of submissions regarding the difficulties the Family Court had in en-
forcing contact orders. The report also stated that the Family Court was not making use of the power that it had and was not making best use of the act and its flexibility.

This was followed by a report from the Family Law Council in 1998 in reference to child contact orders, enforcement and penalties. It was agreed that there needed to be a long-term study conducted to establish qualitative and quantitative data into penalties for non-compliance with orders around access of parents to children. In too many cases children are used as a device against the non-resident parent. Too often, contact with the non-resident parent is obstructed or denied for no legitimate reason.

Sadly, non-resident parents, such as John, who do not have the appropriate support networks have difficulties, emotionally and financially, fighting a battle in the Family Court to see their children. The cost of legal action is beyond the means of most parents who want to enforce a Family Court order and therefore cannot take legal action. In these cases, the important role modelling and parental relationships that all children need can and are often lost. When orders are breached, the only avenue available to achieve a result is to once again engage in a lengthy, costly, disempowering process known as the Family Court system. The social and emotional impact of this will be felt in 10 to 15 years time. Are we ready for that? Like many in this House, I believe we are not.

Because of the conflict involved, the time cases take to be heard and resolved, and the financial costs associated with court and maintenance payments, non-resident parents may rarely see their children or lose contact altogether. Consider also the effect on a child when both parents are feuding over where and when they spend time with the non-resident parent. The system is too difficult and it is time consuming. The system in its present form perpetuates the trauma that families and children are already experiencing.

In its final report in 1998, the Family Law Council suggested a three-tiered approach in dealing with the contravention of contact orders. The first tier is preventive measures. This means improving communications between separated parents and educating parents about their respective responsibilities in relation to their children at the time the order is made. This is commonsense. The second tier is remedial measures. The bill suggests that when there has been a breach of an order the court will have the authority to send parents to a range of post-separation parenting programs. In addition, the court will be able to make compensation for lost contact. The third tier is punitive action. Where there has been a persistent breach, the court will be able to impose a range of sanctions for that breach. The law council takes the view that any punishment should be pursued only in the event of a deliberate disregard for a court order. If parents are forced to attend post-separation parenting programs, it will, it is argued, discourage the enforcement of an order. The system in its present form already discourages the enforcement of Family Court orders involving access or child support payments.

If a parent who has residence of the child breaches a parenting order eight times and receives only a $25 fine, as I mentioned earlier, is ordered to grant access of the child to the non-resident parent and still continues to breach the order, then surely the system should also be held responsible and made accountable. The council believes that the three-tiered approach will result in greater costs in both time and resources for both the system and parents participating in it. We must look at the costs that are being incurred now in the Family Court system for parents, our children and our community as a whole.

Many constituents I see are testimony to a system that is plagued by lengthy delays, is difficult to participate in and is financially out of reach of most in the community. I bring another typical example of the dilemma facing people forced into the Family Court system. TB’s 13-year marriage ended in 1990. Since then her two children have been clients of the Child Support Agency. TB has experienced many difficulties in her efforts to pursue child support maintenance arrears from her former husband. We are not talking about arrears of $100 or $200; we are talking about $3,000 owed from 1993 to
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I can understand TB’s frustration and no doubt the frustration of many others who find themselves in a similar situation. In response to cases such as TB’s, the bill states that judges, under section 109A, will have the power to enforce ‘the making of an order authorising the taking of possession of property of the person’ who has the debt, ‘the making of an order for the sequestration, and if necessary the sale, of the property of the person’ who has the debt.

If a child maintenance payment debt is incurred by the non-resident parent, it is the responsibility of the Commonwealth to recover the outstanding debt. Yet, in response, the Australian Family Law Child Support Handbook questions the willingness of the Commonwealth to invest funds and resources to pursue any defaulting payer. The reality in TB’s case is that the system has let her down. Its inadequacies have in no small way been responsible for contributing to her children living in impoverished conditions. The truth is that the Child Support Agency does not always enforce proceedings to recover debts in full. Even when it has been established that there is property to cover the debt, as in TB’s case, it is my understanding that this avenue is rarely, if ever, pursued. She went on to say:

The anger, frustration and helplessness I have felt in the last year because the [Child Support] Agency does not have the power to take the necessary steps to retrieve these arrears has led me to write for your assistance.

It is vital that children be protected from continued systems abuse. We must not lose sight of the rights of our children. Article 27 of the United Nations Convention on the Rights of the Child states:

All children have the right to a standard of living adequate to meet their needs. The parent(s) have the responsibility to secure the conditions of living necessary for the child’s development.

I contend that this means that the Family Court system needs reform in order to achieve this. Recently a young mother of two children, aged six and four, came into my office clearly distressed with nowhere to turn. She reported that her lengthy court battle for custody of one of her children cost her $70,000, exhausting her property settlement outcome. She was now reliant on legal aid, the welfare system and her own parents in order to maintain a minimum standard of living for herself and her children. That was three years ago. Her life has been consumed by the Family Court system for three years— and it does not end here.

She is now being forced by her ex-partner back into the Family Court system to fight an injunction order stopping her from moving to another town or out of the state. If she wants to move to find work in another town, she cannot. Her only option is to take the case back to the Family Court to fight the injunction. How can it be said that this case has not taken up unnecessary time and resources in the Family Court and for the family involved and the community?

The Family Court is supposed to be a place that encourages reconciliation, but in reality with its draconian powers it reinforces power and control. I am saddened to say that the Family Court is not always utilising the power that it was given to support families. If this government were serious about post-separation parenting programs, it would assist both parties in developing skills on how to deal with post-separation issues and educate parents in their responsibilities to children. In addition to this, the bill suggests that the threat of mandatory sanctions for failure to comply with court orders will act as a deterrent for those parents who now breach orders. A model needs to be adopted where both parents either together or individually are mandated to attend a program whereby they learn about the process of the Family Court system and how to participate effectively in it. The program should also equip clients with appropriate interpersonal skills whereby they can relate to the other party in the Family Court system in an appropriate way in order to achieve a positive outcome for all.

At present this does not happen. At the present time there are too many cases where one or both parties’ intention is to get even with the other party or make things very difficult by engaging in lengthy and costly court time and resources to the detriment of the children involved. Such a model would ensure that both parties are encouraged to adopt
new skills and conciliate effectively. This would alleviate concerns that the Law Council of Australia has raised regarding costs in time and resources to the Family Court. If such a model were adopted, it would save the Family Court system dollars and resources in the longer term.

Evidence before the Senate Legal and Constitutional Legislation Committee during its examination of the Family Law Reform Bill 1994 suggested that counselling commonly takes place before consent orders are made. The Family Court counselling process is supportive in addressing the practicalities around issues relating to children. It does not however—and I wish to stress this—assist parents in skill development and educating them on how to relate to the other party whilst engaged in the Family Court system or how to utilise empathy and interpersonal skills at this level.

The service is extremely underfunded. The service is severely underresourced. In the contribution of the member for Herbert in the second reading debate on this bill, he stated there would be no cuts in staffing or services in regional areas. I suggest the member for Herbert visit Devonport and Burnie and see what services have been cut and continue to be cut in the Family Court system. I also suggest that the member for Herbert visit Bass has constantly raised questions and issues about the efficacy and efficiency of the Family Court system. I suggest the member for Herbert ask families in Braddon what little time they have in the Family Court counselling to resolve issues. We will hear that most people get only one or two sessions, which equates to one or two hours, to resolve all issues relating to children. This is simply unrealistic. I suggest the member for Herbert then tell them that services in the Family Court have not been cut at all, as he has stated, and see what response he gets.

If, as he says, the government is committed to retaining staffing and servicing levels in the Family Court, why did the chief executive of the Family Court in May of this year confirm in a memorandum to staff that because of funding cuts there needed to be a reduction in counselling services and, as a result, some counselling positions will go? How long is this government going to pretend that the Family Court system is an empowering process for those families forced to participate within it? How long is this government going to keep denying that the Child Support Scheme is not working for many Australians? I note that the Senate is having trouble getting information about the productivity, efficiency and effectiveness of the Family Court from Chief Justice Nicholson. Parliament, the people of Australia and most especially the clients of the Family Court need to know what the court does and that it does what it sets out to do, and judging by many situations in my electorate I suggest it is failing.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.00 p.m.)—I inform the House that the Minister for Veterans’ Affairs will be absent from question time. He is attending the official opening of the 85th National Congress of the Returned Services League of Australia in Perth. The Minister for Defence will answer questions on his behalf.

QUESTIONS WITHOUT NOTICE

Economy: Foreign Debt

Mr CREAN (2.00 p.m.)—My question is to the Prime Minister. I ask the Prime Minister whether he recalls telling the Press Club on 17 March 1995:

No country that owes as much to the rest of the world as Australia owes can possibly claim to be truly independent, and that is a critical economic dependence on the whims of foreign banks and foreign exchange markets.

Prime Minister, with the foreign debt now at a record $268 billion—up nearly $100 billion since you came to office—why will you not admit that you have failed to keep your promise to reduce Australia’s foreign debt? Where is your debt truck now, Prime Minister?

Mr HOWARD—In accordance with the time honoured custom of the government, we will check whether what has been put to me by the Deputy Leader of the Opposition is in fact an accurate excerpt from that speech that I made. Let me simply say to the Deputy
Leader of the Opposition that the measure of a country’s capacity to handle debt is, of course, ultimately the strength and durability of its economy. Australia’s net debt servicing ratio—that is, the net debt interest payments as a proportion of total exports—fell to 9.8 per cent in the March quarter. This fall occurred despite increasing world interest rates and indicates a strong capacity to service our foreign debt. Under the coalition the debt servicing ratio has averaged 10.3 per cent compared with an average of 14 per cent under Labor. The debt servicing ratio today is a far cry from the peak of 20 per cent recorded in the September quarter of 1990. It was 20 per cent and it is now 10.3 per cent. The Deputy Leader of the Opposition asked me about debt. When it comes to debt, the Labor Party are the debt experts. In five budgets the Leader of the Opposition ran up something like $90 billion of government debt.

Mr Beazley—Mr Speaker, I rise on a point of order. This was a narrowly cast question in relation to foreign debt and quotes we had back then from the Prime Minister saying how disastrous a picture $100 billion better looked. He ought to be obliged to confine himself to dealing with the issue of foreign debt.

Mr Speaker—As the Leader of the Opposition is even better aware than I, there is no way under the standing orders that the Prime Minister could be ruled as anything other than relevant to the question.

Mr Howard—I have seen a number of responses to the announcement that was made yesterday by the Minister for Foreign Affairs, the Attorney-General and the Minister for Immigration and Multicultural Affairs. That announcement was an entirely measured, reasonable and appropriate response to the need for a reform of the operation of the committee system of the United Nations. It does not represent, as some have suggested, a turning away by Australia from the principles of the United Nations, but it does represent a determination by this government to ensure that matters affecting Australia are resolved by Australians within Australia. Our objection is not to the principles underlying the conventions into which this country has entered but to the operation of the committee system.

There has been a suggestion in some of the reporting that the decisions taken by the government represent a response which has put Australia at odds with the rest of the world. For example, on the AM program this morning it was suggested that Australia was the only developed country not to have signed up to the optional protocol to the convention on discrimination against women. That claim was wrong. To date, only 43 states have signed the optional protocol, only five have ratified, and a further five need to ratify to bring it into force. Neither the United States nor the United Kingdom have signed the optional protocol. In fact, the United States has not even ratified the parent treaty of the optional pro-
tocol—and we are now criticised for indicating that Australia will not adhere to it.

The decisions that were announced yesterday give effect to the concerns that we have that the committee system is not operating satisfactorily. We are concerned, for example, that in its most recent report on Australia the CERD committee—the one dealing with the elimination of racial discrimination—singled Australia out with 13 of the 15 recommendations labelled as concerns. This was higher than the number of concerns listed for China—10; Pakistan—nine; and substantially higher than that listed for Cuba—one. The point of that comparison is I think blindingly obvious to all Australians, and that is that when it comes to basic freedoms and democratic institutions Australia is significantly ahead of those other three countries, to put it mildly. We are not dealing here with any argument as to whether this country opposes arbitrary arrest and detention or whether this country opposes the persecution of people according to their religious or political beliefs. Patently we do not. What we are dealing with is an unbalanced committee procedure. I am also rejecting the claim made that the decisions that have been taken by the government put us at odds with the attitude and the conduct of other countries with which it is reasonable to make comparisons.

As a result of the implementation of the announcements made yesterday by my three colleagues, Australia will still be subject to as much scrutiny as the United Kingdom and to far more scrutiny than the United States. It is interesting, when you look at the matrix of Western states adhering to the six principal human rights treaties, that Australia is an adherent to all of them. As you go down the list, you find that the United States of course has not ratified a number of them. You find that Ireland has signed but not ratified the Convention on the Elimination of Racial Discrimination, and Ireland has signed but not ratified the convention against torture. The point I simply make is that the government’s response is based on its belief that once a matter has been resolved through the Australian political process the notion that those whose point of view has been rejected through the democratic Australian political process in effect have a second go through a United Nations committee is simply not something that we support. We believe that Australians should resolve matters affecting Australia within this country. Australian institutions are as robustly democratic as any in the world, and more open and transparent than most. This country does not embrace any of the things that are odious to the universal operation of human rights, and I regard the announcement made by the foreign minister, the Attorney-General and the Minister for Immigration and Multicultural Affairs yesterday as completely fulfilling the commitment I made when this government was elected, that is, that we would propose the values and the interests of this country. I believe that that announcement yesterday is all of a piece with that, and it is an announcement that gives effect to a very measured, reasonable and considered examination of an unsatisfactory operation of the United Nations committee system.

**Goods and Services Tax: Petrol Prices**

**Mr MARTIN FERGUSON (2.12 p.m.)**—My question without notice is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Minister, have you seen today’s report from the RACV on the taxation of petrol that shows motorists in Bendigo, Echuca, Geelong, Hamilton, Mildura, Ouyen, Sale and Wodonga are all paying more tax on every litre of petrol than city motorists? Minister, isn’t this something you promised would not happen? Doesn’t this mean that for the first time regional motorists are paying more petrol tax than city motorists?

**Mr SPEAKER**—The member for the Northern Territory and the member for Kingston from time to time have used their advantageous position in the House to in fact hold up various messages counter to the standing orders. I now issue them with an indication that if that persists I will use the authority vested in me as the Speaker to see that they are located in another position in the chamber. As every member of the parliament will be aware, I would exercise precisely the same authority for anyone who...
happened to be within convenient camera range.

Mr Kerr—Mr Speaker, I wish to raise a point of order. I am not able to refer you to the number, but there is a standing order which entitles members to retain the seats which they are allocated for the duration of the term of the parliament. It is not within your jurisdiction to move members.

Mr Reith—If I could take a point of order, I am happy to help the honourable member—I am sure you do not need any, Mr Speaker. I refer the honourable member to standing order 33 which says:

Any question with regard to the seats to be occupied by Members shall be determined by the Speaker.

Mr Speaker, there is no question you have authority for the proposition which you have advanced. Furthermore, it is well justified as a matter of commonsense as the honourable members over there have a longstanding habit now of abusing standing orders.

Mr McMullan—Mr Speaker, on a point of order: I actually recognise that you do have the power under the standing orders, but I want to make the point very clearly that we would consider it significantly inappropriate if it were applied only to people on our side.

Mr Speaker—Of course. I thank the Manager of Opposition Business for that reassurance. I think he is as well aware as everyone else is that it would not be my intention to apply the standing order other than in an equitable way. We had a question from the member for Batman. The question was directed to the Deputy Prime Minister and the Minister for Transport and Regional Services.

Mr ANDERSON—I thank the honourable member for his question. Like everyone in this place, I regret the very high fuel price that people are paying today at bowser. The Prime Minister has expressed that regret. None of us enjoy it. I make again the obvious and truthful point that the opposition never allude to: the answer to cheaper bowser prices is a better supply of crude oil internationally. Plainly, the objective of the opposition here—despite their unbelievable record and utter hypocrisy in relation to fuel excise—is to try and depict country motorists as being disadvantaged, despite the fact that they overwhelmingly benefit from the very real reductions in excise on transport and from the rebating of GST on petrol used in business.

Let me make this very important point. I have actually had a bit of a look around today at some of the very high spikes that you get. I find that they are not confined to any one area in Australia. In fact, at Coonabarabran today, which was raised in this place, the price of petrol has reached 111c whereas just down the road at the neighbouring town it is around $1 while in Mossman today you could pay up to $1.08. So there is some real volatility out there. Frankly, I am concerned enough about some of this volatility to have written today to Professor Fels about what is happening in Coonabarabran, after having listened to some of the concerns of that community and the relative spike in that place.

The hypocrisy of the Labor Party in relation to country-city fuel prices is underlined quite simply by the fact that the $500 million that we have put in to close the gap—which, as I indicated yesterday, has overwhelmingly across Australia helped to close the country-city gap between June and July of this year—the opposition intend to abolish. Open and shut. You are no friends of country motorists.

Economy: Current Account Deficit

Mr TIM FISCHER (2.18 p.m.)—My question is addressed to the Treasurer. Treasurer, would you inform the House and the country of the outlook for the current account deficit in 2000-01, given that the outcome for the June quarter 2000 has been released today by the Australian Bureau of Statistics.

Mr COSTELLO—I thank the honourable member for Farrer for his question. I can inform the House that the current account deficit for the June quarter was $7.9 billion, or in terms of the March quarter at GDP around 4.9 per cent. For the year the government had forecast a current account deficit of $33½ billion; the outcome was
$33.7 billion—an extraordinarily accurate forecast when you are thinking of those sorts of numbers. As it turned out, the outcome was below the current account deficit as forecast in percentage terms because the economy grew stronger than was forecast at budget time.

The June quarter, which was an improvement over the previous year, reflected a continued growth in Australia’s exports from continuing recovery in the world economy, particularly in Asia. The volume of exports grew 1.5 per cent in the June quarter and in year average terms exports have grown nine per cent in 1999-2000 due to a stronger world economy and no doubt due to the efforts of previous Australian trade ministers who have promoted Australia’s products overseas in such a formidable way in the last three years. Elaborately transformed manufactured exports rose 0.7 per cent in the quarter, non-rural commodities rose three per cent in the quarter and service exports rose 2.5 per cent in the quarter, whereas the volume of exports grew only slightly at 0.2 per cent. Net exports are expected to contribute to GDP in the June quarter, which has not been the case previously.

I can inform the honourable member that the government is forecasting a continued improvement in the current account deficit in 2000-01 as exports continue to rebound very strongly off the Asian financial crisis and the strengthening world economy. Although we cannot afford to be complacent about the current account, the fact that it has improved and our exports are growing as strongly as they are is improving Australia’s trade position with it actually contributing to growth.

The flip side of that, of course, are the net foreign debt figures. The Prime Minister has already referred to those. I can report to the House that the good news from net foreign debt is that, whereas government debt contributed 17 per cent of net foreign debt when this government was elected, it is down to 10 per cent. That is because this government has not borrowed in net terms since it was elected.

One can imagine that, if this government had followed the example of its predecessors and run up $80 billion of debt in five budget years, it would have added another $80 billion, all other things being equal, to net foreign debt. If we had had a record of $80 billion worth of deficits borrowed by the government—the record of our predecessor—then, all other things being equal, it would have amounted to another $80 billion.

The Labor Party, of course, knows this to be the case. I pulled out a question from June of 1995 asked by the current Prime Minister of the then Minister for Finance, Mr Beazley. When Australia’s current account deficit was six per cent in June of 1995, the now Prime Minister asked the then Minister for Finance what the government strategy was to deal with the current account deficit. As it was reported, the then Minister for Finance, Mr Beazley, said this in the House of Representatives on 21 June 1995:

You have asked for our approach. Absolutely, we will give you our approach. Our approach is to produce budget surpluses ... In June of 1995, his budget surplus was minus $13,000 million and the next year, by producing a budget surplus, he produced a deficit of $10,000 million. They knew the talk. The talk was that the budget should have been in surplus. What they could not do was act. He had a record of two budgets with a cumulative deficit of $23 billion of borrowing.

The good news is that we put aside the Labor Party’s wanton waste and we put aside the $80 billion debt racked up. This government has not borrowed, in net terms, since it was elected, and we have now paid back $50 billion of the $80 billion Labor debt. We intend to continue to do so.

**Goods and Services Tax: Petrol Prices**

Mr CREAN (2.23 p.m.)—My question is to the Prime Minister. Has he seen comments today from the member for Makin on Radio 5AN in relation to petrol:

I’ve actually started a petition from my office, so if anybody is interested they can ring my office and ask for a copy of the petition, and that is to actually freeze the excise in February next year. Prime Minister, will you be signing the petition from the member for Makin, or is this just another example of coalition members
saying one thing in their electorates and another thing in Canberra?

Mr Ross Cameron interjecting—

Mr SPEAKER—Order! If the member for Parramatta has a point of order, there are facilities in the House to accommodate him. Otherwise he ought at least ensure that people are heard in silence.

Honourable members interjecting—

Mr SPEAKER—Order! Member for Oxley, Member for Batman. It ought to be patently evident to everybody in the House that everyone is entitled to be heard, and preferably heard in silence.

Mr Ross Cameron—Mr Speaker, my point of order is that the member’s question advanced argument, it offended standing order 142 by referring directly to the statement of a member of this place outside the House, it included an invitation to debate, and it contained no genuine request for information or press for action. In short, it was a speech and should be ruled out of order.

Mr SPEAKER—The question is in order and I call the Prime Minister.

Mr HOWARD—I have not seen the remarks referred to by the Deputy Leader of the Opposition, but the general point he raises concerns the question of petrol excise. That has been the subject of quite a number of questions in the House. I have stated the government’s position. That position remains absolutely, completely and totally as I have stated it in this place over the past few days. There is no change in the government’s policy. We will not be embracing the opportunism of the opposition. We will not be running down the surplus. We will not be cutting into necessary spending in education, roads and all the other things, which would be necessary to fund either a cut or a freeze in excise. That is not a solution to the problem. The solution lies in bringing the spiralling world oil price under control and, hopefully, bringing it down. The government is bending its efforts responsibly in that direction, and in no other direction.

Mr Crean—I seek leave to table the transcript which contains the opportunism of the member for Makin.

Leave not granted.

Immigration: Mandatory Detention

Mr WAKE LIN (2.28 p.m.)—My question is addressed to the Minister for Immigration and Multicultural Affairs. Would the minister inform the House whether there is any truth in the claim that the riots in Woomera and demonstrations at other detention centres over recent days are connected with unnecessary delays in processing asylum claims of unauthorised arrivals, and does the government accept the view that people should be released prior to health and character checks being completed?

Mr RUDDOCK—I thank the member for Grey for his question. I might let the member for Grey and other members of the House know that the advice that I gave previously that there had been several officers injured and requiring stitches understated the severity of some of the injuries suffered by both ACM and APS personnel. What I will report will give concern, I am sure, to all members.

One ACM officer of Aboriginal descent was dragged inside the external fence by detainees as he sought to prevent detainees from breaching the fence. While he was on the ground, he was repeatedly hit by detainees, using posts that they had pulled from the ground that had been used for the courtesy fence. He suffered a number of blows to the back of his neck and suffered injuries as a result. Another was hit by a large rock thrown by detainees such that he suffered a head injury that required several stitches. In relation to APS staff, another person who had what appeared to be superficial injuries was later found to be suffering internal bleeding, which is the subject of ongoing investigation, and another has a broken ankle and has been transferred to Adelaide for further medical attention.

The seriousness of these matters ought not in any way be understated. I regret very much that there are some people who do not understand the lawful basis on which these issues are dealt with. The fact is that detention of unauthorised arrivals is required by act of parliament. These provisions were passed by the parliament and supported by both sides of this House. Detention of unau-
thorised arrivals is necessary for the follow-
ing purposes: to establish a person’s identity, and that is necessary because many have disposed of documents that would enable that to happen before they come to Australia; to carry out security, character and health checks; to have them available during the assessment of their claims; and to facilitate their removal if they have no lawful basis to be in Australia.

There are some people—amongst them perhaps not practising journalists but certainly their editorialists—who have picked up the line regrettably used by my friend the shadow minister that in some way we hold people in detention longer than is necessary. Let me make it very clear: it is not in the government’s interests to hold people in detention, at very considerable expense to taxpayers, when the decision making can be carried out with efficacy and quickly.

Mr RUDDOCK—I am intense, yes, because it is a very serious issue. When some people are narrowcasting—

Mr RUDDOCK—Don’t blame us.

Mr McGAURAN—Imagine the Labor Party talking about telecommunications in regional areas. Does ‘analog mobile phone
network’ ring a bell? All of the skill and judgment which the member for Dobell brought to that issue as minister he is now bringing to education. We had to completely fix up what would have been an entirely absent mobile phone network throughout regional Australia. You have no credibility whatsoever on this issue.

I am not going to accept the figures rattled off by the shadow minister. All that needs to be said is that the government’s share of the Telstra dividend will be taken into consolidated revenue and we will consider our priorities in the run-up to the next budget. It is worth noting that the government has directed the money from the first two tranches of the Telstra sale into Networking the Nation, which the Labor Party opposed. That has installed a new and improved infrastructure the length and breadth of Australia and at the same time spent the money on the Natural Heritage Trust to the concrete and material benefit of regional Australia. Both those programs were opposed by the Labor Party from start to finish and they still oppose them. Your words ring very hollow.

Mr Stephen Smith—Mr Speaker, the minister refused to accept the figures I put in my question. I seek leave to table page 34 of today’s annual report and press statements from the Minister for Communications, Information Technology and the Arts and the Minister for Finance dated 12 December 1996 and 21 June 1999, which verify the figures I put forward in my question. I seek leave to so table.

Leave not granted.

Goods and Services Tax: Petrol Prices

Mr LIEBERMAN (2.37 p.m.)—My question is addressed to the Treasurer. Has the Treasurer seen reports comparing the net fuel taxes paid by country motorists with those paid by city motorists? Will the Treasurer advise the House of the accuracy of those reports?

Mr COSTELLO—I thank the honourable member for Indi for his question and I pay tribute to him as somebody who has worked on petrol issues and has a thorough understanding of the petroleum industry in Australia because of all his efforts. I saw a report in a newspaper this morning comparing the prices in Melbourne and Wodonga, working off a base price in Melbourne of 95.2c and an excise of 38.1c, claiming that with a GST of 8.7 per cent the tax was 46.8c whereas in Wodonga, working off a base price of 99.9c and an excise of 38.1c, a GST of 9.1 per cent, the tax take was 47.2c—

Mr Crean—A higher GST up there than in the city.

Mr COSTELLO—A difference, as the parrot on the frontbench interjects, of 0.4c. What the analysis does not take into account is the fuel grants scheme. The fuel grants scheme appears to be totally lacking from this analysis—

Mr Rudd—Mr Speaker, I raise a point of order. The Treasurer’s reference to a parrot on the frontbench constitutes a personal reflection under standing order 76. While you are powerless to do anything about the Treasurer’s arrogance—

Government members interjecting—

Mr SPEAKER—I would remind all members on my right of the thing of which I perpetually reminding members, and that is the right of those with the call to be heard in silence. The member for Griffith will repeat his concern.

Mr Rudd—Standing order 76 relates to personal reflections on other members. The Treasurer’s reference to parrots plainly constitutes a personal reflection. What I went on to say is that, while you cannot do anything about the Treasurer’s arrogance, you could assist us by cleaning up his language.

Mr SPEAKER—If I were to rule as unparliamentary the regrettable reference made, I would be ramping up considerably the number of unparliamentary remarks in the chamber. I must remind the chamber—

Mr Martin interjecting—

Mr SPEAKER—The member for Cunningham is well aware that there is an obligation on all members to at least be silent when some sort of pronouncement is being made from the chair. If I were in fact to rule that as unparliamentary, we would have ramped up considerably unparliamentary remarks beyond that which I would have
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thought was generally expected from all members of the parliament. The Deputy Leader of the Opposition had interjected, which is of course out of order, and I had not drawn his attention to that, so for the same reason I did not in fact interrupt the Treasurer. Both might care to exercise just a little more restraint.

Mr COSTELLO—Working off those figures, as I said, the tax take, so it is claimed, was 0.4c more in Wodonga than it was in Melbourne. But the analysis completely omits the Fuel Sales Grants Scheme. There is a grant paid in respect of Wodonga of 1c a litre which is not available in Melbourne. Once you take that into account, the amount paid to the government, which is tax net of grant, is actually less in Wodonga than it is in Melbourne. The amount paid to the government of tax net of grants is actually less in Wodonga than it is in Melbourne. That is the same in respect of all of the other country towns which were mentioned in that report: Sale, Ouyen, Mildura, Hamilton, Geelong, Echuca, Bendigo and Ballarat, where in fact, according to the analysis, the pump price was less than in Melbourne in any event. It is just not a correct analysis to say we are only going to look at that aspect of tax which is paid to the government without looking at the grant which is paid back to the government in respect of the person concerned.

It is quite clear from that analysis, as pointed out to me, that in Wodonga the tax net of grant paid to the government is less on that particular price than the person in Melbourne would be paying.

Mr Fitzgibbon—If the grant is passed on.

Mr COSTELLO—This, of course, would not be the case if the Fuel Sales Grants Scheme were abolished. If the Fuel Sales Grants Scheme were abolished, it would be the case that you would be paying more in Wodonga on that price than in Melbourne. As far as I know, the only threat I have heard to the Fuel Sales Grants Scheme comes from the Australian Labor Party. There was a claim made in this parliament by the member for Hunter, who was interjecting not so long ago, that this scheme was not worth it and was not working. We have established a few things during this petrol debate. The first thing we have established is that the Labor Party supports indexation. We have established that. The second thing we have established is that the Labor Party, if it were ever elected, would keep GST on petrol. In other words, the Labor Party has no quibble with the government policy on excise and GST. The only area that the Labor Party has quibbled with the government on is the Fuel Sales Grants Scheme, the $500 million which makes sure that if you are on a price like that in a town like that you actually pay less than you would on a price like that in a metropolitan centre. The Fuel Sales Grants Scheme was introduced to equalise that system back in regional Australia. On those figures, it is more than performing that task, and the threat to it comes not from this side but from the Labor Party, which, if it had its way, would drive up the price of petrol in regional Australia.

Education: Funding

Mr BEAZLEY (2.44 p.m.)—The Treasurer knows very well that our policy is to ensure that it is not filched, and that is why it is up before the ACCC.

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

Mr BEAZLEY—My question is to the Prime Minister. Is the Prime Minister aware of comments by Father Tom Doyle, the Deputy Chair of the National Catholic Education Commission—whom he quoted yesterday—to a Senate committee about the unfairness of the government’s enrolment benchmark adjustment policy? Is he aware that Father Doyle told the committee:

... we do not think the enrolment benchmark adjustment is a good strategy.

... we were concerned that it would raise the state aid issue in the debate. The degree to which that has happened has varied around the states.

Does the Prime Minister now accept that Dr Kemp’s enrolment benchmark adjustment policy, which has taken more than $60 million from government schools, is unfair and divisive, and will he match our promise to abolish it?
Mr Howard—I will have a look at what Father Doyle put to the Senate committee. Even if the Leader of the Opposition has given an accurate representation of what Father Doyle said to the committee, it does not in any way gainsay what I said of Father Doyle’s remarks yesterday. Father Doyle’s remarks to which I referred yesterday were directed entirely towards the bill that is being criticised by the Labor Party. In the statement I referred to yesterday, Father Doyle strongly endorsed the funding allocations made to independent schools by this government.

Mr Beazley—Mr Speaker, I rise on a point of order going to relevance. These comments by Father Doyle were in the context of a discussion about precisely this piece of legislation. He said that the EBA raises state aid issues in the debate and that he opposes it. That is the question for today—what is the Prime Minister’s answer?

Mr Speaker—The Prime Minister was responding to a question about the funding categories that apply to schools, whether private or public, and responding to a quote from a Catholic priest, and I deem him to be in order.

Mr Howard—Mr Speaker, your exchange with those on the opposition front bench was in the context of government and non-government schools. Let me say something about the federal government’s provision for government schools. In response to the interjection from the Leader of the Opposition, let me inform the parliament that over the next four years government schools will receive over $1.4 billion more from the Commonwealth than they received over the last four years. This year the amount of funding going to government schools is $2 billion—this is $402 million more for government schools than was the case in Labor’s last year in office. It is a funding increase of 26 per cent. You have had a funding increase of 26 per cent over a period of four years, and over that same period the number of students attending government schools has increased by only 2.3 per cent. Of the $13 billion going to non-government schools over the next four years, $8.15 billion is going to Catholic schools, which altogether represents 63 per cent of the total. Throughout the whole of this debate, the Labor Party has sought to raise the spectre of this government unfairly supporting the so-called wealthy schools of Australia.

Mr Beazley—Mr Speaker, I rise again on a point of order going to relevance. He was asked what he intended to do about the enrolment benchmark adjustment. We have not yet heard about that matter in about five minutes worth of answer. I would have thought it would be pretty simple for him to give us an answer on that matter and to match our promise.

Mr Speaker—As I indicated earlier, the Prime Minister was responding to the question asked about the funding of public and private schools and the ratio of funding. That is why I allowed him to continue.

Mr Howard—The question was about the government’s funding mechanism for government schools, and I have been talking about the government’s funding of government schools. The reality is that, despite what the Labor Party says, this government is spending more money on government schools than did Labor. This government has increased the funding for government schools at a faster rate than the population in government schools has gone up. What is more, the allegation made by the Labor Party that in some way we are enriching the children at so-called wealthy schools and those so-called wealthy schools is completely disproved by the fact that schools serving the wealthiest families in Australia will be funded at an equivalent to 13.7 per cent of the average government school recurrent cost. That recurrent cost is essentially the funding level that schools get under the present system, and the basis of the present system was established by earlier governments. This whole argument is designed to create the false impression in the Australian community that we are damaging government schools to help wealthy independent schools. That is completely wrong. If you consider that figure of 13.7 per cent, compared with 65 to 70 per cent for the poorer non-government schools, and if you consider the increase in funding by a factor of 26 per cent compared with a 2.3 per cent growth in stu-
dent attendance at government schools, then you will see that that allegation falls completely to the ground.

Mr Beazley—On a point of order, Mr Speaker: He has not come to his position on the divisive EBA yet and he has been going for eight minutes.

Mr SPEAKER—The Prime Minister has resumed his seat and concluded his answer.

Native Title: Alternative Policies

Mr IAN MACFARLANE (2.52 p.m.)—My question is addressed to the Attorney-General. Australia’s biggest native title agreement was signed in Western Australia yesterday. Would the Attorney-General inform the House of the significance of this agreement? What is the federal government doing to assist state and territory governments to resolve native title issues in a spirit of cooperation? Is the Attorney aware of any alternative policies?

Mr WILLIAMS—I thank the member for Groom for his question. It is excellent to be able to tell the House some good news about native title, about the historic agreement on native title signed yesterday in Western Australia. The agreement is between the state, pastoralists, miners and native title holders and it formally recognises native title over an area of 50,000 square kilometres. It relates to something like 24 pastoral properties. I commend the parties for reaching agreement through a spirit of cooperation or, in the words of the President of the National Native Title Tribunal, ‘with an investment of perseverance and goodwill’. Federal Court Justice Madgwick said the consent agreement showed ‘what mature and resolute people, acting in good faith to reconcile difficult, indeed potentially inflammatory issues can do.’

Mr Speaker, it would be good to see some maturity and good faith from the Labor Party in relation to native title. In fact, I am sure the Australian people would think it would be good to see anything from the Labor Party on native title, particularly what they propose to do in relation to the Queensland determination, which will be debated this afternoon in the Senate. The WA agreement was made possible by the government’s 1998 amendments to the Native Title Act. It came after Aboriginal groups agreed to replace the right to negotiate over claimed land with the right to be consulted. This appears to be the very thing the opposition is saying is unacceptable to indigenous Australians.

Mr Melham interjecting—

Mr SPEAKER—The member for Banks!

Mr WILLIAMS—This is what I assume has caused the opposition such a headache over the proposed Queensland schemes. The schemes should be allowed to come into operation as a package and not as some piecemeal deal designed to kowtow to interest groups while trying to save face with the Queensland Labor Party. The opposition leader said yesterday he was awaiting the outcome of last minute negotiations between the Beattie government and the Queensland Indigenous Working Group before committing the federal Labor Party to what is obviously an 11th hour position. He said:

We will be there supportive of the Aborigines’ position on a right to negotiate.

He also said that Labor has no ‘in-principle objection’ to state based regimes. We have not heard from the Leader of the Opposition this morning.

Mr Beazley—Oh, you look so sad.

Mr WILLIAMS—and we have not heard from the member for Banks either.

Opposition members interjecting—

Mr WILLIAMS—People are wondering if the member for Banks has been gagged. They are wondering whether he will, as has been speculated, resign from the shadow cabinet over the issue.

Mr Melham—you know the answer to that, Daryl.

Mr Speaker—the chair can hardly expect the member for Banks to be restrained when he is in fact invited to be a more active participant by the Attorney-General.

Mr Beazley—I raise a point of order on relevance, Mr Speaker. They got ‘the gag on Daryl’ wrong.

Mr SPEAKER—The Leader of the Opposition will resume his seat. The Leader of
the Opposition is aware that is not a point of order and has nothing to do with relevance.

Mr Beazley—I think it’s pretty relevant.

Mr SPEAKER—It is in fact a matter of some concern to the chair because there is a demand on the chair to recognise points of order and the treatment of them as frivolous matters makes it more difficult for the chair to equitably discharge its duties.

Mr WILLIAMS—The Democrat spokesman on indigenous affairs said this morning that the member for Banks is ‘bleeding profusely’ at the moment. He said whether or not that is terminal is ‘something he’ll have to decide’. This is from the Democrats, who are still pondering their Senate colleagues’ position. The Democrats leader said this morning:

We’re running out of time on the floor of the Senate. We have to deal with the Queensland native title legislation before we go home tonight, and we still do not know what the Labor Party’s doing.

The question is whether the Labor Party knows that the Labor Party is doing. Premier Beattie is trying to broker a compromise. At absolute best the outcome looks like being a second rate deal that will not solve the problems of the Queensland residents. Reports in Queensland suggest that exploration expenditure to the value of some $300 million has been lost as a result of the impasse. The member for Groom will not be pleased to see that the Labor Party is shortchanging Queenslanders.

Education: Funding for Non-government Schools

Mr LEE (2.59 p.m.)—My question without notice is addressed to the Prime Minister. Do you stand by your claim yesterday in this House that schools in category 1, like Melbourne Grammar, get 17 per cent of government school costs and ‘that is how it has been for a long time and I think that is fair’? Prime Minister, if you think 17 per cent for those schools is fair, why is your government now proposing to almost double funding for category 1 schools to 30 per cent?

Mr HOWARD—My information and my understanding is that that claim is wrong.

Superannuation: Wealth Creation

Mr PROSSER (2.59 p.m.)—My question is to the Minister for Financial Services and Regulation. Would the minister inform the House of any alternative policies relating to wealth creation for superannuation funds? What impact would these policies have on the incomes of Australian retirees?

Mr HOCKEY—I thank the member for Forrest for his question. Last night I was intrigued to receive a copy of a speech to the Sydney Institute delivered by the President of the ACTU, Sharan Burrow. I know it might disappoint a few of my colleagues to say this but in that speech the President of the ACTU made some good points.

Government members interjecting—

Mr HOCKEY—I know it is hard to believe, but it is true. In the first place, she reflected on the fact that we should all be encouraging shareholder democracy. I think we agree with that: we should be encouraging shareholder democracy. The President of the ACTU says:

... there is a correlation between good corporate behaviour and long-term profit and shareholder value.

I think we agree with that as well. The President of the ACTU also says this:

Once unions might have seen shareholders’ interests as opposed to those of workers, but this can no longer be the case. The fact is that shareholders are all of us.

We agree with that.

Mr Crean interjecting—

Mr HOCKEY—The Deputy Leader of the Opposition says, ‘What is your point?’ What intrigued me was these words from the President of the ACTU:

While superannuation shares are increasingly significant we also acknowledge that a shareholder culture is extending beyond wealthy Australia as evidenced by the float of major companies such as the Commonwealth Bank, Telstra ... What we are seeing is a change of policy from the Labor Party. The person who dictates policy at the Labor Party is saying that privatisation is good. She is saying that shareholder growth is good. She says it is great that the ideological battle of days past is all over. That is what the President of the
ACTU says. So you have to ask: what is intriguing about that comment? Wait a second—the ACTU said that it would fight privatisation all the way and it would fight the sale of Telstra and the sale of the Commonwealth Bank all the way, so what is the hidden agenda? Sharan Burrow reveals it a little later when she says this—and I confess that I did not know this fact about superannuation:

Employee representatives, whether elected or appointed by unions, make up half the boards of funds with almost half of total superannuation assets—around $200 billion.

What the President of the ACTU is saying is that the ACTU controls half of Australia’s superannuation funds—$200 billion.

Ms Burke—No, she is not.

Mr McMullan interjecting—

Mr HOCKEY—I will repeat it because the Labor Party does not understand it. Employee representatives, whether elected or appointed by unions, make up half the boards of funds with almost half of total superannuation assets—around $200 billion.

The ACTU has a troubled history when it runs any business. It had a troubled history with New World Travel, it had a troubled history with Bourkes and it had a troubled history with ACTU Solo. Now the ACTU President is saying that they control half of Australia’s superannuation funds. It comes as no surprise that, up in the Senate, the Labor Party is fighting tooth and nail against choice of superannuation for Australian workers. It comes as no surprise that the ACTU, in conjunction with the Labor Party—

Mr Crean interjecting—

Mr SPEAKER—The Deputy Leader of the Opposition’s behaviour is unacceptable. If it were reflected by his opposite number, he would expect me to take action. If he persists, I will be forced to.

Mr HOCKEY—It comes as no surprise that, when it comes to individual choice for workers, Sharan Burrow and the ACTU are saying the workers should not be able to choose who their superannuation is managed by because half of it is managed by the union movement. That is a denial of the consumer sovereignty that is meant to form part of the Labor Party’s platform. It is a denial of choice. Consumers have no choice at all about where their superannuation is invested or who invests it. When we find that the Labor Party in the Senate opposes choice of super at every single point, we need only come back to the fact that we discovered, through the words of the ACTU President, that the union movement controls every Australian worker’s funds by 50 per cent. If the Labor Party is serious about consumer sovereignty, if the Labor Party is serious about putting consumers first and if the Labor Party is serious about giving individual workers choice, then it should support the passage of choice of super in the Senate. Then Australian workers could have some control over their funds instead of leaving it to the ACTU.

Education: Funding for Non-government Schools

Ms GILLARD (3.07 p.m.)—My question is to the Minister for Education, Training and Youth Affairs. Does the minister recall recent work by Professor Richard Teese which showed that boys in some government schools in Melbourne’s west had HSC failure rates more than 10 times higher than some of the leading boys private schools? Minister, in the face of this evidence, why is your highest priority in education to spend $50 million a year on the 62 wealthy category 1 schools—like the three in your own electorate—rather than applying that money to needy schools in Melbourne’s west?

Dr KEMP—I thank the honourable member for her question. The answer to the first part of the question is: yes, I do recall that study by Professor Richard Teese. It was based on data collected in 1994 after 11 years of Labor government. Those results were recorded in the western suburbs of Melbourne after 11 years of federal Labor government. They do not relate in any way to the policies of this government.

Our concern about the complete failure of the Labor Party’s education policies in relation to social justice in education is what led us to direct our attention to precisely those students in the senior years of schooling. We have essentially introduced a revolution in the last two years of schooling, with the in-
troduction of broad vocational subjects taught at industry standard, and school based apprenticeships that give these young people opportunities that they have never had. In the last year of the Labor government, there were some 26,000 students doing vocational education in schools, and you could not say that they were necessarily quality courses.

This year there are 167,000 students doing quality vocational education courses, which are providing job opportunities they never had under your government. In relation to the last point, where you refer to the 62 so-called richest schools, that claim is based on the thoroughly discredited educational resources index system which Labor introduced. Labor’s system for categorising schools has been thoroughly discredited and is not now endorsed by any sector in non-government schooling. Labor destroyed the integrity of the non-government school funding system, and any reference to those categories by the Labor Party now—which has itself officially abandoned its support for that system—is totally fallacious and carries no validity whatever.

Education: Funding for Non-government Schools

Mrs VALE (3.11 p.m.)—My question is addressed to the excellent Minister for Education, Training and Youth Affairs.

Mr SPEAKER—The member for Hughes will come to her question.

Ms Gillard—There isn’t one here!

Mr SPEAKER—The member for Lalor has been much too outspoken. The member for Hughes will commence her question again.

Mrs VALE—Is the minister aware of comments supporting the government’s funding policy for non-government schools? Is he aware of any alternative policies? What is his response?

Dr KEMP—I thank the excellent member for Hughes for her question. There is a lot of support for the government’s changes to school funding; in fact, every association in the non-government sector supports the change. The reason for that is that they are aware that the Labor Party completely destroyed the integrity of the non-government school funding system. The Labor Party refused to fund parish schools at their assessed level of need. The Labor Party refused to fund new schools at their assessed level of need, and so prevented many lower income and working-class families from exercising choice of school. The Labor Party froze the funding for a number of schools in the non-government sector for 15 years. Some of those schools received no real funding increase for 15 years because of the ideological interests and the influence on the Labor Party of the Australian Education Union.

There is an interesting contrast between the rhetoric and the reality. I just looked up the figures as to how many of the members of the Labor front bench went to non-government schools.

Mr Beazley interjecting—

Dr KEMP—They’re all just as good as each other, aren’t they? Mr Speaker, 40 per cent of the Labor front bench attended non-government schools. The member for Kingsford-Smith is not here. The member for Reid, the member for Batman, the member for Hunter, the member for the Northern Territory and the member for Wills—

Mr Snowdon interjecting—

Mr SPEAKER—The member for the Northern Territory seems to have the popular view that, if he interjects and is reminded of his position in the House by the Speaker, he then has the right to gesticulate or make some further interjection. The member for the Northern Territory is warned.

Dr KEMP—Mr Speaker, may I say that these are all very good schools and not only that—

Mr Beazley—Mr Speaker, I raise a point of order that goes to relevance. If it is relevant for them to go through the front bench of the Labor Party revealing that we have 40 per cent of our number who attended non-category 1 schools, can we have the list of nine who attended category 1 schools in your ministry?

Honourable members interjecting—

Mr SPEAKER—I would remind all members that the chair is currently on his feet. That should mean that, regardless of
where members are seated, they are seated in silence. If that is not the case I will take instant action. The Leader of the Opposition has raised a point of order largely without substance. There are facilities in this House so that members can inquire as to whatever they need to know about the educational background of various members, and they are not the facilities necessarily to be used by way of a point of order. Questions can be asked or other inquiries made.

Dr KEMP—My point in drawing attention to this interesting fact is that the parents of these frontbenchers on the other side exercised school choice, as they were entitled to do. They chose what they believed were very good schools for their sons and daughters. What is puzzling many members, I think, is why the frontbench of the Labor Party are so opposed to extending choice to lower income and working-class families. Why are they prepared to exercise choice for themselves but not prepared to extend choice to working-class families? That is why they capped the funding for needy schools. They refused to fund needy schools at their assessed level of need. They refused to fund the parish schools at their assessed level of need. They were prepared to deny choice to others that they wanted for themselves and which they exercised for their children. If you ask why this is so, Mr Speaker, you can only assume that they received a call from Shazza or Dezza to say, ‘You’ve gotta go along with us and really criticise this legislation if you want to get our funds and our votes for the next election campaign.’ So the total hypocrisy of the Labor Party on this issue is completely revealed: they take benefits for themselves that they are not prepared to give to others. It is no wonder they have no support in the non-government sector and why the Catholic Education Commission, the independent schools and the Christian schools regard this legislation as important and why they are urging the Labor Party to pass it at the earliest possible moment, because they want a socially just and fair funding system for schools.

Education: Funding for Non-government Schools

Mr LEE (3.18 p.m.)—My question without notice is addressed to the Minister for Education, Training and Youth Affairs. Does the minister recall his statement on Meet the Press on 6 August when he said:

The government would be delighted to see the flow come back from non-government schools into government schools.

Has the minister ever advocated the opposite: that Commonwealth government policy should encourage students to move out of government schools and into private schools? Has the minister ever advocated cutting grants to government schools to fund increases for private schools?

Dr KEMP—The government does not mandate the choices that parents make. Our aim is to build up the quality of all schools in Australia. That is why we have introduced literacy standards for students in all schools and introduced literacy assessments that are transparent to parents, which the Labor Party refused to introduce when in office, with the consequence that, after 13 years of Labor, 30 per cent of young people could not read and write properly. That is not a social justice policy; that is a policy to entrench social disadvantage. That is a policy that helps to build up the quality of all schooling in Australia.

Mr Beazley—Mr Speaker, I raise a point of order. The question was: has he ever advocated the position that he should encourage students to move out of government schools and into private schools—

Mr SPEAKER—The Leader of the Opposition will resume his seat. I noted the question, which dealt with the opportunities and flow of students from one sector of education to another, and the minister was addressing it.

Dr KEMP—We are also boosting funding to government schools in Australia at a faster rate than any of the state governments and, of course, we have addressed an issue that was never addressed by the Labor Party in office: the educational opportunities for 70 per cent of young people who do not go on to university. As a result, parents are seeing the quality of government schools going up.
They are exercising choice within the government sector, between sectors and within the non-government sector. Our aim is to have parents able to choose between quality schools in all sectors. That is where our policy is leading. We are finally putting in place policies that will actually give those opportunities to all students in Australia, not the ideologically, vested special interest education policy that you put in place that destroyed educational opportunities for so many young Australians and destroyed their employment opportunities when they left school.

**Medicare: Bulk-Billing**

Ms GAMBARO (3.21 p.m.)—My question is addressed to the Minister for Health and Aged Care. Would the minister outline to the House how people living in regional Australia continue to enjoy the benefits of bulk-billing and Medicare? Is the minister aware of recent comments claiming that bulk-billing in regional areas is starting to disappear?

Dr WOOLDRIDGE—I thank the honourable member for her question. It is interesting that, in his now infamous Townsville speech, the Leader of the Opposition made the following comment: ‘You will find in regional Australia in particular that bulk-billing is starting to disappear.’ This did not ring true, so I asked the Health Insurance Commission to provide me with the figures comparing 1995-96—the last year of Labor—with 1999-2000, the last calendar year. If you look at rural, regional and remote Australia, there were 27.8 million services bulk-billed in 1995-96 and 30.5 million services bulk-billed in the last financial year. If you look at this as a percentage of all services, it has gone from 61.1 per cent in 1995-96 to 62.4 per cent in 1999-2000. If you compare this with urban Australia, where the bulk-billing rate across all services has gone from 74.1 per cent to 75.3 per cent, not only has bulk-billing increased in rural and regional Australia but it has increased at a faster rate than it has in urban Australia. This shows that the Leader of the Opposition is prepared to say or do anything to try to put a point of view that he cannot back up with factual argument and that he certainly does not understand health.

**Education: Funding for Government Schools**

Mr LEE (3.24 p.m.)—My question is again to the Minister for Education, Training and Youth Affairs. Does the minister recall the meeting of the coalition’s ERC on 3 June 1991? Is he aware that the minutes recall the meeting of the coalition’s ERC on 3 June 1991? Is he aware that the minutes note the meeting of the coalition’s ERC on 3 June 1991? Is he aware that the coalition sought to encourage students to move from government to non-government schools? Is he aware that the minutes also record:

... Dr Kemp would report back to the Committee on non-government schools—whether additional expenditure could be offset by reductions in grants to government schools and in untied grants.

Will the minister confirm that he did in fact reduce grants to government schools in 1996 with the EBA? Will he also confirm that he did in fact cut untied grants to the states in 1996? Minister, why have you been on a 10-year crusade to undermine government schools, which serve 70 per cent of the students in Australia?

Mr SPEAKER—The Minister for Education, Training and Youth Affairs has the call but will ignore the last sentence of the question asked by the member for Dobell.

Dr KEMP—If the Labor Party is ever going to make a serious contribution to the debate, it will have to get rid of that shadow minister. Mark Latham knows that.

Mr SPEAKER—The minister will come to the question.

Dr KEMP—Mr Speaker, I am directly on the question, because of course there have been no cuts at all to government schools funding and no cuts to government grants. There have been absolutely no reductions in school funding in any year of this government. In fact, grants from this government to government schools have increased for every state and territory in every year since 1996. The Labor Party is trying to run this EBA, which they clearly do not understand—

Mr Lee—We know what you are up to.

Dr KEMP—You have got no idea about how it operates. It does not give a dollar to
non-government schools, and it occurs in a context where funding for government schools is increasing year by year. In fact, funding for government schools is growing faster than that of any state or territory, and I challenge the states and territories to match the performance of this government in funding government schools. The question is based on a total falsehood and just goes to show that the member for Dobell has absolutely no capacity to advise the opposition on education policy. The member for Werrriwa—fronting him after a caucus meeting late last year—said to him quite clearly that he had not made a single policy contribution to the Labor Party in his entire time in parliament.

Mr Beazley—Mr Speaker, I raise a point of order and it goes to relevance. He was asked specifically about the records of the coalition, noting a plan on his part to encourage students to move out of government schools and into non-government schools. We want to know whether that is his view and whether he is acting on it.

Mr SPEAKER—Has the minister concluded his answer?

Dr KEMP—Get real.

Mr SPEAKER—The minister was asked a question by the chair, to which he has not responded. For that reason, I invite him to return to the dispatch box and respond to the question I asked.

Dr KEMP—I had not concluded my answer, Mr Speaker. My conclusion is: get real.

Unemployment: Government Assistance

Dr SOUTHCOtt (3.28 p.m.)—My question is to the Minister for Employment Services. Is the minister aware of recent public statements regarding the provision of Commonwealth assistance to the long-term unemployed? Are these claims accurate? How does current assistance to jobseekers compare with past approaches?

Mr ABBOTT—I thank the member for Boothby for his question, and I note that unemployment in his region peaked at 12.8 per cent in 1993 and it has now almost halved from that peak. Last week, the Leader of the Opposition told a Townsville audience, ‘The number of long-term unemployed has been virtually stagnant over the course of the last four years.’ This statement by the Leader of the Opposition is simply wrong.

Mr Howard—It was a good speech in Townsville.

Mr ABBOTT—It was full of falsehoods. Long-term unemployment is down 50 per cent from its peak of nearly 360,000 in July 1993, when the Leader of the Opposition was minister for employment—a job he described at the time as a poisoned chalice. Trend long-term unemployment has fallen every month for the last 23 months, and it is now 20 per cent below the level of March 1996. The Leader of the Opposition was at it again later in his infamous Townsville speech, when he said that long-term unemployment was too high, ‘because all the assistance programs that get the long-term unemployed back into work have gone—and the good case management has gone as well.’ That is what he said.

In October and November 1995, when the Deputy Leader of the Opposition was minister for employment, the then Department of Employment, Education and Training conducted some research into the effectiveness of those programs for which the Leader of the Opposition is now so nostalgic. This research said:

Many job seekers believed that case management was just another way of shuffling unemployed people around so that the official figures would change even if only very few people obtained sustainable jobs.

So job seekers did not like his programs. The research went on to say:

Many of the case managers and CES staff felt that Working Nation was not genuinely aimed at reducing real long-term unemployment but merely at reducing the unemployment figures.

So the CES did not like his programs. The research also said:

Employers claimed they were less concerned with applicants having had the relevant training than they were with their attitude and commitment to the job.

So employers did not like his programs either. Of course, the figures for long-term unemployment are too high. Of course, employment services are a work in progress and they are constantly being refined. But what is
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 absolutely clear is that, on both counts, the situation is much better now than it ever was when members opposite were in government.

**Defence: AEW&C Project**

Dr MARTIN (3.31 p.m.)—My question is directed to the Minister for Defence. Will the minister concede that the decision to defer acquisition of the airborne early warning and control capability makes a mockery of the much trumpeted technology protocol signed by both the Minister for Defence and the US Secretary of Defense, William Cohen, and jeopardises Australia’s reputation with its major ally? Can the minister confirm that the AEW&C project has been independently assessed by Econtech as resulting in approximately 2,900 sustainable jobs in Queensland, 1,000 direct program jobs, high-tech jobs in Adelaide and Newcastle and important technology transfer, jobs and export opportunities for Australia? Minister, is it not a fact that the successful tenderers, Boeing and Northrup Grumman, and the Department of Defence have spent $50 million preparing for this project? Minister, can you guarantee that Boeing’s proposed investment is not in jeopardy as a result of your incompetence?

Mr SPEAKER—I will allow the question to stand, but the minister will ignore the last sentence, which was an uncalled for reflection on the minister’s capacity.

Mr McMullan—Mr Speaker, I rise on a point of order. Whatever your views about the comments on the minister’s incompetence, you cannot rule as being out of order a question which says, ‘Can you guarantee that Boeing’s proposed investment is not in jeopardy?’ That was the last sentence, and that is certainly in order.

Mr SPEAKER—I accept the comment from the Manager of Opposition Business. It may well be my fault if he or the House misunderstood what I intended. I simply felt that the reflection on the Minister for Defence ought not to have been part of that question. I call the Minister for Defence.

Mr MOORE—I think it is widely known that the government at the present moment is presenting a public discussion paper which takes in the views of the Australian public in relation to the white paper which will be produced at the end of the year. I must say that it has been widely received within the community, with a very large number of people responding to it, both within the community itself and within the ADF. When I speak to members of the ADF, they are very appreciative of the opportunity that the government has extended to them to be able to make their views known on what the white paper should contain at the end of the year. It is not unreasonable, therefore, that the government, when it draws up the white paper, should be able to review the full strategic picture and be able to assess what capability Australia needs over the next 10 to 20 years. So it is not unreasonable under those circumstances that a planned and considered view be taken of so major an acquisition as the AEW&C purchase would have been. The decision to defer the acquisition was so that it could be reviewed in terms of the white paper. I regard that as an extraordinarily responsible decision, one which enables the government to take a wide view of all capabilities on offer to the ADF at the present moment. I contrast this with the mismanagement of the acquisition program by the Labor Party over many years. During that time the acquisition program was never managed. There was a great big order back in the 1980s and the financing of that was left until the 1990s. In that time Defence spending as a percentage of GDP ran down from 2.8 per cent or 2.9 per cent to about 1.8 per cent when Labor departed from government. Under those circumstances, the carrying out of the acquisition program itself was forced and a lot of the things were not purchased according to the original specification. Remember the old Labor Party thing: built for but not with. Therefore, you had boats going around with no guns or armaments in them—built for but not with. That is one of their specials. We only have to go to some of the major projects to see what mismanagement went on: submarines, JORN and the amphibious landing craft.

Dr Martin—Mr Speaker, my point of order goes to relevance. I asked the minister about the AEW&C project and sought a
guarantee that the decision taken is not going to see Boeing exit Australia.

Mr SPEAKER—I noted the question, as I invariably do. While the minister was referring to the acquisition I considered him to be relevant to the question. The member for Cunningham’s intervention in the latter part of the minister’s answer was appropriate. Has the minister concluded his answer?

Mr MOORE—Not quite.

Mr SPEAKER—The minister will return to the question.

Mr MOORE—It is not often that I get a chance to expand on Defence matters. As I was saying, the government has taken the opportunity not only to look at the future through the white paper but also to reflect on the Labor Party’s record in government in terms of managing the Defence portfolio. As a consequence of that I pointed to three areas of glaring error: submarines, JORN and the amphibious landing craft—all of which ran hundreds of millions over their original contract price and years over their contract time. This government is setting out in the white paper—

Mr SPEAKER—The minister will resume his seat. The member for Cunningham is raising a point of order, I presume on relevance.

Dr Martin—Mr Speaker, again my question was in respect of the airborne early warning control contract, the tenders for which were let by this government, and the consequences of why they have now reneged on that for Boeing and other defence industries in this country.

Mr Reith—Mr Speaker, on a point of order: I put it to you that when the minister is asked to detail the government’s view about a major purchase he is entitled and therefore relevant to put that in the context of the government’s overall approach to acquisitions, which is all that the minister is doing. It is therefore entirely relevant to refer to other major acquisitions and the manner and the process by which they are dealt with.

Mr SPEAKER—I have already indicated from the chair that while the minister was dealing with the acquisition program I had allowed him to continue his answer. I then invited him to return if he had not completed his answer, and he was commenting on the acquisition program, but I felt he had an obligation to return to the question which was about the early warning control contract, and for that reason I invited him to complete his answer.

Opposition members interjecting—

Mr SPEAKER—I would remind the member for Prospect and all members on my left that the Speaker is out of his chair and the Chief Opposition Whip is out of order.

Mr Sercombe—Ringbarked you, Wilson?

Mr SPEAKER—The member for Maribyrnong is warned.

Mrs Irwin—His feelings are hurt.

Mr SPEAKER—The member for Fowler is warned.

Mr MOORE—Can I conclude my answer by saying that the government believes in managing its projects appropriately. That will be done through the white paper program, and that will be announced at the end of the year.

Goods and Services Tax: Australian Competition and Consumer Commission Research

Mr HAWKER (3.40 p.m.)—My question is to the Minister for Financial Services and Regulation. I ask the minister: can he inform the House of recent research from the Australian Competition and Consumer Commission dealing with the introduction of the new taxation system? What does this research show about the behaviour of Australian businesses in the lead-up to the introduction of the new tax system?

Mr HOCKEY—I thank the member for Wannon for his question. Before the implementation of the government’s A New Tax System, the Australian Labor Party in this House whipped up doom and gloom in the community and generally created an atmosphere of fear and uncertainty about the GST. In fact, in the six months from 1 January to 30 June this year there were 241 questions and 10 matters of public importance from the Labor Party on the GST. I remind the House of the Labor Party’s predictions that the GST would bring Armageddon, that it was going
to be nightmare on main street, the rhetoric of the slow drip and so on. In fact, it was quite graphic as well. The Labor Party came into this House with lots of props. The Deputy Leader of the Opposition was holding up a pair of pyjamas. Where are the pyjamas today? And the pink cardigan—who can forget the pink cardigan? Or the bag of salad that came in? And the member for Wills had the home decorations magazine. Remember that? But who could forget our friend the member for Bass talking about the Launceston Examiner?

Today I am releasing the ACCC’s third quarterly report to the government as required under the Trade Practices Act for the period covering 1 April 2000 to 30 June 2000. I quote from page 5 of the ACCC report which states:
Based on its monitoring activities and assessment of data available to it, to date the Commission has not found evidence of price changes generally anticipating the GST.
So all of those scare campaigns that the Labor Party ran in this House meant nought. The ACCC received 43,000 telephone calls over the three months to 30 June, and they ran 3:1 as inquiries and not complaints. More than 75 per cent of the calls to the ACCC before 30 June were inquiries and not complaints. This totally refutes the Labor Party’s dramatic high jinx and shenanigans and, in the words of the Prime Minister, it confirms the Labor Party’s humbug.

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper. 3.43 p.m.

PERSONAL EXPLANATIONS

Mr HORNE (Paterson) (3.44 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr HORNE—Yes, in a most insulting way.

Mr SPEAKER—Please proceed.

Mr HORNE—In an article today in the Sydney Morning Herald by Michelle Grat- tan, she states:

Of the coalition seats under 1 per cent, three are in NSW (Richmond 0.1 per cent, Eden-Monaro 0.3 per cent and Paterson 0.4 per cent) ...

I would like to assure all members of this House that I am not a member of the coalition, and I look forward to being returned after the next election as a member of the Australian Labor Party.

QUESTIONS TO MR SPEAKER

Questions on Notice

Mr SPEAKER (3.45 p.m.)—On 17 August the Minister for Forestry and Conservation raised as a point of order whether the member for Wills, who had asked a question during question time, had knowingly asked an out of order question since it already appeared on the Notice Paper. The member for Wills had requested follow-up of an unanswered question under standing order 150. I indicated that I would check the Notice Paper. General House practice is that questions without notice that are substantially the same as questions already on the Notice Paper are not permissible. However, a previous Speaker has ruled a question of this kind acceptable when asked by the member who placed the original question on the Notice Paper. In that case, the Speaker’s view was that the purpose of the rule was to prevent a member awaiting an answer to a question on notice from being disadvantaged and the member’s question being preempted. Logic and commonsense dictated that the practice should not apply in respect of a member’s own question.

The Procedure Committee subsequently recommended in 1986 that past practice be continued despite this precedent to the contrary. There has been no further action in this regard. I have reviewed the Notice Paper and the Hansard for the events on 17 August. The Hansard reveals that the Treasurer’s response to the original question without notice was that, as the question sought advice going back to 1996, the member for Wills could place his question on the Notice Paper. Following question time, the member referred to the Treasurer’s answer and asked for action to be taken under standing order 150 in relation to a question on notice also addressed to the Treasurer and related to taxation but on a different aspect of the sub-
ject. Therefore, while the intervention of the Minister for Forestry and Conservation is understandable, there was no suggestion in my mind that the member for Wills asked a question that was out of order, intentionally or otherwise.

PAPERS

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

LEAVE OF ABSENCE

Motion (by Mr Beazley) agreed to:

That leave of absence for the remainder of the current period of sittings be given to the honourable member for Throsby, on the ground of public business overseas.

MATTERS OF PUBLIC IMPORTANCE

Education: Funding for Non-government Schools

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

The failure of the policies of the Howard government to enhance fairness, equity and social justice in education.

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 LEE (Dobell) (3.48 p.m.)—The Prime Minister misled this House in his answer today and we, in this House, at the end of today’s question time, have three choices. The Prime Minister’s answer, in which he misled this House, was about the level of funding for category 1 schools in Australia. The Prime Minister said yesterday that category 1 schools have received a level of funding of about 17 per cent for a long time and that that is fair. The question we put to the Prime Minister was that if category 1 schools have been receiving 17 per cent for a long time and that is fair, why is this government increasing the average funding for category 1 schools to 30 per cent? On the advice of the Minister for Education, Training and Youth Affairs, the Prime Minister said that the information that we put to him was incorrect. In that answer, on the advice of the minister for education, the Prime Minister has misled this House. The point that we make is that basically there are three explanations for the Prime Minister’s misleading answer. The first explanation is that the Prime Minister does not understand his own government’s schools funding formula. The second possible explanation is that the minister for education has deliberately misled the Prime Minister. The third possibility—and I think this is the most plausible of the three—is that this government has been seeking to deliberately mislead the public to deliberately conceal the real impact of the changes that they are making to school funding.

At the end of one of the weakest performances we have seen from a minister in years, the minister for education challenged us to get real. We say to the minister for education: it is time you got real about federal funding for government schools; it is time you got real about decent federal funding for needy Catholic and low fee independent schools; it is time you got real about the funding needs of universities; it is time you got real about the needs in our TAFE colleges across the country; and it is time you got real about the massive decline in Australia’s research and development effort because of the cuts you have made to Australia’s R&D incentives. This is the reason why we believe the Prime Minister has misled the House here this afternoon.

At the moment, if you happen to be a category 1 school in New South Wales, you get federal funding of about 13.9 per cent and state funding of 3.4 per cent, which is a current total of 17 per cent—the figure the Prime Minister used yesterday. If you are a Catholic school in New South Wales, you get state funding of 12.4 per cent and federal funding of 56.3 per cent, which adds up to 68.7 per cent of total public funding—roughly the figure the Prime Minister used yesterday. The problem is that the Prime Minister said that those figures—a ratio of 70 per cent for Catholic schools and 17 per
for Catholic schools and 17 per cent for the category 1 private school was fair. The trouble is that the Prime Minister does not understand that under his new funding system that changes dramatically. The Catholic school system stays on 68.7 per cent, but the category 1 school gets its federal funding increased dramatically. Federal funding under your scheme is increased so that the total public funding is 30.9 per cent.

What the minister does not understand, and what he has tried to conceal, is that the documents that he released last year with the 1999 budget make it clear that 45 of the 46 category 1 schools that participated in the trial—the 1991 simulation of your SES model—were better off. Your own graph demonstrates that, on average, the mean for the category 1 schools is an SES funding level of 119. If you go to your own legislation, Minister, you can see that, for a secondary school—

Mr DEPUTY SPEAKER (Mr Nehl)—
The chair has no legislation.

Mr LEE—I say to the minister that you can see that the federal funding for a school having an SES score of 119 is 27.5 per cent. Add to that the 3.4 per cent they get from the state government, and we have our figure, the figure we have used today, the figure we put to the Prime Minister—of total public funding for the category 1 schools increasing from 17 per cent to 30.9 per cent. They are the grounds that we used to justify our claim that the Prime Minister has misled this House. Either he has done it because he is so stupid he does not understand what this minister for education has done to him and the federal funding system for schools or, secondly, the minister for education has misled his Prime Minister about the funding system introduced. More likely—the third explanation—is that the Prime Minister and this minister are conspiring to mislead the public, deliberately misleading the public in the way they have gone about trying to hide the massive funding increase that has been given to the category 1 schools. Yesterday, in a flourish, the minister for education began one of his answers with the following sentence. This is David Kemp, minister for education. He said:

The government school funding policies have introduced a new level of fairness, equity and social justice into schools funding.

This man has introduced fairness—the sort of fairness that brings in an enrolment benchmark adjustment that takes $60 million away from government schools across the country even though they have an increase of 26,000 students at government schools across the country! This is the minister for education who claims to introduce equity but actually increases funding to the 62 wealthiest category 1 schools in the country. The average funding increase for category 1 schools is $820,000. This is the man who claims that that is increasing equity. This is the man who also says you increase social justice by brushing off a few crumbs from the table for government schools across the country. Apart from indexation for cost increases in government schools, all the government schools are getting is $4,000 per school. Category 1 schools are getting $820,000—

Dr Kemp—So it’s going up.

Mr DEPUTY SPEAKER—Order! The minister will wait until it is his turn.

Mr LEE—The average Catholic school is getting $60,000. The average government school, where 70 per cent of Australian students attend, get the crumbs off the table, an average of $4,000, apart from the cost indexation that they are entitled to because the Labor government brought in automatic cost indexation for government school funding in 1993. That is what this minister needs to get real about—get real by abolishing the EBA, get real by putting a decent amount of investment into our TAFE colleges and universities, and get real by trying to help our scientists and our researchers turn Australia into a knowledge nation.

In many ways the policies of this minister are like one of those Russian dolls, where each time you pull them apart there is a smaller one inside. Each time, as we examine the policies of this minister, the policies in education for this government, we see there is another secret agenda, deeper down, further in. We have policies that have seen a massive cut of $1 billion to public universities. We had the secret plan last year.
the cuts to the university funding, we had the secret plan to introduce the $100,000 university degree. We had the plan to deregulate university fees, bring in vouchers, scrap HECS and replace HECS with real interest rate loans. And inside that doll we have the $240 million cut in funding for TAFE colleges. Inside that doll we have the minister’s 10-year plan to force students to move from public schools to private schools. And, in the very heart of that, at the very centre of all the Russian dolls, is this minister’s plan to cut funding for public schools across the country. He made it clear in his submission to the ERC in 1991. The document, which they have released today, catches this minister in the spotlight. This is the document that has him talking to his colleagues in the inner-most sanctum of the Liberal Party, when they are working out what will be their real strategy in the lead-up to the 1993 election. The document says:

Dr Kemp noted that the coalition sought to encourage students to move from government to non-government schools.

When Dr Kemp was on Meet the Press on Channel 10 in August, he said he would like to see more students switch from private schools to government schools. That is when he speaks from the left-hand side of the face. But when he is in the secret meetings of the Liberal Party he talks from the right-hand side of the face and he says that his policy is all about encouraging a movement from government schools to private schools. In 1991 he is also recorded as saying he would report back to the ERC to determine whether additional expenditures could be offset by reducing grants to government schools. In some ways that is no surprise, because we have seen the effects of that 10-year campaign to undermine public education in Australia—the cuts to universities, the cuts to TAFE, the cuts to our research effort and the introduction of the EBA, taking away money from our public school system. We have as well the new SES funding model, which, yes, does give some extra money to some of the needy non-government schools. Labor has indicated from day one that we will support additional funding to meet the needs of needy Catholic schools. We will support additional money to meet the needs of other needy Christian schools. We will support additional money to support the educational needs of needy independent schools. But what we know you have been about is wrapping up decent increases for the needy non-government schools with a massive increase to the category 1 schools. And you have sought to hide this before the parliament actually makes a decision on it.

We know that there are real needs out there in the Australian school system. My colleague the member for Lalor referred to the research of Richard Teese that has been recently reported in the Victorian newspapers—research about the massive need that is out there in the government school system in Victoria. It is great to see that they now have in Mary Delahunty, Lynne Kosky and Premier Steve Bracks people who will be fighting hard to turn around those very disturbing research results. What we say is that there is a real need, and not just in government schools in the outer suburbs of Melbourne. There are needs in government schools in the electorate of Braddon, in Sydney, in McMillan, in Oxley, and I could name many others. I will bet there are many members of the House who visit their local schools, who know about the real needs that they have.

People like you, Mr Deputy Speaker Nehl, are lucky to have a new, modern school like Coffs Harbour High School, which the state government of New South Wales and the former conservative government have invested in. That demonstrates, if governments can invest in their government schools, that we can turn results around. You have seen it in your own electorate at Coffs Harbour, Mr Deputy Speaker. You have seen that retention rates and participation rates for university and TAFE can be lifted if we think creatively.

This minister is trying to take funding away from the public education system. You can guarantee one thing. When he gets up at that dispatch box, he will deny reality. He will say, ‘There’s been a massive increase in funding for public schools.’ He said it this morning on radio; he will say it again here this afternoon. This tries to ignore that there has been an increase in funding for public
schools because of the automatic cost indexation that is there for public schools due to the changes we made in 1993. The real question is: how much extra over and above that cost indexation do government schools get? Minimal. In fact, the EBA almost takes away as much as they get in the discretionary increases.

The needs are not there just in government schools. There are real needs in some of our poorer non-government schools. The recent Real Time report on computers in schools demonstrated that if you look at the percentage of schools with student to computer ratios above 15—so there are more than 15 students for each computer in the school—there are only nine per cent of schools in that position in the independent sector. That is basically one in 10. In the government school system, only one in four schools are in that position, but in the Catholic school system one in two Catholic schools have a higher student to computer ratio than 15. That is unacceptable and is something which we think has to be turned around.

In needy areas, the only place kids will get a chance to use computers is at their school. So there are real needs in the government schools. There are real needs in the poorer non-government schools. The one category of losers in this legislation, and it is not the category 1 schools that hit the jackpot. It is not the other schools who are better off under the SES model. It is not the schools who are worse off under the SES model who get maintained. The one category of losers under this legislation is that of disabled students in government secondary schools. On average, those 32,000 students will have their special education funding reduced from $126 to $102 a year. Only a measly $750,000 a year is required to maintain their funding. Everyone else gets maintained, but not disabled students at government secondary schools.

We say that there is a contrast between the two sides of the House on education. On the Labor side, we want to spend more on schools, government and private, in needy areas. We want to do something about making education a priority in breaking the cycle of poverty and underperformance in education. We are determined to invest more in teacher professional development. We are determined to abolish the enrolment benchmark adjustment to ensure that government schools get a decent amount. That is what Labor is saying—education priority zones, abolish the EBA, more teacher scholarships, more investment in teacher professional development. This minister is using the EBA to claw money from public education. Minister, you are the one who has to get real. You are the one who has to help make sure that our public schools and needy private schools get a decent level of funding. We are going to hold you accountable for the misleading statements you have made today.

**Dr Kemp (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (4.03 p.m.)—**The government's changes to non-government school funding have been made necessary by the fact that the Labor Party destroyed the integrity and fairness of the non-government school funding system. There is no sector now in education in Australia, in the non-government sector, which believes that there is any integrity left in the way in which non-government schools are funded. During its time in office, Labor refused to fund the needy parish schools at their assessed level of need and it is no good now for the shadow minister to come into this House and say that he is concerned about the way in which the needy parish schools are funded. They had 13 years to fund them adequately and they failed to do so. This government is now funding them in a satisfactory way, recognising their level of need, in a way which is fully endorsed by the National Catholic Education Commission, and it does so within a very fair funding framework. Father Tom Doyle of the Victoria Catholic Education
Office and Deputy Chair of the National Catholic Education Commission has said that the government’s package:

... is a very good and equitable package. ... The new system is fair, open to scrutiny, yet doesn’t drain resources away from government schools. In a caring and democratic Australia, it is vital that we recognise everyone’s right to choice.

The reason the National Catholic Education Commission is endorsing the government’s package is that it sees, for the first time in a long time, that fair funding formulae have been introduced into non-government school funding. This package has the universal support of the associations representing the non-government sector. The Labor Party is still relying, alone now—indeed, I would not even say the Labor Party, because the Labor Party’s platform that was issued before the conference in Hobart recently says in paragraph 29:

Labor believes that the only effective and fair way to frame schools policy is to invest fully in Australian schools, whether government or non-government, and to allocate these funds on a basis of needs.

In other words, the Labor Party has abandoned the ERI index. That does not stop the member for Dobell from continuing to use the ERI index as the very basis for his arguments against the legislation, an index which is thoroughly discredited, which is not believed by anyone interested in policy for funding of non-government schools. Nevertheless, it is the basis of the Labor Party’s criticism of this legislation.

The ERI system has been abandoned because over a period of 15 years the Labor Party continually adjusted, changed, altered and manipulated that system so that its transparency was destroyed and its fairness was destroyed. Schools at different levels of need were concentrated in the same funding category and schools with the same level of need were distributed across categories. So in the end no-one had any confidence whatever in that system. That is the whole basis of the opposition’s criticism of this government’s legislation. The logic of this absolutely escapes me, and I am sure that, if anyone applies their mind to it, it will escape them too. Why should we believe the arguments of an opposition based on a discredited index which they themselves have abandoned, and have agreed that they will abandon because they will be voting for this legislation, in favour of an index which has been demonstrated in the public domain to be absolutely fair and objective? We are applying this fair and objective system.

What it reveals, for example, is that these so-called category 1 schools, the 62 schools, are not the 62 richest schools in Australia. They are not 62 schools serving the wealthiest people in Australia. An analysis of these schools by the government reveals that the category 1 schools have needs scores ranging from 93 to 130. That is the consequence of the continual political manipulation to meet the vested interests and ideology of the teacher unions who backed the Labor Party over a period of some 15 years. This shows why the Labor Party have no credibility in this area. There is not a single non-government school association supporting the Labor Party. That means that none of them believe the rhetoric from the member for Dobell. He affects with crocodile tears concern over the neediest schools. When Labor were in office they did nothing about these schools. They refused to fund these schools at their level of need. Indeed, the teacher unions compelled the Labor Party to cap the funding for the neediest schools under the ERI at level 6, a level designed to ensure that no new low fee school could be established which might give working-class parents a choice. We have got rid of that policy and opened the doors to educational choice for working-class parents. The families of the Labor frontbench exercised choice. Forty per cent of them were educated in non-government schools.

Mr Lee—Not category 1.

Dr KEMP—Here he goes, category 1 schools, as if this mantra had some reality. It has no reality in assessing the needs of schools. The member for Dobell gets up here and says, ‘The average school in this category is going to receive a 30 per cent increase.’ No school is funded at an average rate. Schools are funded fairly according to need under the government system. Schools are funded fairly according to need. The
schools that serve the children of the wealthiest parents get essentially no funding increase under the government’s proposal. As the level of need assessed by this objective index increases, schools get a level of funding appropriate to that level of need. Under the ERI system, some of these schools had their funding frozen for 15 years in real terms. When this government came to office, some of these schools were running into desperate financial difficulties. These were frequently schools serving students from regional and rural Australia. Why was the funding of the schools frozen? Because the teacher unions did not want these schools to be fairly funded lest parents go to them. They wanted to lock these parents into the government system and deprive them of choice. As the Prime Minister said yesterday, one thing this government stands very proudly for is the right of parents to choose their school, whether that is in the government sector, whether it is in the non-government sector or whether it is a choice between sectors.

That is why this legislation has universal support from all those spokespeople from the non-government sector. There is not a single voice out there supporting the member for Dobell. They know that the Labor Party have never been serious about needs based funding, that they have never been prepared, across the whole of their 13 years in government, to put in place an objective and transparent system for funding the needs of schools. And all the Labor Party can do in this debate is to go round hoping they can stir up a little bit of class envy and hope by a little bit of the distortion divide the community. They can distort the facts and in the end all they are doing is trying to sow social division when it is this government which has the social justice credentials.

That gets me on to the words used in the topic that we are now debating: fairness, equity and social justice. Let me ask a series of rhetorical questions of the Labor Party. I am not inviting the member for Dobell to interrupt.

Mr DEPUTY SPEAKER (Mr Nehl)—I am glad you are not.

Dr KEMP—I know you would be pleased with that, Mr Deputy Speaker. Is it fair that after 13 years of Labor 30 per cent of young people could not read and write properly? Where was the social justice in that? The Labor Party, of course, know how to tax and spend. One thing we all know is that you never trust Labor with money. They are going to increase the budget surplus and spend much more. Their answer in education is always to tax and spend—throw a bit more money at it and that will solve the problem. They tried to do that during the Labor years. They put $1 billion into what they called the Disadvantaged Schools Program. It made that warm inner glow really glow to think they had put $1 billion into the Disadvantaged Schools Program. Throughout that entire period they never did an assessment to see whether those young people could read and write. They never funded a single study to find out what was the best way to teach those young people to read and write, and when they left office 30 per cent of young Australians could not read and write. That is why nobody believes the Labor Party is the party of equity and social justice.

Let me take another group. What happened under Labor to the 70 per cent of young people who did not go on to university? As John Dawkins said, ‘We didn’t do much for them and they joined the unemployment queues.’ As the former member for Sydney said in his lighthouse speech, ‘They were a group we didn’t do much about when we were in office.’ They were not even mentioned by Kim Beazley in his speech in Hobart. The Labor Party is concerned that the rich might be getting some benefit. They will not be. The wealthiest families will not get any increases under this system—essentially, no increases at all. We will fund schools as need increases—not according to an average $800,000 but according to an objective assessment of need. We have expanded opportunities for that 70 per cent. Not only that, we have increased funding for students in government schools very substantially. In fact, we have increased funding by some $400 million over the last four years—an increase of 26 per cent at a time when the number of pupils in those schools has increased by 2.3 per cent. Our system
has led to a massive increase in funding per pupil in government schools. How does this fit with the rhetoric from the Labor Party that we are going around cutting $60 million out of government school funding? Funding has increased by $400 million. The Labor Party is out there trying to mislead people. It is not interested in the truth. With the aid of the unions, with the aid of governments like the Carr government and of somebody who has no integrity in this debate, John Aquilina, Labor is going around trying to stir up social division in New South Wales. It is stirring up antagonism between different groups of people.

That is what the political career of the member for Dobell has come to. He has not had a constructive policy thought in the entire time he has been in office. That is not my judgment; that is the judgment of the member for Werriwa. The member for Dobell was the person prepared to shoulder an education policy that the member for Werriwa said was sectarian and so flawed that he was not prepared to be its spokesman. The member for Dobell was prepared to be its spokesman because he desperately wanted a position on the front bench, but he contributes nothing to the education debate. He said that the government was reducing funding for disabled students. This shows his incompetence, because he was fully briefed on this matter by my department. There is no reduction in funding. He has based an argument on the average funding of primary and secondary school students, and he has worked out that the average is less than the higher of those. But he knows—he was fully briefed on this—that the primary and secondary disabled students will not have any reduction in funding as a result of the government’s decisions. So you can imagine the reputation of the member for Dobell amongst the education policy experts in our department who tried to brief him on this and, after a substantial effort, failed to get through to him.

The Howard government is the government which has restored equity, fairness and social justice to school funding for both government and non-government school parents. The Labor Party has an abysmal record in funding fairness. It destroyed the integrity of the non-government school funding system. Nobody supports Labor. Despite its divisive rhetoric, it will in fact support the legislation. (Time expired)

Mr SAWFORD (Port Adelaide) (4.18 p.m.)—What a sad debate this is. We have just witnessed one of the most appalling expositions on education ever heard in this House, given by a minister who is fast becoming known as one of the dodgy brothers of federal politics. The Weekend Australian got him right, but they were more polite when they described him as the ‘beleaguered education minister’ and suggested that he give away the silly arguments on choice. But the Age editorial of 24 August got him in one: dodgy, dodgy, dodgy. It referred to Dr David Kemp’s dodgy formula which puts the private and public education sectors in competition with each other. Of course, those of us on this side of the House have always realised that when George Orwell wrote about doublespeak in his famous essay ‘Politics and the English Language’ he had in mind a politician exactly like the dodgy doublespeak practitioner that is the member for Goldstein. An examination of this minister’s own words in his second reading speeches reveals numerous examples of the minister’s dodgy doublespeak. The most blatant examples were in one speech when he referred to ‘more is less’ and ‘less is more’ over and over again. Like all zealots, he has no shame whatsoever.

But yesterday he raised doublespeak to new levels. He dashed the hopes of the majority of Australians by stating that he was going to raise fairness and equity to a new level in Australia. I will wager that when this minister says ‘raising fairness and equity to a new level’ he means ‘according to the ability to pay’. In the past, this minister has argued for the ‘freedom of maximum choice’—so do the opponents of public education. But it is nothing of the sort. Choice in its raw form means segregation. It means
division. It means stratification. It means separation. It pits one group of Australians against another. Privatising the public education system is very popular with those religious and ethnic groups that wish to transmit their particular culture to their children. But it comes at a cost: the social cost of privatising schools is increased inequalities for disabled children—the ones you ripped $32,000 from, the ones you will rip $3 million from over the next four years—children who live in socioeconomically depressed areas and children in rural Australia. Where is the National Party? Out in the top paddock, as usual. That is not a threat only to public education; it is a threat to national cohesion. It is a threat to our Australian democracy, which I remind the minister and government members was founded on the secular state. It was founded on non-discriminatory universal access to education. It was founded on widely shared knowledge and values, and justice for all, and it was founded on equal educational opportunity. That is what Australian democracy was founded upon.

In the past this minister used the mantra of freedom of maximum choice. Whom does that really include? Does it apply to all children? No, only to those with parents with the ability to pay. Does it apply to children with merit? No, only to the ability of parents to pay. Does it apply to disabled children? No, only to the ability of parents to pay. Does it apply to children in rural Australia? No, only to the ability of parents to pay. Yesterday he raised a new mantra—‘raising the level of fairness and equity’. By that I guess we read the 62 wealthiest category 1 schools in Australia—the ones that 53 per cent of the cabinet attended—where funding is going to increase from 17 to 31 per cent, those schools that charge about $11,000 a year in fees.

That private schools in this country get assistance from the federal government is not argued. That exclusive schools—those that exclude, who charge about twice the rate of the cost of a public education—receive substantive Commonwealth assistance is criminal. To argue that the parents of children in schools like Melbourne Grammar, who recently raised $5 million—a really magnifi-
inequalities and this will exacerbate social division.

Areas of concern identified by the Anglican Diocese of Melbourne included the decreased funding of government schools, increased spending on non-government schools at the expense of government schools, the impact of increased competition on both the public and private sectors, the dismantling of policies to rectify social disadvantage. This is not Shazza and Dazza. This is not the AEU. This is not the Labor opposition. This is the Anglican Diocese of Melbourne. They say:

A new conception of education and of the role of government in education appears to be driving the changes.

They go on:

Debate is hampered by difficulty in obtaining sufficient reliable information.

They know about dodgy politicians like this minister. They state:

The vision that now inspires our education policy-makers is of parents and their children being able to choose from a range of educational offerings according to what they judge will produce for them the best return on their investment of time and money in schooling. These government policy-makers argue that when each individual is free to act in his or her self-interest, a free market will produce the greatest benefit for the greatest number of people.

This is a radically different vision from that which formerly directed educational policy, and it has been adopted largely without public debate. Individualism has replaced social concern and community development.

I remind members in this House that these are the words of the Anglican Diocese of Melbourne. The report further argues:

Society is not a collection of isolated individuals who are equally able to look after themselves in a competitive world.

And further:

... the rules of the market are insufficient for the government of society.

And further still:

To set citizens in competition with each other, so that there are winners and losers in everything, is to undermine the development of community.

That is pretty damning stuff, Minister, about the current federal government and you in particular. The report concludes its first chapter with these statements:

Jesus warns that no one can serve two masters, and instances the impossibility of serving both God and money.

... ... ...

To value education only in financial terms is seriously to undervalue it ...

When this government and this minister talk about freedom of maximum choice and new levels of fairness and equity, they mean nothing more than the ability to pay. They should read this report. Unfortunately, there is not one person on the government side who sees the folly and the danger to the future of democracy as we know it. That is the greatest sadness of all.

Mr LA WLER (Parkes) (4.28 p.m.)—It really saddens me to actually be part of a matter of public importance debate like this. This blast from the past of this divisive class rhetoric really does not belong in this parliament. It really belongs in time immemorial and times that have long left us. In my part of the world, in western New South Wales, we have a pretty good grip on fairness and equity and social justice. We recognise fairness and we recognise equity and social justice.

When you are talking about social justice and equity, the different groups that spring to mind are usually people from low income families, Aboriginal people, women, people from isolated areas and the disabled. I would like to speak about some of these groups in the same breath that we talk about equity and social justice. If there is anywhere that this government has moved mountains to bring fairness and social justice into my part of the world, it is in the area of education. This government has delivered. In New South Wales, for example, this government’s spending on government schools far outweighs, in increased percentage terms, that spent by the New South Wales government. Yet here we have the team-mates of the New South Wales government spruiking with their mindless prattle, believing as they appear to do that, if you misrepresent the facts, quote falsely but say it over and over again and say it louder and louder, eventually it
becomes fact. We know that that is simply not the case.

To make a political point, the shadow spokesman on education used rubbery figures. In his speech today he said, ‘We will support Catholic schools. We will support TAFE.’ Why didn’t they do it when they were in power for 13 years? One of the first things that this government did when it came to power was to increase the funding to Catholic schools by changing them to category 11. That was one of the first things that was done by this government after 13 years of Labor rule.

It is well known that state and territory governments are responsible for 85 per cent of the funding for government schools and that the Commonwealth contributes the remaining 15 per cent. Of course it follows that the Commonwealth bears the bulk of responsibility for maintaining funding for the non-government sector. Every government school student is funded in their education by at least 90 per cent when you take into account state and federal contributions by the taxpayer, whereas in non-government schools parents provide about 45 per cent of the total funding—although they pay exactly the same income tax rates.

The coalition has maintained a strong and consistent position to promote choice, equity and improved outcomes for all students in all of our schools, not just in one sector. The 2000-01 budget makes available an extra $222 billion in total school funding in the next quadrennium. This is a 32 per cent increase over the 1999-2000 quadrennium. I heard the Leader of the Opposition muttering during question time, ‘But that was four years ago.’ The CPI figures since this government has been in do not match the CPI figures under the previous government, so a 32 per cent increase in funding over four years is certainly a significant increase. But what about the government schools? This year the Howard-Anderson government is spending $402 million more on government schools than Labor did in its last year of office—an increase of 26 per cent. In fact, public spending per student is, on average, $5,600 for a government school student. The same figure, on average, for a non-government school student is only $3,750. For students at wealthier schools, this figure can be as low as $1,500 per student.

The Labor Party are fraudulently trying to give the public the wrong idea and to create class warfare on an issue that should be treated sensibly, calmly and honestly. The so-called rich private schools that they referred to are mostly small Catholic parish schools, such as the one that my children attend. They take care of some of the neediest communities in our country. Many of these schools have an overwhelming number of children who come from single parent homes, families of indigenous background and low income areas in communities such as mine. I note with some delight that the minister suggested part of the reason the Labor Party has in the past opposed proper funding of these schools is so that students will stay in the government system. At the school that my children go to, the P&F has raised money for computers. Part of the reason that they put such a focus on it is that many of the students were leaving to go to the much better funded government schools.

The new socioeconomic status funding arrangements—which are being put in place by this government bring equality and social justice never before seen in education in this country. Again, some of the so-called wealthiest schools that the shadow minister refers to have students from western New South Wales attending, where parents have made a conscious decision that education for their children is of the highest priority. They make enormous sacrifices to send their children to some of these schools, sacrifices which in many cases they cannot afford and sacrifices that threaten their very existence on the farms that they have lived on for generations. Under Labor, they would be denied the government assistance that they deserve.

This funding model allows schools whose pupils come from poor families to receive Commonwealth funding, giving parents from working-class families a greater choice in educational opportunities. I glanced through some of the funding announcements that relate to education in the electorate of Parkes recently and saw a disproportionate amount of funding being delivered to government
schools. A multi-campus senior school in Dubbo has in the area of $2.6 million in federal funding. The South Dubbo Public School is funded by almost $3 million to improve the facilities at that school. I recently had the pleasure of attending the opening of the works at Parkes High School, to which the federal government contributed $1.36 million. This was to open a special education unit for the very disabled students about whom we were talking before. This is one of those groups that is perhaps not viewed as being socially well looked after. This group has perhaps not had the equity that we would like it to have. This facility is state of the art and delivers to students the ability to achieve their optimum level. Many disabled students in the Parkes area would not have been able to achieve this before. I would call that social justice in education.

Further, there was a bit over $1 million provided to a Forbes Catholic school, St Lawrence’s, which was previously in abominable condition. In the same week, I was present at the opening of buildings at Buninyong Public School and at Mudgee High School to the tune of $5.7 million and $6.7 million respectively in federal government funding. These were projects involving major building and renovation work, along with disabled areas, extended learning areas and, importantly, improvements to the school of distance education. Speaking of distance education and social justice, it was this government that also provided extra funding for hostels which house isolated students attending schools in Dubbo, Forbes and Broken Hill. These school-term hostels are most important for students whose homes are too geographically isolated to enable them to travel daily to and from school. This funding would not have been forthcoming without the commitment of the coalition and certainly not without the hard work of the member for Riverina, who achieved funding for similar hostels in Hay and Wagga Wagga.

I would like the shadow minister for education to visit the Pera Bore Christian Community School just outside Bourke—which also received a grant from the Federal Capital Grants Program—and indicate to me whether he sees that school as one of these privileged societies that he refers to. The shadow minister tries to climb on a soapbox by claiming that the average government school gets a real increase of around only $4,000. As has been the case for many years, Commonwealth schools funding legislation has particular emphasis on non-government schools. Labor gave more money to non-government schools than to government schools simply because it has been the primary responsibility of the state governments to fund government schools and the Commonwealth government to fund non-government schools.

The important thing in this debate is that there are schools serving wealthy and poor communities in both sectors. The Commonwealth government is changing the funding model so that schools whose pupils come from poor families will receive additional Commonwealth funding, giving working-class parents greater choice in educational opportunities for their children. There are many other areas of education to consider. Look at the record of the Labor Party in funding TAFE and vocational education and training. Women are one group of the population that have been mentioned in the same breath as groups that are disadvantaged. More than 30 per cent of new apprentices now are women, compared with only 18 per cent under Labor.

There are nearly 177,000 young people involved in new apprenticeships now, compared with 137,000 under Labor. Why? Because the chardonnay socialists decided that it was either university or nothing for young people—that there was no point in encouraging people to take up trades and apprenticeships. How is that for making social decisions not based on the wishes of the community? This government has brought in the curriculum in schools to better suit the 70 per cent of students not going to university. The coalition is committed to giving Australian students a strong education in literacy and numeracy. The government protects the rights of those who are disadvantaged, and I am proud to be part of that government.

(Time expired)
Order! The discussion is now concluded.

TRADE PRACTICES AMENDMENT (INTERNATIONAL LINER CARGO SHIPPING) BILL 2000

Report from Main Committee

Bill returned from Main Committee with amendments; certified copy presented.

Ordered that the bill be taken into consideration forthwith.

Main Committee’s amendments—

(1) Schedule 1, page 7 (after line 5), after item 21, insert:

21A Subsection 10.02(1)

Insert:

freight rate agreement means a conference agreement that consists of or includes freight rate charges.

(2) Schedule 1, page 17 (after line 23), after item 67, insert:

67A Section 10.15

After “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(3) Schedule 1, page 17 (line 28), after “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(4) Schedule 1, page 18 (after line 12), after item 70, insert:

70A Section 10.16

After ”by a varying conference agreement”, insert “(other than an agreement that consists solely of freight rate charges)”.

70B Section 10.16

After “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(5) Schedule 1, page 18 (after line 14), after item 71, insert:

71A Section 10.17A

Repeal the section, substitute:

10.17A Exemptions from section 45 for freight rate agreements

(1) Section 45 does not apply to the making of freight rate charges in a freight rate agreement if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and

(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(2) Section 45 does not apply to the making of freight rate charges in a freight rate agreement if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a single registered inwards conference agreement after which ever is the later of the following times:

(i) the end of 30 days after the last-mentioned agreement is finally registered;

(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and

(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(3) Section 45 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and

(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(4) Section 45 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives
effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a single registered inwards conference agreement after whichever is the later of the following times:

(i) the end of 30 days after the last-mentioned agreement is finally registered;

(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and

(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(6) Schedule 1, page 18 (after line 16), after item 72, insert:

72A Section 10.18A

Repeal the section, substitute:

10.18A Exemptions from section 47 for freight rate agreements

(1) Section 47 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and

(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(2) Section 47 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a single registered inwards conference agreement after whichever is the later of the following times:

(i) the end of 30 days after the last-mentioned agreement is finally registered;

(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and

(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(3) The exemptions provided by subsections (1) and (2) do not apply in relation to subsections 47(6) and (7).

Amendments agreed to.

Bill, as amended, agreed to.

Third Reading

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

PROTECTION OF THE SEA (CIVIL LIABILITY) AMENDMENT BILL 2000

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy presented.

Ordered that the bill be taken into consideration forthwith.

Bill agreed to.

Third Reading

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

CUSTOMS TARIFF PROPOSALS No. 6 (2000)

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (4.41 p.m.)—I move:

Customs Tariff Proposal No. 6 (2000)

Customs Tariff Proposal No. 6 (2000), which I have just tabled, contains three schedules of alterations to the Customs Tariff Act 1995. The first two of these schedules relate to item 17 in part II of schedule 4 to the act. Item 17 provides concessional entry for goods that have been exported from Austra-
lia and are subsequently reimported in an unaltered condition. The principle of the application of this concession is that duty is only payable on imported goods once, and that the concession should not be utilised where a duty liability has not been previously acquitted. The current provisions do not adequately reflect the original intent of the concession.

The alterations contained in schedule 1 redefine the eligibility criteria of item 17 and add new item 17A. They have previously been gazetted to commence on 4 July 2000 and are now being tabled in the House in accordance with section 273(EA) of the Customs Act 1901. Revised item 17 and new item 17A provide separate sets of entry conditions for each of a number of uniquely different import transactions. Schedule II contains alterations to items 17 and 17A, which have previously been gazetted to commence on 14 August 2000. This second gazettal was required to provide for additional eligibility criteria in relation to this concession, which were inadvertently omitted from the first gazettal.

The third schedule of this proposal reintroduces the five per cent duty rate on certain woven fibreglass fabric from 1 September 2000. The duty on these goods was removed from 15 December 1999 as part of the nuisance tariff exercise. The criteria used to determine the existence of a nuisance tariff were that the duty collected under an item was insignificant, and there was no local production of the goods covered by the item. The list of 268 nuisance tariffs, of which this item was one, was constructed after extensive and repeated consultations with industry and industry associations.

Despite that consultation process, a producer of a certain woven fibreglass fabric identified itself after the duty reductions had been introduced. As the intention of the government was not to disadvantage local manufacture, the duty on these goods is being re-instituted. A summary of the alterations contained in this proposal is being circulated for the information of honourable members. I commend the proposal to the House.

Debate (on motion by Mr Stephen Smith) adjourned.
parents’ divorce. But we can set in place guidelines that provide the best environment for a positive outcome, especially for children, and we can make sure that the system reflects and recognises the impact of divorce on children rather than ignoring it.

I know that a few years back it was fashionable to deny that divorce and separation had any real or lasting impact on the well-being of a child. People were encouraged to escape a marriage if their every need as an individual was not being fulfilled, and they were told that it was actually better for the children. Many recent studies have shown that this is not the case at all. Except of course in families where violence or abuse occurs, most studies indicate that children are better off if their parents stay together than if they do not, whatever the level of individual satisfaction within the marriage. Naturally, the impact can be minimised depending on how the parents deal with the situation. In an interesting article entitled ‘Turning to father’, published in Family Matters, the journal of the Institute of Family Studies, senior research fellow Ruth Weston said:

Some studies of families after marriage separation have suggested that the children’s wellbeing and life chances are influenced not only by the level of financial support provided by non-resident fathers, but also by the amount and quality of contact between fathers and children, and cooperation and conflict between parents.

This legislation recognises the importance of that contact between non-resident parents, most often fathers. It sets in place a three-stage compliance regime to help enforce parenting orders and to ensure they are regarded with the importance they definitely deserve. This is a direct result of recommendations by the Family Law Council in June 1998. The new system strikes a balance between flexibility and enforcement and covers prevention, remedial action and, as a last resort, punitive sanctions if parenting orders are not adhered to. The first stage of the new measures will be to ensure that parents are fully aware of what the parenting order means to their obligations. It is also intended to improve communication between the parents so that the likelihood of the parenting order being broken is reduced.

The second stage deals with remedial measures—for example, when a parenting order is breached, the court can send the parents for a range of counselling and discussion programs run by professionals as well as make arrangements to compensate for the loss of contact time. The third and final stage is the application of punitive action. I must stress that this is a last resort and every effort will be made to ensure that parenting orders can operate effectively. But where persistent or serious breaches are made of a parenting order, punitive action will be taken. This may be in the form of community service orders, fines, bonds or, as a final choice, imprisonment. While this option does currently exist, the court has the discretion to decide whether or not to impose such an action. This bill removes that discretion. It sends the very clear signal that, while we will endeavour to use mediation and other measures to address any problems, ultimately we are serious about ensuring that parenting orders are adhered to—because the simple fact is that we render them meaningless if we are not serious about enforcing them. The impact that that has on the life of both the parents and the child is enormous.

I know there are many dads in my electorate who are suffering great pain because they are being denied access to their children through a breach of parenting orders. I am sure that all other members in this place have heard similar stories to the one I am about to recount. Late last year I received a very detailed letter outlining one man’s battle to enforce access orders and regain a relationship with his son. Mr Bill Healey, of Dulwich Hill in New South Wales, is a man who, having gone through the system, is determined to contribute his knowledge and experience to help bring about reform. His correspondence, and in particular a poem he wrote, vividly expresses the pain that many of my constituents have endured in similar cases.

At Christmas 1996, Mr Healey travelled from his home in New South Wales to Maroochydore in Queensland to see his young son, Cameron. At this time, Mr Healey had court orders to see his son each weekend, which the child’s mother had consistently
ignored. He had been promised that he could see his son if he came to Maroochydore and spent three hours at a set meeting place—McDonald’s at Maroochydore—but he did not get to see his son. He wrote a poem entitled *Christmas Day 96*, some of which I would like to share with the House, because a lot of thought went into this poem and it reflects exactly the way he felt:

**Morning slow,**

Nerves at edge as anxiety sets in,

Excited but hesitant that I may not see you,

Tears swallow my eyes, brave I must be.

**Tick tock tick tock - it’s time - will I see you?**

Let it be true.

2.30 I am here, I look and look but you’re not in sight,

Where ... where are you, tears roll around my eyes,

Pain I feel, like so much before, with no plight.

4.15 still no sight.

I have checked the address. It’s right.

Head low, tears flow, there has been no show.

Thousands of kilometres I’ve travelled from our home.

I’ve missed your smiles and your hugs, now it’s time to go.

I must stay strong for again we have been wronged.

**The poem goes on and finishes like this:**

**Love we have is our strength, backed up by our characters.**

**A father you have, you will not lose, not by my own hands.**

My child, although not seen, my thoughts are sent for starters,

**Listen, the birds chirp and sing my message of love, you will understand.**

Feel the gentle breeze tickle, let it bring smiles full of joyous laughter

Let the warmth of the sun’s rays dry our tears.

Now and for ever after.

**Merry Christmas, I will see you soon - Love, Dad.**

It was another three months, and only with the help of a support group—the Sunshine Coast Family Contact Centre—before Mr Healey was able to see his son.

I want to place on record the contribution that various family and men’s support groups have made to the debate on this issue. I know there are many sections of the public service, the media, and others who question these organisations. They display the same hostility and scepticism towards them as that which was experienced by early women’s rights organisations. For some reason, they cannot see the hypocrisy and gender inequality in promoting and supporting women’s organisations but denying the need for similar support for men. The truth is, men do need support, on this and a range of other issues.

The Men’s Rights Agency is a tremendously active men’s support group in my electorate, and it was one of the first such groups in Australia. It is headed by the unstoppable Sue Price and her husband, Reg, and they are determined to help the many men who feel hurt and helpless, particularly when it comes to this very important issue of children. We ought to remember that gender inequality is not something that only women feel. The Family Court has long been accused of gender bias. I believe that is slowly changing, but unfortunately it will probably take a great deal of time.

In 1993-94, 15.9 per cent of custody or residence order outcomes were decided in favour of the father, while 74.3 per cent were in favour of the mother. In 1997-98, that had increased to 19.4 per cent for fathers and 68.5 per cent for mothers. That said, I think we must be careful to ensure that this debate does not become one of men versus women. It is not about whether a child needs a mother or a father more. It is about recognising that a child needs love, care and contact with both parents to have the best possible chance of feeling loved and fulfilled and of succeeding in life. That is not always possible, but it ought to be our aim, because we know that it is what is best for the children. Countless studies have shown this. Surely that should be the ultimate measure of whether a decision is right: whether it is in the best interests of the child.

This bill also allows for binding financial arrangements to be entered into before and during marriage and after separation. In ef-
fect, it makes binding pre- and post-nuptial agreements and gives people more control over their financial arrangements. To protect individuals, they must have obtained independent legal and financial advice before entering the agreements, and any agreements that were found to be obtained by fraud or deception will not be binding. But generally, it will mean that agreements can be reached either in advance or following separation, and it will mean that expensive litigation can be avoided—and hopefully some of the acrimony that often accompanies the division of property can also be avoided.

These changes reflect changes in our society, and they recognise that the adversarial atmosphere of the courtroom is not the best place for workable agreements to be reached. The bill sets in place a process of arbitration as an alternative to litigation in property disputes where the parties have not reached an agreement. Again, the courtroom can be avoided and costs can be kept to a minimum. Hopefully, the bill will also, as the minister said in his second reading speech:

... open up a new range of choices for separating parties to resolve their disputes with dignity. This bill is an important step in minimising the distress and trauma that arises when families break down.

The Howard government is 100 per cent committed to helping Australian families. We are committed to providing support in times of need and to ensuring that the welfare safety net is there to help those who need it most. Most importantly, we are giving real financial and social independence to Australian families by providing jobs. More than 800,000 new jobs have been created since we came to office, and most of those positions are full-time. We are committed to taking a preventative and proactive approach to family breakdown—evidenced by the huge increase in funding for pre-marriage counselling and family counselling. We are taking the financial pressure—which is so often identified as a contributing factor to marriage breakdown—off Australian families through the largest tax cuts ever in our nation’s history, and we are providing a massive boost to family assistance payments.

These are all positive measures aimed at giving families more choice, more support, and more encouragement. Hopefully, in the long term that will mean less family breakdown. Realistically, though, we know that separation and divorce will always be part of our society. It is a sad fact that people change and marriages fail. With this bill, we are helping to make that process less stressful, more dignified and, most importantly, better for the children involved. I am very proud of the fact that Australian families are at the heart of every policy decision that this government makes.

Ms PLIBERSEK (Sydney) (4.59 p.m.)—

There are a number of important issues surrounding the problem of non-enforcement of parenting orders in relation to the Family Court and to the creation of binding financial agreements. I think the Family Law Amendment Bill 1999 goes some way to attempting to address these problems, but it is flawed in many respects, particularly when it comes to the enforcement of parenting orders. A parenting order is an order made by the Family Court in relation to any aspect of parenting responsibility, including residence, contact, maintenance or other specific issues such as a child’s surname or schooling requirements. These are the orders which set out how the care and control of a child from a separated family will work.

In all decisions of the Family Court concerning children the court is required by section 65E of the Family Law Act to make orders giving paramount consideration to the best interests of the child. The best interests of the child are the Family Court’s guiding principle, and it is the right principle. However, while the best interests of the child are the court’s primary concern in making orders, it is not always the case that parents abide by the terms of the court orders. In such cases, the parent who is complying with the order may seek an enforcement order from the Family Court against the parent who is in breach of the order. Given the nature of these orders and the important issues which are contained with them, enforcement of parenting orders is clearly closely related to the welfare of the child. A failure to enforce parenting orders may not be in the best interests of the child. It has become apparent over many years of experience in the Family
Court that, for many reasons, the court has been reluctant to make enforcement orders in relation to an existing parenting order. In fact, the enforcement of orders is a general problem in the Family Court—and not just related to parenting orders. It is due largely to the nature of the court’s work, where it is not always appropriate in family law to impose the same sanctions with the same rigidity as you might in other jurisdictions. The philosophy of the Family Court is to facilitate the ordering of property and custody issues following the relationship breakdown. For these reasons and others, to say that enforcement of orders is a problem for the Family Court is not an attack on the court or its officials but a feature of the environment within which the court operates.

Public inquiries over the last decade have documented community disquiet about the enforcement, or sometimes the lack of enforcement, of parenting orders. The Family Law Council found in its interim report on penalties and enforcement in family law in March 1998 that actions seeking enforcement are largely brought by non-resident parents complaining that contact which is the subject of a court order is being obstructed or denied by the resident parent. These are usually complaints made by fathers who have contact orders where the mother who has residential responsibilities refuses to let the father see the child. It is worth remembering that in many cases this is because the father has acted in the past, or is currently acting, in a violent manner towards the ex-partner or towards their child or is in some other way acting in a manner which means that it is unsafe or inappropriate for him to have access to the child. On the other side of the same coin, of course, are the difficulties with contact experienced by the resident parent who may very much want contact between the child and the non-resident parent. We often hear complaints of non-resident parents failing to pick up children and the disappointment that that involves for both the parent and the child. There are also problems with non-resident parents sometimes behaving in a dangerous or inappropriate manner when they have custody of the children, including sometimes not administering medication properly—which was a particular incident that was reported to me.

The Family Court currently has the discretion to impose sanctions, including a community service order, a bond, a new order, fines or even a sentence of imprisonment. However, in its June 1998 final report into penalties and enforcement, the Family Law Council found that the largest single complaint about the operation of the Family Law Act is the failure by the court to enforce its own orders. So it is clear that there should be some mechanism for ensuring that properly made court orders are, in fact, enforced appropriately. However, many of the provisions in this bill have problems in this respect. There are three stages for enforcement of orders contained in this bill. The first is a preventative measure to improve communication between separated parents and aims at educating them about their responsibility as parents. The second stage contains remedial measures, so that where a person has contravened a parenting order without a reasonable excuse the court may make an order that the person participate in a post-separation parenting program or provide compensatory contact. The government has agreed to amend this section so that both parties, and not just the party who has breached the order, may be referred to the parenting programs. The third and final stage imposes sanctions on a person who fails to comply with an order under stage 2 without establishing a reasonable excuse for failing to comply. These sanctions remain the same as under present law, but imprisonment has been added as a sanction of last resort.

An extremely serious issue arises under this scheme, and that is the problem of domestic violence. I have spoken before in this place about the epidemic of domestic violence which plagues Australia. Male offenders are responsible for killing 94 per cent of female homicide victims in this country, and two-thirds of those killings occur in the context of an intimate relationship and follow a long period of escalating violence. Violence usually occurs in the family home. In many cases—and this is very significant—it occurs when a woman is trying to leave a violent relationship. With respect to the murder of
children in the period 1989-1993, fathers were the perpetrators in 46 cases, de facto fathers in 11 cases, mothers in 22 cases and more than one parent was charged in seven more cases. The Partnerships Against Domestic Violence program announced with great fanfare by this government has gone very little way towards addressing this problem, largely because much of the money remains unspent. Much of the money that has been spent has not gone towards grass-roots organisations or to service providers; it has gone on glossy advertising material and so on.

The issue of domestic violence is shown in stark relief in this legislation. As I noted above, in many cases where Family Court orders are not complied with, it is not because the resident parent has no respect for the court or the orders that have been made but because they actually fear for themselves or fear for their children. A reasonable excuse under the terms of the legislation will include a belief that it is necessary to contravene the order in order to protect the health or safety of either the parent or the child. However, there are many people who are concerned, as I am, that it will be very difficult to prove that there has been domestic violence in the relationship. I think if this were a matter that were easy to prove there would be many more people up on assault charges than we see these days.

Domestic violence is an issue of such magnitude that the office of the court and legislators have to be careful to ensure that parents seeking to ensure the personal safety of themselves or their children do not end up having sanctions applied to them under this regime. I am not confident that the safeguards are adequate in this respect and I would be horrified to find any instance where a parent who has a reasonable apprehension of violence then faces sanctions for breach of a parenting order.

This brings me to a more general point about the rather slapdash approach of the government in drafting legislation generally. This legislation has been a long time coming. It also has been necessary to plug up a number of cuts that have been made by this government in relation to the Family Court and legal aid. It is a quick response, a slapdash sort of response, to cuts that have been made over the period of this government since 1996. The government has withdrawn millions of dollars from legal aid. Since 1996 the amount of money withdrawn from legal aid has reached $232 million. The situation has become so critical that late last year the Chief Justice of the High Court, Murray Gleeson, commented that the government’s legal aid cuts were at best ‘penny-wise and pound foolish’. A report released by Griffith University in April this year documented the harsh impact of these legal aid cuts in the community. It is certainly the experience of most members of parliament and has certainly been my experience that the people who walk through the front doors of our offices are often people who in a properly run legal system where they had access to decent legal aid would not require the help that they seek from us.

Further, the budget of the Family Court was cut by more than 10 per cent, or about $15.4 million over four years. These cuts are being felt keenly by everyone who comes into contact with the Family Court system. I went to a meeting recently with the Aboriginal Women’s Legal Consultation Group and I was told in great detail about the serious problems Aboriginal women are experiencing because of the lack of legal aid funding for family law matters. This, of course, does not apply just to those women; it applies to anyone who would find it necessary to have legal aid funding for their family law matters. The most serious problem that was discussed with me was women agreeing to consent orders because they cannot afford legal representation and have been refused legal aid. They are agreeing to consent orders which are not always safe for the women or the children concerned. A solicitor told me about a client of hers who had agreed to a consent order— which seems a little bit ironic. There was no legal aid available for her when the consent order was made. She was dropping her child off for the first access visit under the orders, and the father of the child punched her in the face and broke her nose. It was not the first time she had broken her nose. It certainly was not the first time
she had experienced violence from him. When she went back to legal aid to request their help to have the orders varied she was again denied legal aid. The officer that she dealt with told her it was denied because she was ‘irresponsible’ for agreeing to consent orders in the first place; she should have realised that there would be violence involved and she should not have put herself and her child in such a dangerous position.

The government’s bill, which seeks to ensure the enforcement of parenting orders, misses this important point. If the government had not slashed legal aid funding, inappropriate contact orders due to the lack of representation of litigants would be less common. If the government were properly addressing the issue of domestic violence, as it should, perhaps so many parenting orders would not be being breached in fear of violence towards the person or their child. The reality of what is happening is that many women are being forced by the Family Court to go themselves into dangerous situations and to send their children into situations that they feel are violent or unsafe. The government’s failure to address these issues is raising its head again in this legislation. What will happen is that the disadvantage already suffered by these women, particularly women on low or no incomes who do not have access to private legal advice, will be entrenched.

The pattern of undermining progress in redressing women’s rights is not uncommon with this government. I want to refer briefly to the second wave of changes to the child support system, because they are related to this legislation in principle. There is a good example of people who will be negatively affected by this bill who will also be negatively affected by the changes to the child support arrangements. One of the great problems in the new raft of child support changes is that the first set of changes have not been evaluated in any serious way, so we are building on a very flimsy basis here. The changes are not driven by any empirical evidence. I hesitate to say it, but could it be they are driven by the Prime Minister’s meeting with the Lone Fathers Association, which they are so proud of and which Bettina Arndt has referred to. The anecdotal evidence from the first wave of changes is that it is children who are suffering because parents who have the care of the child full time are in fact receiving less money. Often those parents are people who are already living in poverty or close to the poverty line. The parents who have benefited most from these changes and will continue to benefit most from these changes are wealthy, non-resident parents. With 92 per cent of parents in receipt of child support being women, these changes basically redistribute income from female sole parents and their children to non-resident fathers. There may be an argument to say that there are non-resident fathers living in poverty, but the way to address their poverty is not to take money from their children and from their former partners who are also living in very straitened circumstances.

These changes are put into context when we remember the Prime Minister’s recent comments about single women and IVF. The Prime Minister has made a lot of fuss about the responsibility of fathers, but when it comes to those responsibilities actually inconveniencing non-custodial fathers every effort is made to make life easier for those fathers. Another example is the child support package in the 2000-01 budget which supports a measure for post-separation counselling and support for non-resident parents, who are almost always men. Over two years $580,000 is being spent on counselling for men. I think that a lot of parents who have responsibility for children would also love to have access to relationship management programs, parenting skills programs, legal advice and financial counselling. I do not know of any equivalent program for resident parents.

As I said earlier, I am not convinced that the reasonable excuse provisions under this legislation will in fact protect women and children from sanctions for failure to comply with parenting orders because of domestic violence. Proposed section 70NJ3 makes the imposition of sanctions outlined in three stages mandatory. The government has announced its intention to amend the bill at the consideration in detail stage so that, under the third stage of the sanctions, judges will
be able to effectively refer parties back to the second stage for counselling. That is a dramatic improvement on the legislation as initially drafted which left very little discretion to the courts in this case. It is worth remembering that the Senate inquiry into the bill unanimously agreed that the three-tier process had to have a lot more flexibility than was the case in the original draft.

On the issue of binding financial arrangements, my main concern is with the requirement to seek independent financial advice. Often financial advice is only as good as the financial advice that you can buy, and there is still an awful lot of possible disparity when it comes to partners accessing top-notch financial advice. I think it would be very unwise for people to sign documents which may be binding documents—unless circumstances change quite dramatically—without receiving legal as well as financial advice. I would say that probably legal advice is more important than financial advice in such a case. This, of course, raises the serious problem of the cost of obtaining that sort of advice. This matter is not dealt with under this regime at all.

I am pleased to say that in the bill allowances were made for changes in circumstances of the parties who sign the document. This is incredibly important because we know that, in any relationship of a number of years, the circumstances of the parties to that relationship can change quite dramatically. I am very pleased to note that this is being taken into account and I hope that it is taken into account not just in the words of the legislation but also in its enactment and application. The legislation as it stands, as I said earlier, has a number of not bad measures but it also has some very significant failings. The most important failing is that I suspect that the circumstances of people not agreeing to orders—that is, the reasons for which they are not fulfilling the obligations of their orders—will not be properly taken into account. I will watch with interest to make sure that that is not happening.

Ms GAMBARO (Petrie) (5.19 p.m.)—I rise today as well to speak to the Family Law Amendment Bill 1999. I support many of the previous speakers on this bill—and I understand that the shadow Attorney-General, in his contribution to the second reading debate, said that, by and large, Labor supported the bill, that it was a worthwhile and very sensible bill. Nevertheless, I also understand that the opposition will be moving some amendments. I think there are times when one needs to look at legislation in a bipartisan way and ensure that it is best for all of our communities—and this is one of those pieces of legislation where I hope that this will be the case.

While I agree with a lot of what the member for Sydney said previously, there are some areas on which I do not entirely agree with her. Firstly, I agree that domestic violence is a serious problem and that more needs to be done to address the problem. We are the first government to acknowledge the existence of domestic violence and to come out with a program that will ensure that it is acknowledged in the workplace as well.

Secondly, the member for Sydney mentioned that the budget contained a child support package—I think she quoted $580,000—that dealt with counselling for men and she felt that this was ill-spent money which should be spent on women as well. One of the big problems in marital type situations and break-ups is that women have usually thought about leaving for a very long time; they have had counselling; they have spoken to family members or friends. But men usually do not speak to anyone about their problems and continue not to after the separation. Unfortunately, this has some very serious consequences. A few weeks ago in my electorate there was a double murder—a very sad situation, a family law situation—and seven children were left without parents. The domestic violence that I became aware of in that particular marriage was horrifying, even to tell the parliament here today. We all, as members of parliament, come across cases like that every day in our normal working lives. We need to address those issues before they get to that stage.

This government has taken a very responsible approach, particularly in counselling and pre-marriage counselling, and has committed a great deal of funding and resources to this area. But I want to touch on the dis-
asters that occur because of family breakdowns. Unfortunately, it is probably the most volatile time in anyone’s life, and quite often the children are the innocent victims. Too often now we are seeing cases where children and non-custodial fathers are murdered or suicides are taking place. It is not too rare. The desperation that must be felt by the separated parents is something that many of us probably will never understand.

I do agree with previous speakers, including the member for Sydney, that domestic violence is an issue in a lot of these situations. I was looking at some statistics that really said it all about domestic violence. They were from an Australian Bureau of Statistics survey which showed that over two million Australian women have experienced actual, attempted or threatened physical or sexual assault from a current or ex-partner or a boyfriend since the age of 15. I must say I was rather alarmed by such large figures. Of 114,500 women in the 1998 survey who admitted to having been assaulted by a partner or ex-partner or a family member in the previous 12 months alone, almost one-third were assaulted three or more times during that year.

There are a lot of myths that go around about domestic violence, myths that women deserve to be beaten, and that they provoke the violence. Many abused women do everything they can to please their partners. Also, one of the statistics showed that 61 per cent of Australian women homicide victims between 1989 and 1998 were killed by a male in an intimate relationship with the victim. Sometimes other myths are put forward—that it is not the man’s fault necessarily, that violent men are mentally ill or psychopathic, or that violence happens because men cannot control their anger or is caused by alcohol or drugs. But most abusers are definitely not clinically ill or psychopathic; they have difficulty in controlling their anger against other people in these circumstances. Quite often, these people are respectable men who are very much in control of their action in other ways.

But the most alarming statistic is this: when one looks at domestic violence, it is not just something that occurs in a family situation; it penetrates all the way down to the business sector. It has been estimated by surveys that domestic violence costs Australian businesses some $1.5 billion every year. This includes $28 million lost through absenteeism by victims and perpetrators, some $6 million for replacing staff who leave work for domestic violence reasons, and $425 million to $600 million in lost productivity. There is a greater responsibility for the business sector to become involved in issues of domestic violence, and that is what the federal government initiative is all about—getting businesses involved, assisting with counselling, recognising that there are reasons why employees may sometimes have difficulties in their lives, and helping business people form a partnership to fight domestic violence. I want to quote some other statistics to the House. Some $394 million in business taxes help fund services for the outcomes of domestic violence, and $177 million in profits is lost because victims, perpetrators and other affected individuals are not working and spending their income.

While it is easy to concentrate on these economic and business costs, the cost to society is much greater—particularly the mental anguish and the situations that distraught children find themselves in. I was very pleased last year to launch a project that was funded by the federal government in the state of Queensland, where a domestic violence resource program and kit were provided to counsellors to administer, particularly when they are working with children who have been victims of domestic violence. A lot is said about the perpetrators and women who have suffered domestic violence, but quite often the children are innocent victims. Many of these children are not able to verbalise how they have been abused or how they are feeling. The actual booklet and workbook was very good. It showed some of the pictures that children who were victims of domestic violence drew. I must say that I was absolutely moved by some of the scenes that I saw in the collection of photographs of illustrations that children had drawn. There is practical help being given to the states to work with children who are victims of domestic violence and aggressive family situa-
tions of the type that we all encounter in our work as parliamentarians.

I do think more can be done in the business community, and for that reason I am very supportive of the government measures that have been taken so far. I know the member for Sydney was quite cynical about what had been done, but we are the first government that has ever really acknowledged this and tried to go on to the front foot on it. We still have a long way to go, and I do acknowledge that. I am very committed and will ensure that the program does get through to our local communities. Too often I go to meetings where women who are victims of domestic violence say that all they want is a counsellor. You think, ‘Where is this money going to?’ I will ensure that this is one of the top issues that I will be following up.

The Family Law Amendment Bill 1999 is really about setting up arrangements for the enforcement of Family Court orders affecting children; making sure that financial agreements, including pre-nuptial agreements, are legally binding; and making miscellaneous changes towards arbitration and things like child maintenance orders, international child abduction, and rules of court for enforcing orders about property and money. Family law is a very long-winded, technical and administrative type process for many people. Following an examination of the enforcement of Family Court child contact orders, the Family Law Council made recommendations to the Attorney-General regarding this particular issue. The Council then conducted a long-term survey and found that most of the issues surrounding contact orders arose from contact parents complaining that access was obstructed or denied. There is nothing worse than seeing that situation where parents are desperate to see their children and are denied that. The thought is that somehow access and maintenance are linked together, and access is quite often used as a pawn and a bartering chip. Unfortunately, the children are the innocent victims here. Problems were also raised by resident or custodial parents who complained about contact parents not turning up during contact hours or children being returned late. I think this is an issue that is a very serious one, as we have seen in recent media episodes, particularly in a recent case in Queensland. Fortunately, that had a very happy outcome, where the mother was reunited with those three gorgeous children. But it happens all too often and I think that this amendment bill will go a long way to addressing that situation.

In its final report, the Family Law Council suggested a three-tiered approach to the problem. One of the approaches it looked at was preventative measures involving, for example, communication between separated parents. I think that is the most crucial area during a marriage break-up, when communication problems are highlighted and heightened even more. Remedial measures and punitive action may be useful where one parent is attempting to punish the other. In February 1999, the Attorney-General announced that the Family Law Amendment Bill 1999 would be introduced to implement this three-tiered approach.

The second section of this bill deals with financial arrangements. There has been a lot of news and publicity given to prenuptial agreements. Whatever we think of prenuptial agreements, people who have been married before may bring assets into a marriage far and above the other partner who may have different opinions of what they should entail, but current financial arrangements made between partners before a marriage are not enforceable at the moment or binding in the event of marriage breakdown.

A 1987 report on matrimonial property by the Australian Law Reform Commission recommended that the law should take into account a couple’s intentions prior to marrying—what their true intentions were prior to the marriage. They cited circumstances where arrangements would be appropriate for couples. There are many different arrangements. People go into marriages with different financial set-ups and different expectations, and they are seeking greater certainty and control over their financial affairs, particularly in second marriages. They are difficult enough as it is in many cases. Often people are from different cultural or religious backgrounds where marriage contracts are traditional and certainly not anything out of
the norm. An anomaly also existed where de facto couples could have prenuptial agreements considered but married couples could not, so that really needed to be addressed.

The 1995 Family Law Reform Bill, introduced by the Labor government, attempted to address this problem but did not require that couples find independent financial or legal advice before entering into an agreement. This bill is very much about going that step further and ensuring that they do get that financial and legal advice. The coalition government firmly believes that prenuptial agreements need to be designed so that one party, usually the wife, is not disadvantaged while the agreement is being set up.

The issue of family law has been of particular interest to me. As I said earlier, a large number of my constituents in Petrie have had marriage breakdowns or are involved in separating assets or dividing contact with children. A number of changes will be brought forward, particularly in areas of child support. Again, I do not agree entirely with the member for Sydney who questioned the integrity of some of the measures for non-custodial parents, particularly men. An effort needs to be made to ensure that there is more contact with children and that they are not penalised. I know their prime responsibility is to take care of their first and original family, and that is always the integrity of any of these family law measures, particularly child support, but many divorced men in a financially diabolic situation have come to see me. A system needs to be put in place that is fair all round. In family law, there is never real equity in this difficult situation. There will always be people who feel that they are more aggrieved, but no case is ever the same. No emotions are ever the same and I believe we need to make things a little fairer for non-custodial fathers as well.

One of the most frustrating things I find in my job is that every case is so different and so complex. You are dealing with different circumstances and they all have to be thought out reasonably and carefully. I know that the Child Support Agency do their very best, but at times they are dealing with people who are emotionally distraught. I commend the work that they do. Child support cases probably consume most of the time of the staff members in my office and they are long and involved. We have to be mindful that, as a government, we take the time to ensure that the wishes of both parties are considered and that the fairest possible division of property is made.

The high rate of divorce in our society is regrettable. I think anyone who divorces wishes that they had not. It is important that we address those consequences and costs as a community. In 1998, a working paper entitled Towards understanding the reasons for divorce by Ilene Wolcott and Jody Hughes attempted to understand the reasons behind the modern divorce rate, which seems to be going up alarmingly all the time. Many publications deal with this and study the phenomenon. The working paper found that the majority of men and women who divorced cited the reasons as communication problems, incompatibility, changed values, lifestyle desires and instances of infidelity as the main reasons for the breakdown in their marriage. Interestingly, though, whatever the cited reasons, most women and men claim that they still would have separated and felt that they never wanted to get back with their former spouse. Over half of the women and men studied showed that they had pursued external assistance prior to the end of their marriage. Surprisingly, one in three had specifically prepared for life post divorce through counselling and other services. This indicates that people are certainly thinking about the possibility of divorce during their marriage, which is regrettable, and looking at ways to manage the divorce process.

The Family Law Amendment Bill 1999 provides certainty and fairness. I believe it will broach a number of areas and relationship difficulties—the new arrangements with Family Court orders affecting children, making financial agreements more binding, including prenuptial agreements, making miscellaneous changes, including arbitration, and child maintenance orders and international child abduction, which is a great problem. There is a private investigator in my state of Queensland who is well known for finding abducted children and bringing them back to their parents all over Australia.
I hope that those cases will diminish and not increase.

I believe this bill will provide much fairness and greater certainty when people experience relationship difficulties. The government is committed to assisting them to resolve those problems in a much more non-combative and more communicative way than has ever been done before. I commend the bill to the House.

Dr MARTIN (Cunningham) (5.37 p.m.)—It is a pleasure to speak on the Family Law Amendment Bill 1999 today inasmuch as it provides me with an opportunity not only to make some comments about the bill itself but, as my colleagues have similarly done in the course of this afternoon, to illustrate from personal experience some ongoing concerns at some of the provisions being developed within this bill. Let me qualify ‘personal experience’ by suggesting that I am actually referring to people coming into my electorate office and talking to me and my staff, not the personal experience that has followed almost 30 years of marriage. I need to put that on the record from the outset.

The bill we are debating today is intended to provide for greater financial equity and certainty after relationship breakdown by amending the Family Law Act 1975. I think it is fair to say that the bill has been prepared partly in response to the 1992 report of the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act 1975, which concluded that the Family Court was not using the powers granted to it to the extent possible, nor was the court making the best use of the flexibility of the act, particularly as to penalties for the enforcement of court orders. I can recall that when that particular joint select committee was established quite a number of years ago I actually served a term as a member of the committee. I well remember travelling around Australia with the committee taking evidence, listening to people make submissions on the operation of the Family Law Act, make submissions in respect of all sorts of orders which from their personal experience they believed were inappropriate for changing circumstances, and make suggestions about how that needed to be improved.

Subsequently, with the development of the Child Support Agency, the then Labor government, of which I was proud to be a member, suggested that many of the changes that had been suggested in earlier reports of that committee might in fact have addressed many of those concerns, but I am afraid, sadly, that does not seem to be the case. As I am sure many members will testify from those people who come to their offices and sit down and talk with them, the concerns that many of these constituents of ours have relate principally to determinations made within the family law courts, relate to changed circumstances which have an appearance of being inequitable. So I think it is important that on an opportunity like this, when we can in fact talk about some of these experiences, the Attorney-General of the government of the day should take cognisance of this. I think it is important that this be an ongoing review process. I think it is important that we understand that there is a clear relationship with family law decisions, there is a relationship with Child Support Agency arrangements and there is a relationship with social security arrangements. Importantly, as the member for Petrie pointed out, there is also an obligation on governments to ensure that funding arrangements should be in place for counselling when family breakdown is apparent.

The bill itself is concerned with a number of specific aspects which I would now like to turn to. Firstly, it amends the act to provide a scheme for both court referred and private arbitration for the resolution of property disputes and provides for confinement of reviews of arbitral awards to questions of law. It amends the scheme of the enforcement of parenting orders by introducing a three-tiered approach consistent with the report of the
Family Law Council of June 1998 by providing for the following things. The first is preventative measures to improve communication between separated parents and to educate parents about their respective responsibilities in relation to their children. With respect to family breakdown, I do not think anyone would disagree with the fact that having the involvement of somebody who has at least had exposure to the facts about a particular circumstance—and I will define that broadly under the head of being educated about those sorts of rights and responsibilities—makes for a far better way of dealing with circumstances as they arise. The second is remedial measures to enable the parents to resolve issues of conflict about parenting. The third is punitive measures to ensure that as a last resort a parent is punished for deliberate disregard of a court order. As was indicated by the shadow Attorney-General, my friend the member for Barton, while the opposition supports the introduction of a three-tiered approach, we are a little concerned that the act should not be amended in a way which inappropriately restricts judicial discretion. I think the member for Barton covered these issues during his contribution on the second reading.

The bill also makes provision for binding financial agreements dealing with all or any parties’ property to be made before or during marriage or on marriage breakdown, setting out how such property might be divided. That is commonly referred to as prenuptial agreements or some sort of agreement that is struck between parties. The original legislation required parties to obtain legal or financial advice prior to entering into such an agreement and allowed the court to set aside an agreement only in limited circumstances: for example, if it was obtained by fraud, duress or undue influence or where there was a significant change in circumstances that would make it unfair to give effect to the agreement. Once again, as indicated by the shadow Attorney-General, the member for Barton, while the opposition supports making binding financial agreements available to parties to a marriage, we do have a number of concerns in relation to the capacity of the courts to set aside agreements of this kind in circumstances in which it would be unfair or unjust to hold the parties to the agreement, whether through a change in circumstances or for some defect in the way in which the agreement was negotiated. Again, I think these were issues which the shadow Attorney-General referred to in his contribution.

The bill also makes a large number of other, miscellaneous amendments to the act: to assist the orderly functioning of the court, to facilitate transfers of proceedings between courts, to make minor changes regarding child maintenance orders, to ensure that the location and recovery provisions of the act apply to international child abduction cases, to limit the application of the separate representative provisions in international child abduction cases, and to provide the court with a broader range of powers to make rules of court for enforcing orders about property and money. A number of these issues were canvassed in a Senate committee report on this legislation, and I do not intend to go through each of those points. Suffice it to say that the Senate inquiry did point to some continuing difficulties. Again, it is important that we always remember that in family law, as is the case in all law, it can be a moveable feast; it can be subject to changes in interpretation. It can be subject to different determinations made on the basis of case law and, as a consequence, the parliament must always be abreast of those sorts of changes. It must always be abreast of community expectations and community views on the way in which the Family Law Act operates. In society today there can be no more difficult decision than the decision taken by a married couple to separate and ultimately divorce, and when children are involved in such a relationship the impact of that can have far-reaching consequences.

I would like to make a few comments about these sorts of things based on the experiences of constituents that I and the very dedicated staff in my electorate office deal with from time to time. To some extent, in many ways you find yourself a little bit like a parish priest. People come into the confines of your electorate office and they will tell you the most intimate details of their personal lives when they are confronting issues associated with divorce, with CSA orders
that have been handed down, with family law orders on access and custody, and so on. As members of parliament, we sometimes do not reflect on the way in which people look to us for guidance and assistance, or on our role as a reporting mechanism back to the parliamentary system as to where we believe changes are still necessary.

Most of the concerns that we get in my office in Corrimal, in Wollongong, about family law revolve in the main around custody and maintenance issues. One major concern is the inability of the Family Court to enforce non-custodial orders—in that sense, it usually concerns the father’s access rights to his children. We hear time and time again of problems when fathers have gone through the Family Court and, due to all sorts of circumstances, are denied access to their children, or when the custodial parent—generally the mother—in some way restricts access. There are claims that the Family Court discriminates against men in custody battles. For example, it has been put to us by a number of constituents that mothers would virtually have to be proven prostitutes, drug addicts, et cetera before the court would give custody of the children to the fathers, and then only begrudgingly. It is often suggested that the mother would have to have a certain given amount of time to get her life in order before a permanent decision was made. I do not want to convey the impression in my contribution that I am simply putting forward the views of male constituents who have been in a relationship that has come unstuck. That is not the case. What I am laying before the House tonight are the sorts of issues that are raised with me by people who come into my office. In the case of men, it is the inability of the Family Court to enforce non-custodial access rights to children and claims that the Family Court always discriminates in favour of women.

The other major issue in this respect is the maintenance assessment formula. It gives me considerable cause for concern when I hear different constituents raise it with me, specifically in respect of the cost of keeping children. I will give you one example. One of my constituents came to see me recently and he said that, under the access arrangements that he has with his two children, he gets them on the weekend. But the way in which the CSA and the court order that set the maintenance provisions operated was based on the number of nights that that parent had access to his children. My constituent said that he was given access to his children between the hours of nine to six on a Saturday. The children did not stay the night with him, and it was considered that he therefore did not warrant the relief from maintenance payments associated with having access to children because no nights were involved. My constituent put the argument to me that it is much more expensive for him to be with his children—and these are teenage children—on a Saturday than it would be to have them overnight during a school week. On a Saturday, children have an expectation that they will be involved in all sorts of activities with the parent who has access to them. That could involve going to the movies, going to McDonalds or going to Pizza Hut—it could involve all sorts of activities. My constituent pointed out that he was therefore paying a lot more to look after his children during a Saturday than he would overnight but that this was not taken into consideration when the maintenance amount was set through the Family Court or while it was administered by the CSA.

Most of the payers that are in circumstances like this have indicated that they would like to see the government—and by that I am talking in a generic sense, whoever the government happens to be at the time—assess a generic child’s upbringing needs and set a standard price for maintenance. Most of these payers do not care about their child being brought up according to standards which the child had become used to when both biological parents were together. For example, when a professional couple break up—and this is taking my example of a moment ago, a Saturday parent, to another extent—the payer who is non-custodial may no longer care whether the children continue to live in the type of house they were used to or undertakes the expensive activities which they were used to when both partners were together. As a consequence you see bitterness creeping in and the payer expresses the view that, rather than supporting his children
with the assessed amount, he is in fact supporting a superior lifestyle for the ex-partner. That is taking a step further the weekend parent example that I used.

These are issues which we need to take into consideration and I would simply say to the government that we must have an ongoing review process associated with family law orders and we must have an ongoing process associated with reviewing the way the CSA operates. Otherwise, what we will engender in the community amongst some people is the sort of bitterness that some of my constituents have demonstrated to me in respect of the way in which their children now live and the expectation on them for maintenance. Another example of this—and I am sure that other members have had similar experiences—is where the children from a marriage that has broken down and divorce has ensued are now living with the custodial parent, who is the mother and who has married into another family where economic circumstances are far better. But, because of the determination that has been made on the basis of the biological parents from the first union in terms of family law and that being exercised by the CSA, the non-custodial parent is finding it extremely difficult to keep up to the mark in terms of the contribution they make. That is not to say that they do not want to make that contribution, but in that second relationship, that second marriage, where the children of the first are now under the care, love and control of this other union, they see resentment creeping in because often that other union is, as I suggest to you, in economic circumstances far better than the original. So in those areas there is an issue which we need to keep under review.

With regard to property settlement, which is contained within the legislation that we are dealing with this evening, my office gets only fleeting remarks about it because it is largely the issue which is fought between solicitors in the court. But, where we do hear about it, the sort of comment from the not so wealthy people is, ‘I was ripped off because she never worked and in the end she got 75 per cent of everything.’ In the norm, these people have two or three children. We also hear this sort of comment: ‘I was discriminated against because he/she got the marital home and the kids.’ They are the sorts of issues that the not so well off in the community would raise with me about the concerns they have.

On the other side of the coin, the sorts of comments we hear from wealthier people, those who are perhaps at the other end of the socioeconomic scale, would be, ‘I have got nothing because he or she sold off the business assets to another partner and there was nothing left to split.’ Many business and professional people tie up their personal and business dealings in order to minimise tax liabilities and increase profit. That is a legitimate thing to do. But, when a marriage breaks up under these circumstances, one partner or the other usually loses out pretty badly. So it is in those commercial relationships that some discretion may need to be looked at.

Clearly, a relationship should be a partnership, and in most cases it is. If that partnership goes badly wrong, if we were talking purely and simply about a business, there might be an exit strategy for those two partners and there may be a legal remedy that would have to be pursued. That is expensive, that is costly and it imposes burdens on the people that were in that sort of business relationship. If you put that into a personal context, where you are talking about married couples that were in that sort of relationship, it could become excruciatingly difficult and it could engender all sorts of bitterness. So, from my perspective, ongoing changes to family law are things which we within this parliament need to be vigilant about and which we need to clearly ensure that our local communities are in contact with us about. Then they can make suggestions which are helpful and at the same time provide a sense of certainty, a sense of well-being for the children of relationships that have gone wrong and, importantly as well, where parents divorce, a sense of equity from any outcome.

Mrs HULL (Riverina) (5.57 p.m.)—The Family Law Amendment Bill 1999 gives effect to a number of the government’s election promises on families and family law,
marking it as an important step in the process to reform the Family Law Act 1975. Enormous amounts of stress are placed on people experiencing relationship difficulties and marriage breakups but it is imperative that we assist these people to maintain stable and healthy relationships. However, when people do experience relationship difficulties, adequate services are needed to assist them to resolve those difficulties with a minimum of stress and as fairly as possible.

One of the biggest issues in my rural electorate of Riverina is child support. People regularly come to me for assistance in resolving disputes involving the Child Support Agency. The role I play in that has inadvertently led me to become involved in the processes of the family law court. From my experiences, I can say that the present system of family law does not provide a level playing field. I regularly see examples of the non-residential or non-custodial parent not being able to gain access to his or her children on the days set out by the Family Court, as a custodial parent simply does not allow them to go; they have the choice. The non-residential or non-custodial parent is disadvantaged by having to pay child support and costs for the family law court, and is unable to have the pleasure of being with his or her children. The only legal option open to the non-custodial parent is to revisit the Family Court. As I understand the current arrangements, there is rarely any reprisal on the custodial or residential parent. The custodial parent is in the prime position of denying their ex-partner access in addition to causing financial and emotional stress with little fear of punitive action.

The Family Law Amendment Bill 1999 provides the changes necessary to allow for punishment of parents who deliberately disregard a court order. The bill proposes that, when a breach of an order occurs for the first time, the court will be able to send parents to a range of post-separation parenting programs, as well as make an order to compensate for lost contact. The aim of the educational programs will be to help parents resolve issues of conflict about the parenting of their children. Parents will be required to attend such programs provided that the program is available within a reasonable distance from the person’s place of residence or work.

It is vital that recognition be given to rural and remote areas under this consideration. There needs to be consideration given to the ability of parents to attend the parenting program. Many relationship breakdowns occur in very isolated areas, and appropriate support is deserved whatever your location may be. This bill proposes that, within the metropolitan area of a city or a large regional centre, it would not be unreasonable to require attendance if public transport could be used to get to the venue or if the person had private vehicle access. In smaller communities it would not be unreasonable for attendance to be required if the person had private vehicle access and the one-way journey did not exceed one hour.

I have grave concerns about the remainder of people, like those who live in my electorate and in other remote areas. The distances that people living in the isolated areas of my electorate would have to travel would make it practically impossible for them to access these services. These people are just as deserving of assistance as those in metropolitan areas, and may be helped by field officers’ visits or by the use of information technology for access to services.

The bill proposes that, when the court requires a person to attend one of the listed programs, the court will also be required to provide information to the program provider, including the details of the person ordered to participate. In some cases, the program provider will be required to notify the court of the outcome of the person’s attendance. These cases will be where the person has failed to attend the program as ordered or the person has not participated so as to derive benefit from attendance. This happens so frequently in cases that are brought to my attention. I guess this also comes into play when the person has been deemed unsuitable to participate in this program.

When the court is notified of a failure in the program, the court may then make further orders concerning attendance or may proceed to take action. Where there are persistent breaches or where the first breach is
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represents particularly serious, the court will be able to impose a range of sanctions, including community service orders, fines, bonds or, ultimately, imprisonment. This I agree with. These sanctions already exist under the existing act; however, the court has a discretion as to whether to impose a sanction. This bill will remove this discretion—and not before time. For the court to impose one of the range of sanctions available in the parenting compliance regime, the person must have been ordered previously to participate in a post-separation parenting program or, alternatively, the court must have ordered compensatory contact. These requirements will not apply if a post-separation parenting program was not reasonably available or the court considered that it was not appropriate for the person to participate in such a program or considered that it was not appropriate to order compensatory contact. Community service orders will be a valuable alternative sentencing option under the new parenting compliance regime. Such orders offer a valuable alternative sentencing option for the court to consider.

The bill includes imprisonment as an option for the non-payment of maintenance where the contravention was wilful or fraudulent. I have many wilful and fraudulent contraventions in my electorate. I note that the joint select committee recommended in 1992 that imprisonment be an option in such cases. I am currently involved in a matter in relation to the Family Court involving one of my constituents and her ex-partner. My constituent has had ongoing difficulties with maintenance from her ex-husband since 1992 and continually applies through the Family Court for her husband to pay maintenance for their three children. She has never received a cent. This long-term battle came to a head in February 1999, when the sheriff seized the ex-husband’s possessions. After seizing these possessions, my constituent found out that her ex-husband had signed an affidavit to say that he had sold his possessions after he was ordered not to by the sheriff, and he incurred no punitive action.

Her former husband goes to great lengths in order to avoid the payment of maintenance to his children—extraordinary lengths, in fact. Under the proposals outlined in this bill, her ex-husband, if in contempt of a court order, may be ordered to pay compensation, do community service or, at worst, be jailed. It has cost my constituent an enormous amount of money in her endeavour to get maintenance from her ex-husband, and this maintenance is still not forthcoming. She has been to court many times under the current Family Law Act; however, at present there does not appear to be any mechanism through which Family Court orders can be effectively policed—until such time as the Family Law Amendment Bill 1999 becomes our law.

Of course, there are times when we do not want people to be put in jeopardy. We do not want children to be put in jeopardy. If there is a case in which a parent feels that she has grounds for reasonable fear that her child is at risk, and she keeps that child away from an offending partner or parent, I believe that there are grounds for her to look for alleviation from this position. But in most of these cases it is purely wilful spite and wanting to get a reaction from the ex-partner that is the case. I would like to see justice for many of my constituents, but moreover justice for the children. Our children are the most important things. Our children are the reason protection needs to be put into effect. Far too often we forget that the people we are supposed to be protecting are the very people we are most hurting. Our children deserve the very best of protection.

My attitude towards this bill’s being a valuable asset in making people responsible also applies equally to parents who are prevented from seeing their children. In a lot of cases the non-custodial parents pay an ex-partner weekly payments to feed, clothe and educate the children, even when the non-custodial parent has the children in their care. I make the point that most of the non-custodial paying maintenance or child support want to look after their children—the majority of them do; very few of them do not. But the non-custodial parent is essentially paying twice. When they have the children, they are performing the role of the
custodial parent but they are still required to pay.

Non-custodial parents have no rights in determining how most of the child support payments are spent. I listen to many examples of custodial parents spending the money on gambling, drinking and many other unassociated costs whilst the children go without food and clothing and seek comfort from the non-custodial parent, who must also refuse them due to a lack of available funds. Non-custodial parents have no rights in gaining access to their children. They pay for their children but do not get to see them; in fact, every other Australian bar the non-custodial parent has the opportunity to see their children. Is this fair? No, I think not.

Non-custodial parents usually cannot afford legal representation to get court access for visitation rights with their children, yet at times custodial parents more often are able to access legal aid. Non-custodial parents are made to look as though they are the non-caring parent if they cannot afford to travel to visit children, sometimes across the vast states of Australia. In my electorate, there are a lot of Defence Force personnel, who are moved around very regularly. When there is a family split in the Defence Force, it sometimes means that the parents are separated by many thousands of kilometres. That means that the cost of seeing children becomes extraordinarily high. They cannot afford general treats for children during visitation—they have spent all their money trying to get to see them. They just want to view them, and when they get there, there is no quality visitation. They are put in a difficult position when a custodial parent advises the children to ask their mother or father for shoes, clothing, pocket money and holidays. ‘Let Dad pay for it,’ or ‘Let Mum pay for it.’ This again puts children in an unenviable position. Who is looking after the children?

Non-custodial parents cannot afford to keep a motor vehicle to access children. If they get behind in their payments or fall into arrears, the common cry is, ‘Sell your motor vehicle. Sell your home.’ Is this fair? I think not. ‘We don’t have a motor vehicle, so we cannot access you,’ or ‘That gives me limited ability to be able to see my children. If I don’t have a home, I don’t have one to bring them home to, so they don’t have stability when they are with me.’ Most commonly, non-custodial parents cannot afford a mortgage so as to offer children a home, ensuring stability during access visits. Non-custodial parents can never advance, because the more he or she works, the more they have to pay. Non-custodial parents are prohibited from ever forming a new relationship because of severe financial restraints. If they do form a new relationship, it is under constant strain because of the position that they have been placed in. Non-custodial parents are forced into bitter and resentful battles for justice, which impact severely on the children. Nobody wants this to happen, least of all the parents of the children. However, this so very often happens. Under some of these laws, non-custodial parents are being forced to leave the work force and live on social security so that they are not forced to live in poverty.

Another family law issue that I wish to bring to the attention of the House is the inability of separated parents to access legal aid. My recent experience in these matters has shown that usually one of the parents is able to access legal aid for the purposes of Family Court proceedings whilst the other parent has to pay for their own legal costs. This situation places an unfair impost on the parent who cannot access legal aid. Every time they wish to amend or contest the court orders they have to pay whereas the other party usually does not. I believe that, for the purpose of family law, both parents should have access to legal aid. This will ensure the best possible outcome for the children, who will benefit from having interaction with both parents as per the court’s decision and intention. Once again, I bring to the House’s attention that this is not in those areas of joint access where either parent has been deemed unsuitable to have children.

The Family Law Amendment Bill 1999 will also help separating couples achieve greater financial equity and certainty by implementing a number of recommendations contained in the 1992 report of the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family
The bill has two broad aims. The first aim is to streamline and enhance the enforcement of parenting orders by the introduction of a new parenting compliance regime, which I have previously discussed. The second aim is to provide for the introduction of binding financial agreements and to enable the commencement of private arbitration of disputes about property. The object is to provide greater choice for parties in property settlements and to provide a more efficient and less costly means of dispute resolution in property matters than that which is available through the Family Court, which usually leads to a very unfair disadvantage to those children whose families are being pulled apart.

Cost is a major consideration in separation proceedings. The ability for property disputes to be settled through arbitration will enable both parents to avoid the impost of court costs when legal aid is not available and will allow their lives to stabilise in a shorter period of time. By allowing the parents' lives to stabilise, you are allowing the lives of children to become stable as well. Parents who separate need to be encouraged to carefully consider the needs of their children and to put in place workable parenting arrangements that promote the best interests of their children, including their gaining a very healthy and fulfilling arrangement with both parents.

Other amendments contained in the bill will enable binding financial agreements to be made before marriage, during marriage or after separation. Currently under the act people can make pre-nuptial agreements about their property; however, the use of these agreements has been limited, because the agreements are not binding. Despite the existence of an agreement, the court has been able to exercise its discretion over any of the property dealt with in the agreement.

The settlement of financial affairs following separation has remained basically unchanged since the act commenced in 1976. However, the Australian community and its attitude to marriage have undergone substantial change during that time. Family values have a totally different meaning in the year 2000. The changes in this bill will attempt to bring the act into line with prevailing community attitudes and needs, and perhaps it will need more refining. The aim of introducing binding financial agreements is to encourage people to agree about how their matrimonial property should be distributed in the event of or following separation. Agreements will allow people to have greater control and choice over their own affairs in the event of a marital breakdown. Financial agreements will be able to deal with all or any of the parties' property and financial resources and maintenance. An agreement may cover how property would be divided or how maintenance would be paid.

Too often I have seen the need and the want to enter into these really good maintenance arrangements, then something falls down in a small way and the next minute you have a total breakdown in all communication—and who are disadvantaged? The children. People will be encouraged but not required to make financial agreements. For these agreements to be binding, each party will be required to obtain independent financial or legal advice before concluding their agreement. That is sensible. The decision on whether a party requires legal advice, financial advice or both will be a matter for that person to choose. This will enable people to obtain information that suits their particular circumstances.

The provider or providers of the advice will certify on the agreement that the advice has been given. Requiring parties to obtain independent advice will mean that couples will be aware of the implications of the agreements they are entering into and will not unknowingly enter an agreement that is not in their best interests or the children's best interests. Because parties will have obtained prior advice, the court will be able to set aside an agreement only in certain limited circumstances due to the contractual nature of the agreement—for example, circumstances such as fraud, where the agreement is void, voidable or unenforceable, where it is impractical to enforce the agreement and, most importantly, where there are changes in the circumstances relating to the care of a child.
This bill is a big step in reducing the distress and trauma that arise from family break-ups and it should provide relief for those requiring the continued services of the Family Court. I commend the bill to the House.

Mr PRICE (Chifley) (6.17 p.m.)—I would like to commend the member for Riverina for her contribution to this debate on the Family Law Amendment Bill 1999. Firstly, I have always said that we ought to give credit to the Attorney-General in relation to family law matters, because he has been a reformist. I have often argued about whether we need to go a lot further, but there is no doubt that he has attempted to make changes, and for that he enjoys my total support. On this particular measure, I need to make an apology, firstly, to the members of the government service and delivery committee because, when this bill was considered, I was not there. It was the same with the caucus. I was not at the caucus meeting and members of the Labor Party have a responsibility to contribute their views at those forums when legislation is considered. I would also like to place on record how understanding the shadow Attorney-General has been of my position on this matter in my discussions with him.

What is it that I do not support? Firstly, when the Labor government introduced parenting plans I thought they were a good idea, but I made the observation that, at the end of the day, parenting plans are really best suited to parents who do not need parenting plans. There is a three-stage process for contact. Clearly, I support the idea that parents should be aware of what their responsibilities are for contact with their children, and in stage 2 I certainly support the idea that people should be referred to different agencies that can provide support for them. But in terms of the penalties imposed in stage 3, I cannot support mandatory sentencing of women over this issue. If this were coming to a vote here, I would not vote for it. I want to make that quite clear. I am not trying to be brave because this is not coming to a vote; that is my position. It is true that the wilful denial of contact is a major and serious problem. I have read the reports of the Family Law Council. It is appropriate and I welcome the fact that the Attorney-General is moving to deal with it, but on this issue I cannot agree. I suppose I should explain why. Firstly, let us look at domestic violence. I do not know of a member who is not concerned about the issue of domestic violence, but it is also true to say that AVOs are handed out like sausages. If you go to your local district court on AVO day you will see a beak up there granting them like sausages. The requirements for proof are very minimal.

The UK has a completely different approach, and I think it is the proper approach—that is, they see AVOs as being an indication of a serious breakdown of a relationship. They use the AVO as a point of intervention. So what we can do is sift out what is rapidly becoming world’s best practice on AVOs. The problem in the magistrate ordering the AVO, and what is critical in the system, is in fact the breach of the AVO. In fact, women and their children are not being protected because there is a restraining order. The system comes into operation only when the AVO has been breached. So if there has been violence in the first instance, there has to be further violence before anything meaningful happens. I think that is unfair to women and their children.

I have a table—or I had one, and I hope I will find it before I finish my contribution—which shows the rate of AVOs. It really bumps all around the place. In some of the statistically wealthier parts of Sydney, it is really low. Actually, I think it is a matter of under-reporting; it is not that they do not have domestic violence. There is a whole set of problems there. I know the member for Riverina would be interested to know that the highest rate in the state is in the north-western part of the state. It is almost double the state average, and it bounces around. Just like with youth suicide, we are getting close to world’s best practice in AVOs, but we are not protecting women and their children.

When a person goes to court and is given an AVO by the magistrate, and then they go to the Family Court—which is a different jurisdiction—it is like wearing a tag. It handicaps the person, who is dealing with a whole range of other matters. The other dis-
turbing element is this: states and the federal government have limited resources. In this situation we are spreading limited resources thinly across all cases. What we need to do is to spend more resources, and have greater intervention, on the more difficult cases. I always use my own family as an example, and one day my wife is going to go troppo, but if Robyn had taken out an AVO against me, shouldn’t there be some consideration about whether I should stay in the house, whether I should be in the house with Courtney, whether I need to be removed, or whether contact needs to be limited? These are not unreasonable issues to be addressed in the first instance, and they are not being addressed.

I do not say that members of this House, on either side, are not genuinely concerned about AVOs, but we have to filter out the fictitious ones—if I could be so bold as to say that—that are used as an instrument in the breakup and dissolution of the marriage. I have a concern about that in terms of this mandatory sentencing of women. My second concern is that we have had a passionate debate about IVF and setting up structures and models for children who are born under those circumstances, but there are no national laws for the care and protection of children. For the vast majority of children, there are no national care and protection laws, and I think that is a real disgrace. It reflects poorly on us all. I believe that we need to be able to move dramatically and significantly to intervene in the care and protection of children, but again resources are being spread too widely and we need to concentrate more resources on children at risk.

I am blessed in my electorate because there are a lot of Filipinos living there. If you don’t know them, they are amongst the most law-abiding people. They really revere authority. The other day I had a tragic case where a Filipina with an estranged Australian husband had a contact order. The child came back and showed all the appearances of having been sexually interfered with. I pleaded with the woman to disregard the contact order. Remember that if you raise a care and protection matter in a children’s court, different rules apply there than in the Family Court—and some people jurisdiction-hop to take advantage. I pleaded with the woman not to follow through with the contact. She had actually gone away to Queensland, come back because of the contact order, and was pursuing it. I referred the matter to a couple of caseworkers who are skilled in this area. I cannot believe that we in this parliament would want to jail a parent—mostly women in this case—who have a reasonable apprehension about the safety of their child. I am not saying that that represents a majority of wilful denial of contact cases; it doesn’t, but there are a sufficient number of them to worry me. What we could potentially end up doing, if the Family Court is not sensitive enough, is to jail that Filipina. That is fundamentally most of my objection.

The other objection is this: I have always argued that the only way you can deal with wilful contact is to raise the issue of residency. If this bill had contained a proposal that at stage 3, after wilful denial, the court would automatically grant joint guardianship, I would have agreed with it. If it had said that the whole issue of residency must be brought up again by the court and considered, I would have supported it. That does not mean that I believe the court would automatically change the residency, but that approach is the only effective way you will deal with a majority of the cases that most of us are so concerned about. I know the Senate committee reported on this matter, and I do not want to insult my Senate colleagues, but I thought it was a pretty poor report. I do not think the biggest issue in the Family Court is resources for the Family Court. I never have. It is like a black hole. The more you throw at it, the more it will spend and the more it will ask for.

I am working on a few proposals in family law. One of them is to look at providing a conciliation service so that we can get out of the court system what I call plain, ordinary divorces and separations and get the parents out of the clutches of the lawyers. I look forward to the day when an Attorney-General—ours or theirs, or Daryl Williams, our current Attorney-General—can walk into
this House and tell us what parents are spending on the legal profession. Anecdotally, I have been all over Australia. I know it is horrendous. People are spending more than a year’s salary on family law matters. That is not uncommon. I have said often enough that they borrow from their parents, they rack up the credit card and they really run out of money. That is when, particularly when they are young and access is being denied, you get really scared because of the frustration and aggression that oozes out of them.

What we need is a system whereby people with plain, ordinary divorces can go to a government funded conciliator and sit down with them, just as they would sit down with you around a table. If there were 10 issues that needed to be sorted out in a separation or a divorce, the conciliator would try to bring the parties together. If he could bring only eight out of the 10 issues together, then only two of them should be referred to a court. You cannot refight the whole thing de novo. Of course, in front of a conciliator you have no lawyers. In this parliament we have wall to wall lawyers. There are more on that side than this, but I think it is fair enough to say that they are wall to wall. I would like to think that there is not a vested interest but, in the legislation that we have considered in family law areas, we always seem to put parents into a court and have them being represented by lawyers. As I have said previously in this House, 35 per cent of applicants before the Family Court are now self-represented. Even a High Court justice has expressed concern about the level of self-representation and the dangers that it poses for the courts and the extra costs that are involved in the court. Surely this is a sign that people cannot afford justice. We have to make a more fundamental change to the family law system.

As I think it might be of interest to my New South Wales colleagues on both sides, I seek leave to table the paper on the apprehended violence orders granted in 1998 by statistical district, but please bear in mind that there was a 25 per cent increase in 1999.

Leave granted.

Mr PRICE—There was an excellent article in the Australian of Monday, 28 August 2000 which called for greater scrutiny of the Family Court. It said: ‘Family Court must accept more scrutiny.’ It is all about an issue that Senator Mason put on the Notice Paper in the Senate with respect to looking at judicial productivity—how judges were handling their cases. Managing the workload of judges is the prime responsibility of the Chief Justice. I think this is no invasion of the Family Court. Whilst I welcome Senator Mason’s intervention I had actually wanted to go further.

When the Family Law Act was enacted in 1975, the Family Court was a closed court and the media could not report at all. You, Madam Deputy Speaker, could not wander in as a citizen when the court was hearing another person’s case. You could not do it as a member of parliament. I am pleased to say that in 1983 a committee recommended, and the government subsequently enacted, legislation that opened the court and introduced section 121 of the Family Law Act. The whole idea of section 121 was to expose the court to greater media scrutiny and accountability. That act said that the media could report on everything except names. What has happened since 1983? Nothing. If you talk to people from the media, they say that they cannot run stories on what is happening in the Family Court because they cannot print names. If a member of parliament should be one of the five per cent of cases that end up in litigation—95 per cent actually do not end up in front of a judge—I am sure there would be a degree of media interest. But we should not consider this as a reason to go against the 1983 report.

I took a proposal to reform section 121, with the idea of opening up scrutiny, to my caucus committee. I am pleased to say that, whilst they did not indicate agreement with the proposal, they certainly gave me approval to proceed. When it went to caucus I was absolutely taken by surprise to be restricted. In my 15 years in this place I think it was one of the lowest points. It even brought me to question my 37-year membership of the Australian Labor Party. I was shattered. But, being a true ‘Westie’ and with the help
of some friends, I have shaken myself and picked myself up. I confess to having been distracted by a few Defence things recently, but I can assure people, who sometimes, I think, have unreasonable expectations of what I am able to accomplish, that I will be pursuing this matter, because it is fundamental to our system of law. No matter how much we might dislike the media, no matter how much they may trivialise, it is the most important way that people get information about what is happening. I believe that, if we have to, the High Court in a test case would strike down section 121 on a number of grounds. Unfortunately, time is running out but, if people are interested, I have certainly got a speech on what grounds I believe the High Court will strike down section 121. The campaign for reform, particularly with respect to section 121, is far from dead and far from over. I hope that I will be able to be in this place and be able to give an introductory speech about my private member’s bill.

Mrs CROSIO (Prospect) (6.37 p.m.)—It is certainly very difficult to follow the member for Chifley, who feels so fervently and emotionally about anything to do with family law. I commend him for it. I commend him for the work he has done in the past and I know he will continue to fight the good fight into the future. The Family Law Amendment Bill 1999, which is before the House with the amendments proposed to the Family Law Act 1975, is one of the most long awaited initiatives of this parliament. The amendments in this bill are the result of recommendations made in the 1992 report of the Joint Select Committee on Certain Family Law Matters on certain aspects of the operation and interpretation of the Family Law Act 1975. The changes we now make to the act will have a very significant effect on the thousands of Australian families that deal with the Family Court.

Family law is like an umbrella set of laws which decide the way in which thousands of Australian families operate and function. Figures quoted in the Canberra Times of 11 October 1999 showed that 494,534 Australian families were subject to child support orders in 1997-98, covering over 920,443 children. They are certainly damning statistics, and that was 1999. Furthermore, delays in the Family Court with respect to child contact orders and property settlement have been unacceptably high. It has been reported that the Parramatta registry of the Family Court, which deals with the majority of family law disputes from my electorate of Prospect, can take up to 13 months to bring the average property dispute to a resolution. The same delay of 13 months was also reported for a final order to be obtained regarding resident or contact matters involving children. This is certainly above the national standard, which I understand still stands at 10 months. It is much worse in other registries around the country where delays have been reported of up to 23 months before a decision is taken to act.

The Family Law Council received a reference in 1993 from the then Labor government to look into penalties for non-compliance with orders and injunctions made by the Family Court. The reference came after the findings of the joint select committee’s report on the operation and interpretation of the Family Law Act. The law council’s report found that difficulties are encountered by resident parents regarding contact orders, and recommended what steps could be taken to enforce the terms of the contact orders where there is inappropriate behaviour. Considering the many years of research that have gone into family law reform and the extent of the workload of the Family Court, evidenced by the figures I have already quoted, I believe members on both sides of the House would agree that the Family Law Act is in a state much needing reform. The 1992 report of the joint select committee concluded that the act was:

... an effective vehicle for the administration of Family Law matters but generally the Family law court was not using the powers granted to it to the extent possible. Nor was the court making the best use of the flexibility of the Act.

The new amendments proposed here tonight must maintain the principle of the Family Court being a fair and effective vehicle for the administration of family law matters. However, they must be implemented so that the court can have the power to apply these matters as flexibly as possible. In effect,
passing these amendments is like turning on the master switch of an electrical circuit. The action itself seems to be simple enough, but by turning on this switch we are activating a much larger network of electrical currents. If every piece of wiring of this network is not checked, inspected and approved so that it works properly, then the circuit will not function properly nor effectively. It is our responsibility now to ensure through thorough debate that the metaphorical light switch of family law is correctly wired.

The guiding principle of family law is that the best interests of the child are paramount to any court decision. The family law court of Australia must take into consideration the emotional distress which is suffered when relationships break down and, most importantly, to consider the best interests of the children of these relationships. Any amendment to the Family Law Act must then allow for this fundamental principle of family law to be upheld. I cannot stress enough the need for serious consideration by the government of all issues raised in this debate. Family law affects so many different areas of our society. Family law does not apply only to rich families or poor families or to families from the city or from the country or to families from a certain religion or race. Family law is designed not to unfairly discriminate against any person for any reason.

The first schedule of amendments in this bill contains the adoption of a three-tiered approach to the enforcement of parenting orders, as recommended by the Family Law Council in their June 1998 report on enforcement cases. The first part of the three-tiered approach is designed to be a preventative measure, where the court must explain to both parents involved their obligations to the court and the court’s parenting order, and the circumstances of failing to abide by that order. Much emphasis would need to be placed on the parents understanding their obligations to the child and their obligations to the Family Court orders. Parents must be fully informed of their obligations under the new amendment. While the bill does provide that the court must explain to each party their obligations in a language that they are likely to understand, it is simply not enough to expect parents to fully understand the court’s explanation of their obligations. People who are being given this information by the courts may not fully understand the legal narrative in which most of the courts operate today. Similarly, those people who deal with the Family Court who do not have English as their first language may experience great difficulty in comprehending their obligations. In this situation, I believe the court must take steps to ensure that these people have access to educational material which clearly explains to the parent their responsibilities and consequences effective under the new amendment in this bill. This may involve information pamphlets or videos or even conducting face-to-face interviews between parents and representatives of the court. These educational resources should also be available in languages other than English. Their obligations under this amendment need to be made totally clear to every party in everyday language.

Another issue that this stage of the amendments brings to light is the emphasis the bill places on the mutual cooperation of divided parents to improve communication between themselves. For the court to be able to explain to both parents their obligations and responsibilities under the court’s orders will rely on the premise of both parties being able to cooperate and to act rationally. The court may find that it is increasingly difficult to get two separated parents to cooperate, as relationship breakdown can often cause very uncomfortable situations and reluctance by both parties to communicate in a rational manner. Many people who experience the pain of a relationship breakdown are often unable to be convinced of what actions are in their own best interest, let alone to consider what is in their child’s best interest.

The Family Court must allow for these efforts at increased communication between parents to be flexible and, if necessary, avoid face-to-face confrontation, especially in cases where domestic violence or abuse has occurred. This is one area of the proposed reforms that I believe will create a large number of problems for people dealing with the Family Court. We must watch and continually monitor this area of the Family Law
Act whereby forcing separated parents to communicate may prove to be not only a difficult task for the court but also a very destructive element of the family law. This is the first stage of the three-tiered model. It is a preventative step and is often the first encounter people will have with the Family Court. It is crucial that a good understanding of the Family Court and its powers is reached at this initial stage by both parties. If the correct steps are taken at this stage, there should be fewer instances of the court moving to the second and third stages of this amendment, which involves punitive measures.

The second stage of the parenting compliance amendment in the bill also contains remedial measures for those parents who breach the court’s parenting orders. These measures, according to the Family Law Amendment Bill 1999, will allow for the court to order the parent to attend a post-separation parenting program which, it is hoped, will help parents resolve problems or areas of conflict that arise in regard to parenting children after separation. The court will also be able to make a further parenting order that will compensate for the contact forgone as a result of the contravention of the court order. It must be argued that the court should use a great degree of flexibility and considerability in deciding what is a reasonable and what is an unreasonable degree of sanction on a parent. The court, before ordering a parent to attend a parenting program, should be urged to consider the reasons given for the original breach of the contact order. For example, one parent may have to work irregular hours and, as a result, may breach the parenting order. In such cases, the ordering of the parent to attend a counselling session at a specified time may be inappropriate according to their working schedule. There are a number of factors and reasons as to why one parent may breach a parenting order. In fact, every one of us sees this in our electorate offices every day. The court should also consider the severity and the consistency of one parent breaching the order. This is the sort of flexibility that the Family Court needs to adopt. Many people—and, dare I say, even those in this chamber—would by the nature of their occupation know that trying to balance a working life, a personal life, a family life and other commitments is extremely hard. Unforeseen circumstances can easily and unintentionally cause breaches of court orders. The Family Court must be flexible enough to accommodate these sorts of unforeseen circumstances.

I must stress that the court also needs to take into consideration the situations of those who live in country areas where there is already a shortage of relationship support services. In these rural and regional areas, it may be difficult for residents to attend counselling services. While the Attorney-General has specified that it is not unreasonable for a parent to attend a parental counselling service if the travelling distance does not exceed one hour in their private car, other factors may play a greater part in regional areas. Many questions can be raised as to where regional counselling centres will be established. Will there be adequate services in country areas for parents to receive the remedial and educational services that this bill is intended to provide? Are there any other means by which the court can provide counselling sessions, other than face-to-face counselling? Could a telephone, mail or Internet service be made available for those parents living in these outer country areas?

It must also be pointed out that the court should take all of these factors into consideration before moving on to the third stage of the three-tiered approach. The third stage allows the court to punish breaches of parenting orders, which include the payment of child support. The punitive powers granted to the court in the next stage of the bill allow the court to impose various sanctions ranging from a community service order to a term of imprisonment. This is one of the most controversial parts of this bill. Critics of this part of the bill have argued that parents who breach their orders should not be imprisoned because it puts a further strain on the parent’s relationship with their child. The government needs to look at other ways to tackle this problem. For a start, urgent improvements need to be made in the way that child support payments are calculated including, as many have expressed, calculating payments based on after tax income rather than
on taxable income. Returning to the old days of debtors prison is certainly not what I consider to be constructive family law reform. I urge the court to use this option most sparingly and only as an absolute last resort in cases where the contravention of court orders has been proven to be excessively wilful or fraudulent. In deciding whether contravention of court orders has been wilful or fraudulent, the court should also fully consider all of the circumstances of both parents and the child before deciding on a term of imprisonment. We must make sure that it is used only as an absolute last resort and only after the court is satisfied that no other sanction is appropriate.

The second schedule of the amendments to the bill deals with the issue of allowing prenuptial and post-nuptial agreements to be legally binding. At present, prenuptial agreements have no legal status, are unenforceable and are easily overturned. A recommendation by the joint select committee for these agreements to be binding has been adopted in this bill. For these agreements to be binding, however, each party will have to obtain independent legal or financial advice or both. In supporting these amendments in the bill we must again make sure that the court is able to use these new measures flexibly and that the Family Law Act does not unfairly target one party over another. I have to voice my concerns that this particular part of the bill does not go far enough to protect the rights of the traditionally less dominant party in the relationship, which most often is the woman. The Family Court will, under these amendments, only be able to set aside a prenuptial agreement in certain extreme circumstances—that is, if it is obtained by fraud, duress or undue influence or if there were significant changes in circumstances that would make it unfair to give effect to the prenuptial agreement. Agreements cannot be overturned if they are seen to be generally unfair, unconscionable or unreasonable without any change in circumstances, as is the case with many commercial and workplace agreements.

This is where the notion of having equal bargaining power becomes important. If prenuptial agreements are legally binding, it will only make sense for both parties to seek independent legal advice before signing—not one or the other. A prenuptial agreement is a financial agreement which will, under this bill, become legally binding. Both parties should then be aware of the legal and financial implications any document they might sign will have on their life in the future.

In conclusion, it is clear that the Labor Party support in principle the amendments proposed by the Family Law Amendment Bill. However, I retain my concerns that there are so many intricate parts of the family law that these amendments only touch upon. The Family Court must remain extremely flexible in its dealing with family law matters and always have the best interests of the child in these cases at the fore of its decisions. The provision which allows for the imprisonment of parents who breach the court orders should be used most sparingly, and only in circumstances where extreme cases of fraud or wilful neglect have been committed. Fraud is a crime—I admit that—and it should be punished accordingly.

I know from my own experiences, both as a member of a family and as the elected member for Prospect, that marriage breakdown is a very distressing and turbulent experience for everyone involved. Many of my constituents tell me of the extreme distress they experience during a marriage breakdown and the frustration they encounter with custody and maintenance matters. It is a most disturbing statistic of our time that one in every three marriages in Australia ends in divorce and, as I quoted before, that in the years 1997 and 1998 over 495,000 Australian families were subject to child support orders covering in excess of 920,000 children.

It is now up to the judges and the administrators of the Family Court to ensure flexibility when dealing with family law matters and to continue to give the utmost consideration to the interests of the child when handing down these decisions. No law should be written in concrete. I, for one, at the beginning of my speech in the debate, was expressing concern about the length of time it has taken to bring this bill forward to the parliament. However, this particular law
must be flexible enough to come forward to the parliament when changes are needed. Our community and our lives change continually, and the laws to deal with the circumstances surrounding so many unfortunate instances of breakups and divorce should also have the flexibility to be changed accordingly. So, while this has taken a while and I still have reservations about some of the recommendations in the bill, it must at least be put into effect. If we see in the future that amendments must be made, let us have the courage to then come forward and amend the bill accordingly. I commend the bill to the House.

Mr MURPHY (Lowe) (6.56 p.m.)—The proposed amendments to the Family Law Amendment Bill 1999 continue to cause an affront to the notion of the sanctity of marriage and the family. We have heard much said in the last few weeks about the position of the Prime Minister in relation to the sanctity of marriage and children’s rights. From the electorate perspective, the evolution of family law since the Family Law Act 1975 has seen continuous incursions by this government into the affairs of the family. This bill strikes at the very heart of the rights of the family and the rights of spouses. This bill makes legally binding the provision for financial agreements dealing with all or any of the parties’ property during marriage or on marriage breakdown, setting out how such property is to be divided. In part this trend is a reflection of the secular nature of our evolving family law. This law has truly lost the correct definition of marriage. Marriage in the mind of the legislative draftspeople has been reduced from what was a holistic, morally binding sacrament to a mere contract. Now the contract called marriage is being further compromised.

For more than 25 years the rite of marriage has been the subject of invasive incursion by secular laws in Australia. Divorce rates have skyrocketed, and with them has come a divisive child support regime and ancillary relief mechanisms implemented in empowering the Family Court of Australia in areas such as custody; care and control; access, now known as contact orders; property orders; guardianship; and so forth. These are just some of the measures implemented by successive federal governments in the interests of a false notion of a morally neutral secular regime. In large part, the laws have become more embracing as families continue to break down. It is a vicious cycle of conspiracy by a family law industry that guarantees its own existence by creating ever-widening circles of legal dependency by families who have broken down. This regime has caused the untold story of abandoning the family in terms of direct positive legal support for married couples. Yes, marriage was always considered the personal affair of family members, but these laws offend and detract from facilitating family unity by permitting instruments that ensure separation of assets, a fundamental element of family bonding. Add into this the horrific social welfare regime initiated by this government that detracts from family unity, and a truer picture of this government’s attitude towards family and parent support emerges.

Successive federal governments in Australia have decided to make the principal Family Court relief of divorce one of the easiest processes in the world in which to obtain a dissolution of marriage. The process is simple. Separate for 12 months, fill in a form, pay the filing fee and get your divorce. However, things get messy with spousal expectations of the indissolubility of marriage and other nuisances getting in the way, which lead to protracted and often financially disastrous consequences. But this is okay because it panders to even greater dependency on the Family Court process. The cycle continues even to the point of bankrupting the litigants. We have seen the effects of the role of government acting on behalf of the child in court proceedings. Having the government as the nominal representative of the child means that so-called children’s rights are really a misnomer for rights of the state.

The amendments contained in this bill deal a further blow to the sanctity of marriage as we understand it. For the last 25 years, we have had to accept the reality that a spouse could, by continuous separation for at least 12 months followed by application and payment of the prescribed filing fee, obtain a
divorce from his or her spouse. Guilt was erased. So was intention. Divorce has become merely a procedural step, a form filling exercise. In other words, the secular laws afford no protection whatsoever for those who live in Australia and abide by a moral code that recognises the indissolubility of marriage. The notion of marriage properly understood by many in society is that it is indestructible and irrevocable. This recognition is not given by our so-called ‘family laws’.

There is reference also within the Family Law Council News Issue 29, Autumn-Winter 2000, of inquiry into alternative religious rights of marriage. They contain their own specific rules regarding marriage, divorce and ancillary relief. There are many areas of debate over how our family law should best serve the rights and needs of spouses and children. Simply, there is a growing dichotomy between serving secular needs and matrimonial notions of faith. I note that dialogue is currently afoot with the Family Law Council in regard to Muslim and Jewish marriages. However, in the field of agnostic secularism, Christian and other religions, we are left wondering how this legislation best serves the needs of spouses and children in such relationships. I say this in light of the fact that many Australians, indeed a majority, take their moral lead from the law itself and not from the extrinsic objective moral standards. Our cultural legacy as an English common law country has seen the demise of the role of the church as the determiner of moral values. In its place, the law has taken the place of determining what is morally licit and illicit.

I now refer to the provisions of the prenuptial agreement. In making such agreements licit, the Commonwealth gives explicit moral sanction to such instruments. Further, this House is taking a deliberate moral position in doing so. We cannot sit here thinking of ourselves, ‘We are not a tribunal of morals.’ We have made a decision. We have taken sides. We are positively discriminating in favour of one position against another. In other words, the Commonwealth is giving an explicit instruction to the people of Australia that the use of prenuptial agreements is ‘legal’ and a moral implication that it is condoned to do so. I like the word ‘legal’. To say ‘This is legal’ means for many people that it is morally acceptable by the standards of society, that you may do a thing and in fact the thing is tacitly accepted. To say ‘What I have done is legal’ gives that ‘clean skin’ feeling. We have declared many things legal in Australia which, in many moral codes, are thoroughly immoral and subject to conflicting standards of conduct. With respect to this bill, the endorsement of family law principal relief, for example, divorce and nullity declarations and ancillary relief to orders noted above lead me to conclude that our society has suffered grievously. We have allowed the Commonwealth to continue to act as if the doctrine of patria potestas or moral leadership of the state has continued unabated. Nothing could be further from the truth.

It does make sense for the Family Law Council to consult with the Jewish and Muslim communities in respect of their matrimonial causes, as their rules do have civil and religious implications. There are no such implications between church and the state with respect to Christian marriages. However, there are serious implications of a society based on something other than a cohesive nuclear family structure. In other words, whilst there are not the same civil implications of Christian marriage as compared with Muslim or Jewish rites, the question remains what impact this bill will have on all marriages. It is trite to say that a person marrying under a particular rite of marriage may or may not believe themselves to be still married or free of their marriage obligations simply because they enter into a divorce. Exactly the same may be said of any person who enters into a prenuptial arrangement and still thinks they are married.

What is missing in this bill is due recognition of the implications of the state of mind of the parties. The law is indifferent to the pre-existing state of mind of a person who may now form an opinion, with ‘authority’ of this bill duly enacted, that a prenuptial agreement is ‘legal’. The secular law is disinterested in the state of mind of the individual, save for the formal and essential validity
of the marriage, including issues such as minority, mental capacity and so forth. The bill carries with it new levels of matrimonial freedoms but also new levels of matrimonial risk. Is it responsible for us to expose our society to such risks in light of the clear trends away from matrimonial causes? Is not the cynicism attributed to marriage a function of the disenchantment borne of false expectations in marriage, a direct result of policy messages our laws are giving to married couples and couples contemplating matrimony? Put simply, spouses outside of specific religious communities now face an added dilemma. The dilemma is that families face a growing secular family law jurisdiction with increasing power over family affairs. This power is in direct proportion to family breakdowns. The more breakdowns there are, the more justification there will be in the need for greater jurisdictional powers. On the one hand, family law increasingly recognises the role of freedom in marriage; on the other hand, family law is corroding any safeguards against minimum codes of conduct by the parties such as prenuptial marriage.

The fundamentals of marriage are being trammelled. The right to enter into a prenuptial agreement fundamentally undermines the totality of marriage. It puts a caveat on the marriage and also acts as an encumbrance. It says, 'The promises I make to you are conditional upon the terms of the agreement,' and thus fundamentally compromises the very essence of marriage. The bill does nothing to protect the sanctity of the family, the rights of spouses to their conjugal vows and the sanctity of the family unit. On the contrary, this bill serves to further diminish the sanctity of marriage to nothing more than a mere contract. Ironically, it is exactly at this time that the Family Law Council is considering giving certain religious groups legal recognition of their matrimonial causes.

I say this at a time when, for more than 25 years, the Commonwealth has implemented a family law legal regime which has wreaked havoc amongst Australians who have suffered from a system that has pulled the rug from under their feet and does not protect the rights and the needs of spouses and children of Christian marriages. It is for this reason that divorce in Australia has risen dramatically over the last 25 years. It is also the reason why the numbers of single parent families have risen so dramatically. All this is taken in light of the intrinsic rights of individuals to conjoin in marriage in line with their traditions and custom. Such rights are always understood. This bill is insensitive to the implications it will have for the family unit. Couched in terms of 'rights', what it in fact does is create further opt-out clauses for spouses who otherwise would be bound to the decisions they make. It is in a very real sense weakening the efficacy of the promises made in marriage proper by reducing the strength and finality of the vows made during marriage. It allows the spouses to keep their fingers crossed while they make their matrimonial promises. It is anathema to everything we know marriage to be.

The major consequence of this bill is that it implies a positive moral standard. The law as it will stand, if this bill is passed, is that it is legal, and implicitly therefore moral, for a person to have a prenuptial agreement. The morality is embedded in the law itself. There is no sharia law to direct the reader to know whether this law is moral as determined by some objective standard. The objective moral standard is the law itself. Prenuptials are legal, therefore they are moral. This is not true in comparative religious matrimonial systems.

I turn to the Family Law Council's recommendations. Is this not exactly what is being recommended by the council in permitting civil and religious divorce? The answer is, yes, it is! Yet there has been an implicit attack on marriage in Australia for more than 25 years. This legislation ensures that this attack will only continue to intensify. The more this secular government sees fit to tamper with matrimonial causes, the more damage it causes. The dark dissatisfaction with this law is immediately felt in the broader community. Speakers in this House have made it clear that there is a great dissent, both within the Family Law Council and the broader community, in the management of Family Court orders. I specifically refer to ancillary relief orders such as control
and access orders. Repeat violations are occurring of orders that are not being abided by, with neither ameliorative action nor punitive measures deterring these contempts of court. The bulk of family law litigants are fundamentally dissatisfied with the system, not for what it is but for the fundamentals that underlie its policies.

The purpose of family law must be to prevent harm in the first place and not so much to pick up the pieces after the family fails. The current family law regime undermines family values and as such has become part of the problem. The bill here today is yet another amendment to this fundamentally defective legislation which seeks to implement piecemeal quick fixes to matrimonial causes whilst denying absolute responsibility for addressing ultimate causes of why divorce and ancillary relief orders are necessary. So too is the issue of the Child Support Agency's role that is based upon a similar policy rationale: a role hand in glove with the tragedy of family break-up. Both family and child support legislation demonstrate the inefficiencies of their jurisdictions. Both deny the social costs of family break-ups. These include the economic and social welfare costs, to say nothing of the social costs of family break-ups. These are the fundamentals that successive governments refuse to acknowledge, preferring legislation such as this that panders to soft opt-out options. In doing so, this legislation does nothing to address the real issues that the Prime Minister speaks of in protecting family and children’s rights. Instead, it destroys family security, affording less than no protection against instruments such as prenuptial agreements which fundamentally undermine the family and the institution of marriage.

The purpose of this speech, then, is to bring to the attention of this House the repercussions of what this bill seeks to achieve. Simply, many people will see the word ‘legal’ and assume that there is a measure of moral sanction in the act of gaining a divorce, seeking ancillary relief or even entering into a prenuptial agreement. Let no member of this House believe that the effects of this legislation will not see a rise in such agreements. Let no member of this House form an opinion that, by veiling this legislation as a right, this will not be interpreted by many in our community to be licit and therefore morally sanctioned. This question remains: how is this government demonstrating its commitment to its own public rhetoric in protecting families, protecting children and, most importantly, protecting marriages by this legislation?

Mr COX (Kingston) (7.12 p.m.)—Laws affecting family relationships are amongst the most sensitive matters that we in this parliament deal with. It is vital that the legislative framework is one that will best promote the welfare of children and assist parents to manage the difficulties that inevitably follow divorce. The large number of complaints that I receive from concerned parents in my electorate suggests that those affected by family law want reform. I am pleased that on this occasion both sides of politics are approaching this piece of legislation cooperatively and constructively. The Family Law Amendment Bill 1999 is a small but positive step. It deals with some of the findings from the 1992 report of the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act 1975, particularly the finding that the court is too rigid in its approach to punitive measures and court orders. Parents affected by family law often tell me that they are unable to negotiate and control their own affairs. This is a major failing of both post-divorce relationships and family law. But there are measures that can restore the capacity and negotiating power of separated couples to allow them to deal with the implications of separation. That has to be the guiding objective of family law reform in this country.

The new three-tiered approach to the enforcement of parenting orders, as recommended by the Family Law Council and contained in this bill, has the support of the Labor Party. The new approach should result in greater communication between parents and an improved awareness of their responsibilities. This is an important step because family law matters are best resolved by parents, not lawyers. It is quicker and cheaper and the parties are more likely to get what
they want. Clear communication established soon after relationship breakdown is vital to reducing tension between separated parents.

The first of the three tiers is designed to educate parents about their responsibilities and to highlight the link between their behaviour and the future welfare of their children. The objective is to help parents recognise what is in their children’s best interest. The second step allows parents to resolve conflicts about their parental responsibilities. The third step deals with deliberate breaches of court orders, which, unfortunately, I do not think the first two steps will be able to eradicate entirely.

This bill will also allow couples to make binding financial agreements about all or some of their property before or during marriage. Importantly, estranged couples will also be able to make binding financial agreements. At present, private agreements reached during or prior to a marriage are often ignored or unenforceable. Binding financial agreements will give legal credibility to a couple’s intentions with respect to property division in the event of separation. The agreements will empower individuals to better negotiate and control their own affairs. They will deliver greater certainty, particularly in the event of remarriage. While I fully support the intention of binding financial agreements, I am concerned that this bill does not sufficiently safeguard against unfair or unreasonable agreements. We must remember the mental condition of people at the time of entering into these agreements; they are not always in a position to make the best judgments for their future. The opposition will move amendments that will allow the courts greater discretion to disallow agreements that were unfair, harsh or unconscionable at the time of signing or that have since become so. These amendments will not detract from the intention of binding financial agreements but will guard against their misuse.

While this bill is a commonsense development in family law in Australia, it fails to address two important points that were recommended to the government following an inquiry last year by the Senate Legal and Constitutional Committee. That inquiry suggested that the family law courts should have greater discretion when deciding how to punish breaches of parenting orders. This bill requires the courts to impose mandatory punishment on a person who breaches a parenting order at least twice, regardless of how trivial the breach or why it occurred. It is a cornerstone of our legal system that punishments imposed by courts are proportional to the nature of the crime committed. As it stands, this bill will require mandatory punishments regardless of whether a parent’s breach is serious or trivial. That is a significant flaw. I understand the government accepts the opposition’s concerns on this point and will amend the bill accordingly. Again I make the point that, because family law deals with highly personal and emotive issues, judicial discretion is vital. Flexibility is vital. The government has indicated that it shares Labor’s view that where court orders are breached both parents should participate in post-separation parenting programs. Such programs will facilitate discussion between the parties about why a breach occurred.

Although binding financial agreements will be good news for many families, they have an immediate financial implication. This bill requires the parties to have received legal advice before reaching an agreement. It may be advisable for both parties to also receive financial advice. Many families will decide against such an agreement if the cost of entering into one will too greatly burden the family budget at the time. This would not be such a problem if legal aid were more readily available to low- and lower-middle income earners. In family law matters, access to legal aid is heavily restricted because of limited resources. The Howard government’s cuts to legal aid threaten the ability of Australian families to access justice. Consider the common experience of many Family Court cases where one party to a dispute has legal representation but the other party does not. This is a serious problem, given family court matters often involve children’s welfare and the division of property and assets acquired across a person’s life. In a speech to this House last year, I suggested to the government a policy reform that would assist both parties to have legal representation, at least for an initial set of orders,
the cost being borne from the assets of the marriage before they were divided. This measure would guard against the inherent disadvantage of having one side without legal representation and would be of negligible cost to the Commonwealth. I am concerned that the process for resolving family law disputes is often too expensive and too cumbersome for many parents. The result is that relationships between children and their parents are damaged. Our legal system owes it to the welfare of Australian children to make sure that obstacles such as delays and costs are minimised.

The Child Support Scheme sets the terms of income support. It is a difficult balance to determine. It is a balance that needs to be responsive to changes in family circumstances. This bill makes some improvements, but the government should now look to address failures in other areas of family law and child support. For example, the Child Support Scheme needs to be reformed. The Child Support Agency is often too slow to respond to deteriorations in a non-custodial parent’s income or to the situation when a child leaves home. This can lead to both financial hardship and considerable justified resentment from non-custodial parents.

While this bill will improve the operation of the Family Court, the government’s budget cuts mean that parents and aggrieved partners are waiting longer than ever for justice. It is a case of two steps forward and three steps back. In Adelaide the average wait to have a property matter resolved is 19 months. Worse still, it takes almost 22 months to get a final order on matters involving children. Delays of nearly two years are unacceptable for parties that are dealing with the quality of children’s lives and parental rights. The government’s response to Family Court delays was to have the federal magistracy handle some of the overflow. The Attorney-General promised that the new courts would be operational by the middle of this year, but we are still without the new service and delays are as long as ever. The opposition supports the federal magistracy having family law responsibilities and relieving some of the burden from the Family Court. We do not, however, support the government’s decision to cut $15 million from the Family Court budget over the next four years. If the Attorney-General, who has now entered the chamber, responds to this, I hope that it will be a more positive response than the last time he responded to my speaking on these matters, when he informed me that I simply wanted to line the pockets of Family Court and Legal Aid lawyers. That cut indicates that the government is not concerned that families are waiting months and years for vital resolutions to their personal affairs. Separated couples expect that disputes arising from marriage breakdowns can be quickly and efficiently resolved so that they can then get on with their lives. Two years of uncertainty is totally unreasonable.

Mr WILLIAMS (Tangney—Attorney-General) (7.22 p.m.)—in reply—It is pleasing to see that the Family Law Amendment Bill 1999 has received broad support across the chamber. I thank the honourable members who have contributed to the debate, in particular the member for Barton, the member for Herbert, the member for Paterson, the member for Menzies, the member for Bradnor, the member for Forde, the member for Sydney, the member for Petrie, the member for Cunningham, the member for Riverina, the member for Chifley, the member for Prospect, the member for Lowe and the member for Kingston. I think it is fair to say that in the course of this debate there has been a conscientious addressing of a range of difficult social issues that arise out of the family law system we have in place.

Honourable members would know only too well that family law is an area where there can be a great cost to the individuals involved, particularly children, and also, it needs to be added, to society at large. The emotional and financial turmoil can be enormous. The government continually strives to find ways in which the cost and distress can be minimised. A constant theme of this government has been its emphasis on resolving disputes without costly court appearances. Where it is necessary to go to court, either because of the legal issues raised in the dispute or because agreement is simply not possible, the coalition believes
that this should be a simple and quick process.

The new Federal Magistrates Service, which I am pleased to point out to the member for Kingston opened its doors in July, is already making a big difference to the experiences of those people appearing before it. I can point out to the member for Kingston that the Federal Magistrates Service has magistrates sitting in Townsville, Brisbane, Newcastle, Parramatta, Sydney, Canberra, Melbourne and Adelaide. The Chief Federal Magistrate has already made arrangements for a number of circuits to be established, including one to Dandenong, and the Chief Federal Magistrate herself has been to Tasmania in recent days. We anticipate appointing another four, possibly five, magistrates in the course of the second half of this year.

This bill is another example of the government’s commitment to family law reform. The bill will reform family law in four key areas. Firstly, it will provide greater equity and certainty in matters relating to the party’s finances by allowing couples to make binding financial agreements before marriage, during marriage or after dissolution of the marriage. This will offer couples improved choice and greater control in arranging their financial affairs. It will also allow couples to avoid costly court proceedings. The bill will also allow people to settle financial matters by private arbitration rather than by judicial determination. This will provide an alternative for parties who wish to settle their financial affairs quickly with the assistance of an arbitrator and it will offer another means of avoiding litigation.

Secondly, the bill will introduce a new three-tier compliance regime to ensure parties observe parenting orders. The issue of compliance with parenting orders, especially orders for contact, has been a source of considerable concern for some time. The amendments in the bill will create a regime that focuses on the underlying problem rather than on the fact of non-compliance. This will improve compliance by providing a preventative stage followed by a stage where parties will be given an opportunity to address the real reason for non-compliance through attendance at parenting programs. The final stage of the regime will retain a range of sanctions as measures of last resort.

Thirdly, the bill will update the provisions that implement the Hague Convention on the Civil Aspects of International Child Abduction. The regulation making powers in the act will be clarified so that the regulations can be amended to bring them into conformity with the Hague Convention on the Civil Aspects of International Child Abduction.

Mr Deputy Speaker, I am not going to conclude my closing remarks before the adjournment debate is due to commence. This would be a convenient time, from my perspective, to conclude my address today; otherwise I will be starting on a subject that I will probably not finish before the break. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

Motion (by Mr Williams) proposed:
That the House do now adjourn.

Defence: Lavarack Barracks

Mr LAURIE FERGUSON (Reid) (7.28 p.m.)—On 6 December 1999, quite a while ago, I wrote to the Minister Assisting the Minister for Defence. On 10 May, roughly five or six months later, he responded to me concerning pay questions at Lavarack Barracks in Townsville. He made a number of concessions in that piece of correspondence to me:

... these changes did lead to some initial short-comings—

I repeat, initial—

that have been addressed and resolved as a matter of priority.

Furthermore, he said:

I understand that some Queensland casual staff did experience payment delays of up to one-month during the initial implementation period.

People employed by the defence department not being paid for a month! He said:

I am advised there were occasions when staff were given inconsistent answers through the 1800 telephone service.

He concluded:

While there have been some initial difficulties, these have been addressed, and I expect that De-
fence employees will benefit from an improved payroll and personnel management system.

So after five months the minister got around to telling us that the point the opposition and the Liquor and Hospitality Union were making—that there was something wrong with the pay system because people were not being paid for months—was valid but that the system was now up and running and there would not be any further difficulties. Unfortunately, that has not been the reality. A particular group of camp workers that do the meals for the armed forces up there have not been paid for the last week. This has followed the same process of underpayment, overpayment, inconsistent payment and delays.

The situation has not been assisted by their local representative, the member for Herbert. The story of his performance started in November last year, when they made an appointment to discuss this matter with him. A delegation arrived and the first response was that there were too many people there and he wanted one person to represent the entire work force. That was agreed to and a person was given as a contact. In May there were still problems—and these are very patient people. Six months later there were still problems. On 16 June they finally had the honour of arranging an appointment with him. That was cancelled and it was never rescheduled. That has been the performance and support from the member for Herbert, who had the audacity to come in here today mouthing about the industrial relations views of some South Korean company that operates in his electorate. It is not the first time that he has supported South Korean management attitudes towards Australian industrial relations.

The member for Herbert went on to talk about trade union thuggery. Quite frankly, one would have to ask how much people can put up with in the work force after this kind of performance. They went to see him in November last year. He got into a bit of a panic on Monday night this week. He said, ‘I have been camped in the minister’s office all day, and you can be assured that there will be no further problems.’ The Townsville Bulletin says:

Mr Lindsay said the picket would not be necessary, as he had arranged with the Minister Assisting the Minister for Defence Bruce Scott to have employees’ concerns addressed.

Mr Lindsay said employees would in future be paid their full entitlements in a timely manner. That is a major accomplishment since November last year. Workers are actually going to be paid on time. He has given assurances that he has rectified the situation. He has overcome it. He has finally fixed it after approximately a year. Quite frankly, one has to question what is happening with regard to the minister’s performance in this matter. He told me in May this year that the matter was under control, after five months of dillydallying and inaction by him. He has been forced into a situation where a picket line has had to be put up around the member’s office and a petition is circulating in the town. If we come into this place and we start saying that there is something wrong with the way Australian workers and unions operate in industrial relations, one has to question their options. One has to question their alternatives if they cannot, in a period of roughly a year, even be paid on time and be paid the right money.

McEwen Electorate: Kilmore Football Club

FRAN BAILEY (McEwen) (7.32 p.m.)—Last Saturday afternoon I witnessed community spirit in full flight as the Kilmore Football Club’s reserves took on the highly favoured Craigieburn side in the Riddell District Football League grand final. The final score saw the Kilmore Blues victorious by 86 points to 43. As their No. 1 ticket holder I felt enormously proud as they gave their all. This year’s reserves premiership effort owes much to a community determined to honour the proud traditions of the 128-year-old Kilmore Football Club, in particular a club official who was only elected as the club’s president in January this year, Mr Dayson Carroll.

Dayson took out the 1999 league’s Scarborough Medal for the best player in the reserves. He came out of retirement last year to be player-coach for the Blues reserves. He believes the form of many of the side’s younger players rejuvenated him. The 35-
year-old coach for the reserves says that he is very proud of his players’ grand final win but always knew that they were the best team in the competition. He said:

The average age of the players in my team was 20, but on Saturday I saw a lot of boys mature into men.

I got them to live by my philosophy and theory where you have to believe in yourself before anyone else can believe in you. On the Thursday night before the grand final I said to them look inside me and see how much I believe in you.

Dayson says the difference between his team and the other side on Saturday was mateship. They are all Kilmore locals and have created a close-knit team relationship. As their coach and team-mate, he says any one of them would be welcome to a bed at his home. He tells of how one player, Mark Kinnear, left to play with the AFL’s Collingwood side but missed his mates so much that he returned home to Kilmore. Although he gets some good-natured ribbing from some locals about passing up such an opportunity, Dayson says Mark is happy playing in the local reserves side with his friends.

Dayson took on the added responsibility of club president because the club was struggling a bit this year and because of his belief in the kids at the club. On accepting his presidency back in January this year, Dayson was quoted as saying, ‘This will be a new era for the Kilmore Football Club.’ He believed the club had the potential to be a real power in the local football league, and the aim was to make sure the club fulfilled that role. Another reserves player, John Knight, who missed out on the grand final, accepted the position of club secretary at the same time as Dayson took up his new post. Both Caroll and Knight predicted the club would make considerable improvement during the 2000 season, and they set about to achieve just that.

This positive outlook was achieved by the introduction of some new players, new corporate sponsorship, general improvements at the football ground and encouraging local family support, which all contributed to making a positive impression of Kilmore as an important club in the Riddell Football League. This new progressive approach to football during the 2000 season saw a higher profile given to sponsors. As clubs strive to survive in regional areas, Kilmore is looking good.

Still nursing some aches and pains from Saturday’s game, Dayson concedes that his playing days may be over but he intends to be just as active off the field. He is already talking about new clubrooms. Dayson has made a real contribution to the Kilmore Football Club through his encouragement of younger players and by advocating a positive approach to sport. He is a role model for his players, who are: Peter Kavanagh, Andrew Hiscock, Paul Kurzman, Matthew Thompson, Kevin Kavanagh, Adam Farrugia, Adam Dove, Liam Clancy, Kane Gould, Tristan Salter, Lynton Kemp, Luke Thomas, Mark Kinnear, Luke Milikovic, Sonny Balfe, John Golding, Brent Sullivan, Drew Ashworth, Scott Thomson, Kevin D’Elia, Dan Glass and the runner Chris Cain. Congratulations to club supporters and especially to all those who, each weekend, cut up the oranges, cook the barbecues and provide the afternoon tea—not forgetting, of course, those who man the bar. I am here tonight to say that I am extremely proud to be the Kilmore Football Club’s No. 1 ticket holder.

Oil Refinery: Port Stanvac

Mr COX (Kingston) (7.37 p.m.)—This evening I want to focus on the neglect of the South Australian government to ensure the ongoing viability of Mobil’s Adelaide refinery. Mobil has long recognised the pressures faced by Port Stanvac and has a disciplined process to improve its gross margin and viability. This includes substantial restructuring that has resulted in job losses and benchmarking of all costs to ensure the refinery’s competitiveness. That benchmarking process has revealed that one of the costs far above the level of what Port Stanvac’s competitors pay is local government rates. Those rates make the refinery the city of Onkaparinga’s biggest ratepayer. The rates are not set by the council; they are determined in accordance with a formula contained in an indenture act of the state parliament. Those rates are therefore under the control of the Olsen Liberal government.
The refinery is paying rates of more than $1.2 million per annum. Most of its competitor refineries are paying less than $200,000. The prevailing rate, paid by all other businesses in the city of Onkaparinga, indicate a figure for the refinery of slightly more than $50,000. For more than 18 months, the refinery has been seeking from the Olsen government an adjustment to its rates. There have been extensive negotiations between the Olsen government, the refinery and the city of Onkaparinga, which will bear the burden of any reduction. There are only three issues for the Olsen government: firstly, to ensure the refinery’s ongoing viability; secondly, to determine a competitive rate; and, thirdly, to compensate the city of Onkaparinga for the loss of a not insignificant part of its rates revenue.

The state government has made some token offers to assist the council, but so far it has only offered to relocate some state government economic development staff to the council offices to do state government work. That will do nothing to relieve the council of any of its costs. The state Treasurer took over the issue earlier this year, and the council and the refinery hoped he would resolve the matter quickly. Unfortunately Robert Lucas has done nothing.

The refinery desperately needs the matter resolved. It has been doing everything under its control to reduce its costs. Unfortunately, the resolution of the rates issue is within the Olsen government’s control, not the refinery’s or the council’s. The council are acutely aware that the refinery—one of the area’s major industries—is at risk. They wanted the issue settled so they could prepare this year’s council budget, but the mayor’s letters and faxes to the state government have gone unanswered, as has correspondence from my state Labor colleagues. This is not a small state development issue. The viability of the refinery is at risk. The Olsen government is failing to deal with the one significant issue that is its responsibility to fix. At stake is an operation that provides directly or indirectly 1,500 jobs, that contributes $140 million or 0.4 per cent of gross state product and that produces $100 million of exports.

The failure over 18 months to deal with the refinery’s rates issue when it is known that the future of one of South Australia’s largest industries is at risk is a depressing indictment of the economic management of our state. The buck on this one stops with Premier Olsen. All that is required is a decision. Instead of leadership and a clear set of priorities we get negligence and incompetence. Because of the magnitude of the budgetary cost of reducing the rates, the burden needs to be shared between the council and the state, at least for a transitional period.

I want to suggest a compromise solution. The council should offer the refinery the same rate as other businesses in the council area—which would be slightly more than $50,000—but that it be on two conditions. Firstly, the reduced rate should apply only so long as the refinery operates as a refinery. If the refinery closes, the rate should return to the formula set in the indenture act. Secondly, the state should share equally with the council in the first year the budgetary cost of reducing the rate from the level set in the indenture. However, that budgetary support to the council should be phased down by one fifth in each subsequent year.

Though I am not privy to the detail of the solution the council has put to the state government—and so far has not received an answer on—I understand that my proposal is a more generous arrangement both to the refinery and to the council. It is critical that the state government resolve the issue now. The responsibility is in Premier Olsen’s hands.

**Forrest Electorate: Port Said Memorial**

Mr **PROSSER** (Forrest) (7.41 p.m.)—I rise tonight to speak about a decision by the Australian War Memorial to recall a loan of a bronze fragment of a horse’s head that was once part of the original Port Said Memorial. This memorial was dedicated to the men from the Australian Light Horse, the New Zealand Mounted Rifles, the Imperial Camel Corps and the Australian Flying Corps in the Sinai campaign who lost their lives during World War I.

This memorial is of great military significance to Australia, as it is to Albany and in-
It was paid for by a levy on the soldiers of threepence from every enlisted man, by the New Zealand government and by the Australian government. The memorial was erected to represent the bravery of those who died during the Sinai campaign. It was built and erected in 1932 at Port Said. During the Suez crisis, the monument was blown up. If not for the work of an Albany resident, Mr Ross Steele, who found where that monument was and had it brought back to Australia, it would still be lying in some sort of warehouse in Egypt. It was planned that the original monument, or what was left of it, would go back to Canberra but, because of the efforts of the people of Albany, the New Zealand High Commissioner and others, the monument—the original base—was kept in Albany. The rest of the monument was melted down, except for this bronze horse’s head. There is a replica on Anzac Parade.

Now the War Memorial want back the bronze horse’s head, which has been on loan to the Albany Museum since 1985. Why? They want to use it as part of a monument to animals that died during conflict. This bronze horse’s head is of great military significance. It is too important to turn it into what I consider to be basically a garden gnome in Canberra. I think that is totally inappropriate. I think it decries the bravery of the men. It basically does not do well for their history. If they want an original cast of this head, they can have one. But this piece of military history is important. Military history does not reside only in Canberra.

Of course, the Anzac tradition was basically born in Albany. The first Anzac service was in Albany because our troops in the First World War left from Albany, and the troop ships stretched for seven miles. They left as AIF personnel and Anzac was born only when they were joined by another contingent. This piece of military history has great significance to Western Australia. It has great significance to Albany and it should stay in Albany. It certainly should not go to Canberra to become a garden gnome.

Melbourne Ports Electorate: Shalom Association

Mr DANBY (Melbourne Ports) (7.46 p.m.)—At this time of tragedy for the Russian people with the loss of the Kursk submarine, I want to speak of the majesty of the Russian people, particularly those who have moved to Australia and to my electorate. I am very lucky in having probably the largest concentration of Russian speaking people of any constituency in Australia. The Shalom Association, which is the immigrant organisation that represents the Russian community in Melbourne, is a wonderful organisation. Together with my friend and colleague the shadow minister for immigration, the member for Bowman, Mr Sciacca, I attended a concert in the concert hall of the Shalom Association two Sundays ago. The standard of performance from a community of only 8,000 people—there were some 1,700 there—was a great tribute to them and I predict that it will one day be a great cultural contribution to Australia. There are already a number of people who participate in the Australian Ballet and the opera, and the children who are in the dance group—my own daughter is in dance groups and I have seen lots of Australian dance groups—are a great credit to the Shalom Association, to the folk
troupe they are with and will one day be great dancers for Australia. In the Shalom Association’s magazine, which commemorated this 20th anniversary, it says:

The end of the millennium is approaching, and with it another historical era ... people once residing within the expanses of the Russian Empire and later the USSR draws to a close. [The people who lived in small shtetls on the blooming banks of the Dnieper and the endless woodlands have disappeared. The Moldovanki of Odessa, always ready to trade a blow for a blow, and [those of] the Baltic, capable of spending entire nights on the disputations of the Talmud, have scattered to all corners of the earth.

This path travelled by a lot of them and their fellow countrymen led to Australia, where many of them over the last 20 years have settled in Melbourne. At this time when a lot of people are critical of the events in Woomera, as some disgraceful behaviour has been exhibited by people who have come to this country illegally, it is important to remember the contributions that immigrants can make to this country. The Shalom Association says of its last 20 years:

... it is equally impossible not to say something about the relay of generations, beginning with the first one that stood at the starting line, some of its members participating in the life of the Association today, and ending with the current one which accepted the baton and carries it now.

Unfortunately our former homeland was a totalitarian regime, the inevitable outcome of a forced revolution. The common man suffered along with the many minority groups, and thousands fled their homeland. Today Shalom finds itself transformed from a small collaboration of like-minded and enthusiastic ex-patriots to an association that unites all those for whom the Russian language is the primary vehicle of social life.

The association’s paper records everything, from children at the Elwood High School being interviewed in the Russian language to the tragic death of the great Russian poet Vladimir Vissotsky in a country where, as he described:

... they’ll skin you only to discover that your pants are being worn by an insidious lie; and that’s the honest truth fellas ...

I remember being with the Russian author Vitali Vittaliev in Westbury Street, East St Kilda, watching a three-hour video of Mr Vissotsky, whose language unfortunately I did not understand, but Vitali explained to me every detail of it. I want to pay particular tribute to my good friends in the Shalom Association Vladimir Tsvilin and Rima Sverdлина, their elder statesman and current director, Zalman Plotke, Leonid Frenklach, Sopha Gorovaya, Lusya Zubkova and the president, Roman Mirkus. It has also been my great honour to represent my constituency at the various anniversaries of the Russian war veterans—and there are hundreds and hundreds of them present, all of whom are Australian citizens—with their medals on both sides, led by great people like Colonel Orlov and Ios Tepper, who was present at the Battle of Berlin, who was concussed three times and who survived the war after fighting from Stalingrad to Berlin. It is a great honour to be associated with these people, and I am fully confident that they, like many immigrants, will continue to make a great contribution to this society.

Robertson Electorate: Olympic Torch Relay

Mr LLOYD (Robertson) (7.51 p.m.)—Last Monday evening, 28 August, I was privileged to witness what I think was the greatest community event that has ever happened in the city of Gosford in my electorate. It was the occasion of the arrival of the Olympic flame. It is the closest that the Olympic flame has actually come to Sydney in its travels around Australia, so it was a very significant event. What made it so significant, I think, was the support of the community of the Central Coast. There were literally thousands of people who lined the streets as the Olympic flame was carried by many runners. I think 200 runners on that particular day carried the flame into the Central Coast and into Gosford overnight.

The flame was then carried into the Grahame Park Stadium, a stadium which is very close to my heart. It is a brand new stadium, towards which the Commonwealth government contributed $12 million, and it is a magnificent facility. This was one of the first events it had been used for, other than a sporting match. We did claim that it would be used for community events as well, and this was its biggest test. The stadium was full to the brim, with more than 20,000 people
coming in for a free event, and the performance that was put on by the Central Coast community was of world-class standard. At 4.30 in the afternoon, we had a performance by the Massed Musicians of the Central Coast, the Gosford City Brass Band, the Gosford Philharmonia, the Central Coast Concert Band, the Tuggerah Lakes Choral Society, the Gosford Chorale, the Central Coast Leagues Club Barber Shop Chorus, and the Central Coast Symphony Orchestra. It was a great musical event. We then had a performance by the Sophia Ventouris School of Greek Dance, followed by the official opening by our mayor, Chris Holstein.

Then there was another musical interlude, with performances by the Peninsula School of Dance, the Australian Filipino Association, and the Lovetts Dance Academy from Woy Woy, and they all put on a very good performance. We then had the national anthem, after which the Djuigang Koori Dance Group performed for us. Then there was the big event: the flame arriving in the Central Coast and coming into the stadium. It really was quite an emotional experience. I was privileged to be there on the night, because parliament was sitting and I managed to get leave—which is something fairly rare in this place—to be there on the day. I was surprised at the emotion of seeing the flame coming into the stadium and at the pride the community had in what Australia is doing. The Olympics will be a great event, and it is an opportunity to showcase this great country to the rest of the world.

After the flame was carried into the stadium and the cauldron was lit, there was a performance by 3,000 schoolchildren from the combined schools of the Central Coast. It had taken months and months of rehearsals and preparation by teachers and volunteers of the Central Coast and the students from nearly every school on the Central Coast. I will not go through the names of all the schools involved, because some 50 or 60 schools were involved. It was not a five- or 10-minute performance, but a performance that went on for some 50 minutes, and it was choreographed by Central Coast teachers. It went through the history of the Central Coast, and it was a performance that would do credit to the opening of the Olympics. As I said, some 3,000 school children were in that performance, with singing, dancing and mass performances by all the children in their costumes to emphasise the beauty and history of the Central Coast.

We were very lucky on the night, because we had inclement weather up until two hours beforehand. The skies cleared, and the hail and lightning disappeared. The children sat in the stadium for a couple of hours in conditions that were quite cold, and the performance that they gave was world-class. I would like to record my congratulations to each and every one of the students, teachers, volunteers, choreographers, artists, and volunteers who made the night a great success. It was something that I am sure the Central Coast is very proud of and will remember for many years to come.

Interest Rates: Levels

Mr LATHAM (Werriwa) (7.56 p.m.)—I want to raise an issue of the highest priority in my electorate: rising interest rates. Home buyers in particular have been suffering from a series of rate rises over the past 12 months. The average home buyer is now $133 a month worse off—a real blow to families in Campbelltown and Liverpool.

The government often talks about the international performance of the economy. On interest rates we are indeed a world leader—but it is the wrong kind of leadership. Our interest rates are among the highest in the western world. I have a habit of checking the financial indicators which are published at the back of the Economist magazine, and the indicators in the 26 August 2000 issue make interesting reading. They show that Australia’s official or overnight interest rate of 6.25 per cent is in fact the third highest, behind only the United States and Britain. We have higher official interest rates than Canada, Denmark, Japan, Sweden, Switzerland and the nations of the European Union. On the banks prime rate, the performance is even worse. Our rate of 9.25 per cent is the second highest, behind only the United States. We have a higher bank interest rate than Britain, Canada, Denmark, Japan, Sweden, Switzerland and the nations of the European Union.
This government has, in effect, lost control of Australia’s interest rate and inflationary performance. Again, the indicators in the *Economist* magazine show the reason why. The *Economist* has a poll forecast for consumer prices for the years 2000 and 2001. Of course, inflationary expectations are the main driver of interest rates. What does the *Economist* poll show? It reveals that Australia has the worst inflationary performance of any nation in the western world for the years 2000 and 2001.

The Treasurer often talks about Australia’s leadership. This is leadership all right, but at the wrong end of the scale. Our inflationary expectations are 4.2 per cent for the year 2000, 3.4 per cent for the year 2001, and in both years our performance is worse than that of Austria, Belgium, Britain, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Spain, Sweden, Switzerland, the United States, and the European Union. This is a bad performance by the government, which is driving up inflationary expectations and driving up interest rates, and of course it is the average home buyer who is paying the price to the extent of $133 a month because of the interest rate rises over the past year.

Of course, the best way to lower interest rates is to improve Australia’s national savings performance, and the federal budget has a role to play. This government has run down the surplus, primarily to soften the blow of its inequitable GST. The government should be vigilant against inefficient and unwarranted spending proposals, and the best way to start is by scrutinising the effectiveness of its own private health insurance rebate. A paper by Dr Leonie Segal of Monash University has shown that while the cost of the rebate has blown out to $2.8 billion a year, it is producing benefits to the public hospital system of only $1.4 billion. That is, every dollar of public expenditure is producing only 50c of public benefit. The government would achieve a far better result by giving the $2.8 billion directly to Australia’s public hospitals. Some other demands on public expenditure are just as dubious.

Mr SPEAKER—Order! It being 8.00 p.m., the debate is interrupted.

House adjourned at 8.00 p.m.

NOTICES

The following notices were given:

Dr Wooldridge to present a bill for an act to amend the Health Insurance Act 1973, and for related purposes.

Mr Anderson to present a bill for an act to amend the law relating to shipping, and for related purposes.

Mr Slipper to move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Proposed ABC Perth Accommodation Project, East Perth, Western Australia.

Mrs Crosio to move:

That this House:

(1) Congratulates the countries of Argentina, Austria, Belgium, Benin, Bolivia, Bulgaria, Chile, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, Finland, France, Germany, Ghana, Greece, Iceland, Indonesia, Italy, Liechtenstein, Luxembour, Mexico, Namibia, The Netherlands, Norway, Panama, Paraguay, The Philippines, Portugal, Senegal, Slovakia, Slovenia, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uruguay and Venezuela for being signatories to the Optional Protocol to the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW);

(2) Recognises the CEDAW as the only woman specific human rights mechanism at the international level;

(3) Recognises that the Optional Protocol to the CEDAW is a major step forward in realising Governments’ commitments with regard to women’s human rights;

(4) Recognises that the Optional Protocol to the CEDAW creates procedures for the United Nations to promote the enjoyment of human rights to all women and the world-wide elimination of discrimination against women;

(5) Recognises that signatories to the Optional Protocol to the CEDAW reject all forms of injustice and systemic discrimination suffered by women world-wide;

(6) Recognises that the Optional Protocol provides a significant opportunity for women
who have suffered from discrimination to seek justice through the United Nations;

(7) Expresses concern at the significantly diminished role Australia is playing in the negotiations of the Optional Protocol to the CEDAW and the low priority given to the Optional Protocol by the Howard Government;

(8) Calls on the Howard Government to take an active role in the negotiation process and to promote a speedy ratification of the Optional Protocol; and

(9) Calls on the Howard Government to have Australia become a signatory to the Optional Protocol to the CEDAW.
Mr DEPUTY SPEAKER (Mr Nehl) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

East Timor: Australian Federal Police Involvement

Mr KERR (Denison) (9.40 a.m.)—Today marks 12 months since the independence ballot was held in East Timor. I want to acknowledge and praise each of the 300 Australian police personnel who, since that ballot, has served on the United Nations peacekeeping forces in East Timor. I particularly want to take time to mention the 50 Australian Federal Police officers who made up the first Australian contribution to UNAMET. These officers were sent to East Timor to advise members of the Indonesian police in the course of their duties and to escort ballot boxes after the vote.

Unfortunately, the events surrounding the ballot meant that the role which the AFP fulfilled was very different from the advice and escort role envisaged on their deployment. The 50 AFP officers who were on the front line of this violence, intimidation and gunfire were unarmed. These officers were present for the worst of the violence and bloodshed. The experience of these officers is best told through the words of one of the members of the first contingent, Wayne Sievers. In an open letter to the Prime Minister on 8 March 2000, Mr Sievers described his experience as follows:

In the lead-up to the independence vote we were unarmed in a situation where 20,000 Indonesian police and military orchestrated genocidal violence by tens of thousands of militia. We were forced to deal with atrocities. ... Our houses were burnt down with the loss of all of our property. We were trapped and under siege expecting the worst at any moment and more than half of us have suffered various diseases. Our only weapon was moral persuasion and the threat of international exposure for the butchers of East Timor. It is fair to say that the members of the AFP played a much more prominent role than the ADF during this mission.

Fourteen days after the ballot, the violence reached such a level that all AFP officers had to be evacuated from East Timor. Yet the AFP’s commitment to playing a vital role in establishing peace in East Timor was not diminished. Civilian police returned to East Timor, along with defence personnel, as part of the UN peacekeeping force. We now have an ongoing commitment of 80 officers who serve in East Timor.

My main interest today is to acknowledge and praise the incredibly special actions of the men and women of the AFP and state police forces who have served in East Timor. However, I cannot let the opportunity pass to criticise the government for the way which the AFP has been essentially overlooked and disregarded in terms of financial and public recognition. The blame for this must rest squarely on the shoulders of the Minister for Justice and Customs and the Prime Minister.

In December last year, I, along with at least 50 other federal parliamentarians, was approached by AFP officers who had returned from East Timor only to find that they had not received the allowances owed to them; they were not granted taxation concessions which were given to defence officers; and they were continually sidelined and forgotten with regard to public acknowledgment and praise. Just three days ago, I received an open letter from David Hall, another AFP officer who was a member of that first contingent. All I can say to
Mr Hall is that the opposition has been asking, and will continue to ask, these questions until the government gives a satisfactory answer. *(Time expired)*

**Petrie Electorate: Redcliffe Community Heated Indoor Pool**

**Australian Students Prize**

**Petrie Electorate: Schools**

Ms GAMBARO *(Petrie)* (9.43 a.m.)—Recently, a group of concerned citizens in Redcliffe, in the north of my electorate, have been meeting to raise funds and stimulate interest in a community heated indoor pool project, or CHIP, as it is affectionately known. The group have identified strong demand from older residents with mobility and other problems who need to have access to a heated water rehabilitation facility. There are not any suitable facilities in the Redcliffe area for people who would either benefit from water exercises or have trouble entering a pool. The existing facilities either do not have adequate heating or access is restricted to just a few hours a day.

Water rehabilitation can have excellent benefits for old people who experience movement problems or ongoing pain caused by arthritis, injury and other ailments linked to the ageing process. But it also has great benefits for young people who need non-jarring rehabilitation for sports injuries. The CHIP Action Group was formed in March following a public meeting to raise funds for the construction of a facility. Since March, the group has received strong support from Quota and the Redcliffe City Council and is looking at ways to attract funding for the pool. I am happy to lend my support in those areas. Community support for this project has been tremendous so far and I hope the support will translate into further success for the group.

I would also like to take this opportunity to congratulate three students in my electorate. Last weekend, three of Petrie’s finest students received the Australian Students Prize in recognition of their academic excellence and achievement at their secondary schools, and I would like to mention them. Tania Brcich and Justyna Ostrowski of McDowall and Michael Holt from Caseldine have worked extremely hard, and I was delighted to present them with their awards on behalf of the federal government. Education is one of the greatest gifts that we can give our children and it is important that everyone is given the opportunity to realise their full potential in a school environment.

I would like to congratulate two schools in the Petrie electorate, Grace Lutheran College and Southern Cross Catholic School. Grace Lutheran College recently celebrated the opening of an arts building comprising two classrooms, three art studios, a gallery, a foyer, a computer laboratory and a darkroom, while Southern Cross opened its newly constructed preschool. I was invited to open both facilities on behalf of the federal government, and it was pleasing to see first-hand the results of federal funding going into our schools. This government is committed to ensuring that every student receives quality education and it is pleasing to see this policy working on a local level.

What is not so pleasing is what I saw when I went to the Craigslea State High School’s 25th anniversary where I saw politics taken to a school fete. The candidate running against me for the next federal election was there in a Labor Party tent with the local councillor taking up petitions. I do not think politics should be brought into the school fete arena, and I will write to the minister for education in Queensland about the matter. I think it is highly unusual, and I feel very strongly about these people making a political statement. *(Time expired)*

**AFL Grand Final: Essendon**

Mr GRIFFIN *(Bruce)* (9.46 a.m.)—September is the time of year in Victoria when minds turn to things AFL, although this year the grand final will be played on the first, not the last, Saturday in September. I am very pleased to inform the House that Essendon, the team I have
supported for 40 years—since I was born, in case anyone tries to suggest I am any older than that—is in the grand final. I am hoping to go to the game and it will be the first time I have been since 1985 when we thumped Hawthorn. Essendon go into this grand final on the weekend against Melbourne, a very good young side coached by an ex-Essendon boy, Neale Daniher, in a situation where Essendon is the warm favourite, after a record of 21 out of 22 wins in the season, as well as two major wins in the finals. Essendon looks set to win the premiership, their 16th, which makes them equal to Carlton as the record holder for the number of premierships—

Mr Sawford—They are well below Port Adelaide with 36.

Mr Griffin—Yes, but this is football, not what goes on in Adelaide, with all due respect to the member for Port Adelaide. One day we may see Port Adelaide in the grand final in the AFL, in real football, but I think it will be in a few years to come.

Kevin Sheedy, the Essendon coach for nearly 20 years, has done a magnificent job with this young team. He is setting us up, I hope, for a situation of overwhelming dominance over the next few years in the AFL. Of course, last year the dreaded enemy, Carlton, defeated us by one point in the preliminary final and stopped us celebrating this weekend back-to-back premierships. Nonetheless, revenge was sought, and gained, last Saturday, and I was there to see it. Now we have a situation where it is Melbourne versus Essendon in this grand final.

Sheedy’s boys—James Hird, Justin Blumfield, Mark Mercuri and Joe Misiti—are very good players who have the opportunity to set up a situation not seen at Essendon since the mid-1980s when the then Baby Bombers, as they were called, stamped their authority on the AFL. This team can do the same. Certainly, it is a credit to Sheedy and his coaching techniques. Essendon, in terms of its recruitment processes and the whole training staff, is putting together a side which is the envy of all in the AFL.

It has been interesting this year, as the member for Port Adelaide interjected before, to see what happened to Port Adelaide. There was another side from Adelaide called ‘Adelaide’, wasn’t there?

Mr Sawford—I think so.

Mr Griffin—they had some success some years ago but they have not this year even reached the finals, as I understand it. In fact, there was only one interstate team in the finals this year, the Brisbane Lions, which is against what has been happening in recent years.

Mr Sawford—they had one more premiership in the 1990s than Essendon.

Mr Griffin—they have, but not as many as Essendon will in the first decade of the new millennium. So good luck to Essendon on the weekend. I am sure it is going to be a very good game. Melbourne is certainly a side for the future, but I am very pleased to be able to say, ‘Go Bombers!’ (Time expired)

**Vietnam Veterans Remembrance Day**

Ms Worth (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (9.49 a.m.)—On Sunday, 20 August, I attended the Vietnam Veterans Remembrance Day celebrations in Adelaide, the march and then the memorial service at the Cross of Sacrifice. There were Vietnam veterans from both Australia and South Vietnam. While the Battle of Long Tan, 18 August, does not hold quite the same status in this country as Anzac Day, when we remember all veterans, I think the Australian people do owe the Vietnam veterans a great debt.

I undertook to Mr David Lean, a Vietnam veteran and chairman of the organising committee, to use his words today in the Main Committee to pay tribute to Vietnam veterans. He said:
50,000 Australians endured combat situations and faced the implements of war and returned to the home base battle weary and suffering for the loss of friends, innocence and youth. In many cases we faced the trials of non-acceptance by former friends, the rejection of neighbours or different clubs and associations because of our time spent in Vietnam. We felt rejected and confused. We found it hard after the adrenaline packed days of Vietnam to settle down to a former 9-5 career.

However, the fighting spirit that has long been known since the earliest of Australia’s settlers and pioneers, rose to the surface. As a nation, we have always had a heart to survive. Since the earliest settlers and convicts arrived, we have fought to tame this land in which we live. Through droughts, bushfires and many other traumas, this land of Australia has been tamed by, to use the words of Winston Churchill, “blood, sweat and tears”. The early Australians fought hard so that we can enjoy the privileges of hard work today. They had to endure times when they were knocked down for a spell, but they were not knocked out.

They not only fought the land, they sent the cream of our men to the first and second world wars so that other nations could live in that same freedom and democracy. We, as a nation, earned a good reputation in sending our best, well trained fighting men; and these men were well and ably supported by our women. Korea, Borneo, Malaya, Vietnam, Somalia, the Gulf and now Timor, have all received the best that we could give. Whether the men were regular army or nashos, we still sent our best.

Australia is coming of age in the eyes of the world. United Nations handed the care of Timor over to us, we play a very prominent role in South East Asia, while other nations are seeking our expertise and aid for their problems.

David Lean went on to say:
One Veteran can, and does, support his mate now through sickness, at times sits with him while he dies, works for him until a pension is accepted, guides his hands because of blindness or pushes him in a chair because of war injuries.

And he reminded them that they never lost a battle that they were engaged in in Vietnam.

Ms HOARE (Charlton) (9.52 a.m.)—Last Friday evening I attended a dinner to recognise the retiring secretary of Newcastle Trades Hall Council, Mr Peter Barrack, OAM. The dinner was held at the Newcastle Workers Club and was attended by hundreds of trade unionists, business people, members of parliament, past and present, and Peter’s family and friends. As was said on the night, everyone in that auditorium had their lives touched and affected by Peter Barrack in some way.

Tributes were paid to Peter by Greg Combet, the secretary of the ACTU, by former trade union comrades and employer adversaries. A wonderful tribute was also read out by Peter’s daughter, Peta-Maree, detailing the values which were instilled in her by having Peter Barrack as her dad. Peter announced his decision to retire after 21 years as the public face of trade unionists in the Hunter region. He started his political and activist career in the 1960s as a conscientious objector to the Vietnam War and as a champion for workers’ rights.

Peter’s career has spanned some of the major industrial disputes witnessed in our local region. Some of these campaigns included a Trades Hall Council ban enforced by picketers at Wallsend Hospital when it was threatened with closure in 1997; support for striking Hunter Valley miners, which included a mass rally of 700 people at the Newcastle Workers Club which sent a strong message to Rio Tinto that the trade union movement was prepared to escalate the dispute to support the miners; and an open community meeting for more than 300 people who agreed to set up an open alliance to build support for the MUA during the dispute with Patrick’s in 1998.

With Peter at the helm, Trades Hall Council was involved in the battle to save jobs lost due to the decline in steel making throughout the 1980s and the 1990s, culminating in the decision by BHP to end steel making in May 1999. Most recently, the Trades Hall Council has been
involved in the fight for workers entitlements at the National Textiles factory and at the Scone meatworks.

Peter Barrack was awarded an OAM in 1994. He is a survivor of prostate cancer. Peter is a great guy, a great trade unionist, an advocate for workers rights and residents rights and a champion for the environment. We will all miss him. I wish him well for a happy and healthy retirement.

I would like to end my remarks by extending a warm welcome to Peter’s successor, Gary Kennedy. Gary was state president of the Communication, Electrical and Plumbing Union. I am sure that, as a staunch advocate of workers rights, Gary will perform his duties with the same commitment and passion as we had from Peter Barrack.

**National Servicemen’s Association: Blue Mountains Sub-Branch**

Mr BARTLETT (Macquarie) (9.55 a.m.)—Last Sunday I had the pleasure of attending the first annual general meeting of the Blue Mountains sub-branch of the National Servicemen’s Association. The Blue Mountains sub-branch covers the Blue Mountains, Nepean and Hawkesbury areas. In the one year that it has been in existence the Blue Mountains sub-branch has seen its membership grow from 46 to 70. Its strong and active membership is indicative of the sense of need and belonging and the camaraderie felt by those men who undertook national service in any of the periods since 1951. Some actually experienced service in overseas conflicts; others gave their time and energies to be prepared but were not actually called to overseas service.

The National Servicemen’s Association is a strong advocate for the concerns of Australian and British ‘nashos’, and is actively involved in presenting their case for due recognition. At a local level they work at addressing the welfare and social needs of their members as well as being actively involved in a number of community events and showing their support for worthwhile local causes.

In its first year alone, the Blue Mountains sub-branch has recorded a long list of events in which it has been involved. The success of the organisation is due in no small part to the commitment and hard work of its committee, particularly president Harry Witherow, vice presidents, George Batley and Neville Harris and secretary-treasurer, Pat Pelling. Others who have given strong support have been Charles and Pat Psaila, Alan Shying and Norma Batley, Wilma Witherow and Chaplain John Wiseman. My sincere congratulations especially to Harry Witherow for his vision, leadership and energy.

The Blue Mountains sub-branch of the National Servicemen’s Association is filling an important role for their members. The growing list of members, the active community involvement and the convivial and cheerful meetings, as well as their strong service to the local community, point to a very bright future for the Blue Mountains branch. New members are warmly welcomed and the meetings alternate between Springwood and Katoomba. My congratulations on an excellent first year to the Blue Mountains sub-branch of the National Servicemen’s Association and my best wishes for the future as you continue to serve your members and to contribute to the local community.

Mr DEPUTY SPEAKER (Mr Nehl)—In accordance with standing order 275A, the time for members’ statements has concluded.

**TRADE PRACTICES AMENDMENT (INTERNATIONAL LINER CARGO SHIPPING) BILL 2000**

Second Reading

Debate resumed from 28 June, on motion by Mr Truss:

That the bill be now read a second time.
Mr KERR (Denison) (9.58 a.m.)—The opposition supports the Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000 but firmly believes the government is failing our great island nation through its shipping and maritime policies. For this reason, on behalf of the shadow minister I will be moving a second reading amendment. The amendment ‘...condemns the government for its lack of support for the Australian coastal shipping industry thereby (1) neglecting Australia’s national interest; (2) risking our maritime safety and marine environment; and (3) disregarding the importance of a stable, efficient and effective Australian Merchant Marine given the political instability in our region.’ This amendment will highlight our serious concerns for the future of the Australian merchant fleet. The whole process of maritime and shipping reform under the coalition government has stalled. Instead, the government has left the Australian shipping industry to rot on the vine.

Since the election of the coalition government, all assistance provided to the industry has been stripped away. Labor was working with the shipping industry to encourage and deliver reforms that were effective. When they were elected in 1996, the government announced legislation to terminate many of the agreed measures to assist reform of the shipping industry and to ensure that we retained a modern, efficient shipping industry. Measures that were terminated by the coalition government included the pay-as-you-earn rebate scheme, the capital grant and accelerated depreciation provisions. These were all programs that were part of a sensible, cooperative and effective reform agenda. The measures arose from an approach to reform that included the fiscal support in return for the achievement of industry reforms that would achieve world’s best shipping practices in safety, in staffing arrangements and in technical skill development and utilisation.

With the withdrawal of these financial support measures came the establishment of the Shipping Reform Group by the then transport minister, John Sharp. This started a process that has never come to fruition. It was the start of a process that did not deliver reform for Australian shipping. The portfolio was transferred to the Minister for Employment, Workplace Relations and Small Business and, during that time, anything constructive with respect to the maritime industry ceased. The management of the industry—one that is critical to Australia—was handed to a minister hell-bent on bludgeoning change. The failure of that ideologically-driven exercise is already on the record. The images of Rottweilers and balaclavas have scarred the history of reform in the maritime industry. This is a clear point of difference between Labor and coalition governments. Labor works with industry parties and encourages participation and ownership of outcomes. Reform cannot be bludgeoned.

In answer to questions at Senate estimate hearings in May this year, we found some of the details and costs of Minister Reith’s alleged reform. Up to 31 May 2000, the total funding provided to the Patrick group of companies was $102,192,291 for 821 redundancies. The P&O group received $62,975,723 for 552 redundancies. In total, $178 million was spent to shed labour from the stevedoring industry. While these amounts were paid through MifCo and recouped through an industry level, there were also millions of taxpayers dollars spent. I would suggest that the only beneficiaries of Minister Reith’s reforms were the shareholders of Lang Corporation. The Reith reform model came at great cost to the shipping and stevedoring industry. While there were meagre increases in crane rates in the latest waterline results, this has not been a consistent trend. Labor believes that more efficiencies would have been gained through the consultative approach involving the industry.

Since the failure of the minister for workplace relations, the responsibility for maritime matters has appropriately been returned to the Minister for Transport and Regional Services. But, unfortunately, nothing has happened since. Any reform or support for Australian shipping has ceased. In December 1998, soon after he got the portfolio, Minister John Anderson established the Shipping Reform Working Group. The aim of the working group was to build on the recommendations of the Shipping Reform Group to improve the
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competitiveness of Australian shipping. Speaking at a conference in March 1999, Minister John Anderson said he:

... looked forward to receiving the Working Group’s views at the end of the month on how government can best facilitate the continuing efficiencies within Australian shipping and the provision of competitive services to shippers.

He also said:

I cannot tell you today whether the government will embrace any of the fiscal incentives proposed in the Manser Report or any modified form of those incentives or the proposal for a Second Register.

Well, the minister could not tell us then, and he has not told us since. He received the working group report in March last year, and his response to it still has not been forthcoming. In the Senate estimates and other processes, Labor has pursued this response. As recently as May this year, in response to an estimates question, we were advised that the report was ‘confidential advice to the government’ and that ‘the report is under consideration by the government’.

On this side of the House we know why all the jargon and the bureaucracy is still being used to bury the report. We know that the minister did not like what he was told in that report. What Minister John Anderson wanted from the working group was a proposal to abolish cabotage. He was looking for a decision to take his stealthy process of ‘winding back cabotage’ one step further. But what he was told was that cabotage should not be abolished. This minister has always seen the coastal shipping industry as dispensable. He has always seen Australia as a buyer of shipping services, not a supplier.

In June this year, the minister took a swipe at the Maritime Union in a press release. In that release the minister denied that the increase in the use of single voyage permits was due to government action. He said:

The facts clearly indicate that the increase in the number of permits is due to shipping companies withdrawing services due to the highly uncompetitive cost of Australian shipping, including crew costs. The facts that the minister ignores in this statement are the reasons why other nations can reduce costs. Those reasons are principally because of the assistance that governments of other countries provide to their shipping industries in the form of tax assistance and other industry assistance measures. The other way in which such costs are delivered is for shipowners to operate under a flag of convenience of a country that has much lower safety standards. The environment and risk to our shipping industry created by this government’s coastal shipping policy is that Australian shipowners will consider reflagging their Australian vessels to open registries, employ foreign nationals, and re-enter the coasting trade using single voyage permits and CVPs. Examples of this already exist. The employers and operators of ships in those circumstances receive tax breaks or holidays from their flagged country and pay no tax to Australia in the process.

I ask members of this House to consider the same scenario in any other part of the Australian domestic transport industry. Is this the scenario that the government has in store for truck, rail or aviation operations? If that sounds ridiculous, I ask members to consider why the operation of cabotage for Australian domestic shipping cargo is so resented by this government. This government is full of inconsistencies.

The bill before us extends the use of part X of the Trade Practices Act. Part X of the Trade Practices Act regulates market conduct of international liner cargo shipping companies that collaborate as conferences to coordinate joint services, share capacity and agree on freight rates. In another transport sector, the interstate trucking industry, the government is refusing to consider using legislation to fix the problems in that industry. The problems in that industry go to the existence of exploitative and unsafe industry practices caused by uncompetitive and
unsustainable freight rates. As the owner truck drivers of Australia are forced out of business by the policies and inaction of this transport minister, so too are Australian shipping operators. The federal government has ignored the defence, security and safety implications of abandoning a national fleet and, with it, an Australian merchant marine.

I need not remind the House that Australia is almost totally dependent upon sea transport for the carriage of its imports and exports. In terms of tonnes per kilometre, Australia has the fifth largest maritime transport task in the world. Shipping is a major domestic interstate transport mode, with 48,388 kilotonnes of coastal freight in the year 1998-99. Major General Cosgrove, in his capacity as Commander of INTERFET, recognised the valuable contribution. In a letter to John Coombs, National Secretary of the MUA, Major General Cosgrove stated:

I would like to take this opportunity to thank you personally for the kind efforts of many of the Maritime Union of Australia employees who recently supported the INTERFET Force deployment in East Timor. Many civilian ships have carried valuable people, equipment and supplies to the deployed forces, without which our logistic build up would have been severely hampered.

That statement was made on 15 October last year. The Australian Merchant Navy has historically played an important role through its service in two world wars, at cruel cost, with one seafarer in every eight dying, and with many more disappearing unrecorded in the ships of many nations. Former Labor transport minister, the Hon. Peter Morris, is involved in establishing the first ever global inquiry into the effectiveness of international shipping safety standards, laws and practices. He acknowledges the need for this inquiry because elements within the merchant shipping industry are prepared to continually flout international safety rules to cut costs. The Australian community must be continually vigilant to ensure that the shipping industry does not compromise safety for profit. The Australian Labor Party believes that the policies of this government are doing just that. For that reason, in supporting the bill before the House, we must express our grave concerns about the policy directions of the government on shipping.

Part X sets out the conditions for granting limited but assured exemptions from section 45 and parts of section 47 of the Trade Practices Act 1974 to allow liner shipping companies to collaborate as conferences. The conferences are not exempt from section 46 of the Trade Practices Act that prohibits the use of market power.

The bill implements the recommendations of the 1999 Productivity Commission’s review of part X to retain and amend that part. The bill also implements additional government amendments to bring it more into line with national competition policy. The amendments to part X proposed through this bill are: exemptions limited to shipping liner activities covering loading and operations at cargo terminals are clarified to include inland terminals used for assembling export cargo for delivery to a port, or delivering cargo to importers; the existing practice of allowing shipping conferences to negotiate collectively with stevedores to be confirmed; the provision prohibiting discrimination between shippers is repealed on recommendation from the Productivity Commission on their view that it could be harmful if it discourages price discrimination; a national interest test is included in the assessment of conduct by parties to an outwards liner shipping agreement that might unreasonably hinder Australian flag shipping; to empower the minister and the ACCC to accept court enforceable undertakings from shipping lines aimed at ensuring a net public benefit; to extend the protection afforded to exporters under part X to importers; to give increased powers to the minister and the ACCC to deal with conduct likely to result in an unreasonable increase in freight rates and/or an unreasonable decrease in services; to ensure that conferences will not be permitted to unreasonably restrict the entry of new parties; and to amend the objects of part X to cover the inclusion in the part of inwards liner cargo shipping services and Australian flag shipping.
Labor has also been advised of additional government amendments to the bill to remove any ambiguity about the requirement that liner shipping companies must have a conference agreement registered under part X before part X exemptions relating to the agreement on freight rates come into effect. The Australian Government Solicitor has advised of the possibility for ambiguity in this area in sections 10.17A and 10.18A. I foreshadow also that the shadow minister has indicated that Labor does not oppose the additional requirements.

The National Farmers Federation and the ACCC have called for the removal of part X and Treasury has argued that the exemptions represent an unnecessary anomaly in Australia’s competition policy. However, the Productivity Commission agreed with the submissions of shipping companies, peak cargo owners associations and the Department of Transport and Regional Services. The latter groups argued that the part X exemptions benefited exporters by ensuring that regular shipping services were available from Australia. Of course, reliable and regular shipping services are crucial to Australia’s export opportunities.

To a limited extent, this bill assists Australian shipping. The objects of part X have always had that principle enshrined and that is welcomed by the opposition. We say to John Anderson—we urge him to listen—that if he does not provide some support and clearer policy directions to the Australian shipping industry, then soon there will not be an Australian shipping industry to discuss. That will be our loss as a community. Labor supports the bill. I move the amendment in the terms proposed by the shadow minister, Martin Ferguson:

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

“whilst not declining to give the bill a second reading, the House condemns the Government for its lack of support for the Australian coastal shipping industry thereby:

(1) neglecting Australia’s national interests;
(2) risking our maritime safety and marine environment; and
(3) disregarding the importance of a stable, efficient and effective Australian Merchant Marine given the political instability in our region.

Mr Sawford—I second the amendment and reserve my right to speak.

Mr CAMERON THOMPSON (Blair) (10.14 a.m.)—National competition policy often cops a lot of stick. Unfortunately, it is usually the negatives that attract people’s attention, but there are many more positives than negatives. Of course, the negatives draw the crabs and create the overall perception that the NCP creates problems—usually for country people.

The Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000 is a clear example of how the NCP principles, when applied, can confer a benefit. The ACCC and the minister both gain increased powers under this bill to impact on activities associated with exporting and importing goods via container. The bill concerns liner shipping: shipping with non-bulk cargo that follows scheduled services. It usually involves containers, which is a rapidly growing area of trade. The benefits of more competitive shipping rates in this area will flow on to many areas of the Australian economy.

The minister quoted the value of cargo carried by liner services at $85 billion a year. The intent of this bill is to amend part X of the Trade Practices Act 1974, which controls the ability of shipping companies engaged in liner activity to collaborate in the provision of their services. They can share space, set agreed rates and coordinate their activities. The changes cover the activities of these companies between freight terminals regardless of whether the terminals are at the port or some other location—for example, inland. The companies are able to offer door-to-door services but they cannot be covered under these changes to the act. For example, they will not be able to collude on overland freight rates.
In his second reading speech, the minister divided the consequences of the bill into six parts. The question of terminals—what is a terminal and the ramifications of that part of the legislation—was discussed in the first part. The minister said:

In some port approaches such as Sydney and Melbourne where there can be considerable traffic congestion, shipping lines are developing a practice of placing containers on rail wagons and sending them to some inland facility before delivery to an importer takes place. A reverse operation in respect of exports can also occur.

To my mind, that raises the question: what is a terminal? I would like more information from the minister about the process that determines what is acceptable in respect of those provisions. For example, shipping companies importing through Darwin, following the creation of the new Alice Springs to Darwin railway line, might try to argue that Melbourne or Sydney was the terminal for their imported products. That would probably be a great step backwards because competition between freight operators on the Darwin to Sydney route is hectic. Once the line is finished, sea freight companies will want to maximise their position and their opportunity to control the overland component.

The second issue raised by the minister was the use of part X, as amended, to cover stevedoring arrangements. The minister says that, by allowing shipping companies to collude in their negotiations with stevedores, we can help drive down the cost of stevedoring activities. We all know—despite the comments of the previous speaker, the honourable member for Denison—that bad waterfront practice in Australia had a tremendous negative impact and a retrograde effect on this country for many years. That began in the years when wheat and sugar were loaded in bags by extensive manual labour. Industrial muscle on the waterfront caused massive problems and increased costs for exporters and importers.

Fortunately, the coalition government confronted this problem and has achieved a very positive outcome. I shall quote Chris Corrigan, whom opposition members probably believe to be the devil. In an article in the Financial Review on 5 October last year, he outlined some of the benefits that have flowed from the coalition government’s efforts to reform the waterfront. He stated:

Since the new Patrick enterprise agreements came into effect in September last year, we have seen employee performances at Patrick terminals which were unthinkable two years ago.

At Australia’s largest container terminal, East Swanson Dock in Melbourne, cranes are moving containers at a rate faster than was ever thought possible—more than 30 lifts per hour 30 per cent of the time.

The monthly average at East Swanson Dock is now close to the Government’s benchmark of 25 moves per hour, with Port Botany not far behind. In fact, at the much-publicised Port Botany, a crane team recently set a new Australian record of 291 moves in a single shift.

And of course all this was achieved with half the number of people employed and with half the number of man hours, permanent or casual, compared with two years ago.

That is a very good example of the outcomes of that effort. I would like to underline that with an update, given that it was last year when Mr Corrigan made those comments in the Financial Review. The Waterline report, which was prepared by the Bureau of Transport Economics and came out in June 2000, stated that the five-port average crane rate for Australia was 20.4 containers per hour in the March quarter 2000, compared with 19.1 for the December quarter 1999, and was the highest achieved since the series commenced. Both the five-port elapsed labour rate of 25.4 containers per hour and the net ship rate of 31.8 containers per hour exceeded the previous quarter’s figures. Berth availability was 94 per cent in the March quarter, up from 88 per cent in the previous quarter, and was at the highest level since the series commenced. In 1999 the overall tonnage of cargo moved under coastal permits increased by 25 per cent compared with 1998.
I will dwell on that report’s figures for ports around the country. In Brisbane the average crane rate was 21.2 containers per hour in the March quarter, up from 19.7 in the December quarter; in Sydney, 18.6 containers per hour in the March quarter, up from 16.6 in the December quarter; in Melbourne, 21.2 containers per hour in the March quarter, up from 20.3 in the December quarter; in Adelaide, 23.1 containers per hour in the March quarter, down marginally from 23.2 in the December quarter; and in Fremantle, 20.9 containers per hour. That shows the improved performance which has resulted from waterfront reform. So, when the government sets about dealing with issues on the waterfront, it has a very good track record and a very good position from which to make amendments. I am certain that, had we stuck with the Labor Party’s vision, there would be no prospect of any change at all. In that same article, Chris Corrigan said:

Before the dispute, management was little more than a caretaker of assets which were effectively being run by the maritime union for the benefit of no-one but itself and at vast cost to the nation.

It was the policy of the Australian Labor Party to keep that going. That is the kind of thing I mean.

Let us imagine trying to run this bill today under the auspices of the Maritime Union of Australia. These companies would not be given any flexibility whatsoever. We would not be in a position to advance the nation’s interests. The member for Denison, speaking on behalf of the opposition transport spokesman, used highfalutin words about having wanted to drive down the costs of shipping when Australia’s freight task was much bigger than ever. The opposition did not give a stuff about that when it was in power. It did nothing but hold talkfest upon talkfest. It had union guys from the Maritime Union of Australia running its policy. Why have an ALP government in the shipping area when you can have an MUA government? That was the ALP’s policy, and that is what we would get. The opposition has said it wants to work closely with the unions. But it wants to work for the unions, rather than continue in the nation’s interests.

The third provision in this bill covered by the minister was the extension of part X powers to importers as well as exporters. This is a significant area because, although some in parliament oppose anything that would make the importation process easier, we have to recognise that imports are a fact of life. At the same time as we make our exports more competitive through measures such as the GST, which removes a large burden from exporters, we must ensure that we are not hiding behind false barriers that artificially inflate the cost of imports. These types of measures may involve the imposition of inflated costs for handling imported goods, or witch-hunts after diseases on imported products where no such disease really exists. Other examples include the union idea that we should tax goods coming in from countries where standards of living are lower than ours. Whatever the false barrier we set up, all we are doing is trying to hide from the realities of cheaper alternatives available elsewhere, and supporting inefficient industries in Australia at the expense of our efficient ones.

I might diverge there to give an example of the pork industry. At the last election the pork industry was in tremendous difficulty and the blame was being laid on pork imports. I think you will recall that the Prime Minister went to Wondi where there were a lot of pork producers. Their complaint, and the call that was coming particularly from One Nation, which was, incredibly, at its peak at that time following the state election, was for the government to crack down and stop overseas imports. Instead, the government put its money into encouraging an export capacity within Australia and now the pork industry is absolutely zooming ahead.

Mr DEPUTY SPEAKER (Mr Nehl)—Using international liner cargo ships, of course.
Mr CAMERON THOMPSON—It is relevant, of course, because what we had then was a call for a crackdown on import capabilities. What we did was exactly the opposite. The outcome is better and more efficient trade for Australia and more advantage for our primary producers, a proportion of whom are in my electorate. The fact that we are now going to apply this to importation as well as to our exports means that we move more into the area concerning overseas jurisdictions and their ability to impact upon the industry. The Minister for Agriculture, Fisheries and Forestry had this to say:

In addition, the amendments covering inwards liner shipping will contain provisions for the minister to issue exemption orders covering those sections in part X that could lead to conflicts of jurisdiction ...

The exemption orders will be disallowable instruments so that they will be subject to scrutiny by parliament.

Next on the minister’s list was increased powers for the ACCC and for the minister himself. This is all about deciding where the benefit to Australia begins and ends in contractual arrangements that may well be intricate and difficult to fathom. Companies are wont to maximise their position and, with the extension of these laws to importers as well as exporters, a large part of relevant law that impacts on these provisions will move offshore, as discussed a minute ago. Nevertheless, according to the minister:

The increased powers will only be used in ‘exceptional circumstances’, such as where the operation of all agreement results in an unreasonable reduction in shipping services and/or an unreasonable increase in liner shipping freight rates, and where the public benefit from the conference agreement may be lost. In these circumstances the minster will have the power to suspend, in whole or in part, such an agreement.

It is pretty obvious when the provision of services is beginning to suffer because of a particular arrangement. If the number of services reduces significantly or rates rise dramatically there is no way our goodwill in extending these advantages to importers, for example, is being respected. On those occasions it will be essential for the minister to act. In that regard the ACCC has shown itself to be a powerful tool. Professor Fels is gaining a solid reputation as a hard-hitting protector of the consumer and the Australian marketplace.

It was not so long ago that we saw industrial activities on the waterfront that were transparently unfair. We had grossly inflated manning levels and absurd and restrictive practices, such as the union controlled cleaning of the holds of vessels. That went on repeatedly and often there was one cleaning after another. We had jobs on the waterfront being handed down in families like peerages. We had slackers, as the member for Werriwa would call them, sponging off the rest of society, while waterfront charges and delays went right through the roof. An editorial in the Financial Review of 4 October 1990 states:

According to the Productivity Commission, Australia’s container waterfront performance before the wharf dispute was well below that of overseas ports. It was easy to understand why. For years Patrick had had to deal with the MUA’s labour monopoly and its left-wing ideological hostility toward sensible workplace arrangements, at the expense of the country’s economic health and living standards.

Mr Sawford—Where have you been? It is outrageous.

Mr CAMERON THOMPSON—Do you find the Australian Financial Review editorial outrageous?

Mr Sawford—I am talking about Patricks—

Mr CAMERON THOMPSON—I am quoting from an editorial.

Mr DEPUTY SPEAKER (Mr Nehl)—The member for Blair will ignore the member for Port Adelaide.

Mr Sawford—Money in the back pocket.

Mr DEPUTY SPEAKER—Order!
Mr CAMERON THOMPSON—While members opposite cannot see a problem, their ministers at the time did not do anything about it. We had 13 years of Labor ministers doing nothing. Everyone in the country could see the problem—everyone in the country except the Labor Party. They fiddled about the edges while the waterfront burned.

When it comes to this legislation, it will be important that ministers act when they are called upon. The fact that at last the waterfront is so much more transparent and efficient should help, but the obligation will be on ministers to be active defenders of Australian consumers. A preview of an area of potential dispute was given by the minister in the fifth point of his second reading speech. For years, we saw the deadly impact of closed shop practices on the waterfront. It was no ticket, no start. It was jobs for the boys. No young Australian could go down to the docks and ask for a job. The pay for the favoured few who wormed their way into these sinecures was massive and the amount of work they did was minimal.

The same outcomes apply among shipping companies. If they are able to form themselves into fat, lazy sinecures, our country will suffer. If there are to be so-called conferences of shipping to control liner cargo in and out of Australia, they need to be open in their outlook, if not in their structure. While so-called closed conferences are to be allowed—that is, ones where the existing members must give approval before a new partner is allowed in—the ACCC will have the role of watchdog. A newcomer will have the capacity, if refused admission to the boys’ club, to call in the ACCC. According to the minister, if such an investigation reveals that refusal to admit the new member is unreasonable, the minister will be empowered to either suspend the operation of the agreement in question or accept undertakings from parties to the agreement that would make suspension unnecessary.

Finally, there is the role of the Productivity Commission. This bill arose because the Commonwealth chose to conduct a Productivity Commission inquiry into the effect of part X. That inquiry began on 12 March last year and was concluded on 15 September. Just before Christmas, the government announced that it would implement the changes recommended by the Productivity Commission and, in addition, a number of other changes were implemented in line with national competition policy. The Productivity Commission recommended, for example, that a national interest test be included in any assessment under part X of whether an Australian flagged service was being adversely affected by the activities of these conference lines. In closing, I would like to quote again from the editorial in the Australian Financial Review of 4 October 1999, which started off by saying:

Last week’s news that Australia’s stevedoring industry has notched up a record productivity performance suggests that reform on our docks is working. But there remains unfinished business before Australia achieves a genuinely competitive and productive waterfront that does not add to the cost disadvantages of distance facing Australian exporters.

This bill does assist in the continuing reform of Australia’s trade relationships when it comes to the export and importation of cargo by sea. I support the bill and commend it to members.

Mr WILKIE (Swan) (10.33 a.m.)—In addressing the Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000, I would like to start by quoting Dr Peters, the head of the maritime section of the World Bank. During his speech to a conference in Melbourne in 1995, he made the following observation:

The world’s ocean transport industry faces an unprecedented crisis... The international fleet has become critically over-aged and suffers from a deteriorating safety record. It is now just a question as to when the bubble will burst. At that point, a large portion of the international merchant fleet will be unfit for transport. The implications for world trade will be devastating.
Dr Peters told us that the average age of the world’s fleet was then about 17 years; that it was increasing in age at the rate of about eight months every year; and that some 75 per cent of the world’s tanker fleet was over 15 years of age. That situation is worse today.

Although we can hold our heads high for supporting adequate safety, appropriate guidelines and salary for crew and regulation of shipping over the past 40 years, this has not always been the case. Just over 70 years ago, another coalition government led by Stanley Melbourne Bruce tried to destroy trade unions in general, and the maritime unions in particular. The strikebreaking company was called P&C Stevedores, the year was 1929. Not much seems to have changed in conservative party ranks in the ensuing years.

It goes without saying that an island nation such as Australia must have a competitive and well-regulated shipping industry. Australia depends on shipping services to import goods from our international trading partners, as well as export of our quality products. A crucially important component of Australia’s international shipping industry is liner shipping. As the minister indicated in his second reading speech, liner shipping, which is mainly concerned with transporting non-bulk cargo, usually in the form of containers, was valued at $85 billion of Australia’s annual international trade. This is a vital sector of our economic health and, therefore, requires regulations specific to its requirements.

This bill contains amendments to part X of the Trade Practices Act concerning the regulations imposed on liner shipping companies which choose to form conferences. These conferences are then granted exemptions from the Trade Practices Act in order to negotiate with exporters on standards of service and freight rates. Following on from the recommendations of the Productivity Commission about part X and its relationship with the national competition policy, the bill aims to make eight main changes to the Trade Practices Act.

First, the exemptions granted to liner shipping conferences under part X will be limited to strictly maritime functions such as ocean transport, as well as loading and discharge operations at cargo terminals. The definition of ‘cargo terminals’ is to be broadened to include inland terminals where exporters and importers may prepare cargo prior to its delivery to port facilities. Second, the bill aims to clarify the legal position regarding the existing practice of shipping conferences negotiating collectively with stevedores. Third, the provisions relating to price discrimination between shippers is to be repealed. According to the Productivity Commission, the regulations serve no useful purpose and might discourage efficient price discrimination. Fourth, a national interest test will be applied to outward liner shipping agreements which may hinder Australian flag shipping.

Fifth, the Minister for Transport and Regional Services, as well as the Australian Competition and Consumer Commission, will be empowered to accept court enforceable undertakings given by shipping lines, aimed at ensuring a net public benefit. Sixth, the protection given to exporters under part X is to be extended, as far as is practicable, to importers. This includes the negotiation and registration of inward shipping agreements. Seventh, the minister and the ACCC are to be granted greater powers to deal with conduct likely to result in unreasonable increases in freight rates or decreases in services. Such powers are to be used only in exceptional circumstances and be fully appealable to the Australian Competition Tribunal. Last, shipping conferences will not be permitted to unreasonably restrict the entry of new parties into the Australian marketplace.

Taken at the surface level, this bill merely makes a few amendments to the Trade Practices Act in order to make it broadly compatible with international law concerning shipping. The prerogatives and recommendations of the Productivity Commission have also been noted and incorporated into the legislation. That is certainly the view of this legislation from a superficial viewpoint, but below the surface one can detect an undercurrent of dark shadows.
and ambiguous meanings concerning the coalition government’s attitude to Australia’s shipping industry.

Behind the scenes of everything this government attempts to do, in almost every sphere of public policy, is the familiar, old and tired rhetoric of competition at all costs. The more the Australian Labor Party attempts to warn the Howard government of the true consequences of its grand folly, the more it attempts to incompetently apply its ideology to increasingly unsuitable areas. I am particularly concerned with the application of sections pertaining to allowing international vessels entrance to the Australian market under the guise of ‘open competition.’ No matter how inappropriate the industry structure or its specific circumstances, the icy winds of the free market must almost always take precedence over everything else. That is the mentality which permeates this legislation behind its seemingly innocuous façade of insignificant amendment.

The point I am trying to raise is that whilst vibrant competition is necessary for the continued growth and development of the Australian economy, this government does not know where practicality ends and dogma begins. It appears to be attacking the maritime industry in this country with a high-pressure blast of gratuitous free market policies which do little to help the Australian shipping industry internationally. Indeed, some of the provisions contained in this latest batch of half-baked and illogical legislation are a guaranteed recipe for disaster.

The amendments to part X of the act are particularly concerning. Australia’s shipping industry possesses unique circumstances which separate it from other transport and manufacturing industries. Much as the government wants to ignore the reality, shipping companies and their seafaring employees cannot be put into the same basket as, for example, domestic haulage companies and their driving personnel. Security and certainty are valued very highly in the maritime industry, but the government seems to want to introduce insecurity and uncertainty into the system. The point is that the shipping industry has undergone considerable reform over the past two decades. That reform was commenced by the Labor government and it resulted in significant increases in productivity whilst maintaining appropriate protection for the rights and safety of seafarers.

The Labor Party welcomes and supports genuine reform of the shipping industry. However, we do not support the erosion of seafarers’ working conditions under the guise of reform. In proposing this bill, the government claims to be seeking to build upon previous governments’ successful reforms in the shipping industry. However, it proposes to do so in a way that erodes workers’ conditions and dismantles an effective regulatory regime, leaving a vacuum in its place. Many of my perceptions of the industry have been formed by a recent visit to the MV Global Mariner. The Global Mariner is basically a floating museum dedicated to informing the public and the maritime community about the poor state of some flags of convenience ships and the treatment of many abused crews. For that reason, honourable members should consider some facts and the history of the maritime industry in Australia.

In a confidential 1999 report for the Shipping Reform Working Group—a report which the government refuses to release publicly—the key determinants of Australia’s relative competitiveness were examined. The report found that Australia is at a cost disadvantage with other major trading fleets. That disadvantage is $2 million relative to comparable OECD flag ships and $3.5 million compared with similar open registered ships. The report concluded that one of the reasons for this cost disadvantage is that Australian ships employ Australian nationals, who are the most qualified seafarers in the world and who, despite this government’s best efforts, are paid more than Third World nationals.
Other countries in a similar position to Australia provide substantial assistance to their shipping industries. For example, in 1996 the USA provided $330 million of assistance in addition to an annual outlay of $165 million. Norway provides $68 million and France provides $1,066 million. Contrast this with the Australian shipping fleet, which has not received any financial assistance since 1996. If anything, this government’s approach is to further withdraw from its responsibilities: to deregulate, leave a void and to wash it hands of any involvement with the industry.

In recent times, there has been considerable movement towards reform within the maritime industry. I do not think anyone here would suggest that reform has not taken place. The issue arises as to whether reforms are actually aimed at improving the living conditions of people engaged in the industry or at reducing life opportunities. I am particularly concerned that, if the bill is passed in its present form, this parliament could be rightly accused of facilitating the reduction in life opportunities for Australians. These are very serious propositions to advance—not matters to be taken lightly—and they go beyond the normal cut and thrust of political debate.

Throughout the 1980s there were a number of attempts to implement recommendations contained in the report of the Committee on the Revitalisation of Australian Shipping, which was chaired by Sir John Crawford. There have been a number of reports and recommendations relating to shipping industry reform, and the principal objective of the reform strategy has been to decrease the cost of sea transport by reducing the operating costs of Australian ships. Negotiations and consultations on these issues are continuing—and so they should.

In September 1994 a maritime industry restructuring agreement was signed that resulted in a number of enterprise agreements being entered into reflecting goals achieved during the restructuring process. As a result of this reform process, crew numbers fell from an average 30.9 in 1985-86 to 18 per ship in 1995-96, resulting in a substantial decrease in crewing costs—quite a substantial saving for shipping companies and shipping operators. These are the processes by which reform ought to take place: through negotiation and agreement.

The Howard government has continued to pursue reform of the shipping industry, allegedly on the basis of moving towards a more internationally competitive position. On 13 August 1996, the Shipping Reform Group—SRG—was established by the former minister for transport, Mr John Sharp. I note that that reform group was established essentially for the commercial shipping interests in this country. It was dominated by the owners of ships. It did not involve any direct representation from the Australian Council of Trade Unions, nor did it contain any government representation per se. It comprised a CEO of Perkins Shipping and representatives of Mobil Oil, BHP, the Australian Shipowners Association, the National Bulk Commodities Group, Howard Smith Ltd and ALOR Pty Ltd. It was essentially a body made up of the shipping interests and owners of ships. The purpose of the group was supposed to be ‘to provide a mechanism for consultation within the industry on winding back and eventually removing the cabotage restrictions on domestic shipping and on the establishment of a second register for Australian shipping’.

The SRG delivered its report to the government on 25 March 1997. It made four key recommendations in relation to what it regarded as labour reform. They included a move to company employment, a reduction in seafarers’ leave entitlements, the abolition of separate seafarer workers’ compensation schemes and the provision of anticipated redundancies. In proposing the move to company employment, the SRG recommended that the seafarers’ engagement system should be terminated after company employment became widespread. Minister Reith formally announced, on 18 December 1997, that the government would be
actively pursuing company employment in the Australian shipping industry. That was implemented throughout 1998 and, as we see here, today.

Although seafarers are no longer employed through an engagement system, the terms and conditions of employment are currently still prescribed by the Navigation Act 1912. We support reasonable reform of the industry which incorporates genuine consultation with all stakeholders and recognises the unique nature of the industry. I repeat: reform must take place with genuine consultation. This has not occurred in relation to the proposals contained within this legislation. In fact, the government majority report of the Joint Standing Committee on Treaties, in stating that the process of consultation from the formation of the SRG has been imperfect, clearly identified that yet another parliamentary committee was stating just how inadequate these processes have been.

There have been three ‘ships of shame’ reports. The first, chaired by Peter Morris, is widely regarded as a benchmark report in relation to the workings of the international shipping industry and, in particular, the appalling working conditions of some seafarers from non-traditional maritime nations. At the end of 1998 a further report, Ship safe, was delivered to the parliament by a committee chaired by Paul Neville. He was a government member and the majority of the committee comprised government representatives. The committee recognised that a ship is not just a means of transport and a workplace but also a social system. This accurately acknowledges that a ship is not like other workplaces. It is unique and, fundamentally, it is dangerous. The working environment doubles as the accommodation and recreation area. Seafarers are isolated in terms of their working environment and are separated from their families. They spend extended periods of time in confined spaces in their workplaces away from their homes. Further, the Ships of shame report found that on flags of convenience ships there is much greater potential for emotional, physical and sexual abuse of workers. Conflicts become potentially more dangerous than would usually be the case because the parties are forced to remain on the ship together, sometimes for weeks or months.

These are not normal working conditions. They differ from those of virtually all other civilian employees in Australia. The 1998 committee, among its conclusions in the Ship safe report, stated:

The committee urges the Commonwealth to take what steps it can to enhance the well being of seafarers. In all the focus areas before the committee in this inquiry, crew welfare appears to have progressed the least in the 1990s, and much remains in need of improvement.

The need to protect seafarers was noted in that report:

The abuse and neglect of crew members is of concern for two reasons. As a violation of human rights, it warrants international attention and condemnation. It also constitutes a significant risk factor for ship safety.

Seafarers also face physical dangers greater than those faced by virtually any other industry. Seafaring is the second most dangerous occupation in the world. The Director-General of the ILO, when speaking at the ILO Convention in October 1996, stated:

... the dangers to which shipowners and governments are exposed—

and I should stress here ‘and governments’ —

are financial or political in nature, but seafarers are exposed to physical risks which threaten their very lives. It has, for example, been emphasised that since 1994 180 ships of more than 500 tonnes have been lost at sea, causing the death of 1,200 seafarers and many passengers. In the first six months of 1996, twice as many human lives were lost at sea than in the whole of 1995.

The findings of the Ship safe committee were consistent with the report of the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee chaired by Peter Morris. Yet what is the response from the coalition government to the advice
of their own committee and the advice of the Senate committee? It is to continue its attempt to remove any participation by this country in a maritime industry, to lay open our coast to foreign crews—often on substandard ships—and to strip away existing protections and force seafarers to rely upon the Workplace Relations Act.

The principal consequence of deregulation will be to force seafarers to negotiate as individuals. This is inappropriate, given the characteristics of the industry that I have described above. The government claims that the industry has changed and that protection is no longer necessary. As I have noted, the physical risks faced by seafarers have certainly not diminished. Unfortunately, operators who are willing to break the law and cut corners remain, even if it means putting the health of workers at risk or even potential for loss of life. Not only are seafarers subjected to dangerous working conditions but also those conditions are not improving, as has been asserted by the government. The 1998 *Ship safe* report noted:

Whereas clear improvements have been noted in other focus areas, the committee is concerned that crew welfare is not being adequately addressed. It may even be deteriorating.

The parliamentary committee that compiled the *Ships of shame* report heard evidence of the extent of maltreatment of foreign seafarers. This extended to such factors as: the denial of food and the provision of inadequate food; bashing of crew members by ships’ officers; maintenance of two pay books, one for the official record of International Transport Workers Federation pay levels and the other for the real, lower level of pay, or non-payment, of wages and overtime; inadequate accommodation and washing facilities; sexual molestation and rape; deprivation of access to appropriate medical care; and crew members being considered as dispensable. The 1998 report found:

... crews from non-traditional maritime nations are those which work in inadequate conditions, are poorly paid and whose living quarters are substandard.

In conclusion, I remain to be convinced that these amendments will not open the door to flag of convenience ships that will undercut the rate of our nationally flagged vessels by exploitation, unsafe practices and tax avoidance. As we have seen, inquiry after inquiry has illustrated the appalling state of the industry. We also have evidence that other First World nations recognise the fact and are prepared to assist their industry compete with unfair practices.

Instead of the Australian government tinkering around the edges of international shipping, they should openly commit to the development of a strong and viable Australian fleet to operate both nationally and internationally. Only in this way can Australia ensure the retention of a fundamental infrastructure vital to our island nation.

**Mr ANDERSON (Gwydir—Minister for Transport and Regional Services) (10.50 a.m.)**—In wrapping up this debate there are several points I will make. Firstly, I thank those who have contributed to the debate. I have some summing-up points to make and I will then turn to some of the issues raised by speakers, particularly those opposite, in relation to the importance of shipping and shipping reform in Australia, and on the questions of safety and of ships’ standards.

The Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000 amends part X of the Trade Practices Act 1974, which regulates the market conduct of international liner shipping companies that collaborate as conferences to coordinate joint services, share capacity and agree on freight rates. The government’s decision to amend part X was announced just before Christmas 1999. It followed its consideration of the Productivity Commission’s review of part X, which recommended—perhaps to the surprise of some—the retention of the legislation. There were a number of reasons, but plainly it reflected in part the view that, indeed, competitive pressures in the shipping industry were producing good results for shippers and that these arrangements did not inhibit that competition.
This bill introduces a series of measures to increase the protection that part X gives to Australian exporters and importers. The major changes are: firstly, extending part X to give importers similar countervailing powers to those available to exporters; and, secondly, providing additional powers to the transport minister and the Australian Competition and Consumer Commission to deal with ‘exceptional circumstances’ such as those that may result in an unreasonable increase in freight rates or an unreasonable decrease in services.

Thirdly, the bill makes a series of other amendments which will improve the operation of part X. For example, it will reduce the part X exemptions for the current door-to-door basis to a terminal-to-terminal basis. This means that only activities covering ocean transport and operations at cargo terminals, including inland terminals, will be covered by the exemptions. It will confirm that the existing practice of shipping conferences negotiating collectively with stevedores is permitted under part X. It will provide for more effective and flexible enforcement of undertakings along the lines of section 87C of the Trade Practices Act. And it will ensure that decisions made by the transport minister or the ACCC under part X which affect the interests of shippers and/or shipping lines will be reviewable by the Australian Competition Tribunal.

These amendments to part X represent a continuation of the process of regularly reviewing the mechanisms for controlling the conduct of liner shipping conferences, with the aim of ensuring that the arrangements result in overall benefits to the users of their services in Australia.

On that note, I will come first to the issues raised about Australia’s economic interests before I come to those pertaining to safety and ship standards. At the outset, I want to indicate very clearly that the intellectual threshold in addressing Australia’s interests in the area of shipping is this: we need to clearly identify that we are not a shipping nation in the way that some nations are; we are a nation that ships. We are a shipper nation, not a shipping nation. It is a very important and very interesting distinction that needs to be clearly understood and that plainly, with respect, is not understood or not accepted, or not publicly acknowledged, by the Australian Labor Party and by the union movement.

The issue at stake is that our focus ought to be, as an export nation, on obtaining the most competitive freight rates possible. A huge number of our export industries and the jobs that depend upon them are involved in highly competitive global markets. We are a long way from many of those markets. Shipping costs, rather than owning ships, is the priority for economic development and wealth in this country when it comes to constructing our policy approach in the area of shipping.

Mr Wilkie—What about the livelihood of seafarers?

Mr Anderson—Had you done me the courtesy, sir, of listening to what I had to say, what I said was I would address firstly the economic arguments and I would then come to safety and the matter of the standard of ships—so I will come to it.

In short, access to competitive shipping is crucial to retaining export markets. It removes an obstacle to increasing value adding commodity processing in Australia, for example. That is a priority for government, and a lot of jobs now and in the future will depend upon it. In that sense, I do want to assure members present that the government will continue to reform Australian shipping. Consultations in that regard will continue to take place. Despite the undoubted reforms that have been put in place, the average cost of operating an Australian ship, as against OECD averages, has continued to rise. In fact, in very broad terms, it was around a $2 million disadvantage; it is now around $3 million to $3½ million.

Mr Wilkie—That is because we have got fully qualified officers—
Mr ANDERSON—We are talking about OECD countries, not Third World countries. You really do need to ensure you are a little better informed in relation to this debate. Let me say again—

Mr Wilkie interjecting—

Mr ANDERSON—With great respect, sir, if you come here to debate it, you are the one that needs to show a greater understanding of where Australia’s real interests lie.

Mr Wilkie—That means you did not listen.

Mr ANDERSON—I did listen and I listened with very real interest. As I say, our priority is that industries in Australia should have access to competitively priced shipping services to carry Australia’s international coastal shipping. We have instituted a number of reforms that have made a substantial difference, not least of which is tax reform—tax reform that was opposed by the ALP. It resulted in a $30 million saving in the cost of fuel for the Australian shipping industry—a major saving that was actually opposed by those opposite. One would have thought they would have recognised that it would be of value to the Australian shipping industry and to the people employed in it.

To come to the issue of substandard shipping, let me say that the government through AMSA, the Australian Maritime Safety Authority, manages a very rigorous port state control program to ensure that vessels entering Australian ports meet very high standards of safety and environmental protection, including vessels operating on SVPs, single voyage permits. Through AMSA’s administration of the port state control regime, the government sends a very strong message that ships of shame will simply not be tolerated in our ports. Not only is AMSA managing a rigorous port state control inspection program; it is in fact exceeding its target in this area. One might have thought this might be of interest to those who purport to be the great champions of the Australian workers.

We inspected 59 per cent of eligible foreign flag ships visiting Australian ports against the target inspection rate of 50 per cent. An eligible foreign flag ship is one that has not been inspected by AMSA in the previous 12 months. So they get a pretty rigorous going over on a pretty regular basis. Quite frankly, it is gratuitous, cheap, inaccurate and politically driven to make the observation or to try and make the claim that Australia welcomes substandard shipping in our ports.

Mr Sercombe—It is a fact and you are not doing anything about it.

Mr ANDERSON—We are doing a great deal about it. I will take the opportunity to repeat the figures. AMSA have inspected 59 per cent of eligible foreign flag vessels visiting Australian ports against their own target of 50 per cent last year. That is a very strong record. You cannot possibly interpret that as saying that we are not doing anything about it.

Amendment negatived.

Original question resolved in the affirmative.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr ANDERSON (Gwydir—Minister for Transport and Regional Services) (11.04 a.m.)—by leave—I move government amendments Nos 1 to 6:

(1) Schedule 1, page 7(after line 5), after item 21, insert:

   21A Subsection 10.02(1)

   Insert:
freight rate agreement means a conference agreement that consists of or includes freight rate charges.

(2) Schedule 1, page 17 (after line 23), after item 67, insert:

67A Section 10.15

After “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(3) Schedule 1, page 17 (line 28), after “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(4) Schedule 1, page 18 (after line 12), after item 70, insert:

70A Section 10.16

After “by a varying conference agreement”, insert “(other than an agreement that consists solely of freight rate charges)”.

70B Section 10.16

After “this Subdivision”, insert “(other than sections 10.17A and 10.18A)”.

(5) Schedule 1, page 18 (after line 14), after item 71, insert:

71A Section 10.17A

Repeal the section, substitute:

10.17A Exemptions from section 45 for freight rate agreements

(1) Section 45 does not apply to the making of freight rate charges in a freight rate agreement if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and

(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(2) Section 45 does not apply to the making of freight rate charges in a freight rate agreement if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a single registered inwards conference agreement after whichever is the later of the following times:

(i) the end of 30 days after the last-mentioned agreement is finally registered;

(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and

(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(3) Section 45 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and

(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(4) Section 45 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:

(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a
single registered inwards conference agreement after whichever is the later of the following times:
(i) the end of 30 days after the last-mentioned agreement is finally registered;
(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and
(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(6) Schedule 1, page 18 (after line 16), after item 72, insert:

72A Section 10.18A

Repeal the section, substitute:

10.18A Exemptions from section 47 for freight rate agreements

(1) Section 47 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:
(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for outwards liner cargo shipping services provided under a single registered outwards conference agreement after the end of 30 days after the last-mentioned agreement is finally registered; and
(b) the parties to the freight rate agreement are the same as the parties to the registered outwards conference agreement.

(2) Section 47 does not apply to conduct engaged in by a party to a freight rate agreement, so far as the conduct gives effect to freight rate charges in the freight rate agreement, if:
(a) the freight rates (including base freight rates, surcharges, rebates and allowances) specified in the freight rate agreement are for inwards liner cargo shipping services provided under a single registered inwards conference agreement after whichever is the later of the following times:
(i) the end of 30 days after the last-mentioned agreement is finally registered;
(ii) the commencement of Part 2 of Schedule 1 to the Trade Practices Amendment (International Liner Cargo Shipping) Act 2000; and
(b) the parties to the freight rate agreement are the same as the parties to the registered inwards conference agreement.

(3) The exemptions provided by subsections (1) and (2) do not apply in relation to subsections 47(6) and (7).

These amendments clarify the requirement that shipping conferences must register their agreements before the conditional exemptions from the competition rules of the Trade Practices Act come into effect.

The enforcement provisions covering those conditions depend on the registration requirements in part X. The issue concerns the interpretation of sections 10.17A and 10.18A of part X. These sections were added to part X in 1991 to make it clear that shipping conferences do not have to include freight rate details in agreements submitted for registration or to notify the Registrar of Liner Shipping of changes to those rates.

The second reading speech and explanatory memorandum tabled with the 1991 amendments clearly indicated that the part X exemptions were never intended to require the filing of freight rates when registering conference agreements. Such a requirement would be very costly to administer and would serve no useful purpose. The Australian Government Solicitor has now advised that there is at least a possibility that sections 10.17A and 10.18A allow shipping conferences to agree on freight rates without having a registered conference agreement, which plainly would not be satisfactory. The government amendments to the bill will remove any possible ambiguity about the requirement that liner shipping must have a
conference agreement registered under part X before the part X exemptions relating to agreements on freight rates come into effect.

Mr KERR (Denison) (11.06 a.m.)—I understand the opposition has had notice of these amendments and that the shadow minister, Mr Martin Ferguson, proposes no objection in relation to them. On that basis we will facilitate the adoption of them.

Amendments agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

PROTECTION OF THE SEA (CIVIL LIABILITY) AMENDMENT BILL 2000

Second Reading

Debate resumed from 28 June, on motion by Mr Truss:

That the bill be now read a second time.

Mr KERR (Denison) (11.07 a.m.)—On behalf of the shadow minister for transport, Mr Martin Ferguson, I rise to support the Protection of the Sea (Civil Liability) Amendment Bill 2000. This is a very important bill which goes to the issue of protecting our seas and coastal environment from pollution. It is important because the biggest threat to our coastline is pollution, particularly oil pollution. Not only that; the potential costs of clean-up from oil pollution are extremely high.

The bill amends the Protection of the Sea (Civil Liability) Act 1981 to increase protection of the sea from pollution by imposing further regulatory constraints on bad ship operators. It will broaden existing arrangements that require ships to maintain insurance cover in respect of clean-up costs for maritime oil pollution. This bill will also make clearer the liability of shipowners in relation to clean-up costs and clarify the role of the Australian Maritime Safety Authority, AMSA, to recover costs associated with oil pollution.

The civil liability act implements in Australia the International Convention on Civil Liability for Oil Pollution Damage. That convention provides that the owner of an oil tanker is strictly liable for pollution damage in the territory or exclusive economic zone of a party to the convention. It also provides that the owner must maintain insurance to specified limits to cover pollution damage. Labor believes that the civil liability act as it stands is deficient because it applies only to ships carrying more than 2,000 tonnes of oil in bulk as cargo. It does not extend to empty oil tankers or to vessels carrying less than 2,000 tonnes of cargo oil. Also, it does not apply in relation to pollution by bunker fuel or to vessels registered in other states. Extending the requirement for insurance to cover damage from bunker fuel pollution is very important because bunker fuel can cause severe environmental damage.

Labor supports this bill because it partially addresses these deficiencies by requiring insurance to be held by all ships of 400 or more gross tonnes, whether or not registered in a convention country, which carry oil as cargo or bunker, leaving or entering an Australian port. We still have a problem with the question as to why shipowners are not required to demonstrate they have insurance upon entering Australian waters. This issue is addressed in our second reading amendment, which says that by conducting the checks only as part of port control functions, there is a risk that ships passing through Australian waters will not have insurance. Our amendment condemns the government for failing to ensure that all ships entering Australian waters have oil pollution insurance, leaving checking functions to port based authorities, thereby not taking adequate steps to safeguard Australia’s marine environment.
The 400-tonne threshold has been considered because ships of 400 tonnes and above are required to meet existing international standards, in particular those relating to certification for safety and pollution prevention standards. This threshold will minimise the impact on the shipping industry. Larger vessels also represent the greatest risk of serious pollution. Also, the size of vessel is subject to the existing enforcement regime and the monitoring and enforcement requirements can be met within existing resources.

The implementation of this bill, such as the checking of documentation to demonstrate insurance is held, will be the responsibility of the Australian Customs Service and AMSA surveyors. I did note in the previous debate the minister’s assurances about the competence and reliability of AMSA. I understand that later speakers will be drawing attention to some of the less glorious instances where AMSA perhaps has failed to meet the standards that the minister asserts. I hope that, when those matters are put on the record, he will take urgent steps to ensure that any deficiencies so identified are actually followed up. That is the responsibility of the minister.

There has existed an ambiguity about AMSA’s powers to recover costs incurred where there has been a threat of, but not an actual, discharge or disposal from a ship, and AMSA has taken action to combat that threat. An example is where a ship has gone aground. The bill removes ambiguity by enabling AMSA to recover costs in these circumstances. The bill is important when one considers that AMSA receives about 300 oil spill sighting reports each year. Of these, 22 incidents each year are considered serious enough to warrant some kind of response. To date, all ships involved in major spills in Australian waters have had insurance coverage and the costs of oil spill response have been reimbursed to AMSA and state or territory response agencies. There are, however, no guarantees that all ships visiting Australian waters will have the necessary insurance coverage. A recent incident in New Zealand involving an uninsured ship has reinforced those concerns.

This bill is consistent with the landmark 1992 House of Representatives Ships of shame report that uncovered a litany of rorts, environmental disasters and criminal practices plaguing the international shipping industry. The report revealed massive problems with ships that were docking in Australian ports. It had a profound impact on people’s perceptions of the shipping industry and led to an increased level of scrutiny. It is well worth noting the reaction of the House of Representatives standing committee on transport when the report was tabled. The report detailed the:

... sickening state of affairs associated with the operation of substandard ships that was revealed as the inquiry proceeded. The committee learned of inadequate safety equipment, false ships’ papers, the sexual abuse of young sailors, beatings and crews being forced to sign dummy pay books.

Former Labor Transport Minister Peter Morris said:
We saw a situation where seafarers were dying by the hundreds at sea; ships were sinking after loading and going out of port; and a general situation where it was very clear that ships were going to sea that should not be at sea. And we saw that the loss of life at sea was just unacceptable and that there was an exploitation and abuse of people working on lots of ships.

The Ships of shame report is important to this debate because the issue of sea oil pollution is directly linked with the outrageous practices that became widespread in the shipping industry—practices such as using flags of convenience which evolved out of the ruthless drive for profits by shipping owners who seized every opportunity to cut costs in the burgeoning postwar trade. Flags of convenience ships are registered in host countries that want the registration revenue but turn a blind eye to issues of seaworthiness, health and safety, and proper wages. Ships are registered in countries like Panama or Liberia, even though their owners may be Americans, Europeans or even Australians. The captains may be abusive drunks, the ships rust buckets and the crews suffering cruel and inhumane conditions...
with low pay or no pay. These ships of shame survive because they are cheap and when things
do go wrong, the owners are impossible to track down. Australia has seen many of them. In
one notorious 18-month period in the 1980s, for example, six bulk carriers were lost off the
Western Australian coast and more than 50 sailors died.

The *Ships of shame* report highlighted two distinct problems: the seaworthiness of the ships
entering Australia and the treatment of crews on those ships. More than eight years on, these
issues are still with us, mainly because of this government’s obsession with axing cabotage
and encouraging more foreign flag ships to our waters. Cabotage is the system whereby jobs
on Australian coast routes are reserved for Australian seafarers and where the work of coastal
shipping is reserved for Australian ships. Cabotage applies to shipping around the Australian
coast and does not exist in the international trade where ships are allowed the right of free
passage through a country’s territorial waters.

In recent years it has become obvious that this government has an ideological hatred
towards cabotage, encouraging the use of single voyage permits to undermine cabotage with a
view to destroying it. In 1995-96, there were 421 single voyage permits and no continuing
voyage permits. In the period from 1998 to 1999 the figures rose to 704 single voyage permits
and 41 continuing voyage permits. This represents an increase of over 40 per cent in the
number of single voyage permits issued during the period. The continuing voyage permits
increased from zero to 41 over the same period.

The shadow minister for transport and various other important matters has mentioned to the
House before how this very deliberate policy of the transport minister, Mr Anderson, sets out
to subvert the intent of the Navigation Act 1912. I again remind the House that the intent of
the Navigation Act 1912 is to require ships engaged in coastal trade to be licensed. The
licence requires the ship operator to pay Australian wages for the time the ship is on the
coastal trade. The act allows the minister to issue permits to unlicensed ships but only in
certain and particular circumstances. I suggest to the House that the current policy of the
government goes way beyond the intent of the act and way beyond that which is in the best
interest of Australia and of our defence requirements. By adopting an approach that
encourages the use of more single voyage permits there is a greater danger that flags of
convenience ships will be used to undermine health and safety, maintenance and proper
wages and conditions.

The other point to note is that a significant percentage of the vessels using single voyage
permits are oil tankers. In recent times our shores have been hit with some devastating oil
spills involving Australian ships and foreign vessels. For example, the loss of 300 litres of oil
from the Italian *Laura D’Amato* in Sydney Harbour in August last year reportedly cost $4.5
million to clean up. The loss of 325 tonnes of bunker fuel from BHP’s *Iron Baron* in
Tasmania in 1995 cost more than $3.5 million to clean up. Might I say, as a Tasmanian, not
only did it have an economic cost, it had a terrible social and environmental cost.

The Australian Maritime Safety Authority deals with safety. It does what it can to police
Australian waters under what is known as port state control rules—international treaties that
grant a nation control over the soundness of ships in its territorial waters. Generally, AMSA
has done a good job but there is little doubt that suspect ships are slipping through. Might I
again mention that obviously there are particular matters that the member for Melbourne Ports
will be raising later in debate which will require the minister’s attention.

As our second reading amendment points out, there is still no process to check that all
ships entering Australian waters have the necessary insurance. At our recent national
conference in Hobart, the Labor Party reaffirmed our support for the cabotage provisions of
the Navigation Act and it condemned the Howard government for abusing the single and
continuing voyage permit provisions of the act to disadvantage and undermine the Australian shipping industry.

This attack on the shipping industry has had disastrous effects on defence, environment, immigration, and the national security of Australia. The replacement shipping companies and work forces have no allegiance to Australia, pay no tax, and are effectively guest labour in the Australian domestic transport sector. What we are left with is a strategy of blindly pursuing lower costs in the Australian coastal trade at the expense of more important priorities for Australia. What Labor is talking about is fair and reasonable pay and conditions for crew and the maintenance of our unique Australian marine and harbour environments.

The current bill will go part of the way towards helping protect our coastal environment from polluters. We therefore support it, but there has also got to be a total rethink about the Australian government’s treatment of the Australian shipping industry and the people who work within it. On behalf of the shadow minister, Martin Ferguson, I move:

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

“whilst not declining to give the Bill a second reading, the House condemns the Government for not requiring ship owners to demonstrate that they have adequate insurance cover on entry to Australian waters, and thereby not taking adequate steps to safeguard Australia’s marine environment”.

Mr BAIRD (Cook) (11.22 a.m.)—I rise to commend to the House the Protection of the Sea (Civil Liability) Amendment Bill 2000, a bill which amends the 1981 act of the same name and clarifies shipowners’ liability for expenses incurred under the Protection of the Sea (Powers of Intervention) Act 1981. In doing so, I would commend the Minister for Agriculture, Fisheries and Forestry for introducing this bill. It is a significant step forward.

The problem in the past has been the question of liability. For example, when funds are expended in a clean-up operation, it may well be very difficult to pursue the further liability involved. This particular bill requires all vessels entering Australian waters to have insurance so that if there is an extensive clean-up involved then all cost aspects of it—the chemicals used, the police used and the specialist workers who are involved in the whole process—are covered by the insurance policy in place.

Ninety-five per cent of the vessels that fit within the requirement of 400 tonnes up to 2,000 tonnes—vessels above 2,000 tonnes already have this requirement—already have insurance coverage. With this legislation, ships that do not have insurance coverage will now be obliged to do so. It is a protection of our marine environment in terms of cost recovery. So it is a step forward.

This bill acts on the recommendations made in two reports, the 1998 Ship safe report and the 1992 Ships of shame report. It also fulfils a commitment made by the government in December 1998 in Australia’s ocean policy statement. As the previous speaker, the member for Denison, said, there is no doubt that there has been concern about the ships of shame that travel internationally. This legislation is about protecting Australian waters, Australian crew, and others who are involved in the marine trade, from the impact of these types of vessels.

The bill makes a simple change to the existing legislation in that it requires certain ships that pose a potential risk to Australian waters to insure themselves against the cost of any oil spill clean-up operation. It should be noted that shipping companies are already required to undertake such clean-ups; but, as I mentioned before, the problem is that, when the money runs out, where do you go to ensure that there is cost recovery and that the government is not once again required to pick up the bill? This bill makes it obligatory for shipping companies to insure themselves against this eventuality, thus ensuring that all costs are covered.
By way of background, the need for this legislation is clear. Thankfully, Australia has not experienced the type of environmental disaster involved in the *Exxon Valdez* oil spill in Alaska some years ago. Having visited Alaska several years ago and seen first-hand the impact of the oil spill on that area, we need to be vigilant to ensure that all aspects of protecting our marine environment are put in place, because such a spill would represent a huge disaster for our pristine waterways. Madam Deputy Speaker, I am sure that, in terms of your beautiful part of the world and the protection of the waterways there, you would not want to see a repetition of what occurred in Alaska.

We had a major problem in terms of the Sydney Harbour oil spill that occurred on 3 August last year, when an Italian tanker released 300,000 litres of oil into Sydney Harbour in a little over 25 minutes. The effect on harbour wildlife was very significant. It was a long time before a reasonable recovery could be said to have been made.

A further example came to light on Phillip Island in January this year, involving a relatively small spill. While it is estimated that the spill involved only about one tonne of oil, again, the effects were significant. A number of birds and their young were killed, and at least 216 fairy penguins were significantly affected by the spill. In this case no culprit was forthcoming immediately and there was a possibility that the Australian taxpayer would have to meet the total cost of the clean-up. Following a lengthy police investigation, and after a six-week period, the Attorney-General was able to announce that the police investigation had successfully traced the responsible vessel. In the end, a fine of about $5.5 million was imposed on the vessel. So the clean-up costs from this spill—a small one in comparison with many others that reach the headlines—could be recouped.

Overall, about 300 oil spills are reported every year in Australia. That represents nearly one every day. Twenty-two out of the 300 have been regarded as significant and involved the type of response that we see outlined in this bill. In other words, serious oil spills are not as rare as we might believe, and the recoupment of costs is important. Every response to an incident such as an oil spill has a significant impact in terms of costs. There is the financial burden of paying for the chemicals and complex operations that are involved in the clean-up. There are the costs of bringing in experts and volunteers, and the lengthy police investigation. As you would be aware, Madam Deputy Speaker, there is the cost of the impact that such spills have on the local fishing or tourism industry in an area which has a pristine environment.

In terms of the mechanics of the bill, under the existing act, ships and shipping companies that use Australian ports are not required by law to have insurance that covers the cost of these spills. The bill puts this provision into the legislation. While it is true that most companies do have such insurance now, there remain a small number of tankers that come into Australian waters that do not.

The bill inserts a new part IIIA into the Protection of the Sea (Civil Liability) Act that requires all ships weighing between 400 gross tonnes and 2,000 gross tonnes to maintain insurance to cover them in the event of an incident. Ships of 2,000 tonnes or more already have this requirement. There was some question as to whether the weight should have been less than 400 tonnes, but it was felt that ships of 400 tonnes and above were subject to regular inspections and that those below that weight were not likely to have the same serious impact on the environment as heavier vessels. It would also be extremely difficult to try to check all vessels. Ships of 400 gross tonnes and over will be checked by Australian Customs Service officers as part of their routine paperwork checks of such vessels. If a vessel does not meet the requirements of this act, it will be detained until it does. Appropriate action will be taken.
As I have said, the bill clarifies the Australian Maritime Safety Authority’s licence to exercise its powers under the Protection of the Sea (Powers of Intervention) Act. This allows AMSA to take preventative action such as moving or even sinking a dangerous vessel and to recover these costs from the ship owner as well—which takes the process one stage further. For instance, in the past if a ship ran aground but there was only the threat of a spill and no actual spill, there was some uncertainty under the existing legislation as to whether AMSA could recoup any costs arising from preventative action. This amendment confirms AMSA’s ability to recoup those costs. A shipowner’s liability for these costs is in turn capped in accordance with the limits set out in the Civil Liability Convention. Any outstanding costs that arise from this maximum liability clause are then met through the international fund created by the convention.

In his second reading speech to the bill, the Minister for Agriculture, Fisheries and Forestry noted that Australia has been one of the main players in pushing for an international regime of compulsory insurance to cover the cost of oil spill damage. A new international agreement on this topic is currently being drafted, and it should be completed some time next year. However, these provisions are being introduced early due to the high priority that the government has placed on the protection of Australia’s fragile marine ecosystems. The provisions have negligible compliance costs for those affected and have the full support of the Australian Shipping Federation.

This is a significant amendment that will do much to recoup the costs associated with significant oil spills. It is important that we continue our efforts against ships of shame—particularly in terms of protecting the Australian marine environment. The last thing Australia needs is a repetition of the Exxon Valdez Alaskan oil spill disaster. This bill will allow the cost of oil spills to be met by the perpetrators of the spills and by insurance companies when vessel owners run out of funds—or claim to have done so. Significant oil spills, such as the case of the Exxon Valdez, will be dealt with under the international agreement, and it is good to see Australia playing a significant role in facilitating such agreements. I commend the bill to the House.

Mr DANBY (Melbourne Ports) (11.33 a.m.)—The opposition acknowledges that the Protection of the Sea (Civil Liability) Amendment Bill 2000, which will adopt recommendations in the 1992 Ships of shame report and its 1995 sequel, should be supported. These reforms are long overdue. However, the government should be condemned for not taking this opportunity to ensure that ships weighing more than 400 tonnes are obligated to prove that they have adequate oil pollution insurance to cover the cost of any pollution damage caused before they enter Australian waters. The bill instead leaves these checking procedures to port-based authorities, thus allowing non-insured ships to travel into Australian waters without Australian authorities knowing whether they have adequate insurance.

This leaves Australian waters vulnerable to damage caused by rust buckets such as the infamous Kirki. Because it dealt with an isolated offshore facility, that ship did not come into contact with port state control. Hence, when it broke up off the coast of north-western Australia and polluted a large area of our oceans, it was not being monitored by the proper port control people. The leakage of 300,000 tonnes of crude oil from the Italian flagged and owned tanker the Laura D’Amato into Sydney Harbour on the night of 3 August 1999 will be remembered by many honourable members. It certainly made Australians aware of how vulnerable our coast and ports are to oil spillage. The morning after the incident Sydney awoke to experience at first hand the immediate consequences of an oil spillage. It is probably the incident that sticks in people’s minds and the reason why this parliament is now considering this legislation.
An overpowering smell like rotting plant and animal matter and the stinging oil fumes was pervasive all over that part of Sydney. A massive clean-up operation took over a week and involved 450 people, including 33 members of the Maritime Union employed by the Sydney Ports Corporation and Stannards. The crew on board the Laura D’Amato, a mixture of Filipino ratings and Italian officers, was implicated in the spill. Two valves inside the hull of the tanker appear, whether intentionally or negligently, to have been opened up to five weeks before the ship reached Sydney. The valves were certified as sealed by the external surveyors at the port of loading in Saudi Arabia. The cost of such a clean-up can run into millions of dollars. Moreover, the long-term effects of maritime pollution have consequences for Australia that range from the degradation of our environment and our fishing industry to effects on the tourist industry.

A 60-page report by the head of Sydney Waterways, Matt Taylor, has recommended the prosecution of the owner and crew of the Laura D’Amato for the 10-kilometre slick that the leakage caused. The ship and crew were allowed to leave Sydney after the Neapolitan owners of the vessel posted an $8 million bond. In the meantime, the Sydney Ports Corporation has commenced lengthy legal proceedings under the Marine Pollution Act. Yet this act only provides for fines of up to $1.1 million for a corporation and $200,000 for an individual.

Many have said that this ‘accident’ was predictable and inevitable, from a foreign flagship with a poorly paid, poorly trained, Third World crew of ‘convenience’ and substandard equipment and safety check measures. The owners of these ships know they are poorly maintained and dangerous. This seems to be the kind of globalisation that the Deputy Prime Minister was anxious be practised around Australian coasts these days when he talked about the overpricing of Australian shipping.

The crew, usually recruited from Third World countries, are poorly trained, badly paid—sometimes not paid at all. The shipowners see their crews as dispensable and therefore have no qualms about shocking working or living conditions. Blocked drains and toilets, malfunctioning equipment, defective or no fire fighting or lifesaving equipment, corroded cranes, winches and anchor cables, and vermin infestation are common features of such vessels.

These boats are known as flags of convenience because they are registered with minimal cost, or sometimes no cost at all, in a country which turns a blind eye to safety standards and badly trained and poorly treated crews. These vessels, referred to as rust buckets or coffin ships, are now commonly known as the ships of shame, after the great report of that name that a former transport minister brought into this House after a 1992 House of Representatives committee inquiry. These ships make up only one in five of the world’s fleet but account for more than half of the worldwide shipping losses and marine pollution.

If the problems of poor safety standards, malfunctioning equipment and badly treated and poorly trained crews were addressed seriously by countries like Australia, leakages from boats like the Laura D’Amato might never happen. Indeed, all steps should be taken to stop such devastating spillages happening anywhere. The previous speaker said that we have not had an Exxon Valdez in Australia. We ought to be taking all measures to see that we do not have one. We in Australia, with our dependence on sea transport, should be doing all we can to protect our marine environment.

If the government was serious about the protection of our maritime environment, it would deal with these so-called ships of shame. Instead, we have a government that appears to be encouraging these vessels to use our ports more frequently. It has lifted restrictions on foreign vessels carrying Australian domestic trade and has suspended funding of the maritime industry. Indeed, the Australian Maritime Safety Authority, AMSA, the government agency
responsible for marine pollution, seems to be increasingly reluctant to pursue claims that these ships of shame are often responsible for deliberately releasing pollutants and toxic substances into Australian waters.

You have to ask, why, when AMSA was presented with convincing evidence recently in Adelaide that the bulk carrier *Joint Spirit* had deliberately altered its engine room plumbing to allow oily waste to be dumped at sea rather than retaining it on board, AMSA failed to take action. The 1997 built 23,400-tonne dead weight ship *Joint Spirit* is owned by Kambra Kisen of Hiroshima, and is managed by Astro Shipmanagement of Manila under dual Panamanian/Philippines registry. On a voyage to Adelaide in May of this year—we are not talking about the *Ships of shame* report in 1992—the ship had a Korean captain and a mainland Chinese crew. While the vessel was loading barley for Japan, a Chinese crew member of the ship found his way to the Adelaide Mission to Seafarers pastor and explained in broken English that there had been environmental abuse taking place on the *Joint Spirit*. He had photographs, which showed that, over a two-week period, oily sludge was being directed straight into the ocean while the vessel travelled through Australian coastal waters and while at anchorage in Adelaide. He also explained that the crew’s wages were being withheld, but there was more concern with environmental issues.

When AMSA was approached about the sailor’s claims and shown photos, they were quite excited that this could well be hard evidence that would enable the Australian authorities to arrest the ship, its captain and engineer. I am happy to produce photos to the minister to show that the sailor did not fabricate these claims. Strangely, however, the next morning when AMSA came to investigate and verify whether these photos demonstrated that oily sludge had been deliberately released into Australian waters, their enthusiasm had waned, and within 20 minutes or so they reported that the ship was fit to sail. This is not good enough. Despite the International Transport Workers Federation and its Australian affiliate, the Maritime Union of Australia, demanding an independent engineering inquiry, and despite managing to detain the ship for several days, their request went unheeded by the Australian government. This is something that I think is emblematic of the ideological view that pervades all of the government’s attitudes towards maritime matters.

I do find it strange that the general manager of AMSA’s Marine Environment Protection Services, Mr David Baird, who, I understand, is related to the member for Flinders, was promoted to this general manager’s position from the humble position of surveyor for AMSA in Melbourne. I am sure the government is not packing public positions with its supporters or seeing that people who have the same ideological anti-union view of the world have such sensitive positions. I am sure it was done entirely on its merits.

The International Transport Federation, church bodies and environmental groups have been pursuing the ships of shame on an international level, bringing to the attention of governments around the world instances of negligence and deliberate marine pollution, and making representations on behalf of crew who are often found to be suffering chronic health problems and malnutrition. Often these sailors have not been paid for untenable periods of time.

Rather than working with the International Transport Federation and its Australian affiliate, the MUA, to address the problems that are still being caused by the ships of shame—and the underlying cause of deliberate and negligent damage to Australian coastal waters—this government has for some years been directly involved in an ideological mission to destroy the maritime union, both its seafaring branch and its stevedoring branch. I think this says something about the government’s credit on the issue of whether it is sincerely committed to safeguarding Australian coastal waters.

While the opposition supports this bill, widespread doubts about what barristers call ‘the credit’ of this government should inform parliamentary and public debate. I would like to
inform you, Mr Deputy Speaker, of a couple of examples of the kinds of ships of shame that have been visiting Australia since the report came out. An Indonesian radio officer, Budi Santoso, perished at sea after leaping overboard from a Panama flagged vessel Glory Cape to escape a mugging with iron bars. The hand of an Indian seafarer, Suhrid Bhowmik, turned gangrenous after being denied urgent medical attention off Geraldton. A Honduran, Rommel Salvadore, was rescued only minutes from death after climbing overboard from the Panamanian flagged vessel MV Hunter to escape abuse off Newcastle. A Korean, Baik Hyeong Ki, was disfigured for life by sulphuric acid due to slack safety on board the Panama flag vessel Sunrise Sakura in Brisbane. An unnamed Filipino seafarer was burnt alive with a shipload of Australian sheep on board the Panama flagged livestock carrier Uniceb. Two BHP workers were injured when the iron ore carrier Gigi 2 broke up in Port Kembla. These are in addition to the more than 2,000 seafarers marooned around the world and 450 detentions of unsafe foreign vessels by Australian port control alone during 1996-98.

I will read a message that I think is astounding. This was in a bottle tossed off a ship of shame anchored off Port Kembla in 1998. The message said:

Please, if you can, call ITF because we have big problem on board. No money, no food, no water.

Thank you.

This related to an incident on 12 April 1998 where a Romanian crew aboard the Greek-owned Panamanian flag of convenience ship of shame, Tomis Future, was noticed by a local fisherman within earshot of the vessel. They waved frantically until he brought his craft closer, then they threw the message overboard in the bottle. The fisherman took it back to port and eventually it found its way to the ITF affiliate, the MUA. The ITF Australia got the crew off the ship and fed, paid and repatriated them. This is not an isolated case. This is one of the dramas being enacted almost daily around our coast and around the world.

The member for Denison spoke of the increasing use of non-Australian seafarers in our coastal trade and gave some of the figures. They plainly illustrate his point that this government is, for ideological reasons, seeking to introduce more single-permit voyages, allegedly for commercial advantage, but, in my view, more to destroy the MUA and to bring the kinds of ships that I have described on to Australia’s coast to replace the safe practices and the merchant experience that we have here in Australia.

I would remind this House of the record of the merchant navy during the Second World War. I was recently astonished to read the World War II history of the merchant navy in Australia. There must have been 40 or 50 merchant navy ships sunk off the coast of New South Wales by Japanese and German submarines. The history of Australia and the role of the merchant navy in Australia’s continuing commercial life obviously are of no interest to this government.

This is illustrated further by the attitude of the government towards the MUA in the area of stevedoring. The hatred of the minister for workplace relations for the MUA and its members is well known. It is astounding that the Australian media and the public are not aware of the apparent contradiction in what this government said it was doing in engineering the massive waterfront strike. Its ostensible motives were to lower the costs of stevedoring charges for Australian importers and exporters in Australia and thereby benefit the Australian public and consumer. Nothing could be further from the truth. If you look at the cost of dry containers between any of our major ports and trading partners—between, say, Melbourne and Tokyo, Melbourne and Seoul or Melbourne and Singapore—you will find the cost for importers and exporters has not dropped one cent. The only thing that has changed is the share price of Lang Corporation, which has gone from $1.50 to over $9. There are no benefits for Australian consumers and the public from this ideologically motivated government with its hatred of the
merchant navy and of stevedores. It is disadvantaging the Australian people in a large number of areas, including in the costs of goods and services that should be being provided by both P&O and Patrick to importers and exporters around this country.

There has been no advantage gained by the Australian people from that massive industrial dispute, whose ostensible motive was stated by the Prime Minister, in an address to the New South Wales Liberal Party conference, as lowering the stevedoring costs for importers and exporters. I am particularly surprised that members of the National Party have not been onto this more. They seem to support, as does the Deputy Prime Minister, Mr Anderson, every Federal Court motivated attack on the MUA, but they do not notice that the lowering of costs of stevedoring charges is not being passed on to Australian farmers via Patrick or P&O.

I notice that the Deputy Prime Minister, during the big, very expensive festa that this government had in London recently, met the chairman of P&O, Lord Stirling. I hope that in those conversations, all these months after the big maritime dispute, the Deputy Prime Minister was pursuing the Australian interests and seeing that P&O would lower, at last, the cost for Australian importers and exporters.

Mr Sercombe—He was more likely tugging the forelock, wasn’t he?

Mr DANBY—My colleague the member for Maribyrnong says that the Deputy Prime Minister was tugging the forelock. We will see. I have asked a question on notice of the Deputy Prime Minister about the purpose of his meeting with Lord Stirling of P&O.

The government’s credit on these maritime issues, both in seafaring and in stevedoring, is very low. The member for Batman and the member for Denison have indicated their support for the government’s measure. We will support the maritime and stevedoring industry as far as it affects the Australian national interest. This measure is something towards that end, but I believe that the matters I have outlined undermine severely the government’s credit on these issues.

Ms JANN McFARLANE (Stirling) (11.52 a.m.)—The issue of pollution of our marine environment is one that impacts strongly on the electorate of Stirling. The electorate has some of the most pristine beaches in Australia and the northern part of the electorate also contains part of the Marmion Marine Park, which is an environmentally sensitive area. A huge number of my constituents engage on a daily basis in leisure activities such as surfing, fishing, sailing and diving. These activities are threatened by marine pollution.

Last year I was invited to tour the MV *Global Mariner* when it docked in Fremantle. This ship was sponsored by the International Transport Federation and was touring the world as part of the ITF’s ships of shame campaign, a campaign that highlighted vessels carrying flags of convenience as a terrible environmental risk and exposed the appalling treatment of seafarers on these vessels. The Western Australian branch of the Maritime Union of Australia hosted the visit to Fremantle. I take this opportunity to congratulate both the state secretary of the union, Wally Pritchard, and the assistant secretary, Dean Summers, for their willingness to discuss maritime issues with me on a regular basis. On the *Global Mariner* there were a number of extremely graphic audiovisual displays that left the viewer shocked by the magnitude of some of the disasters caused by the greed of unscrupulous shipowners who hid behind flags of convenience in an attempt to evade their responsibilities should an environmental disaster occur—shipowners who use a flag of convenience to avoid maintaining a safe, mechanically and structurally sound vessel, who use a flag of convenience and put at risk the lives of seafarers sailing on these deathtraps.

The Protection of the Sea (Civil Liability) Amendment Bill 2000 is a step towards making shipowners responsible for environmental clean-up costs. The bill amends the Protection of the Sea (Civil Liability) Act 1981 to broaden existing arrangements that require ships to maintain insurance cover in respect of clean-up costs for marine oil pollution; clarify the
liability limit of shipowners in relation to clean-up costs; clarify the ability of AMSA to recover costs associated with combating oil pollution threats; and convert all penalties in the act from dollar amounts to penalty units.

Shipowners already have an obligation to meet any pollution liabilities that they incur in Australia. This bill requires shipowners to have insurance so that these liabilities are met in most circumstances. The limited liability of this bill leaves some questions unanswered in the case of a major spill. However, it is an improvement on the current situation. I would like to say categorically that liability for pollution caused by vessels should be the responsibility of a shipowner, not government or the community. By requiring ships to carry insurance for marine pollution, we are taking a small step in the right direction to tighten controls on ships of shame.

The civil liability act has a major flaw. It only covers ships carrying more than 2,000 tonnes of oil in bulk as cargo in a contracting state. It does not cover empty oil tankers or vessels carrying less than 2,000 tonnes of cargo oil. It also does not apply to pollution caused by bunker fuel or to vessels registered in other states. This bill attempts to address this flaw with limited success.

One of the problems with this bill is that it does not require ships of less than 400 gross tonnes to hold insurance. It is a positive step that all ships of 400 or more gross tonnes, regardless of the country in which they are registered, which carry oil as either cargo or bunker, are required to hold insurance. Another flaw in this bill is that shipowners are not required to demonstrate they have insurance upon entering Australian waters. Checks are to be conducted as part of port control functions. This creates a risk. Ships which are not visiting Australian ports but which are travelling through Australian waters cannot be checked. There is a real risk that ships carrying a flag of convenience can still travel through Australian waters uninsured and cause pollution.

The bill sets out guidelines for checking insurance cover. Customs officers will check all ships that enter Australian ports to see whether they have insurance cover. This will not cause any further administrative burden on Customs, as it will occur during the routine check of documentation that already occurs. This is a trade-off whereby total vigilance is compromised by an attempt to keep costs under control. Checking vessel insurance prior to entering Australian waters should be the process, not the flawed process set out in this bill.

What happens to ships that do not have adequate insurance? These ships may be detained. The master and owner of an uninsured detained ship will be liable, upon conviction, of a penalty of up to 500 penalty units. Detaining the vessel, however, is a more active deterrent to shipowners not having proper insurance when entering an Australian port than any fine.

The inclusion of bunker fuel in this bill is also a positive step. As I mentioned previously, liability extended only to oil carried as cargo. Bunker fuel is a heavy fuel oil used on oil burning ships. Due to its high viscosity, it is difficult to clean up and causes extensive environmental damage when released into the marine environment. An example that is widely used regarding the threat to the environment caused by bunker oil is the Iron Baron incident. The Iron Baron grounded on a reef off the coast of northern Tasmania in 1995. Approximately 300 tonnes of bunker fuel oil escaped into the environment. Clean-up costs were estimated at $3.5 million. There was a significant impact on local marine wildlife, especially little penguins.

I am extremely aware of the impact of the release of bunker oil on the marine environment. If this were to happen off the coast of Fremantle, pollution would spread along the coast, damaging the local marine environment and threatening our tourist industry. In the electorate of Stirling, Scarborough is one of the main tourist attractions for both Western Australians
and overseas visitors. A release of pollution into this area would have substantial negative effects not only on the local environment but also on the local economy. I hope that nothing like this happens.

This bill does take positive steps to control marine pollution. The International Maritime Organisation has, and is in the process of developing, conventions that provide a framework that deals with the prevention and indemnification issues concerned with marine pollution. The IMO is currently in the process of developing a bunker oil convention. This convention is not expected to be finalised until March 2001, and it may not come into operation until 2002. Therefore, this bill is a welcome step in the short term.

The issue of marine pollution is only one of the issues facing our shipping industry. Australians need to protect what is arguably the most beautiful and naturally productive coastline in the world. To safeguard this important resource for future generations, we need to ensure that the shipping in our waters is of the highest quality. Workers in the coastal maritime industry have been campaigning for a greater presence of Australian flags in our coastal and overseas merchant fleet operations. To prevent marine pollution, we need to target ships carrying flags of convenience. These ships pose a potential environmental risk.

The ratio of shipping casualties for flags of convenience and second registry vessels is three to one against vessels that carry a national flag. I am concerned by the trouble free process by which foreign ships can be granted a single voyage permit to trade anywhere on the Australian coast. Supposedly, a single voyage permit should be issued on a one-off basis when an Australian or suitable licensed ship is not available. This is not happening. Rather, these ships, which are too often substandard, are relying on permits to conduct scheduled runs around the Australian coast at the expense of Australian ships. Australian ships are insured and are properly maintained. There is no point introducing insurance provisions if ships are still substandard.

This bill provides AMSA with the powers to recover costs for environmental clean-up operations. We need to look further than this bill on insurance to ensure that the seaworthiness of the vessels sailing on our waters is rigorously examined. Encouragement of the Australian shipping industry, a clampdown on ships carrying flags of convenience and the removal of discrimination against Australian vessel operators through misuse of single voyage permits are all required.

The government has been talking about preserving our pristine environment. To do this it should look at the issues I have mentioned. The Labor Party supports this bill but we condemn the government for not making the inspection process more rigorous. The risk still remains that an uninsured vessel sailing through our waters could cause an environmental disaster. We only have to look at the Kiriki fiasco off the coast of Western Australia to see that this scenario is very real. We need to avoid this happening again. The only way to do this is to ensure that ships sailing in our waters are insured and seaworthy. Flags of convenience ships are a real threat to our environment and a threat that we should not have to face. The government needs to take real action against such ships of shame.

Mr ANDERSON (Gwydir—Minister for Transport and Regional Services) (12.02 p.m.)—Let me sum up briefly and then come to some of the points that have been raised. There are four amendments to the Protection of the Sea (Civil Liability) Act 1981 in this bill. The first and most important of these amendments will require all ships of 400 tonnes or more to be insured to cover the cost of a clean-up following an oil spill. This will extend current insurance requirements for oil tankers to all types of ships. It should be said that most, if not all, Australian ships already have this insurance. The amendment will affect only the small number of foreign ships that are not insured. I understand around 95 per cent of ships are
insured. The amendment does not require any additional liabilities on shipowners. It simply requires them to be insured to cover existing liabilities.

There have been some suggestions that the amendment does not go far enough and that there should be obligations on cargo consigners or ships charterers not to deal with a ship unless the ship has the appropriate insurance cover. Such a requirement would pose some very real difficulties with enforcement and there would be very little to gain from it. The requirement for insurance will be well publicised. It is highly unlikely that an uninsured ship will come into an Australian port and risk detention.

Shipowners’ liability is to be clarified by the second amendment. Currently, where the Australian Maritime Safety Authority, or AMSA, takes intervention action to prevent pollution from a ship, a shipowner is liable to meet AMSA’s costs but the upper limit payable by the shipowner is not clear. The amendment resolves this issue.

The third amendment will allow AMSA to recover its costs where it has responded to a threat of a discharge or disposal of pollutants—for example, where a ship has gone aground or caught fire. Currently AMSA can only recover its costs in cleaning up after an actual discharge or disposal of pollutants. The final amendment is to convert monetary penalties to penalty units. This has no effect on the value of the penalties. The bill is an important measure in protecting the marine environment.

Let me respond to some of the comments that have been made again in this debate as they were in the previous debate about the amendments to the Trade Practices Act covering part X and also in relation to liner conference arrangements. I reiterate that inspection rates by AMSA of ships in Australian ports have been running ahead of target at around 59 per cent of ships. AMSA sets very high standards and, indeed, will detain ships when they do not meet satisfactory standards. I agree entirely that we do not want another Kirki, and I make it very plain that the government does not want another one either. We are putting in place the procedures to make certain that the chances of that happening again are reduced to the greatest degree possible.

AMSA sets very high standards and, indeed, will detain ships when they do not meet satisfactory standards. I agree entirely that we do not want another Kirki, and I make it very plain that the government does not want another one either. We are putting in place the procedures to make certain that the chances of that happening again are reduced to the greatest degree possible.

I note too the Labor Party’s comments regarding crew welfare. They appear to echo comments made by my colleague Senator Julian McGauran at the opening of the Seafarers’ Welfare Forum held last week in Melbourne. The forum was hosted by Stella Maris and the Australian Council of the Mission to Seafarers, two organisations that do very valuable work in improving the welfare and working conditions of seafarers.

That forum was sponsored and organised by my department, by the government. The government’s commitment to this forum demonstrates its real interest in the welfare of seafarers. We hear the ALP pretending that they are the only people who are interested in the welfare of seafarers. However, I note that only one member of the Labor Party—just one—could be bothered to attend that forum last week and it was not the shadow minister, it was not the member for Batman.

I want to make the point also that there has been the constant claim by the ALP that we are not concerned to look after the Australian shipping industry or the people in it. That claim is based in part on the ALP’s closely wedded arrangements with the unions in the industries on the waterfront and in shipping, and its inability to break free of the view that we ought to be a shipping nation, when in reality our clear priority is to be a nation of shippers. We are an

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export economy—we are not a shipping economy—and our objective is in securing low freight rates.

That does not mean that we have to compromise safety or standards in any way, shape or form. I want to emphasise particularly that we are concerned to maintain those standards, and that we are concerned for the welfare of seafarers. I understand that one of the forum recommendations was for the formation of a national seafarer welfare organisation. I am more than happy to give that very close consideration.

Mr Sercombe—You weren’t at the conference.
Mr ANDERSON—You are the people who constantly bleat about this, but I funded it.
Mr Sercombe—You weren’t there.
Mr ANDERSON—No, I was not there; I have a lot of things on my plate. But you are the ones who bleat constantly about this issue, and your commitment to it was demonstrated by the fact that although this is constantly used as an attack against me by the member for Batman, he was not there.

Let me again emphasise that AMSA have a very important role to play in monitoring the standard of ships and that they do find defects in the accommodation and living arrangements on ships inspected under the port state control regime. In those cases a ship’s master is directed by way of a deficiency notice to have deficiencies rectified. Where those defects are of a sufficiently serious nature the ship can be, and ships have been, detained, pursuant to section 210 of the Navigation Act 1912, to ensure rectification before the ship sails.

That brings me to the point where I thank the opposition. I have made a few points about what I see as their inappropriate focus on this and their consistent refusal to recognise that we can indeed set standards. We do set standards, we are committed to these things, but our primary focus in terms of prosperity and jobs for Australia has to be on securing low freight rates and being prepared to recognise that our economy is dependent upon us being efficient shippers rather than a shipping nation. Having made those points, I thank the opposition for its support.

Amendment negatived.
Original question resolved in the affirmative.
Bill read a second time.

Ordered that the bill be reported to the House without amendment.

COMMITTEES

Employment, Education and Workplace Relations

Report

Debate resumed from 14 August, on motion by Dr Nelson:
That the House take note of the report.

Ms GILLARD (Lalor) (12.11 p.m.)—I am very pleased to speak about this report, entitled Age counts: an inquiry into issues specific to mature-age workers, by the House of Representatives Standing Committee on Employment, Education and Workplace Relations. I was privileged to serve as a member of the parliamentary committee that compiled this report. In doing so, we took evidence from around Australia and, in many locations, heard directly from mature age unemployed people. That experience reinforced to me the need to never lose sight of the human face behind the unemployment statistics. In considering that human face, I refer to the contributions that I have received from two individuals in my electorate who are mature age unemployed. The first individual, R.C. Robins, wrote to me and I would like to quote some extracts from his letter. He says:

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**R.C. Robins**

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I am writing this letter in disgust of the government’s recent comments and how it has singled out the unemployed on more than one occasion. I have been in the unfortunate position of being on the “dole” for several months. Like many in my age group it was no fault of my own that I found myself in this degrading situation.

He goes on:

Until I was retrenched I had never been out of work, had always been able to support my family for nearly thirty years. It is not easy being out of work, trying your best to cope and being forced into a situation no one in their right mind would enjoy. The government is wrong when it declares that people become complacent and don’t want to work. I was offered a menial position for one month and managed to extend it to two months only because I had achieved more than was expected of me.

The point I am making is that many of us want to work but due to circumstances are not able to obtain work. If the government implies that we enjoy being imprisoned in our homes day after day, because that’s how it feels they are mistaken. May be it’s time the government makes a genuine commitment to help people to seek employment instead of blaming and pointing the finger.

That extract from the letter to me summarises the attitude that we need to take to the unemployment problem: we must recognise the human face of that problem. Many of the parliamentary committee’s recommendations in this report are directed towards recognising that human face: moving away from the rhetoric of finger pointing, blaming and naming and using terms like ‘job snobs’, and really addressing the problem.

That contribution also speaks clearly of the heartache experienced by those left behind in a growing economy. Our economy has grown, enjoying a record stretch of growth dating back to 1992, and we have experienced a decline in the unemployment rate as a result. But this growth in and of itself is not solving the long-term unemployment problem. We have seen relatively small falls in long-term unemployment—29.7 per cent unemployment to 27.7 per cent in the last financial year—and very small falls in the number of very long-term unemployed or persons unemployed for more than two years. That percentage fell in the last financial year from 17.9 per cent to only 17.5 per cent.

As this report makes clear, these trends are accentuated for mature age workers who, despite having better than average labour force participation rates and lower unemployment rates than the population generally, are at greater risk if they become unemployed. If they become unemployed, mature age workers are at a disproportionate risk of becoming long-term unemployed or very long-term unemployed.

The report posits various explanations for this, including age discrimination and the changing nature of work, rendering middle management jobs on the one hand and unskilled jobs on the other increasingly redundant. The problems that may arise for older workers of not having, or being perceived not to have, relevant skills, and the reluctance of employers to train older workers, are some of the explanations for this phenomenon that the report canvasses.

Against that general background I wish to address the following three issues arising from the report: the nature of the industrial setting in which we are dealing with the question of mature age unemployment, the poor performance of the Job Network, and the role for regional policy. The report deals extensively with the fact that many mature age unemployed become so because of redundancy, and the way in which redundancy is treated is a key factor in determining the ability of the job seeker to secure new employment.

The committee received evidence ranging from people being given five minutes to pack up their desks and leave the building after years of loyal service to high standard redundancy agreements negotiated between employers and unions to facilitate job search prior to redundancy taking effect. The grief, loss and health reactions to being made redundant are detailed extensively in this report. There is no doubt that those reactions are heightened if
people are given little notice or little warning and are treated badly during the redundancy process.

The government members of the committee have recommended that a code of conduct in relation to redundancy be adopted to resolve this problem. The Labor members are sceptical about the efficacy of such a voluntary code. I think that scepticism is justified when, during the course of taking evidence and compiling this report, we were actually made aware of the fact that under the current legislative regime, which imposes one obligation on employers in relation to redundancy—that is, that they need to notify Centrelink—that obligation is honoured more in the breach than in the observance. Indeed, we took evidence in Newcastle that employers simply did not notify Centrelink when they were going to make workers redundant. We actually took evidence that National Textiles—a very notable redundancy situation in this place—did not abide by its legal obligation to notify Centrelink when it made its workers redundant. So, given that the one legal obligation on employers at the moment tends to be honoured in the breach rather than in the observance, we are legitimately sceptical of the efficacy of a voluntary code. Having said that, obviously any regime which assists with educating employers about their obligations when making workers redundant is worthy of some form of support.

I would now like to move to the issue of the performance of Job Network which was extensively canvassed in this report. Worker after worker who came before the committee gave evidence that in their view they had been parked, to use the terminology—that is, their Job Network provider had identified them as hard cases for getting into employment and had not made genuine or real endeavours to assist them with finding work. It has to be said that those conclusions were disputed by Job Network providers, but it was an experience that was repeated time after time in evidence by mature age workers who came before the committee. In those circumstances, it appeared to the committee that perhaps there was an accountability difficulty in terms of making sure that Job Network providers were doing the right thing by each and every unemployed person they were supposedly assisting.

We need to recognise that the Job Network scheme has been predicated on allowing Job Network providers to pick winners and maximise profits by assisting people most easily employed back into employment. This fact was actually referred to by the Department of Employment, Workplace Relations and Small Business when it came before the committee. It said that the relationship between an individual unemployed person and the Job Network provider is in a black box—and really the department makes no or little inquiry about what happens within that black box. It was clear from the committee’s work that within that black box many mature age unemployed people are not being treated fairly. I would commend to the government for its serious consideration recommendation 27 in this report. It deals with increasing the accountability of Job Network providers for what happens within that black box to make sure that each and every unemployed person gets some form of legitimate assistance from his or her Job Network provider.

I would also commend strongly to the government recommendations 28, 29 and 30, which deal with benefit changes, so that mature aged unemployed people do not have to liquidate all of their assets prior to becoming eligible for some form of social security assistance. I trust that the government will take those recommendations seriously.

In relation to the Job Network system, apart from accountability, it seems to me—and this was not recommended by the report but, having heard the evidence which led to the report, I am increasingly of this view—that the so-called mutual obligation regime for unemployed people is one-sided. That is, unemployed people are increasingly told to bear new obligations of reporting, work search and the like, whereas the government, through Job Network providers, is not necessarily matching that obligation through the provision of services.
One aspect that needs to be corrected in this system is that, whilst we are told that this is a competitive market in relation to the provision of services, the one thing we do not know about this competitive market is the question of price—that is, the amount that Job Network providers are paid to assist unemployed people is kept commercial-in-confidence. If the government genuinely believes in the rhetoric of competition and the market, the government would well know that a hallmark of a competitive market is perfect information and that there would be no reason why we as parliamentarians, or individual unemployed people, Australians generally, should not know what is being paid to Job Network providers to assist unemployed people. It would seem to me that that would give some form of empowerment to the unemployed person in their relationship with the Job Network provider; that they would be able to say, ’I understand that you are getting X dollars to assist me,’ and they could then have a realistic discussion about how much of that quantum could be directed towards training programs, wage subsidies and the like. Having heard the evidence which led to this report, I would strenuously urge that as a change that ought to be made to the Job Network system.

In addition, I would like to briefly address the question of labour market mobility and the need for regional policy because that seems to me, having heard the evidence around Australia, to be a theme of this report as well. On the question of labour market mobility, I would refer specifically to the evidence given by Mr Richard Denniss, a research associate of the Centre of Full Employment and Equity at the University of Newcastle. This evidence was given in the context of the Treasurer’s remarks that, to facilitate employment in regional Australia, perhaps wage rates ought to be lowered; and it goes directly to that question of the nature of regional unemployment and labour market mobility. The government’s perspective appears to be that, provided you have a growing economy, somehow the unemployment problem will fix itself right across Australia. And they continue to hold that view, notwithstanding that we can point to areas across Australia where unemployment is not being addressed even by growth in the economy. Against that background, the Treasurer thought perhaps it could be fixed by lowering wages.

The evidence that the committee took was clearly that labour market mobility questions and regional growth questions cannot simply be addressed by maintaining a growing economy, they need to be addressed by specific regional policies. The evidence before us was in the following terms. First, there is not a significant difference in rates of mobility between the US and Australia—that evidence was actually produced by Reserve Bank economists. It is important that we recognise that, because it is often posited that the labour market in America is much more flexible than ours, but that is not borne out by the data.

The evidence received by us also went to the question of price sensitivity to downward adjustments in wages. The evidence given is that, if wages are adjusted in those areas, we are going to tend to reduce consumption power and therefore have a downward spiral that threatens the livelihoods of local businesses who depend upon local consumption for their survival. The key conclusion from this evidence that we received in Newcastle is that, in order to make a difference to those areas which are facing high and stubborn unemployment problems, one needs to look not only at physical infrastructure, like problems with transport and communications, but at skills questions.

I thought all of that evidence was very important, and particularly important in view of some of the issues that I face in my electorate. One of our local areas, the Sunshine area, which is in the municipality of Brimbank, consistently faces an unemployment rate which is more than double the national average. Obviously, amongst those figures would be large numbers of mature age unemployed people. Without spatially based policies directed to that unemployment problem in the vicinity of Sunshine, we will never really do anything about
that unemployment issue. That is an area which is not addressed by this report, but I think it is something that needs to be seriously considered if we are to make a difference for people right across Australia.

In summary, I think this is an important report which should be studied by all members of the House. I trust that the government, in relatively short order, will give us a response to the report and adopt many of its recommendations, particularly those recommendations dealing with improvements in the Job Network and benefits structures.

Mr BARRESI (Deakin) (12.26 p.m.)—In March 1999, the House of Representatives Standing Committee on Employment, Education and Workplace Relations was asked to inquire into the social, economic and industrial issues specific to workers over 45 years of age seeking employment or establishing a business following unemployment. The member for Lalor alluded to a number of the recommendations that came out of this report. While I do not dispute the content of the report as she described it, it is important to note that the comments on Job Network made by various witnesses were in fact made about Job Network No. 1 and not about the current system. Many of the accountabilities that she has called for have been enacted by the minister, independent of the recommendations in this report.

Our report, Age counts: an inquiry into issues specific to mature-age workers, is the result of 18 months of investigation into issues that affect the lives of thousands of Australians either directly or indirectly. As a member of this committee since 1996, I have been very proud of the two inquiries into employment. In the last parliament, Mr Deputy Speaker, as you would know as a member of that committee, we undertook an inquiry into youth employment, and in this parliament we have undertaken this inquiry into mature age unemployment. The committee’s work and its final report offer a comprehensive assessment of issues that regularly come to my attention as a local federal representative. The report also offers a comprehensive list of recommendations, many of which have been applauded by the contributors from my electorate.

The residents of Deakin, like those in many other electorates, have been touched by the dramatic changes that have hit our society since the mid-1980s. Like it or not, lifetime employment—that is, being employed in the same company, or at least in the same industry, from 15 to 65 years of age—has been a thing of the past for over a decade. The economic stability experienced in Australia from the fifties through to the mid-1970s is unlikely ever to be replicated. This reflection is important, as the Australians who are the subject of Age counts were born, raised and commenced work during these years. For many, the experience of work was a natural one. It flowed almost automatically from their schooling and continued, in many cases without interruption, to retirement.

Since 1996, the Howard government has delivered on many election commitments. But it is fair to say that the issues behind this report, together with the demographic trends in our society, represent one of the next big challenges for any government. As with other reports, the recommendations contained in Age counts are now being considered by the government. I look forward to a full and considered response, and to being part of a government that will implement a range of new policy initiatives.

It was a pleasure to be part of this inquiry for a number of reasons. To hear the formal evidence was extremely gratifying. More importantly, it was gratifying to hear the personal stories from the unemployed. Their evidence was heartfelt and often expressed the sense of frustration, disappointment, anger and, I am sad to say, the feeling of hopelessness about re-entering the work force after a period of being unemployed. Through their evidence, I am glad to say that the once forgotten unemployed, those of mature years—45 and older—are no longer forgotten. We have listened to their stories, we have made recommendations and we
will act on their needs. To my mind, the need for urgent action has only been reinforced by their stories.

In particular, I would like to thank those who participated in the committee’s public hearing held in Ringwood, in my electorate of Deakin. Although many individuals and organisations contributed, I particularly wish to acknowledge and thank those who appeared on the day—Mary Archibald, Noel Buchanan, John Ford and Ross Gardiner. Also, the evidence provided by Jobs East, the Area Consultative Committee for the eastern suburbs of Melbourne, was important. Louise Rolland, the executive director, its former chairman, Louise Di-Guisto, and former deputy and now chairman, Neil Stevenson, all gave valuable evidence to the committee. In addition, we also heard from the Indo-Chinese Employment Service, located in Box Hill. Their representative, Mr Hoang Vu Nguyen, offered rare evidence on the plight of the ethnic mature age unemployed.

In formulating and debating public policy, the issues arising from Australia’s ageing population are increasingly apparent. In the case of employment policy, these issues are equally relevant. The age group 45 to 65 is rapidly becoming a larger proportion of the overall population and will increase rapidly until 2011. These problems are made worse by the trends of males in their 50s to retire early. It is abundantly clear that there is a need to address the circumstances of particular individuals, as well as the demographic imperative for Australian society to change the way it views those of mature age. It is important that we value the contribution which these people have made and continue to make in the workplace.

It is a universal problem which is not unique to Australia. Last year I had the opportunity to meet representatives from the ILO in Geneva, as well as a very prominent social researcher from Switzerland, Ms Genevieve Mulday-Reday, who has been researching the various public policy initiatives in Europe which are aimed at addressing mature age unemployment. The evidence from Europe is that they, too, are struggling to overcome the problem and are struggling to implement policies which will work. In essence, I believe employers are one of the keys to addressing this issue. At the root of the problem is a need for a change in mind-set, both from the perspective of the employer and to some extent from the perspective of the mature age unemployed.

One of the report’s recommendations is to have an Australian version of the British Employers Forum. I am pleased to say that Jobs East, my local area consultative committee, has, with the help of Minister Reith’s and Minister Bishop’s departments, pioneered such a forum. The principal aim of this work is to address the stigma and the negative stereotypical behaviour displayed by some employers towards workers aged over 45 years. Last year’s inaugural conference held in Melbourne was a resounding success. However, it is evident to all, including Jobs East, that the forum should now be held at a national level auspiced by a national body rather than by a regional ACC. Nevertheless, I congratulate Louise Rolland and her team for pioneering the forum in Australia. At this moment, Louise is on her way to Washington, where she has been invited to the US Committee for Economic Development conference titled ‘Ageing of the global work force: role of longer work lives and other policy responses’. I understand that Ms Rolland is the only representative from Australia to this conference, and I look forward to hearing of the conference’s outcomes.

With respect to the change in mind-set for mature aged unemployed, I anticipate it will probably be more difficult for the current generation. Lifetime employment, the need to have a job or a career that is at least equal to or better than the last, and fulfilling the expected role of being the main breadwinner, all add pressure to the unemployed’s employment decision. For example, trends in participation rates show that the biggest level of participation is not amongst the males but amongst women aged 45 to 55, with more older males opting out of the labour force.
The concept of mature age unemployed males taking on a portfolio of jobs has been canvassed in this report. A portfolio of jobs can be seen as an alternative career direction. But, more importantly, if one does not look at that as a career direction, it can be part of the process of regaining the morale to take on re-employment. Of course, one of those jobs which is part of the portfolio can lead to full-time work.

The *Age counts* report includes a number of recommendations, some of which may come across as controversial. I would like to touch on a number of these. The first is one which the member for Lalor spoke about, which is the introduction of a code of conduct for employers when carrying out retrenchments or redundancy programs.

In my past life—and I am not proud of it—as part of my role as a human resources manager, I took part in various retrenchment and redundancy programs. Each time, I made sure that the most appropriate process was in place, giving due respect to those who were about to lose their jobs. The code of conduct which we talked about and then canvassed in a roundtable discussion with all the various players and stakeholders in the labour market area is one which government members have recommended. The code should be viewed as a best practice model to which all enlightened managers need to aspire in a similar fashion to the quality assurance standards which companies now adopt in the supply of product, and in the manufacturing process. A code of conduct can be used as a quality assurance model for the outplacement/retrenchment process, particularly by managers of small and medium businesses.

There is sufficient evidence that outgoing employees who receive timely notice, counselling and outplacement assistance will have a better chance of finding another job. It is far better if you have a support system around you to help you to get a job rather than being out there on your own trying to muddle your way through the various processes and bureaucracies along with the nervousness of going to your first job interview after 10 or 20 years out of the job market.

The Work for the Dole program was another recommendation. I am pleased to say that we recommended the Work for the Dole program in this report. The evidence from the Shoalhaven Area Consultative Committee was that they felt very positive about their own Work for the Dole program and advocated its extension to people over 45. It was suggested that those over 45 should be dealt with individually rather than having to work in groups with other unemployed people. We recommend this program, under a name not stigmatising to mature age workers, be extended on a voluntary basis to long-term unemployed job seekers over 45 years of age.

One of the other recommendations was for mentors in industry. One may ask, ‘What is a mentor in industry? It is a concept we are not familiar with.’ We have found that there are unemployed people with experience and maturity who can play a valuable role in developing younger employees. In fact, the trend in Europe is very much down this path and some of the countries in Europe have adopted it. Whether or not it has been successful at this stage has yet to be decided but there are early signs that it will be. This sort of assistance—to employ some of these long-term unemployed as mentors in industry—is appropriate in a range of different circumstances, whether it be employment as part of the Work for the Dole type program or even as a niche program.

Early intervention is certainly something that is highly canvassed and recommended throughout the report. Given the trauma experienced by many retrenched workers and their potential to be long-term unemployed, the committee recommends that there is a need for a fast-tracking procedure to identify as soon as possible those mature age workers at high risk of long-term unemployment for immediate access to the assistance they need. Recommendation 26 is that the Jobsearch Classification Instrument be applied to all
retrenched employees before assessing their eligibility for income support, and that it preferably be done while they are still in employment. When mature age job seekers have been assessed by their JSCI as being at high risk of long-term unemployment and have met the assets and income tests, these clients should be immediately assigned to intensive assistance rather than having to wait for the qualifying period.

The need to reduce waiting time for unemployment benefits was also recommended. Under current laws, mature age unemployed with more than the specified level of savings cannot access unemployment benefits immediately. The committee was aware, however, that until relatively recently not every worker made superannuation contributions. Instead, some prepared for their retirement through private savings and investment. Those with no or little superannuation, therefore, should be given additional consideration. I know this is a measure long advocated by some of my constituents. I am sure that some of them would say, ‘Can’t we implement this retrospectively?’ That is a separate issue and a separate fight that needs to be taken up.

Establishing a small business is often a high-risk option. Many mature age people, having lost employment, choose to establish or purchase a small business. However, many of these do not survive, often with very severe personal consequences. Key factors contributing to business failure include unrealistic expectations, lack of access to sufficient finance and inadequate business. It is imperative that budding self-employed business people be adequately counselled concerning opportunities, the risks and their chances of success. Training is a vital component of this and small businesses need to be provided with that training. Business management training is ignored by over 70 per cent of small business owners. They believe they know everything they need to know about small business; all they have got to do is open the doors and the customers will come in.

If there was time, I would go through a number of other recommendations. I know that the member for Rankin will probably address a number of issues which I have not. I wish to express my thanks to the chairman, Brendan Nelson, and the deputy chairman, Rod Sawford, the other committee members and, importantly, the secretariat staff, for what I believe is a most important report which all members of the House should read. I look forward to its recommendations being adopted by the government.

Mr Emerson (Rankin) (12.41 p.m.)—In the course of this inquiry, committee members witnessed the social tragedy of unemployment amongst mature age workers. We had some first-hand experience of it, at least in respect of the fact that we saw a parade of very sad, despondent and demoralised unemployed mature age workers. I commend those workers for their initiative and their courage in coming along and talking to the committee so that we were not operating at some sort of academic level but at a very practical and real level where we could hear first hand of the social consequences of long-term unemployment amongst mature age workers.

It is a fact that the rate of unemployment amongst mature age workers is lower than the overall rate of unemployment and is lower than the rate of unemployment amongst young people. However, the most salient point is that the duration of unemployment amongst mature age workers is extraordinarily long and it is in this that the social problems lie.

Increasingly the definition, in the minds of employers at least, of the age of a mature age worker is coming down, so that we are now witnessing situations where people as young as 35 years of age are being regarded as mature age workers. People who have been in the work force for perhaps 15 years are regarded as mature age workers and, by being so treated, they are being stereotyped by employers. We found plenty of evidence in the inquiry that someone who comes along at age 35 is regarded almost as over the hill by an employer. One of the
most interesting things that we learned out of all of this was that, very often, human resource managers might be in their early 30s. If anyone comes along to their business trying to get a job, it may be that the human resource manager will look at this person and say, ‘That person is older than me. I don’t want to bring someone into the firm who is older than me,’ so there seems to be this bias towards recruiting people who are younger than the human resource managers.

That brings me to an observation that I want to make as a result of this inquiry, and it brings perhaps a note of optimism. As life expectancy increases—and it is increasing in Australia—we should contemplate the point that when a business invests in a person who is being recruited into that business it invests inevitably in training. That means the resources of the business are devoted to giving the person who has come into the business the requisite skills to operate and be productive in that business. During the 1980s there was a movement that I think is now certainly regrettable towards reducing the age of retirement for superannuation and other purposes. It came to be accepted wisdom that 55 was the right age to retire.

Consider this situation: an employer has a young person come along. ‘I have to invest in this young person,’ he says. But increasingly younger people go from job to job to job. That is not a bad thing, but the investment that that person puts into a young person may yield a return for only two or three years. However, if the hiring company business puts some investment into training an older person, and life expectancy increases, then the return may go on for many years. For instance, someone 45 years of age might be quite happy to stay in that business until 60. The employer is getting 15 years return, most likely, as a result of the investment into that mature age worker.

Hopefully, as life expectancy continues to increase and our idea of what constitutes the working life of a worker expands, in the eyes of employers over time there will be some merit in the idea of choosing a mature age worker over a younger worker, in which case we may be able to break that cycle of very long-term unemployment among the mature age workers. If that ever happens it will be wonderful, but it will not occur in the work force for some years yet; it may occur gradually over time. In the meantime we have witnessed first-hand some of the devastating impacts of unemployment amongst mature age workers.

I would like to refer therefore to some of the recommendations in the report. One relates to health, which I think is one of the most important issues in the whole inquiry. Recommendation 12 says:

The Committee recommends that the Government fund a longitudinal study to examine the health effects of unemployment in Australia and the extent to which unemployment contributes to poor health and premature death.

I will take a moment to describe the situation of my father who, living in the bush, lost his job in 1970 because the town was shrinking, wheat quotas were imposed and quotas were put on the cutting of ironbark in the Pilliga forest for railway sleepers. Dad lost his job. He went onto relief work, or tried to, but there was precious little relief work. It used to be funded by local councils—I am not sure if it still is. He ended up going back to timber cutting at 55 and it was literally killing him.

So we moved to the city where, through his army experience, he was offered a job at John Lysaght at Chullora in Sydney. A couple of years later that enterprise started downsizing its work force and Dad lost his job again. To cut a long story short, he had a heart attack and he was dead at the age of 62. Over that period I certainly witnessed first-hand the devastating social impact and the impact on families when someone loses his job twice. Job security was so important to that generation. My father had been through the Second World War as a prisoner of war and he had been through the Depression. Certainly there was nothing more
important, particularly to a male in those days—and that might seem a bit chauvinistic—than to hold onto his job. It certainly had a devastating impact on my father and led directly to his death from a heart attack. I fully support the recommendation here and I think we all, as Australians, need to be conscious of these impacts.

The next important recommendation, particularly from my perspective in hearing the evidence, is that relating to early intervention. When someone loses his or her job as a mature age worker, there tends to be a fair bit of optimism on the part of that worker of getting another job fairly quickly. So the person does not seek help and generally no help, or inadequate help, is provided. It becomes clear only after months of being unemployed—perhaps six months later—when the unemployed person thinks he or she does need help. Even then it may take some time for him or her to get around to getting that help. In the meantime he or she becomes embittered and demoralised. Finally when he or she decides to go and actively look for work and knock on some doors his or her resume for the past six months or year shows that he or she has been unemployed. The potential employer sees this and immediately says, ‘No, we do not want someone with a poor employment record like that.’

This country and governments of both persuasions have a responsibility to identify and pick up mature age unemployed workers early on—and that is the phrase ‘early intervention’. I warmly embrace recommendation 26, which says

The Committee recommends that the Job Search Classification Instrument (JSCI) be applied to all retrenched employees, before assessing their eligibility for income support, preferably while they are still in employment. Where mature-age job seekers are assessed by the JSCI as being at high risk of long-term unemployment, and meet the assets and income tests; these clients should be immediately assigned to Intensive Assistance.

I think that would do an enormous amount in terms of tackling head-on the problem of long-term unemployment amongst mature age workers.

There are a number of other recommendations that are also particularly important. The question of the incentive to return to work sometimes arises when people are on some sort of an income support. I was pleased that the committee, in a bipartisan way, was willing at least to embrace the idea of an earned income tax credit. Recommendation 16, combined with recommendation 15, reduces the taper rate or the withdrawal rate of unemployment benefits and means that an unemployed mature age worker can have a go at some part-time work without losing the majority of the government support that has been provided. Often the re-entry into the workforce will be by that means—that is, by a part-time or casual job. Once they are back in the workforce, they get more confidence and more contacts because they are now in the network of employed people and businesses and they can then make the transition, hopefully, to full employment.

One of the areas that we need to be very careful about is the area of payouts, and this was referred to by one of my colleagues, the member for Deakin. Very often an unemployed mature age worker, having lost his or her job, will receive some sort of payout. It might be in the form of redundancy pay, long-service leave, sick leave and annual leave. They then say, ‘I have got $20,000, $30,000 or $50,000. This is terrific; I will start up my own business.’ We witness many examples of people losing that money and then being in a terrible situation. They say, ‘I’ve got experience; I’ve got talents; I’ve got ability’, all of which are no doubt true, but succeeding in a small business is a lot easier said than done. We need to ensure that mature age unemployed workers who have that nest egg paid to them do not just squander it. We need to ensure that they go into these businesses with their eyes wide open and get adequate advice from government agencies and other authorities as to the risks of going into business and also some handy guidance on what it is that makes a successful business. They
representatives are some of the recommendations that I think are particularly important to note and to implement.

Finally, in my own seat of Rankin, I have been trying for some time to get off the ground the idea of unemployed mature age workers assisting in volunteering for what is known as the Support a Reader Program. In a number of schools in Rankin, there are plenty of kids who could use the support of a volunteer, sitting down beside them and reading to them. This Support a Reader Program is a direct result of a previous, and the current, Labor government’s literacy and numeracy testing. Kids are identified through the diagnostic net as needing some remedial reading. There is a Reading Recovery Program where teachers are assigned to help those kids, but there is not enough money to go around. It would be marvellous if unemployed mature age workers could make a contribution to the community by coming along and reading to these kids. This would help to make sure that the same thing does not happen to these kids as happened to the mature age worker who has lost his or her job.

Centrelink thinks it is a terrific idea and is happy to count those volunteering hours toward the work test for unemployment benefit. The problem is that, unfortunately, we hit a barrier in the Job Network. I can understand this. We want the Job Network providers, who have to make money, to identify potential candidates. We would run this out of our office if we could, but we cannot identify the potential candidates to match up with the schools. The schools in Woodridge and Kingston, in my electorate, are very keen on this and they too think it is a terrific idea. I hope that the government will support this sort of approach, and I will continue to pursue it. It is good for the self-esteem of the unemployed workers—it gets them back into the community—and, obviously, it is terrific for the kids as well.

Finally, I thank my colleagues on both sides of the parliament. This whole exercise has been conducted in a very convivial and professional, bipartisan way. We had very few areas of dispute, and those areas tended to be not ideological but a matter of different perspectives. I think we have come up with a valuable report, and if these recommendations are implemented we should see some considerable improvement in the situation of the long-term unemployed in Australia.

Mr BARTLETT (Macquarie) (12.56 p.m.)—Retrenchment and unemployment always bring with them a degree of pain—financial, social and personal, emotional pain. Arguably, this pain is exacerbated for mature age unemployed people. Sudden retrenchment in midlife, for instance, can coincide with significant financial commitments and intense financial pressures: high mortgage commitments, secondary and tertiary education costs for older children, pressures to save for retirement, et cetera.

The personal pain is often increased by a sense of betrayal at being retrenched after many years or even decades of loyal service. The anguish is intensified by difficulty in regaining meaningful employment and by fears of being on an unemployment scrap heap. For those whose identity and sense of purpose have been entwined in their careers, this loss in midlife can be devastating. The social consequences also can be severe, as social interaction is often closely linked to the workplace. Further, the embarrassment of being unemployed and the lack of financial resources both place a strain on social activity. Unemployment adds to family pressures and at times, sadly, to family breakdown.

Many of the witnesses to the House of Representatives Standing Committee on Employment, Education and Workplace Relations inquiry on mature age unemployment spoke in frank and moving terms of the trauma they faced on finding themselves unemployed in their 40s or 50s. The committee certainly appreciated their very substantial and worthwhile contributions to the inquiry. I would particularly like to thank the group from the Blue
Mountains Community Resource Network—Judith Costin, Dennis Golding, Carl Hooper, Margaret Sutton and Alistair Wilson—who made a valuable contribution to the committee.

The committee, in its report *Age counts*, made 38 recommendations arising from the many submissions and the exhaustive inquiry. Mr Deputy Speaker, you would be pleased to hear that I will not recite all 38 of them. However, I would like to refer to a couple. They covered in general the critical areas aimed at reducing the trauma of retrenchment, assisting the unemployed in facing their financial burdens, reducing age discrimination and stereotyping in the workplace, and facilitating retraining and re-employment. The three or four recommendations I would like to refer to cover these main areas.

The committee recommended that the government promote an education and awareness campaign amongst employers to counter the widespread age discrimination and to assist in developing an age diverse work force with ample opportunities for workers of all ages, but particularly mature age in this case, to use their vast skills and experience and to overcome the stereotyping that, sadly, is there. Many witnesses spoke of their battles with inaccurate and unfair stereotypes and the discrimination they found as they went from place to place to seek re-employment. Yet older workers have so much to offer, in terms of experience, maturity, work ethic and reliability. These are real assets in employees, yet somehow they seem to be overlooked or ignored. In short, there is a real need to make employers aware of the benefits that they could derive from employing mature age people.

Secondly, a number of witnesses spoke of the insensitivity of their former employers in their handling of the notice of separation. Often it was callous and uncaring, with insufficient notice and with no assistance or guidance regarding support services. The committee recommends that a code of practice be developed to deal with the emotional, financial and practical impacts of job separation.

Thirdly, regaining employment is a key challenge for many mature age people finding themselves unemployed. For many, the risk of long-term unemployment is real indeed. The committee recommends that, where possible, the Job Search Classification Instrument be applied to employees before they leave their employment and that those assessed as being at risk of long-term unemployment—provided they meet the means and activities tests—be immediately assigned to intensive assistance. This should occur before they actually leave employment, so they have a chance of quickly taking up that course of assistance and finding re-employment.

The committee found that one of the significant barriers to re-employment is the low level of formalised training that many mature age unemployed people have. This was certainly not always the case, and some were highly qualified. But a number, particularly blue-collar workers retrenched from the manufacturing sector, lacked post-secondary qualifications. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Main Committee adjourned at 1.01 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

National Health and Medical Research Council: Research Funding
(Question No. 1483)

Mr McClelland asked the Minister for Health and Aged Care, upon notice, on 9 May 2000:

Will he update his answer to question No. 889 (Hansard, 30 September 1999, page 11177) regarding funding to the National Health and Medical Research Council in respect to Hepatitis C and HIV research.

Dr Wooldridge—The answer to the honourable member’s question is as follows:

Including funding through the Australian National Council on AIDS, Hepatitis C and related diseases (ANCAHRD),

(a) Funding allocation to Hepatitis C research in 2000 totals $1.3 million, representing

0.72 per cent of the total National Health and Medical Research Council (NHMRC) funding in 2000 (compared with $290,000 in 1999). Of the $1.3 million allocated for 2000, $837,000 has been provided through ANCAHRD.

(b) A total of $4.1 million has been allocated to HIV/AIDS research in 2000 (compared with $5.194 million in 1999). This represents 2.28 per cent of the total research funds administered by the NHMRC. Of the $4.1 million allocated for 2000, $3.76 million has been provided through ANCAHRD.

(c) It should be noted that some grants fall under both HIV/AIDS and Hepatitis C, and total funding provided through ANCAHRD is actually $4.26 million.

Department of the Environment and Heritage: Commonwealth Funded Programs, Tasmania
(Question No. 1531)

Ms O’Byrne asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 11 May 2000:

(1) Does the Minister’s Department administer any Commonwealth funded programs for which community organisations, businesses or individuals can apply for funding in Tasmania; if so, what are the programs.

(2) Does the Minister’s Department advertise these funding opportunities; if so, (a) what print media outlets have been used for the advertising of each of these programs and (b) were these paid advertisements.

Mr Truss—The Minister for the Environment and Heritage has provided the following answer to the honourable member’s question:

(1) Yes. The programs are listed below.

(2) (a) and (b)

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Advertised</th>
<th>Print Media Used</th>
<th>Paid Advertisements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants to Voluntary Environment and Heritage Organisations Program</td>
<td>Yes</td>
<td>The Australian and major metropolitan newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td>Antarctic Science Advisory Committee Grants Scheme</td>
<td>Yes</td>
<td>The Weekend Australian, New Scientist (Australia/NZ edition) and AMSA Bulletin and via email mailing lists to known researchers and grants offices at relevant Australian tertiary institutions</td>
<td>Yes. The advertisements in the Weekend Australian, the New Scientist and the AMSA Bulletin were paid.</td>
</tr>
<tr>
<td>Program Name</td>
<td>Advertised</td>
<td>Print Media Used</td>
<td>Paid Advertisements</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>------------</td>
<td>--------------------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Cultural Heritage Projects Program</td>
<td>Yes</td>
<td>Australian Antarctic Division’s website.</td>
<td>Yes</td>
</tr>
<tr>
<td>Cultural Heritage Projects Program</td>
<td></td>
<td>The Weekend Australian, The Koori Mail and major metropolitan newspapers</td>
<td></td>
</tr>
<tr>
<td>Grants-in-Aid to the National Trusts Program</td>
<td>No. This is an Australia-wide program specifically formulated to pay to each of the National Trust bodies an amount calculated by formula each year. As such, it is not appropriate for it to be advertised in any way.</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Commemoration of Historic Events and Famous People Program</td>
<td>Not formally advertised however it is listed on Environment Australia’s Heritage Assistance Web Page.</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Air Toxics Program</td>
<td>No. Potential projects are initially identified in consultation with a Technical Advisory Group and Steering Group which includes representation from the Tasmanian Department of Environment and community representatives.</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Urban Stormwater - Cleaning our Waterways - Industry Partnership Program</td>
<td>Yes</td>
<td>The Weekend Australian – only as far as requesting expressions of interest from potential consultants to undertake work to target possible projects. The program has now been replaced by the newly titled Industry Partnership Program.</td>
<td>Yes</td>
</tr>
<tr>
<td>Urban Stormwater Initiative - Partnership Program</td>
<td>Yes</td>
<td>The Weekend Australian</td>
<td>Yes</td>
</tr>
<tr>
<td>Urban Stormwater Initiative - Partnership Program</td>
<td>Yes</td>
<td>Relevant trade magazines (yet to be determined)</td>
<td>To be determined</td>
</tr>
<tr>
<td>Natural Heritage Trust Programs *</td>
<td>No. Dealt directly with the Tasmanian</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Program Name</td>
<td>Advertised</td>
<td>Print Media Used</td>
<td>Paid Advertisements</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------</td>
<td>------------------------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Awareness Program</td>
<td></td>
<td>government in developing proposals under the program.</td>
<td>NA</td>
</tr>
<tr>
<td>Air Pollution in Major Cities Program</td>
<td>No. Proposals are invited from all state colleagues through the Air Managers’ Forum.</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Bushcare Program</td>
<td>Yes</td>
<td>Regional newspapers in all states and territories and The Hobart Mercury</td>
<td>Yes</td>
</tr>
<tr>
<td>Endangered Species Program</td>
<td>Yes</td>
<td>Regional newspapers in all states and territories and The Hobart Mercury</td>
<td>Yes</td>
</tr>
<tr>
<td>National Reserve System Program</td>
<td>Yes</td>
<td>Regional newspapers in all states and territories and The Hobart Mercury</td>
<td>Yes</td>
</tr>
<tr>
<td>Wetlands Program</td>
<td>Yes</td>
<td>Regional newspapers in all states and territories and The Hobart Mercury</td>
<td>Yes</td>
</tr>
<tr>
<td>Waterwatch Program</td>
<td>Yes</td>
<td>Regional newspapers in all states and territories and The Hobart Mercury</td>
<td>Yes</td>
</tr>
<tr>
<td>Clean Seas Program</td>
<td>Yes</td>
<td>Major metropolitan newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td>Marine Species Protection Program</td>
<td>Yes</td>
<td>Major metropolitan newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td>Coastal Monitoring Program</td>
<td>Yes</td>
<td>Major metropolitan newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td>Coasts and Clean Seas Marine Waste Reception Facilities Program</td>
<td>Yes</td>
<td>The Weekend Australian</td>
<td>Yes</td>
</tr>
<tr>
<td>Introduced Marine Pests Program</td>
<td>No **</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Ballast Water Mitigation Program</td>
<td>No **</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

* Only includes Natural Heritage Trust projects administered by my portfolio.

** A National Advisory body with a representative from each state/territory management authority provides funding proposals for consideration upon request.

NB: Residual funding is currently administered to some community organisations in Tasmania for projects under the former National Estate Grants Program. The Riverworks Tasmania Program, which was active between 1996 and 1999, provided Natural Heritage Trust funds for projects proposed by local organisations or individuals in Tasmania.

**Department of Health and Aged Care: Commonwealth Funded Programs, Tasmania (Question No. 1537)**

Ms O’Byrne asked the Minister for Health and Aged Care, upon notice, on 11 May 2000:
(1) Does the Minister’s Department administer any Commonwealth funded programs for which community organisations, businesses or individuals can apply for funding in Tasmania; if so, what are the programs.

(2) Does the Minister’s Department advertise these funding opportunities; if so, (a) what print media outlets have been used for the advertising of each of these programs and (b) were these paid advertisements.

**Dr Wooldridge**—The answer to the honourable member’s question is as follows:

(1) Yes. The programs are listed in the attached table.

(2) Some of these programs have been advertised.

(a) Print media outlets that have been used for the advertising of these programs are listed in the attached table.

(b) Yes. For the programs that were advertised, the advertisements were paid ones.

<table>
<thead>
<tr>
<th>Question 1</th>
<th>Question 2</th>
<th>Question 2(a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funded programs available in Tasmania</td>
<td>Does the Department advertise them (if yes, date of next funding round in brackets)?</td>
<td>Print media outlets used in advertising</td>
</tr>
<tr>
<td>Quality Use of Medicines Education Program (QUMEP)</td>
<td>Yes (August 2000)</td>
<td>Weekend Australian and each major state paper including the Hobart Mercury</td>
</tr>
<tr>
<td>National Medicines Week (NMW) Community Grants</td>
<td>Yes (September/October 2000)</td>
<td>Weekend Australian and each major state paper including the Hobart Mercury</td>
</tr>
<tr>
<td>Health Program Grants</td>
<td>No</td>
<td>See next page</td>
</tr>
<tr>
<td>GP Links Program</td>
<td>Yes (ongoing)</td>
<td>Main stream media, including the Hobart Mercury. Other media outlets including Australian Doctor, Medical Observer, and the AMA’s GP Network News.</td>
</tr>
<tr>
<td>Practice Incentives Program (PIP)</td>
<td>Yes (ongoing)</td>
<td>Australian Doctor and Medical Observer</td>
</tr>
<tr>
<td>Regional Health Services Program</td>
<td>Yes (ongoing)</td>
<td>The Mercury, The Advocate, The Examiner, and major dailies in selected states.</td>
</tr>
<tr>
<td>Coordinated Care Trials – second round</td>
<td>Yes (Applications have closed and the Department is currently undertaking the selection process. There will not be another application round.)</td>
<td>Weekend Australian and each major state paper including the Hobart Mercury</td>
</tr>
<tr>
<td>National Child Nutrition Program</td>
<td>Yes (later in 2000 – next round will target Indigenous Health)</td>
<td>Burnie Advocate, Hobart Mercury, Launceston Examiner, and all major Australian dailies</td>
</tr>
<tr>
<td>Chronic Disease Self-Management Initiative</td>
<td>Yes (The Department is currently in the process of shortlisting applications. It is not envisaged that another application round will be held.)</td>
<td>Weekend Australian and each major state paper including the Hobart Mercury. Also Kouri Mail, Nursing Careers Allied Health and Medical Journal Australia</td>
</tr>
<tr>
<td>Rural Health Support Education and Training (RHSET) program</td>
<td>Yes (June/July 2000)</td>
<td>All major Australian metropolitan and regional dailies, including Hobart Mercury, Launceston Examiner, Tasmanian Country and Burnie Advocate. See below</td>
</tr>
<tr>
<td>The Australian Remote and Rural Nursing Scholarship Scheme</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

See below
In relation to the programs that are not advertised by the Department, the arrangements are as follows:

<table>
<thead>
<tr>
<th>Program</th>
<th>Description</th>
<th>Advertising Source</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Health Program Grants</strong></td>
<td>Under Part IV of the Health Insurance Act 1973 an organisation can apply to the Minister to be an approved organisation providing an approved health service. The approved organisation is then entitled to a Health Program Grant equal to the costs incurred in providing an approved health service or such proportion of those costs as the Minister determines.</td>
<td></td>
</tr>
<tr>
<td><strong>The Australian Remote and Rural Nursing Scholarship Scheme</strong></td>
<td>The Department does not advertise this Scheme as it is administered by the Royal College of Nursing Australia. Advertising for this Scheme is the responsibility of the Royal College of Nursing Australia.</td>
<td></td>
</tr>
<tr>
<td><strong>Aboriginal and Torres Strait Islander funding initiatives</strong></td>
<td>A regional planning approach has been developed for the allocation of new funds under the Aboriginal and Torres Strait Islander Health Framework Agreements – the regional plan for Tasmania is currently being developed in collaboration with the State government, ATSIC and Aboriginal community controlled organisations. Some additional funding is allocated from time to time for national initiatives. In 1999-00, funded organisations were invited to submit proposals to promote influenza and pneumococcal immunisation in Tasmania. Funding through the Office for Aboriginal and Torres Strait Islander Health will be allocated on the basis of priorities identified in the Regional Plan.</td>
<td></td>
</tr>
</tbody>
</table>

**Goods and Services Tax: Australian Competition and Consumer Commission Powers**

*Question No. 1562*

Mr Kelvin Thomson asked the Minister for Financial Services and Regulation, upon notice, on 29 May 2000:

What action can or will the Australian Competition and Consumer Commission (ACCC) take to address companies introducing charges for services which were previously not charged for in order to get around the ACCC’s GST price exploitation guidelines.

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

The ACCC has been given strong powers to prevent price exploitation in relation to the New Tax System changes. These powers have been strengthened further by the A New Tax System (Trade Practices Amendment) Act 2000 which prohibits suppliers from misleading consumers as to the impact of the tax changes on prices.

The ACCC’s pricing guidelines indicate that businesses should not increase their net dollar profit margins as a result of the New Tax System changes. This general rule includes cases where a price is charged for a good or service not previously charged for, and the price cannot be justified on the basis of the tax changes or other relevant factors.

Further, suppliers that introduce new charges for goods or services during the transition period should indicate clearly to consumers the bases for the new charges. Suppliers that mislead consumers by claiming falsely that new charges have been introduced as a result of the New Tax System may face substantial penalties of up to $10 million for corporations and $500 000 for individuals.

**Foreign Seafarers: Deserters**

*Question No. 1572*
Mr Martin Ferguson asked the Minister for Immigration and Multicultural Affairs, upon notice, on 29 May 2000:

1) For each year since 1990, how many seafarers have deserted their vessels in Australia and become unlawful non-citizens.

2) Is his Department able to say what was the (a) nationality and (b) the flag of the foreign vessel of each person referred to in part (1); if so, what are the details; if not, why not;

3) How many of the persons were located and of those, (a) how many sought to remain in Australia, (b) what was the basis of their application to remain in Australia, (c) how many were successful and (d) what was the cost of handling these unlawful persons.

4) What costs or penalties can be imposed on foreign vessels for the cost to taxpayers of tracking down and removal from Australia of unlawful seafarers.

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

1) This information is not readily available for this period of time. Crew who, when required to do so, fail to re-join the vessel on which they entered Australia, when that vessel departs Australia, are reported to the Department of Immigration and Multicultural Affairs (DIMA) by the Australian Customs Service (ACS). All such failures to re-join a ship are recorded by ACS and by DIMA but neither ACS nor DIMA record these occurrences in such a way as to enable the year-by-year information requested to be provided, other than by undertaking an extensive manual case-by-case analysis of past records. ACS has conducted such a case-by-case examination in response to this question and advises that there were 67 instances of persons failing to re-join their ship in the period 1 May 1999 to 17 June 2000.

2) (a) and (b) DIMA does not collect this information. However, ACS advises that the nationality and flag of the foreign vessels relating to the persons referred to in part (1), for the period 1 May 1999 to 17 June 2000 are:

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Flag</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bangladeshi</td>
<td>Panamanian</td>
</tr>
<tr>
<td>2 Bangladeshi</td>
<td>Kuwaiti</td>
</tr>
<tr>
<td>3 Bangladeshi</td>
<td>Kuwaiti</td>
</tr>
<tr>
<td>4 Bangladeshi</td>
<td>Kuwaiti</td>
</tr>
<tr>
<td>5 Bangladeshi</td>
<td>Liberia</td>
</tr>
<tr>
<td>6 Bangladeshi</td>
<td>Liberia</td>
</tr>
<tr>
<td>7 Bangladeshi</td>
<td>Liberia</td>
</tr>
<tr>
<td>8 Bangladeshi</td>
<td>Kuwaiti</td>
</tr>
<tr>
<td>9 Bangladeshi</td>
<td>Liberia</td>
</tr>
<tr>
<td>10 Bangladeshi</td>
<td>Kuwaiti</td>
</tr>
<tr>
<td>11 Bangladeshi</td>
<td>Hong Kong Chinese</td>
</tr>
<tr>
<td>12 Bangladeshi</td>
<td>Hong Kong Chinese</td>
</tr>
<tr>
<td>13 Bangladeshi</td>
<td>Liberia</td>
</tr>
<tr>
<td>14 Bulgarian</td>
<td>Panamanian</td>
</tr>
<tr>
<td>15 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>16 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>17 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>18 Egyptian</td>
<td>Thai</td>
</tr>
<tr>
<td>19 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>20 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>21 Egyptian</td>
<td>Egyptian</td>
</tr>
<tr>
<td>Nationality</td>
<td>Flag</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>22 Filipino</td>
<td>Panaman</td>
</tr>
<tr>
<td>23 Filipino</td>
<td>Danish</td>
</tr>
<tr>
<td>24 French</td>
<td>New Caledonian</td>
</tr>
<tr>
<td>25 Indian</td>
<td>Cypriot</td>
</tr>
<tr>
<td>26 Indian</td>
<td>Cypriot</td>
</tr>
<tr>
<td>27 Iranian</td>
<td>Iranian</td>
</tr>
<tr>
<td>28 Iranian</td>
<td>Iranian</td>
</tr>
<tr>
<td>29 Iranian</td>
<td>Turkey</td>
</tr>
<tr>
<td>30 Iranian</td>
<td>Turkey</td>
</tr>
<tr>
<td>31 Iranian</td>
<td>Iranian</td>
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<tr>
<td>32 Iranian</td>
<td>Iranian</td>
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<tr>
<td>33 Iranian</td>
<td>Iranian</td>
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<tr>
<td>34 Iranian</td>
<td>Iranian</td>
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<tr>
<td>35 Iranian</td>
<td>Iranian</td>
</tr>
<tr>
<td>36 Iranian</td>
<td>Iranian</td>
</tr>
<tr>
<td>37 Iranian</td>
<td>Iranian</td>
</tr>
<tr>
<td>38 Malaysian</td>
<td>Malaysia</td>
</tr>
<tr>
<td>39 Mayanmar</td>
<td>Bahamas</td>
</tr>
<tr>
<td>40 Mayanmar</td>
<td>Bahamas</td>
</tr>
<tr>
<td>41 Pakistani</td>
<td>St Vincent &amp; Grenadines</td>
</tr>
<tr>
<td>42 Pakistani</td>
<td>Bahamas</td>
</tr>
<tr>
<td>43 Pakistani</td>
<td>St Vincent &amp; Grenadines</td>
</tr>
<tr>
<td>44 Pakistani</td>
<td>British</td>
</tr>
<tr>
<td>45 PR Chinese</td>
<td>Singapore</td>
</tr>
<tr>
<td>46 PR Chinese</td>
<td>China</td>
</tr>
<tr>
<td>47 PR Chinese</td>
<td>Panaman</td>
</tr>
<tr>
<td>48 PR Chinese</td>
<td>Panaman</td>
</tr>
<tr>
<td>49 Romanian</td>
<td>Maltese</td>
</tr>
<tr>
<td>50 Romanian</td>
<td>Maltese</td>
</tr>
<tr>
<td>51 Romanian</td>
<td>Maltese</td>
</tr>
<tr>
<td>52 Romanian</td>
<td>Greece</td>
</tr>
<tr>
<td>53 Romanian</td>
<td>Greece</td>
</tr>
<tr>
<td>54 Romanian</td>
<td>Greece</td>
</tr>
<tr>
<td>55 Romanian</td>
<td>Greece</td>
</tr>
<tr>
<td>56 Romanian</td>
<td>Liberia</td>
</tr>
<tr>
<td>57 Romanian</td>
<td>Liberia</td>
</tr>
<tr>
<td>58 Sri Lankan</td>
<td>Liberia</td>
</tr>
<tr>
<td>59 Sri Lankan</td>
<td>Liberia</td>
</tr>
<tr>
<td>60 Sri Lankan</td>
<td>Panaman</td>
</tr>
<tr>
<td>61 Syrian</td>
<td>UAE</td>
</tr>
<tr>
<td>62 Tongan</td>
<td>Tongan</td>
</tr>
<tr>
<td>63 Turk</td>
<td>Turkey</td>
</tr>
</tbody>
</table>
(a), (b) and (c) DIMA databases do not allow for the reporting on the location of those persons referred to in parts (1) and (2) other than by a case-by-case examination. However, in the period 1 July 1996 to 31 May 2000, 185 persons were located and identified by DIMA as persons who had entered Australia as crew and who had remained unlawfully in Australia beyond the period of stay authorised by their visas. Of those, 91 applied for substantive visas to remain in Australia. The details of those persons’ applications as at 29 June 2000 were:

<table>
<thead>
<tr>
<th>Application type</th>
<th>Lodged</th>
<th>Granted</th>
<th>In progress</th>
<th>Refused</th>
<th>Withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent</td>
<td>1</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protection</td>
<td>78</td>
<td>19</td>
<td>12</td>
<td>42</td>
<td>5</td>
</tr>
<tr>
<td>Residence</td>
<td>8</td>
<td>5</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Skill</td>
<td>1</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spouse</td>
<td>12</td>
<td>4</td>
<td>7</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>100</td>
<td>28</td>
<td>21</td>
<td>46</td>
<td>5</td>
</tr>
</tbody>
</table>

Note: Eight persons lodged multiple applications.

(d) Individual costs are recorded only for detention and removal costs and for application assistance. The total detention and removal cost for these located persons was $777,028. The cost for the provision of application assistance under the Immigration Advice and Application Assistance Scheme (available only from 1 July 1999) to 31 May 2000 was $21,388.

(4) Section 213 of the Migration Act 1958 requires that carriers be liable for the costs of detention, removal and deportation of an unlawful non-citizen if that person fails to comply with section 166 (immigration clearance) or, on complying with section 166, is detained under section 189 as an unlawful non-citizen.

As members of crew, the majority of deserters enter Australia lawfully as Special Purpose Visa (SPV) holders and would not normally fail to comply with section 166. Accordingly, carriers are only liable for these penalties in respect of deserters who fail to comply with section 166 or are detained in immigration clearance (ie. before leaving the port).

To the extent that there are suggestions that penalties for carriers that bring unlawful non-citizens to Australia may be less comprehensive at seaports than at airports, I advised in the House’s Main Committee on 22 June 2000 that I would look into the matter. The penalties for carriers that bring to Australia non-citizens, who are not authorised to enter or who are not properly documented, are the same for sea carriers as they are for air carriers. It should be noted that deserters, by definition, travel to and enter Australia as ship’s crew lawfully covered by the special purpose visa arrangements.

**Colston, Former Senator: Medical Reports**

(Question No. 1573)

**Mr Murphy** asked the Attorney-General, upon notice, on 29 May 2000:

(1) Further to the answer to question No. 1154 (Hansard, 9 May 2000, page 15320), is he able to say whether the alleged travel expenditure by former Senator Colston is a matter in the public interest in that this matter involves the alleged expenditure of public monies.

(2) Is he able to say whether, for the purposes of the Information Privacy Principles contained in section 14 of the Privacy Act, (a) the alleged travel rorts by former Senator Colston is a matter going to the protection of public revenue and (b) Principle 11 affords him a statutory right to disclose information in relation to the protection of the public revenue.
(3) Is he able to say whether Principle 11 at sub-paragraph 1(e) provides him, as agent, the right to disclose the medical records of former Senator Colston; if not, why not.

(4) Will he disclose the names and reports of the two eminent and independent specialists as described in his letter to me (reference CRL 99/9723 and Min 195211), in light of his statutory powers to disclose this information under the Information Privacy Principles.

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

(1) The travel expenditure by any elected Member of Parliament involves the expenditure of public money and is a matter within the public interest.

(2) (a) Details of travel expenditure by elected Members of Parliament may raise issues concerning the protection of public revenue for the purposes of the Privacy Act 1988.

(b) Principle 11 (specifically, Information Privacy Principle 11.1(e)) allows a record keeper to disclose personal information where the disclosure is reasonably necessary for the protection of the public revenue. The starting point is that personal information should not be disclosed. Information Privacy Principle 11.1(e) does not compel disclosure of personal information. The issue in this case is whether disclosure is in fact reasonably necessary for the protection of the public revenue.

(3) Information Privacy Principle 11.1(e) allows for disclosure of personal information where disclosure is reasonably necessary for the protection of the public revenue, or the enforcement of the criminal law or of a law imposing a pecuniary penalty. Disclosure of the former Senator’s medical records, which contain sensitive personal information, is not reasonably necessary for the protection of the public revenue, or for the other matters referred to above.

(4) Information Privacy Principle 11 does not compel me to disclose the names and reports of the two eminent and independent medical specialists. I confirm my answer to question on notice number 1154. I consider that, as the medical reports contain very sensitive information, there is insufficient public interest to justify the release of the information.

Goods and Services Tax: Aviation Charges
(Question No. 1592)

Mr Martin Ferguson asked the Minister for Transport and Regional Services, upon notice, on 1 June 2000:

In relation to the new aviation charges to be applied by Airservices Australia from 1 July 2000, what percentage of the increases in (a) Terminal Navigation, (b) Aviation Rescue and Fire Fighting and (c) Enroute charges are attributable to the goods and services tax.

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

(a), (b) and (c) The average 2000/01 increase in prices by Airservices for Terminal Navigation, Aviation Rescue and Firefighting and Enroute services is 3.0% including GST.

The GST impact on each service is as follows:

- Terminal Navigation: + 9.49%
- Aviation Rescue & Firefighting Charges: + 9.24%
- Enroute Charges: + 9.66%

Under the previous tax system, Airservices was exempt from wholesales sales tax. With the introduction of the GST, Airservices has been unable to gain any savings from the replacement of wholesales sales tax and their price rises reflect this.

Airservices has however been able to offset these GST increases through the achievement of business efficiencies realising around 6.6% on average.

Charlton Electorate: Nursing Homes
(Question No. 1610)

Ms Hoare asked the Minister for Aged Care, upon notice, on 6 June 2000:

(1) On most recent data, how many nursing homes and aged person hostels are there within the electoral division of Charlton.
(2) On most recent data, how many nursing homes and aged person hostels are operated by (a) private companies and (b) church organisations in the electoral division of Charlton.

(3) What are the names of the (a) private companies and (b) church organisations operating nursing homes and aged person hostels in the electoral division of Charlton.

(4) How many spot checks have been carried out on nursing homes and aged person hostels in the electoral division of Charlton operated by (a) private companies and (b) church organisations in (i) 1999-2000, (ii) 1998-99, (iii) 1997-98 and (iv) 1996-97.

(5) What sum of Commonwealth funding did each nursing home and aged person hostel within the electoral division of Charlton receive in (a) 1999-2000, (b) 1998-99, (c) 1997-98 and (d) 1996-97.

(6) How many beds are there in each nursing home and aged person hostel.

(7) How many beds are being used in each nursing home and aged person hostel.

(8) How many beds were there in each nursing home and aged person hostel in (a) 1998-99, (b) 1997-98 and (c) 1996-97.

(9) How many persons are on waiting lists for each nursing home and aged person hostel.

(10) Were complaints concerning nursing homes and aged person hostels within the electoral division of Charlton lodged with the Aged Care Standard and Accreditation Agency in (a) 1999-2000, (b) 1998-99, (c) 1997-98 and (d) 1996-97; if so, (i) how many and (ii) how many spot checks resulted from the complaints in each year.

Mrs Bronwyn Bishop—The answer to the honourable member’s question is as follows:

For the Department of Health and Aged Care to provide the level of detail that is needed to answer some of these questions would require considerable time and resources. I am not prepared to require the Department to divert them from health and aged care priorities at this time.

(1) There are 22 aged care facilities within the electoral division of Charlton and as at 1 July 2000 the occupancy rate is 99.77%.

(2) See above

(3) See above

(4) As at 9 August 2000, there have been three spot checks in the Division.

(5) The sum of Commonwealth funding received by aged care facilities within the electoral division of Charlton for the period July 1996 to June 2000 is $126,702,159.

(6) See above

(7) See above

(8) See above

(9) See above

(10) See above

Prospect Electorate: Nursing Homes

(Question No. 1636)

Mrs Crosio asked the Minister for Aged Care, upon notice, on 19 June 2000:

(1) How many complaints were received by her Department in (a) 1996-97, (b) 1997-98, (c) 1998-99 and (d) 1999-2000 regarding nursing homes within the electoral division of Prospect.

(2) How many complaints were made against (a) Charlie Woodward Lodge, (b) Heiden Park Lodge, (c) Rosary Village Hostel, (d) Fairfield Nursing Home, (e) Villawood Nursing Home, (f) Merrylands Nursing Home, (g) Bossley Park Nursing Home and (h) Noyra Gardens Nursing Home in (i) 1996-97, (ii) 1997-98, (iii) 1998-99 and (iv) 1999-2000.

(3) What was the outcome of the complaints.

(4) How many complaints regarding (a) Charlie Woodward Lodge, (b) Heiden Park Lodge, (c) Rosary Village Hostel, (d) Fairfield Nursing Home, (e) Villawood Nursing Home, (f) Merrylands Nursing Home, (g) Bossley Park Nursing Home and (h) Noyra Gardens Nursing Home were received more than once by her Department.
(5) Does her Department perform spot checks on the nursing home after a nursing home receives accreditation; if not, why not.

Mrs Bronwyn Bishop—The answer to the honourable member’s question is as follows:
In accordance with advice provided to me:
(1 - 4) Under the Aged Care Act 1997 this is protected information.
(5) Yes.

Counselling and Guidance Services: Northern Territory
(Question No. 1661)

Mr McClelland asked the Minister for Health and Aged Care, upon notice, on 22 June 2000:
Further to his answer to question No. 1471 (Hansard, 19 June 2000, page 16437), does the Commonwealth provide any funding for the purpose or purposes of counselling and support services for indigenous Australians in the Northern Territory; if so, what sum is provided and how is that funding composed.

Dr Wooldridge—The answer to the honourable member’s question is as follows:
The provision of counselling and support services is primarily a State/Territory Government responsibility. However, through the Office for Aboriginal and Torres Strait Islander Health (OATSIH), the Department of Health and Aged Care provides funding for counselling and support services targeting Indigenous Australians in the Northern Territory within community controlled health organisations and other similar services.

$406 000 was provided in 1999-2000 for eight Bringing Them Home counsellor positions in the Northern Territory. In addition $513 243 was provided for two Social and Emotional Regional Training Centres, which, in the Northern Territory, also provide counselling and support services. The total funding provided through OATSIH specifically for counselling and support services in the Northern Territory in 1999/2000 was $919 243.

Through the National Mental Health Strategy, the Department of Health and Aged Care also provides funding for national services such as Lifeline and Kids Helpline – these services can be accessed by people in the Northern Territory.

Department of Communications, Information Technology and the Arts: Transactions
(Question No. 1680)

Mr Tanner asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 26 June 2000:
(1) How many individual transactions with individual members of the public were conducted by each agency in the Minister’s portfolio in (a) 1998-99 and (b) 1999-2000, and if available, what were the forecast figures for (c) 2000-01, (d) 2001-02, (e) 2002-03 and (f) 2003-04.
(2) What definition of transaction is used to determine these figures.
(3) What proportion of these transactions were or are expected to be conducted online.
(4) What was the total cost of administering these transactions for each agency in (a) 1998-99 and (b) 1999-2000 and what is the estimated cost for (c) 2000-01, (d) 2001-02, (e) 2002-03 and (f) 2003-04.
(5) What was the total cost of administering online transactions in (a) 1998-99 and (b) 1999-2000 and what is the estimated cost for (c) 2000-01, (d) 2001-02, (e) 2002-03 and (f) 2003-04.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:
(1)-(5) While it does deliver a range of Commonwealth grants, payments and incentive programs, the Communications, Information Technology and the Arts portfolio is primarily a provider of policy advice to the Government.

However, online delivery of service is a firm Government commitment and the Office for Government Online, (OGO) within the Department of Communications, Information Technology and
the Arts, is working with all Commonwealth agencies to have all appropriate services online by 2001. Networking the Nation (NTN), the Commonwealth’s Regional Telecommunications Infrastructure Fund, has also gone online.

The NTN Online system enables the grant application process, project management and project evaluation to be securely conducted online. Applicants are able to lodge supporting documentation and grantees are able to provide progress reports and claims for payment using the internet. The system also permits authorised external assessors to receive relevant applications and provide comments, and Board members to view and download applications prior to Board meetings, through the internet.

Sydney (Kingsford Smith) Airport: Aeronautical Charges
(Question No. 1697)

Mr Martin Ferguson asked the Minister for Finance and Administration, upon notice, on 27 June 2000:

In determining aeronautical charges at Sydney (Kingsford-Smith) Airport, should the value of existing land at the airport be considered; if so, on what basis should that value be determined; if not, why not.

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

Sydney Airports Corporation Ltd (SACL) is currently preparing a draft notification for consideration by the Australian Competition and Consumer Commission (ACCC) in relation to a new aeronautical pricing structure for Sydney (Kingsford-Smith) Airport. The pricing structure that SACL proposes to put in place has been designed to reflect to users the underlying costs of providing infrastructure and services at Sydney Airport, including the substantial opportunity cost of utilising prime land close to Sydney’s central business district. Until now these costs have been heavily subsidised by the Australian taxpayer resulting in a substantial benefit for airline customers. As shareholder the Government is committed to ensuring that it and ultimately the community achieves a full and fair return on the aeronautical assets, including land, it owns at Sydney Airport.

Private Health Insurance Rebate Scheme: Expected Cost
(Question No. 1701)

Dr Lawrence asked the Minister for Health and Aged Care, upon notice, on 27 June 2000:

(1) What is the total expected cost to Government of the 30% private health insurance rebate in 2000-2001, based on the number of persons with private health insurance at the end of June 2000.

(2) Is this expenditure in excess of the May 2000 budget projections; if so, by what sum.

(3) For those with private insurance, what is the actual cost per capita to the Government of the private health insurance rebate in 2000-2001 referred to in part (1).

(4) What percentage of those who had private health insurance at the end of June 2000 had (a) never previously had private health insurance, (b) private health insurance for less than 12 months, (c) private health insurance for less than 5 years and (d) private health insurance for five years or more.

(5) What is the average annual cost per person of private health insurance premiums as at the end of June 2000.

(6) What was the average per capita out-of-pocket gap for medical and hospital services for those with private health insurance as at the end of June 2000.

Dr Wooldridge—The answer to the honourable member’s question is as follows:

(1) The total cost of the 30% Rebate for 2000-01 was estimated to be $1,882 million for the 2000-01 Budget.

The Private Health Insurance Administration Council (PHIAC) has not yet produced the Quarterly Statistics showing Membership and Coverage for June 2000.

(2 to 4) See (1) above.

(5) The Private Health Insurance Administration Council has not yet produced the Quarterly Statistics showing the contributions received by funds for June 2000.
(6) As PHIAC and Medicare data is not yet available for June 2000, the average per capita out-of-pocket gap for medical and hospital services for those with private hospital cover is not yet able to be calculated for that period.

    The in-hospital medical gap for the March 2000 quarter was $21.05 per service and $152.10 per episode. These figures have been calculated using PHIAC and Medicare data.

    Although these data sources allow the medical gap to be calculated, as they do not collect the fee charged for hospital services they do not allow calculation of the hospital gap. The only data collection source which records the fee charged for hospital services, and thus permits calculation of the hospital gap, is the Hospital Casemix Protocol (HCP). However, the latest period for which complete HCP data is available is the 1997-98 financial year.

**Commonwealth Dental Health Program**

*(Question No. 1717)*

**Mr McClelland** asked the Minister for Health and Aged Care, upon notice, on 29 June 2000:

    What has been the consequence of the cessation of the Commonwealth Dental Health Program.

**Dr Wooldridge**—The answer to the honourable member’s question is as follows:

    With the cessation of the Commonwealth Dental Health Program, States and Territories continue to be fully responsible for public dental services within their jurisdictions.

**HMAS Sydney Inquiry: Implementation of Recommendations**

*(Question No. 1728)*

**Mr Stephen Smith** asked the Minister representing the Minister for Regional Services, Territories and Local Government, upon notice, on 29 June 2000:

    What progress has been made on implementing the recommendations of the inquiry by the Joint Standing Committee on Foreign Affairs, Defence and Trade into the loss of HMAS Sydney.

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

    The Government’s response to the Report of the Joint Standing Committee on Foreign Affairs, Defence and Trade on the loss of the HMAS Sydney was tabled in both the House of Representatives and the Senate on 29 June 2000.