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

**DEFENCE LEGISLATION AMENDMENT (ENHANCEMENT OF THE RESERVES AND MODERNISATION) BILL 2000**

First Reading

Bill presented by Mr Bruce Scott, and read a first time.

Second Reading

Mr BRUCE SCOTT (Maranoa—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) (9.31 a.m.)—I move:

That the bill be now read a second time.

The Australian Defence Force reserves make a vital contribution to Australia’s defence. Reserves constitute over 40 per cent of the Australian Defence Force and one-half of the Army’s combat force. They provide the nation’s mobilisation and expansion base. They are an essential link between the Defence Force and the Australian community.

The Defence Force relies on reserves for the effective conduct and sustainment of operations. This is highlighted by the significant contributions that reservists make to military operations. Thirteen officers and 200 other ranks served with the 6RAR group in East Timor; supported by 200 reservists on full-time service within Australia. 2,500 reservists supported the recent Olympic and Paralympic Games. Reservists currently serve in Bougainville and Butterworth and routinely support Defence Force operations overseas.

The legislation introduced today will see important changes to the Defence Act 1903, the Naval Defence Act 1910, the Air Force Act 1923 and the provisions of a new act to replace and repeal the current Defence (Re-establishment) Act 1965. The protection bill will protect and support reservists and their employers in their vital role in the defence of this nation.

The legislation will enable the call-out of reservists for peacekeeping, peace enforcement, humanitarian assistance, civil aid and disaster relief, as well as for warlike service and defence preparation. These historic changes will greatly enhance the contribution made by the reserves and will permit the Defence Force to operate in all circumstances as an integrated total force. We will have a more useable and effective reserve, making an important contribution to the generation, delivery and sustainment of defence capability.

The government does not intend to lightly or frequently call out the reserves. Call-out will be used only when it is necessary to draw on the particular capabilities and specialisations found in the reserves. The need for call-out changes has long been recognised and was identified in the government’s public discussion paper, ‘Defence Review’, in June 2000; by the report of the Joint Committee on Foreign Affairs, Defence and Trade into Australia’s participation in peacekeeping, December 1994; and by the Ready Reserve review undertaken by Lieutenant General John Coates and Dr Hugh Smith in June 1995.

The need for a code of protection for reservists was also identified by the government in the public discussion paper, in the Defence white paper of 1994, in the JCFADT report into peacekeeping, and in the Standish report of 1988.

At present, there is some measure of employment protection provided by the re-establishment act. However, the re-establishment act is very outmoded and requires review.

Members of the reserves have competing civil interests that can impact on their availability for training and operational service. While the nature and precise level of protection will vary depending on the service being provided by the member, a reasonable level of protection should always be available.

The legislation introduced today will significantly enhance the job and education protection available to a reservist. Without such protection, reservists and their families might be very severely disadvantaged by reserve service. It will lead to much higher numbers of reservists volunteering to com-
plete a tour of duty on full-time service in support of operations.

Under the new legislation, financial protections are to be made available to reservists after callout, while also safeguarding the interests of lenders and financiers. These protections include rescheduling of mortgage, loan and hire-purchase payments and interest; the postponement of execution, distress, and bankruptcy procedures; the restriction of partnership dissolutions; and, on completion of full-time service, provision of an entitlement for re-establishment loans.

The government fully acknowledges the vital contribution made by employers of reservists. In Australia’s increasingly competitive economic climate, many employers who have been traditional supporters of the reserves find it difficult or inconvenient to release reservists for training or service. In recognition of this, the legislation will authorise the Minister for Defence to make determinations for the payment of compensation, incentives or benefits to employers, business and professional partners arising from a member’s absence on defence service.

As with the re-establishment act, various forms of unacceptable conduct towards reservists will be prohibited under the protection act. It will be an offence to dismiss or discriminate or refuse to employ a person on the basis that they are a reservist. Whilst the proposed protection act will provide for enforcement in appropriate cases, it is expected that mediation and conciliation with employers in the vast majority of cases will resolve any problems.

Under the present legislation, the services are divided into permanent, emergency and reserve forces, which cause significant inefficiencies and a great deal of unnecessary administrative complexity. The present system is to be replaced by a unified reserve component in each service administered under a single system.

The legislation implements recommendations of the Joint Committee on Foreign Affairs, Defence and Trade report into the Australian Defence Force Reserves (1991) and the 1994 white paper that the structure and types of service available within the reserves be streamlined and standardised. Defence will undertake the necessary steps over the next twelve months to achieve this major revamping and upgrade of the existing reserve personnel management system.

The legislation contains a number of other important initiatives. Defence will be empowered to offer flexible packages of defence service to prospective recruits and re-enlistees. The new flexible personnel management system will assist recruiting and retention in the permanent forces and reserves and will ensure that the community gains the maximum possible benefit from the professional, highly trained members of the Defence Force.

After the passage of this legislation, the reserve of the future will be very different from the reserve that we have known in the past. It will be an important contributor to defence capability. It will be a relevant and credible component of Australia’s total defence force. The two bills effect very important enhancements to the Australian Defence Force and particularly to its reserves. I commend the bills to the House and present the explanatory memoranda.

Debate (on motion by Mr Laurie Ferguson) adjourned.

DEFENCE RESERVE SERVICE (PROTECTION) BILL 2000
First Reading
Bill presented by Mr Bruce Scott, and read a first time.

Second Reading
Motion (by Mr Bruce Scott) proposed:
That the bill be now read a second time.
Debate (on motion by Mr Laurie Ferguson) adjourned.

EDUCATION SERVICES FOR OVERSEAS STUDENTS BILL 2000
Cognate bills:
EDUCATION SERVICES FOR OVERSEAS STUDENTS (ASSURANCE FUND CONTRIBUTIONS) BILL 2000
EDUCATION SERVICES FOR OVERSEAS STUDENTS
Thursday, 9 November 2000

REGISTRATION CHARGES
AMENDMENT BILL 2000
EDUCATION SERVICES FOR OVERSEAS STUDENTS
(CONSEQUENTIAL AND TRANSITIONAL) BILL 2000
MIGRATION LEGISLATION AMENDMENT (OVERSEAS STUDENTS) BILL 2000

Second Reading

Debate resumed from 8 November, on motion by Dr Kemp:

That the bill be now read a second time.

upon which Mr Lee moved by way of amendment:

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

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

(1) notes:

(a) the cultural and economic value to Australia of its $3 billion a year education export industry;

(b) the numerous problems in this industry identified by the Opposition, including dishonest providers, lack of financial integrity in certain sections of the industry, and lack of protection for students against provider collapse;

(c) that this Bill does not adequately address the identified problems; and

(2) condemns the Government for failing to act on these matters for the last two years”.

Mr SPEAKER—Before the debate on this bill is resumed, I remind the House that it has been agreed that a general debate be allowed covering this bill and orders of the day Nos 2 to 5.

Mr IAN MACFARLANE (Groom) (9.42 a.m.)—As I said last night in the chamber in this cognate debate on the Education Services for Overseas Students Bill 2000 and other bills concerning education for overseas students, a great deal of demand is placed upon Australia’s authorities to allow students to come to this country to be educated. Australia is a country which attracts a great deal of enthusiastic interest from overseas students and, as I mentioned last night, offers these students institutions of great integrity and professionalism, none more so than the University of Southern Queensland.

However, a Department of Education, Training and Youth Affairs review process has identified a number of regulatory weaknesses in the legislation covering migration for education purposes to Australia and temporary stay visas for education in Australia. These weaknesses include the voluntary nature of many of the responsibilities of providers, such as reporting on student non-attendance, which has made it difficult to monitor breaches of the students’ conditions and visas. As a result, the proposed legislative changes have been put forward. These include compulsory membership of and risk assessed contributions to an assurance fund for all providers in order to secure funds to pay for student tuition in cases of provider collapse. This is to help and assist in areas where previous speakers have quite rightly identified shonky providers who attract students here and then fail to deliver. That is an important positive step. It assists in ensuring that only good operators are involved in the industry. When we have such excellent university and tertiary education facilities attracting overseas students on student visas, it is important that we put in place a mechanism to ensure that the integrity and good name of these education facilities is not tarnished by the wilful acts of others.

Increased reporting obligations on providers in relation to disclosure of provider activities such as previous breaches, breaches of associates and student breaches will also ensure that some areas where we have seen gaping gaps and some less than desirable functioning of the legislation will be tidied up. A compulsory national code to be followed by states and territories will include standards and benchmarks for the registration of providers and their courses. Compulsory compliance with new sanctions for being in breach of both the act and the national code will also be put in place. In addition, new Commonwealth powers are planned that allow for the investigation of providers, the imposition of sanctions and the removal of non bona fide operators. Again, this is a very positive step under this legislation to ensure that this ballooning area of export income, so
to speak, is tightened up so that there is a sustainable industry for Australia. As I said last night, we have seen a threefold increase in the number of students coming into this country and a huge amount of money is now being earned from this very important industry. As I said, the importance of education in my area cannot be underrated. We certainly welcome, as does USQ, legislation that will tighten up the industry and allow the fair dinkum providers of tertiary overseas education to do their job without the fly-by-nighters disrupting the industry and bringing it into disrepute.

These new provisions that the Commonwealth has put in place, such as sanctions and the power to investigate, will allow the minister to suspend the certificate of registration of a provider. The issue of production and attendance notices by the secretary to the department to providers will also be tightened up. This will make information documents available to allow better monitoring of the situation. Monitoring powers will be given to authorised DETYA employees which will enable them to enter premises to search, examine, take photos and extracts, secure documents and ask questions for monitoring purposes. I know that some of the education providers see this as a little draconian but the reality is that, unless these powers are put in place, there simply will not be rigour to the legislation. I think these are the basic fundamentals that will ensure this legislation works. Of course, this can be done with or without the consent of the provider through the issue of a search warrant.

Other identified shortcomings are also being addressed through administrative changes. The misuse of current paper based confirmation of enrolments, or CoEs, a requirement for visa eligibility, is to be reduced with the development of an electronic system, which is obviously going to be far easier to monitor. In the second stage of its development, the database will enable the tracking of student progress and provider enrolments, providing the regulatory agencies with a far better picture of the situation, with better information that will enable them to detect visa breaches far more quickly. The regulation of education providers with the introduction of the original ESOS Act in 1991, and the tightening up of visa eligibility criteria at the time, marked a change in the policy balance which has, arguably, favoured the development of Australia’s export education industry at the risk of our immigration program. The sensitivity of some providers to the changes we are talking about is a clear indication of that. But we make no apology for that. After all, the integrity of our immigration system is a cornerstone of Australia’s society and, while we are keen to facilitate the expansion of the education industry, we as a government will not compromise our stand on ensuring that Australia’s immigration standards are maintained.

Australia will continue to be a highly sought destination for students from overseas. In putting in place these modifications, which to date have had the support of speakers from both sides of the chamber, it is important that these changes are to the benefit of both the country and the education providers. The education of overseas students offers us the opportunity of an extra window into potential markets to build not only diplomatic relationships but also personal relationships with our near neighbours; in fact, with any neighbours. It seems obvious to me that this legislation is in the interests of all stakeholders in the regulatory framework. The education industry, the students and the regulators are likely to be well served by the development of a quality export education industry that attracts bona fide overseas students without threatening the integrity of the Australian immigration program. However, there are also likely to be ongoing tensions between the education policy objectives of attracting fee paying students and the immigration policy objectives of minimising the risk of illegal immigration through tougher student monitoring. That is a balance that we will need to manage, but it is also a balance that we need to get very right. This legislation will be a very positive step towards reducing these tensions and will produce better outcomes for all involved. I commend the legislation to the House.

Mr Murphy (Lowe) (9.51 a.m.)—The Migration Legislation Amendment (Overseas Students) Bill 2000 and the four related bills
that we are debating have the common theme of regulating the overseas education industry. The issue is one that is directly relevant to my electorate of Lowe. I have made the point in this House on several occasions that my electorate of Lowe is one of the most ethnically diverse electorates in Australia, with some 21 distinct ethnic communities. With this comes a very high number of migration matters. One very recent matter raised and with which my electorate office has had to contend in the last week was of a most grave and serious nature. For obvious reasons of privilege and safety, I cannot permit names to be recorded in Hansard. However, it is timely to refer to these matters in general terms because they are directly relevant to today’s debate.

This matter demonstrates the extent to which this government has permitted the student visa system to degenerate into wholesale corruption. This matter involves confidential declarations which contain strong prima facie evidence—evidence which I have personally sighted—which indicates a systematic corruption of certain officers within the Commonwealth Public Service itself. These include officers and systems involving personnel in relevant government agencies, acting either alone or in collusion with outside persons, including migration agencies, travel agencies and registered education houses. I will be passing all my information today to Mr Pat Barrett, the Auditor-General, who is directly accountable to parliament. It is important to note not only the degree to which corruption has infiltrated the migration industry but the extent to which such corruption has infiltrated the Public Service as well. As I understand it, such matters are now in the hands of some people in the department and inquiries are under way. This situation could not have occurred if provisions were in place to deal with such circumstances.

I am most distressed by the genre of these bills. Yes, a perusal of the bills demonstrates a significant toughening of powers in the hands of the Minister for Immigration and Multicultural Affairs. Yes, there are now substantive new provisions which may meet punitive measures against defenders. But what we have here is something far worse than the mere enabling of provisions. To have an effective immigration policy and criminal code of which immigration law in part constitutes, you must have the capacity to prosecute such policies—that is, there has to be the physical ability to prosecute those responsible. Who watches the watchdog?

The watchdog is in collusion with the wrongdoer. I am not saying that all elements of DIMA and other government agencies are on the take. However, I have before me sufficient information, which is now the subject of investigation, that establishes a strong nexus between the conduct of certain elements of mainstream government agency activity and precisely the kind of conduct this legislation seeks to redress.

It is important to remind ourselves of some basic criminal psychology. I ask every member of this House: is punishment a deterrent? Deterrence is cited as a policy rationale for criminal law. But speak to criminal law practitioners, psychiatrists and psychologists and their common answer is that criminal offenders rarely, if ever, consider the weighted consequences of their actions before they act. Most act out of desperation, heat of passion or stupidity. Obtaining entry to Australia is now a life and death matter. There are some people from all corners of the world who are prepared to risk their lives entering Australia illegally. They are prepared to be ferried into Australian waters on non-seaworthy boats and face three years of effective imprisonment, at their own expense, just so they may be eligible to start afresh. The punitive measures in these bills are not going to deter the education rorters and the schemes at play. We are speaking of organised drug rings, prostitution rackets and visa bribery schemes, some of which operate within our own Australian posts, that outprice and outweigh any punitive measures being recommended here. In short, these measures are both late and insufficient.

Until my election as federal member for Lowe in 1998, I had little knowledge of the extent of the parlous state of affairs in the management of the government agencies responsible for the administration of our offshore and onshore migration program. In
these circumstances, the only recourse for us, as parliamentarians, is to vigilantly enforce the spirit of the legislation. A criminal code is only as good as those whose duty it is to enforce such laws. If you have a corrupt police force, you have corrupt law enforcement. It is not the law itself that is in error; it is those responsible for that enforcement that have failed the public interest. The purpose of my speech today is, therefore, to send a clear message to those who would seek to profit by their conduct in acting against their statutory and administrative responsibilities.

What is this message? The message is: if you are conducting an illegal operation or acting or collaborating with persons known to be acting against the law, you will be found and you will be prosecuted.

I find it most interesting to note that it is a marked trend of legislation that the more punitive a law becomes, the less effective it becomes in practice. Why is this the case? Punitive laws are less effective because the purpose of the law is forgotten. The purpose of law is to prescribe minimum standards of conduct, not maximum. Criminal law says: so long as you maintain a minimum prescribed standard of conduct, you are acting legally and, therefore, morally. However, what we have here is criminality way beyond the scope of this legislation. The criminality lies in a fundamental deception by many parties—the student visa applicant, the education providers and, in certain cases, public servants. The result of this dishonesty is that it is not a simple case of increasing punitive measures in a bid to stem the tide of illegal entrants through the student visa program. In order to successfully prosecute immigration law offenders, you must have the means to do so. What are those means? There are two primary issues that strike at the heart of the government’s failure to enable the means of prosecuting the policies. First, there is the decrease in DIMA staffing levels across the board, including their investigation and departmental intelligence units; second, there is the basic training in ethics and screening of persons considered trustworthy for the task of remaining steadfast to their moral convictions at the critical moment of enforcing the migration law and not falling prey to temptation to commit a criminal offence.

I remind this House this morning that we are further dealing with alternative moral codes. There are some in the international community who view Australia as a country for the taking: we are here to be exploited, to be used at their will. These are people who hold our laws and way of life in contempt. They choose only to exploit our way of life and the benefits that taxpayers have worked so hard for in building a high quality tertiary education infrastructure that has made education the fourth largest revenue earning exporter in Australia. It therefore means nothing to people who hold such attitudes of contempt to commit any number of criminal offences and exploit the delicately balanced economy that finances this education infrastructure.

Yet again this government has put before us this morning a range of bills that superficially seek to do much but, in reality, do little. We, as parliamentarians, must remind not only both education and migration industry operatives that they are being watched but also those in the various government agencies. This may sound intimidating; it is intimidating. It is intimidating because of the consequences of what is happening in Australia. Second to outright illegal entry into Australia, education rorts must rank alongside this practice as the most pressing abuse of our migration program.

What then is the paramount consideration in this issue? Predictably, the paramount consideration is about money, that is, money to the government. The decisions that must be made appear to be beyond the capacity of this government, which lacks the political will to make the changes necessary to fix the widespread education rorting. The changes that must be made are both expensive to the public revenue and will have an impact on Australia’s export earning revenue. From the public revenue perspective, there must be an increase in the quantity and quality of intelligence and investigations personnel. Their current complement is grossly understaffed to cope with the scale of the problem being faced within and without the DIMA and its Australian immigration posts abroad.

From the export earning capacity perspective, the conflict of interest lies in the
relationship of the government as a revenue earner from selling education to our export market. The problem is that the Commonwealth profits from this activity, whether or not the sale of education abroad is for licit or illicit purposes. In short, the Commonwealth is too close to the action to distance itself from making probative decisions in the public interest. That is why this matter must properly be raised in this House, not only in debate on the bills before us today but in bringing to light immigration breaches where it is clear that even the government agencies and individuals charged with responsibility to act lack the political and administrative will to exercise due diligence in the performance of their duties.

I refer to the explanatory memorandum to the Migration Legislation Amendment (Overseas Students) Bill 2000, circulated by authority of the Minister for Immigration and Multicultural Affairs. The minister notes that one of the overall objectives of this bill is ‘to provide a positive basis for promoting Australia’s international reputation as a provider of reliable, high quality education and training’. Australia’s reputation as an education provider is being tarnished by these operations on two levels. The first is the level of education itself—at times a mere front, and at other times non-existent. The second level of reputation loss is that Australia is seen as a soft touch, a country with lax enforcement of its codes.

Law means nothing if it only sits on the face of pages. Enforcement must not only be done but manifestly must be seen to be done. A large measure of the reason why matters are so out of hand is that the law, whilst formidable on paper, means nothing in practice. There is simply a reluctance by this government to prosecute its own laws. I refer to the Director of Public Prosecutions’ attitude towards former Senator Malcolm Arthur Colston, Minister Reith and the radiologists MRI scan scam affair. All the prosecution policies, criminal codes and punitive punishment provisions in the world cannot seem to bring justice to bear. Yesterday I spoke about this in the House, particularly in relation to the Colston scandal. I said that liberalism lies at the heart of this government’s attitude to law making by taking the least line of resistance—that is, making law that attracts the least amount of resistance from a public morality perspective.

The conduct of the Director of Public Prosecutions in the management of the Colston matter is further testimony that this government has created the soft touch reputation that now plagues Australia. Education system racketeers, public office holders and failed entrepreneurs like Christopher Skase believe they can abuse Australia with impunity. They think they can afford to take the risk in acting illegally without fear of real prosecution or that, at worst, they will receive a slap on the wrist. It is for this reason that these schemes have been allowed not only to prevail but also to prosper for so long. The DPP’s management of the Colston affair and the government’s contempt and lethargy over the Minister Reith telecard scandal all conspire to send one clear message to the outside world—that Australia is indeed a soft touch.

The government makes changes to bills such as the ones before us this morning which do not bring wrongdoers to justice. This government lives in a world of make-believe. It believes that these punitive measures will be sufficient to stave off the rush of education racketeers from doing anything they can to enter Australia. This government is utterly naive in believing that these measures are sufficient disincentive against offshore and onshore operatives. This government clearly needs to be reminded that such student visa applicants come from foreign regimes where torture, random execution, brutal religious and ideological regimes of terror, ongoing wars and other atrocities are a daily occurrence. This government believes that these measures are a true deterrent against such bloody and flagrant abuses of human rights. People are prepared to die coming to Australia and to commit any level of breaches of our immigration law to do so. It will take much more than the provisions here today to deter the flood of illegal immigration that Australia has fallen victim to. When the Australian government demonstrates its soft touch approach on Colston, Reith and the radiologists MRI scan scam, it
tells the world what our values and priorities are. We are very much, on the absolute scale of justice, seen as a soft touch.

We are supposed to sit here being impressed with these amendments this morning. However, I know that those who are actively engaged will not blink an eyelid at these changes today. I fear that the amendments will give more power to the Commonwealth but not affect the ability to prosecute those powers. This is a commonplace occurrence in contemporary statutory drafting where the imperative is making financial cost efficiencies at the expense of making good the ability to enforce the public interest. Ultimately it is the public interest that loses, placing further burdens on parliamentarians, who must respond to an increasing number of most alarming complaints and well-founded allegations of high-level corruption from both within and without our Commonwealth public sector which administers the migration program.

For where else can the public turn but to us? Who watches the watchdog, as I said earlier? We in this parliament are the last line of defence in the trench warfare that is part of this ugly battle. We must be brave to say that DIMA is grossly underfunded to fight this war. One clear example is the lack of legislative provision for an ‘adequate, fit and proper person’ test for proprietors and principal executive officers of international education providers seeking registration. It could be argued by the government that the new criminal sanction national code of practice replaces a self-regulating aspect of the current voluntary ministerial council code of practice. Superficially this may be so, but we are still left with the practical issue of a capacity to enforce. As with a police force, you can only dispense justice with the resources available to you. If the ‘police’ are physically not there, then you are limited by your resources. The problem in education migration is far larger than the allocated resources can cope with. This matter is not adequately addressed in the legislation and must be addressed. Again the critical areas of funding most affecting the financial impact of these bills are conveniently forgotten, precisely on the economic grounds that to accommodate such provisions is both costly and time consuming. This government is more concerned about raising export revenue than it is with truly stamping out the inherent corruption that has been allowed to breed and grow. The opposition has foreshadowed amendments in the Senate to deal with the many examples I have given of the tardiness and shortcomings inherent in these bills. I support the bills with the amendments to be moved as tabled in the Senate.

While ever I am in this chamber, I am going to stand up for the public interest. Quite plainly, Australia is haemorrhaging. Australians are sick and tired of all the rorting and of those in privileged positions being able to get away with murder. I myself at times have felt threatened. Yesterday, I was talking in relation to the Colston matter. I made reference to the fact that former Senator Colston’s wife had telephoned my office here in Parliament House and had intimidated my staffer, Ms Susan Sheather. I stand by that. I had several members of the media ringing me yesterday about that speech, because there is a loss of public confidence in relation to that matter. I stand by what I said yesterday—that Mrs Dawn Colston will not stop me from asking questions that I have been pursuing in this House since February of this year to bring this matter to justice. As far as I am concerned, the spotlight is firmly on the Director of Public Prosecutions. It is not on former Senator Mal Colston; it is on the DPP, because quite plainly something should be done to have former Senator Colston reassessed medically. If Senator Colston is ill, he should not be allowed to—

Mr DEPUTY SPEAKER (Mr Quick)—Order! I would ask the honourable member to come back to the bill in hand.

Mr MURPHY—It is relevant because, as I am saying, there is a loss of confidence out there. When there are so many scandals and rorts going on, if we here in the parliament cannot talk about them and put some pressure on those who are responsible—as in this migration program, with the rorting in relation to visas that is currently going on and the illegal entry of some people who are coming into this country—I do not know
who else can do anything about it. We have got to stand up because that is what we are paid to do and that is what people expect. It is obvious from what you read in the newspapers and what you see through the images on the television screen every night on the news that out there in voter land there is a complete loss of confidence in members of parliament. If we do not defend the public interest, who can? If protecting Commonwealth revenue is not in the public interest, I do not know what it is.

I conclude where I began, by foreshadowing that I support the bills with the amendments that will be moved and tabled in the Senate.

Mrs MA Y (McPherson) (10.11 a.m.)—I am really quite surprised at the member for Lowe’s comments. I do not really know what they had to do with the overseas student bills that we are discussing. Overseas student enrolment in educational institutions is of great benefit to Australia, both financially and culturally. The education export industry deserves to be nurtured by the government to ensure its continued success, and that is exactly what this package of legislation is designed to do. The government has introduced the Education Services for Overseas Students Bill 2000 and the associated bills to provide a better regulatory framework for the education and training export industry. These bills have been designed to address problems that have been identified in the industry. Such problems include abuse of the student visa program, ripping overseas students off, defrauding Australian taxpayers and destroying the reputation of this valuable export sector. The ESOS 2000 package of bills will ensure that our international reputation as a high quality, reputable education provider is protected. The package brings together the best of our education and immigration experience to ensure that overseas students studying in Australia have a high quality experience and that the public continues to have confidence in the student visa program.

There is no doubting the importance of the education export industry to our economy. It is worth about $3.7 billion a year, making it our fifth largest export industry, and the industry is continuing to grow at an impressive rate. In the last nine years, the number of overseas students choosing to study in Australia has tripled from 50,000 in 1990 to 150,000 last year. This year the numbers have swelled further to 180,000. The recent report, Students 2000: selected higher education student statistics, confirmed that education continues to be one of our major export earners. The report found that there had been a 30 per cent growth in university enrolments by overseas students in the last two years alone. In the higher education sector as a whole, we have experienced an 80 per cent increase in student numbers since 1996. Indeed, my own electorate of McPherson and the Gold Coast generally benefit significantly from overseas students. Both Bond University and Griffith University rely on international students to yield valuable revenue and for the cross-fertilisation of cultures that the internationalisation of education offers. The Gold Coast welcomes overseas students so much that we are planning to up the number of international student enrolments in state schools by 30 per cent next year and a further 30 per cent in 2002. This will take full fee paying international student enrolments in Queensland state schools to over 700 by the start of 2002 and more than 1,000 by 2003. Unlike some of the members opposite, including the member for Lowe, even the Beattie government recognises the value of such programs. In fact, just last week the Queensland education minister stated that the program would bring immediate economic benefits to the state and more jobs for teachers and support staff.

Mr Swan—they are doing a good job, are they?

Mrs MA Y—We all know that when a Labor government supports such programs the positives must be as plain as the nose on your face. You would agree, wouldn’t you?

Mr Swan—Absolutely.

Mrs MA Y—In order to keep up with this sort of increasing demand, the number of education providers has risen, as has the reliance that the public sector places on overseas students as a source of revenue. For example, in the higher education sector, where 50 per cent of overseas students are enrolled, fee paying overseas students now contribute 8.3
per cent of revenue, and we all know that fee paying students allow education providers to increase the amount of money available to them, which means they can provide better facilities and a better quality of education to all students. So it is clear that it is in Australia’s interest to ensure that the public confidence in integrity in the sector is maintained in order to ensure its continued success.

In order to meet the new challenges that have emerged as the industry has matured, we have developed a more effective framework, as outlined in the principal bill, the Education Services for Overseas Students Bill 2000. This bill replaces the old ESOS Act introduced in 1991 which, although it improved industry responsibility and student protection, does not sufficiently meet today’s challenges. The ESOS Bill 2000 builds on the strength of the old ESOS Act, but it also introduces new measures to make the providers of education more accountable for their own industry. As usual, the government has completed a lengthy consultation process. The measures the government has proposed in this bill are a response to strong industry lobbying for a more proactive role towards strengthening the integrity of the industry. The legitimate education providers agree that the current regulatory framework is deficient and needs to be changed. Although the Labor Party have attempted to exploit the dubious behaviour of a small number of providers for political gain, they have dumped the whole issue in the too-hard basket. The Howard government is the only one with a plan for the international education industry, and it is an effective plan.

Essentially, this bill and the wider package of legislation achieve two main goals. They will reduce the continuing abuse of student visas by non bona fide students and unscrupulous providers and will give students greater financial protection in relation to prepaid course fees. The legislation builds on the Howard government’s record of success in catching the cheats in the system. The cancellation rate for breaches of student visa conditions jumped by 19 per cent in 1998-99 and by 36 per cent for 1999-2000. The current bills will make sure that the places being allocated through student visas are not being taken by non bona fide students who intend to use them as an immigration loophole.

The ESOS Bill 2000 proposes a number of major changes that will improve the system dramatically. I would like to go through those for the benefit of those opposite. Firstly, the bills compel private education providers to belong to an assurance fund. The fund aims to eliminate altogether the risk of students losing their prepaid course fees if their provider goes under. Although the original ESOS Act lessened the risk of students being left high and dry if their provider collapsed, this assurance fund goes even further. At the moment, education providers can deposit prepaid course fees into a notified trust account. However, they are able to progressively draw on them, especially when they are having financial problems. The current system is open to abuse because it depends on individual provider honesty. In the event that a provider does collapse, we often find that the trust account has been drained, leaving the Australian taxpayer to foot the bill. The new assurance fund will avoid these problems because it will be controlled by an independent fund manager at arm’s length from individual providers. It will ensure that overseas students who have paid for a course have access to another suitable course or a refund of their fees if their provider collapses. The new system will give overseas students a fair go and will take the burden off taxpayers. The industry will also be a winner, as it will be viewed with greater confidence by its prospective clients. It is entirely appropriate to expect education providers to share in the costs associated with cleaning up their backyard and protecting their reputation.

The ESOS Bill 2000 also establishes a national code which provides legally enforceable standards that education providers must meet. The new national code will go a long way towards cutting out the misleading and deceptive conduct that some dodgy providers engage in. There will be a consistent quality assurance regime across Australia, and if providers are not meeting their obligations then the state and territory governments will not be able to register them again. It is a relatively simple, commonsense measure that
will go a long way towards weeding out the bad apples in the industry.

The new secure electronic confirmation of enrolment system set up by this bill will in itself largely close the door on forgery and fraud. The system will require providers to electronically report details about their students. It will track student progress from application for enrolment to arrival in Australia, course attendance, completion and departure. These details can then be crossmatched with other government departments such as Immigration to ensure that these students are consistently meeting the conditions of their visa throughout the duration of their stay in our country. The electronic confirmation of enrolment system is highly sophisticated and is secured with encryption that is infinitely safer and more reliable than the current paper based system. The new electronic system is state of the art and we are ahead of even the United States in implementing the technology. These sorts of information sharing provisions will catch the fraudsters who are colluding with non-genuine students or who assist students to breach their visa conditions. It will keep an eye out for the minority of students who are abusing their visa conditions by working more hours than permitted or by abandoning their studies.

This technology is a much needed weapon in our armoury against those providers who seem more intent on helping students breach their visa than on delivering education services. By obliging providers to report students who are not attending classes or who are failing to meet their course requirements, it will make it much easier to catch the providers who are using low cost and lower quality education as a cover for working in Australia. This system, combined with the provisions in the Migration Legislation Amendment Bill 2000, will trigger an automatic cancellation of the student’s visa, and this is how the Australian people would expect the government to deal with deceptive fraudsters.

The government’s ESOS Bill 2000 also goes a step further and creates new offences and vital new Commonwealth powers to investigate, impose sanctions and remove corrupt providers from the industry. It is unbelievable that, under the Labor Party’s original ESOS Bill 1991, it was not an offence to be a bogus provider. It was not an offence to fail to provide genuine courses to students and, in doing so, intentionally facilitate visa breaches. As usual, it is up to the coalition to clean up the Labor Party’s mess. It is up to us to restore accountability and public faith in the system, so this bill stipulates a range of practices that are clearly wrong. Thanks to the Howard government, under this bill it is an offence if a provider fails to report breaches of student visas. It is an offence not to keep records of enrolments. It is an offence to provide false or misleading information about a student and it is an offence to provide incorrect information to the fund manager to lessen the payments a provider is required to make.

This bill also gives effect to an emergency power for the Minister for Immigration and Multicultural Affairs to suspend visa grants to students enrolled with a particular provider who has breached the above conditions for a period of six months. This enables the government to act quickly to protect the integrity of our valuable education export industry. I am pleased to say that the industry has given its strong support to this measure. This is a demonstration of how well the Howard government has balanced the often competing expectations of providers and those of the Australian people.

To ensure that the industry is up to scratch, the bill gives the Commonwealth government a more proactive role in the registration and regulation of the education export industry. Although the states will still have primary responsibility for overseeing the education providers which they approve, the Department of Education, Training and Youth Affairs will be able to investigate breaches of the act and of the national code if the states fail to act quickly enough. It is a double-check that will guarantee that only high calibre providers are given the privilege of operating in this valuable industry. The Commonwealth’s involvement will add to the costs but it will be the providers, not the taxpayers, who pick up the bulk of this bill. That is more than fair, considering that the
measures introduced will clean up the industry’s backyard by ridding it of crooks, thus resulting in a better international education sector.

There is no doubt that the package of ESOS bills 2000 serves the interests of all stakeholders in the education export industry. It is good news for legitimate overseas students, legitimate education providers, the taxpayers of this country and Australia’s international reputation as a first-class study destination. Thanks to the Howard government, the Australian people will be able to have confidence that we run a quality export education industry which attracts genuine overseas students, without threatening the integrity of Australia’s immigration program. It is an ideal situation and one which only this government has had the tenacity to deliver. The package of ESOS bills 2000 heralds a new era in cooperation between the education and immigration departments. By interlinking these two regulatory regimes, I am confident we will see results.

Let me make it clear: we want international students to come to study in Australia. We encourage them to do so. Culturally and financially, they deliver enormous benefits to our universities, high schools and private education providers. However, if the regulations which govern the student visa program are too lax, the industry is in danger of being hijacked by fraudulent elements. The result will be that bona fide students get shut out, Australia will not receive the benefits and the public will rightly lose faith in the entire system. It is clear that the education export industry is a vital and lucrative sector of our economy. The reputation of any industry that generates $3.7 billion a year should be of concern to the government and, indeed, any alternative government. But yet again we discover that on another important issue the Labor Party has no plan, no policies and no platform. It is disappointing but not surprising. I am sure that the industry itself and all Australians concerned with the future of this nation will support the ESOS bills 2000 and reward this government’s commitment to one of our major export earners. I commend this package of bills to the House.

Mr ALLAN MORRIS (Newcastle) (10.28 a.m.)—I stand back in absolute amazement that a person who has been in this place five minutes is somehow lecturing those on this side of the House who have been trying for years and years to get this government moving on this. The previous speaker was not here in 1991, when the current government opposed regulation, as it does on every single issue. It actually wants industry to regulate itself, and we hear that over and over and we see the results of that and the failure of that almost daily. The fact is that the mantra of ‘more with less’ has now become entrenched in the coalition ranks and in government practices and the damage it is doing across a range of industries and sectors is no more graphically shown than with this one.

There are a number of cases of ‘more with less’ here. Firstly, give less money to universities and give them more students—somehow this is going to improve education. The universities responded in an intelligent, sensible way: they absorbed more and more overseas students, so they raised their money elsewhere. We now have the Minister for Education, Training and Youth Affairs in here boasting weekly about how much money universities are spending; he does not say how much of it is coming from overseas students. So ‘more with less’ has in fact distorted quite graphically many of the figures. ‘More with less’—cut Department of Immigration and Multicultural Affairs funding and have it process more visas, which means that the visas do not get processed as quickly, as accurately or as thoroughly. We see cases of that from all over the world and we deal with such cases every day. How many of us are now dealing with countries in which we no longer have an embassy or staff? In some cases the spouse of an Australian is trying to access immigration information and cannot. ‘More with less’ does not imply more services.

In the case of students, we had the dramatic example last year out of Scandinavia—one of the best possible areas for us to draw students from. Norway, in particular, has determined that it will not build any more universities; it will source its education
for universities from overseas from now on and is doing so increasingly. In the last year, there were something like 11,000 Norwegian students overseas and of those over 1,000 were in Australia. What did we do in Scandinavia? We doubled the visa fees for students, we closed down the processing of students in Stockholm, Sweden, transferred it all to Germany and required and expected the agents to do it themselves. We are charging the students a dramatically large amount of money—more than double most other relevant countries. A number of countries are waiving visa fees altogether. For example, England does not charge for a student visa because it recognises the benefit in the longer term to its economy and to its nation from having, say, Scandinavians’ education, history, connections and networks coming out of England. England waived visa fees altogether; we doubled ours instead. In two to three years, this government doubled the visa fees for overseas students. They saw a market. They cut the funds to the department on one hand and doubled the fees on the other—‘more with less’ syndrome. It is these slight, little things that make one so angry with the hypocrisy that we see opposite.

In Norway last year, we had 12 doctors registered to approve medical assessments for overseas students from that country. Three of those doctors were in Oslo where the bulk of those students come from. Of those three, there were complaints about one for sexual harassment and students would not go to that doctor, and one was on holidays; so there was one doctor available for a significant part of the year. Remember: students come in two lots—twice a year. They bulk up the applications and assessments over a period of four to six weeks. Of course, the Americans, the Canadians, the English and the Germans are all looking to attract students to their countries. So what did we do? We doubled the fees and made it really difficult. This is really clever management and more with less—more students, fewer resources, less capacity and, effectively, less effectiveness.

There was an interesting comment from the department, which I find really insightful and indicative of the problem. When the agents refused to process the students out of the country, the department was unbending in its resolutions. They asked, ‘Can’t part of the fees which are paid, which obviously are not being used to service and process the applications, be used to help solve some of these problems?’ DIMA’s response was that, as the visa charges are paid into the Australian government’s consolidated revenue fund, the funds cannot be allocated by DIMA for any other use. That is the most dramatic and clear demonstration that the money was not really money for visas; it was money for taxation. The money went into consolidated revenue, the revenue fund of the Commonwealth, not to the department, and it was not available. In other words, it could not be used to make the system work. It was not seen as covering the cost of processing; it was seen as a source of revenue. And the department was saying, ‘We can’t improve the system. We can’t spend any more money because the money is not ours. We are simply the agents who collect it for the Commonwealth and it goes into consolidated revenue.’ What more dramatic example could there be of how this government saw overseas students? They saw them as a milch cow in a number of ways: firstly, as revenue for the government through visa fees; secondly, as an offset to those massive cuts to universities back in 1996 and onwards. We saw those dramatic cuts and knew what effect they would have. Now we hear members opposite boasting about how this government is supposed to have been instrumental in improving the revenue to the country from overseas students. The audacity is just amazing, absolutely amazing.

The problems we have with going to the next stage of more with less is the use of student visas as a backdoor method of entry for illegal immigrants. This has been a monstrous problem and has not been discussed. Week after week, we have had headlines, stories, leaks, staged raids and all the rest of it. We get screeds of it concerning one group of refugees on the west coast. In that sort of situation the government is forced to act. It has no choice. Because people arrive illegally, the government is forced to act. On the other hand, people are coming in the back
door with student visas and working in brothels—never being a student—registering with false educational institutions or disreputable ones. We have been talking about it for years saying, ‘This is going on. This has become a really serious problem post 1995.’ Where is the expenditure on that exercise? Not there. How many extra people have been appointed to police this? How much have we done to try to stop that source of illegal immigrants? We all know it is happening. We all get reports of it.

In Newcastle, we no longer have an office of the Department of Immigration and Multicultural Affairs; it has been closed down. The cuts to government spending and the cuts to servicing the immigration area meant that the Newcastle office of the department was closed. To talk to an immigration officer about possible illegal immigrants in Newcastle misusing education, I have to contact people in Sydney, and because they are in Sydney they do not come up to Newcastle very often. To come up to check something out is really quite difficult. They do the best they can, on an occasional basis, because they are also looking after Sydney and Parramatta. They are not looking after Newcastle. Their main go is where they are based. So the monitoring, policing and access to resources to service this area have been dramatically reduced.

Remember: in the back of all our minds all the way through, since 1991 when the ESOS Act was brought in, was the knowledge that the government did not want it. The sunset clause in the act was put in there because of them; they did not want regulation. People all know that. The expectation was that the government would get rid of it when they could, but they did nothing. It has taken 3½ years from when the problems became really quite apparent for the government to take action, and it is somehow being lauded as good government. This is appalling.

I raised the concerns about the Scandinavian issue in mid-1999. I raised it over and over. I wrote letters to the minister. I tried to say, ‘This is really serious. This is one of the best possible markets from all points of view. In terms of long-term trade, diversity in our institutions and the intermixing of student populations around the world, Scandinavia offers us a tremendous resource for our universities, for our students, for our courses and for our business people.’ And what are we doing? We are actually chasing them away by making it so difficult to come here. When every other country in the world is making it easier and faster to get processed, with lower visa fees and all the rest of it, we were making it more and more difficult. On that, the government virtually did nothing. The eventual accommodation of those countries was minimal and non-expensive to the government. They reduced the full-scale medical requirement. People were required to have a full-scale medical—the whole works—for a three-month visa. That was what was required when I first raised this matter last year. That requirement got waived for short-term students, but it should never have been there in the first place. So the government did not actually do much about making Australia more attractive and more worth while to the Scandinavian student market.

The Scandinavian market is going to grow, and we all know that. The idea is that somehow we are getting our share of it, but the fact is that we are not, we are falling behind. On my visit to Norway last year, I spoke to at least half a dozen people who had been in Australian universities. I spoke to a parliamentarian whose daughter was at Newcastle University. I spoke to a number of people who told me that they knew people who wanted to come to Australia as students. It is a very popular destination amongst the students. That is not reflected in the numbers because we are so hard to get to. We are expensive and difficult. So, rather than there being massive growth in the reality of terms, the growth we are picking up is because Norway is not building any more universities, as I mentioned earlier. It will export all its growth in university education. England says, ‘No visas necessary for Norway, no visas necessary for Scandinavia, no student visa charges—we want you to come here, we welcome you.’ It is out there marketing to attract those students. Mind you, those students are paying the university fees. The $10,000 fees that are being paid—in many
cases, by Scandinavian governments—are going to English institutions. The English government sees that as sufficient in the national interest and the national benefit to not have to charge massive visa fees as well. This government does not. It wants to get its share in a big way, and the doubling of visa fees was indicative of that.

The regulations that are now being brought in—as I said, they are years overdue—will go a long way to addressing the problems. But there will be little point in that progress if the constant underproviding of departmental and government resources to administer the system is continued. We have seen that across the board. We see legislation in place which people cannot use because there are no resources. There is insufficient staff, insufficient experience and insufficient training. In theory the government is doing something; in practice we know from our experiences on the ground that it is not being done and it is not being policed. In theory, the students who were here illegally should have been picked up. They should have been sorted out. The fact is that there were no resources. Departmental resources were vastly underprovided, despite the massive growth in revenue from this area.

Introducing regulations is an essential part of the future. Let me tell you about the damage that has been done to the industry. I think we have all seen the newspaper reports from Germany—and the same thing is seen in Scandinavian countries and other countries, and I have heard it from people I have spoken to—about the collapse of our educational institutions and the discrediting of our system. The awareness that students were here on false grounds and that student visas were being used as a backdoor entry for illegal immigrants has become so predominant as to discredit our whole system. In other words, the government is acting now because of this and not because it has seen the error of its ways and has suddenly recognised that, despite what it said in 1991, regulation is essential. There is no other way of doing it. The idea that the industry will look after itself is now totally discredited. The government is not doing it because of all those sensible, logical reasons; it is doing it because the market is being damaged. It is finally recognising that the golden goose might be having its head chopped off by the government’s failure to act. So the credibility of our education system amongst overseas students is being damaged badly, and the government is finally and belatedly responding to it.

But putting legislation in place is not enough. The body language obvious within the department is lip service. There are insufficient resources, and one only has to look at a number of examples to see the truth. The outsourcing issue in recent times is a dramatic example. The problems experienced by departments whose computer systems do not do what they want them to do because they have been created by people who do not know what they are doing will become more and more serious in the years ahead. The body language from the government is lip service to this stuff. All they need to do is introduce legislation and pass the laws, then they can claim that they have clean hands. We all know that that is not the case. They might con the public into believing that, but we know that legislation without departmental back-up, resources and attention and support from the relevant ministers will not do the job.

The Minister for Education, Training and Youth Affairs has used overseas students as a way to offset his cuts. It is very simple. The government has effectively forced universities to find a profit somewhere else. Because the government has cut their funding so badly, the universities are forced to make a profit on overseas students. Keep that in mind: they are making a profit. To my concern, universities have been increasing their fees and, because of the government cuts, they have been forced to reduce their resources. So, in a sense, the cashing-in on the short-term attractiveness of Australia as an educational destination for so many people is in danger of being damaged by the other side of the government’s policies, which is the cutting back of university funding. Foreign students are now an important part in the subsidising of non-foreign students. Foreign students are subsidising Australian students, which was traditionally the responsibility of the government. I find it ironic that the Nor-
wegian government, for example, in paying its student fees in Australia is in fact subsidising Australian students, who are the responsibility of this government.

So what is happening is that foreign students are now increasingly subsidising Australian students. That presents a real danger to the quality of our education system. It is like the other management systems that this government is so fond of. The big go in management for years now has been to cut the maintenance and to get rid of the staff. You can cut down on things in the short term, and for four or five years that is great and you make a big bang profit because you do not invest in the long term—that is what is happening now; it has been happening for some years now—but there is a great danger that eventually things will start to collapse.

The squeeze on university funding and the lack of provision to back up government policies are leading to a stage where we will not always be as attractive a destination for students. We will be too expensive and we will not have the quality. That is what the government has to face up to. That is not mentioned in this bill. That is not even discussed by the government. It is not even on its agenda. It is farcical to have the previous speaker talking about the government having a plan. The government is trying to manage a crisis of its own making. It has been around for quite some time and is getting worse. This legislation fills up the framework. It corrects the framework to a fairly large degree—not completely, but to a large degree. It at least puts things in place. The framework is pointless unless it is going to be utilised and filled.

The danger that institutions like my university and universities around the country face is that the more they are forced to use foreign students to subsidise their Australian student population and the more the government squeezes their resources in R&D and various other ways, the more likely we are to discredit our system and remove the marketing advantage that we have had as a result of long-term investment in universities. This did not happen overnight. The attractiveness of our universities and our education system was a result of long-term public investment in universities by both sides of politics. The first time that was reversed was in 1996. This government was the first government ever to downscale that investment. We are feeding off the results of decades and decades of investment, and there is a great danger that, because of the disinvestment that has been taking place—which has been partly offset by the golden goose of overseas students subsidising it—it will not last much longer. The legislation is welcome in its current form—albeit insufficient—but we need the attitude and the priorities of government to change, particularly in terms of university funding, to make it work. I support the amendments to the House, but I do indicate that there are still a lot more concerns to come.

Mrs DRAPER (Makin) (10.47 a.m.)—It is with pleasure that I rise today to speak in relation to the Education Services for Overseas Students Bill 2000. This bill is an appropriate and timely response to the needs of the international education and training industry. This bill essentially replaces the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991. The ESOS bill is being introduced with four other bills: the Education Services for Overseas Students (Consequential and Transitional) Bill 2000, the Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000, the Education Services for Overseas Students (Registration Charges) Amendment Bill 2000 and the Migration Legislation Amendment (Overseas Students) Bill 2000.

The old ESOS Act introduced core industry regulation measures designed to secure Australia’s international reputation as an elite education provider. The ESOS Act has previously been amended; however, a cut-and-paste approach is no longer appropriate. New regulatory complications have arisen which necessitate new solutions and a broader framework. As mentioned, the primary ESOS bill will replace the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991. The old ESOS 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 quality education and training, and that the tax revenue is not diverted to international students treated unfairly by individual education and training providers. The Education Services for Overseas Students Bill 2000 builds on the foundation of the old ESOS Act. The legislation augments the scope to address crucial areas of need, comprehensively tightening regulation of education services.

It is important to recognise and not to underestimate the contribution the international education and training industry makes to the national economy. The industry earns Australia over $3 billion annually and continues to grow, providing more jobs for Australians and generating business opportunities for other sectors. International student numbers increased by 109,952 between 1991 and 1999. There are currently 180,000 international students enrolled at Australian institutions. It is clear that the government’s bilateral and multilateral support of the industry has been effective. While I was studying at the University of South Australia, it was hard not to notice the significant presence of overseas students on campus and their contribution to student cultural life and activities. As a result of a positive academic experience at an Australian institution, these students can return home to act as goodwill ambassadors, trumpeting the virtues of our culture, institutions, law and learning environment. But to ensure this continues we must update, benchmark and regulate to guarantee excellence and relevance with the industry.

Most organisations are only as strong as their weakest link. This bill will strengthen the industry and reinforce Australia’s reputation as a service provider. Focusing now on regulatory and non-regulatory factors that threaten our education and export training industry and our reputation due to standard providers or non-bona fide students will save pain later. The economic, research, diversification and relationship spin-offs provided by a vibrant international education industry need to be protected. Following Commonwealth, state, territory, industry and provider consultations, several key matters were highlighted as requiring attention. These included: unreliable protection for overseas students against the risk that a provider collapses; the presence of dishonest providers—the Commonwealth Register of Institutions and Courses for Overseas Students includes some providers of questionable quality, and state processes for approving providers are not entirely satisfactory; and limited powers to act against providers colluding with students in visa fraud breaches.

The new act will: provide better protection for students with pre-paid fees if their provider collapses through the introduction of an industry funded assurance fund; introduce a national code and benchmarks for registration and increased Commonwealth power to question and investigate provider quality and integrity; introduce an electronic confirmation of enrolment system which establishes new obligations for providers to register student breaches of their visa conditions; impose clear statutory obligations on providers, making it an offence to fail to offer genuine courses to students and therefore inviting possible visa breaches; and empower the Department of Education, Training and Youth Affairs to investigate any possible breaches of the act and of the national code. These provisions will be used to alleviate areas of concern in the industry and will be reviewed in the year 2005. The review will measure effectiveness in addressing problems and any additional problems which occur in forthcoming years.

I believe a major strength of the evaluation process is that the provisions will be extensively reviewed for their effectiveness, efficiency and the subsequent needs of the industry for regulation. Rather than retaining the status quo, the responsible action is to amend the current legislative and regulatory arrangements. The advantages of improved quality of the education export industry easily overshadow any costs of compliance. Any increased costs to the industry should be viewed as an investment in the future ability to cope with service needs, meet quality assurance standards and therefore sustain a solid reputation.
The ESOS Act 2000 will be an invaluable tool in continuing to foster a flourishing education and export industry—taking the best of the old act and injecting new relevance for the future. This can happen through provisions that are concise and consistent and which seek to limit any financial or administrative burden on government or industry. I congratulate the Minister for Education, Training and Youth Affairs, Dr David Kemp, on his timely work in this area and commend these bills to the House.

Mrs IRWIN (Fowler) (10.54 a.m.)—I rise to speak on this package of bills concerning our education export market, because it is a good time to make a few comparisons between the Howard government’s narrow view of education and Kim Beazley’s vision of the knowledge nation. It has not escaped my attention, reading through all the Senate Hansard on this subject, that government senators are of the view that private education providers attracting fee-paying overseas students are the responsibility of the states. Time and time again, the defence against shonky, incompetent or commercially failed providers somehow pivots on the role of the states. The vocational education and training boards were to blame: they somehow lacked the necessary business auditing skills, they somehow lacked a close understanding of the immigration laws, or they somehow lacked the commercial background in determining the viability of a business trading in educational products for overseas consumption.

Education specialists in the vocational area are facing rapid change. The bridge between trained teachers and industry demands is over a rapidly flowing stream. New skills are in demand constantly and vocational education, to be of any consequence, has to be responsive. The industry standard should be the TAFE model, where quality assurance has the guarantee that it is backed by the government. For educationalists, that rapidly flowing stream keeps their paddles wet all the time, and we should not divert them into the murky waters of auditing the business operations of private training colleges registered by the federal government with customers filtered through the federal government’s immigration screen. Their job relates to the product, not the manufacturing plant or the consumer. They set the standards and they appear to be doing an excellent job, despite the state boundaries.

There is still much to be done with our national training framework. We need nationally recognised skills. The young people in my electorate would benefit. We need to get back onto Labor’s skills recognition track. There are too many shonks offering phoney qualifications to our own school leavers as it is. Every year the New South Wales Minister for Fair Trading deals with complaints, and the more bogus operators that enter the international education market, the less chance we have of ensuring consistency and quality overall.

The international sector is a fast-growing industry, and while the government might say there is only a small number of bad apples, the bigger the industry the bigger the number spoiling the barrel. Labor want Australia to be a regional tiger. We do not want our country to become a recruiting agency for overseas countries like the US, Germany and others. Half the science PhDs in the US have overseas qualifications, many of them ours because this government has ignored the brain drain. The US has recently increased its special temporary immigration quotas to attract, in the main, computing professionals. Wouldn’t we be working smarter if we trained bright, fee-paying students from around the world and had them come back under temporary resident visas to apply their skills to the opportunities we can exploit? That would be in the same category as elaborately transformed commodities. The market is huge: Malaysia, Indonesia, Singapore, China, India—they love it here. It is on their doorstep. Many of their countrymen have settled here. It’s not like we get homesick for Vegemite.

I would like to remind the government of the numbers: Malaysia, almost two million people; Indonesia, 190 million people; Singapore, about three million people; China, over one billion people; India, around 900 million people. It is a big market and it is one that is becoming more complicated, both from the demands of the consumers for everything from English language training to
business and IT training, and from the point of view of the providers, who are getting into complex commercial deals to deliver their services.

Back in March, the Ministerial Council on Employment, Education, Training and Youth Affairs noted the increasing use of franchising or agency arrangements across state borders and the ease with which the word ‘university’ could be registered as part of a business name. The same can be said of institutes and colleges. There were 500 students at the Wesley Institute for Language and Commerce when it closed its doors only three months ago, after 18 months of what the Wesley Mission thought was a ‘good cause’ when it lent its name to it. The Wesley Mission runs about 20 employment service outlets in Sydney, all part of the Job Network. Five are in my electorate of Fowler. I hope their ‘good cause’ test is a little more stringent when dealing with the employment prospects of the vulnerable and when making decisions about large sums of taxpayers’ money in the process.

The Wesley Mission pulled the plug on their little franchise ‘as soon as we became aware that things weren’t in line with Wesley Mission’s culture and values’. That is the same answer they give when they reject job applicants seeking employment with them. The point here is that Fowler is not exclusively Christian—far from it. What is valuable in this diversity is that the international education market is reflected in the demographics of Fowler, right in the heart of Sydney’s south-west.

Another problem with closures is financial protection for students. Where fraud is involved, insurance companies are unlikely to refund student fees. I understand too that, being a non-profit organisation, there were problems with the tuition assurance scheme in relation to the Wesley closure. Well meaning they might be, and this is the nicer end of the market, but just think of the despair those foreign students faced—students from poor countries who had put down fairly hefty sums for a course. There is also a regrettable impact on Australia’s reputation as the knowledge export nation.

On the other side of the street, Australia’s reputation as an easy visa destination has grown with the industry. Some colleges are not providing education at all. They are operating migration rackets by arranging temporary visas which allow visa holders to work or to melt into the community without a forwarding address. The Department of Immigration and Multicultural Affairs relies on the colleges to provide details of their students so their circumstances, such as their addresses and other activities such as course changes, employment and other student visa conditions of more than 100,000 people at any one time, can be monitored.

But we know many colleges have more students enrolled than they have undertaking studies, and we know there have been advertisements in foreign publications suggesting that more than training and education can be purchased. DIMA’s annual report shows an 11 per cent increase in the number of offshore student visas granted over the last year. That is a growth market that DIMA sees as having good potential. DIMA explains further:

The overseas student program is a major export earner and builds cultural, social and economic links between Australia and Asia, from where the majority of students come. Australian education is highly sought after by overseas students and this is reflected in the continuing growth of the student visa program.

The report goes on:

DIMA supports the promotion of Australian education by aiming to streamline visa processing whilst maintaining appropriate bona fides checks on student visa applicants. It is important the bona fides of student applicants before the grant of a visa in order to ensure that only genuine students arrive in Australia to study.

I would like to underline this part from the annual report:

The entry of people who have no genuine intention to study would impact on the reputation of the Australian overseas education industry and its ability to compete internationally.

DIMA knows this is valuable property that needs protection. It is taking in the big picture here, and you have only to look at the figures. Student visas last year ran at almost 120,000. The next temporary residence visa category—working holiday-makers—was
Students consistently beat backpackers by almost two to one and beat all the other temporary visas hands down, yet this government has ducked the issue time and again.

The government put a sunset clause on the old ESOS Act. Time and again when Senator Kim Carr has drawn the government’s attention to yet another dodgy college, government senators keep pointing to VETAB, saying, ‘It is up to the states, it’s up to the education and training authorities there; it’s not our problem,’ despite the fact that it is an industry worth more than $3 billion a year which, as DIMA pointed out, depends on Australia’s reputation for its ongoing success.

The Minister for Education, Training and Youth Affairs has had to be dragged into bringing in this legislation. The Commonwealth has a clear role, not just on the Immigration side of the matter but also on the DETYA side. This is our second biggest service export and around our fifth biggest export industry. The OECD’s Education at a glance report ranks Australia at No. 2 behind Switzerland for overseas students. That is in universities only, but it is likely to be true and even exceeded by the other sectors.

Whether we are at the top or in second place, it is only the difference between gold and silver.

The government’s approach has been to leave it to the market, but the honest operators want the industry cleaned up before too much damage is done to our international reputation through immigration and visa fraud. DIMA figures for raids on brothels, restaurants and fruit farms show that one person in five caught working illegally was the holder of a student visa. Many of us have had complaints on this matter. Let me read a statement I have received in my own electorate from someone who wishes to remain anonymous because he or she fears for his or her safety:

In a year we may get a lot of international students, particularly Indian students, and it is to the best of my knowledge that about 80 per cent are not here for study purposes. They simply come to earn money and most of them cannot understand or comprehend the English language.

Back home in New Delhi, forged papers are prepared and shown to government authorities so that these students can get their visas and study abroad. They pay their fees in advance for the first year, varying between $A4½ thousand to $A5,000 to gain their visa into Australia. There are special colleges that are set up to allow these students to come here and pretend that they are studying but as a matter of fact they are here to work only. These colleges are fraudulent and do not provide certificates that are of any value to any one of these students either here or in India. The whole purpose is so that these students may get an extension to their connected course but leads to nothing and letting them stay in Australia longer and work.

My informant goes on to name a couple of colleges. One is still listed on the Commonwealth Registration of Institutions and Courses for Overseas Students. He or she then goes into detail about cash-in-hand payments in the taxi, security, restaurant and fruit farm businesses. It appears this practice is entrenched, with agents doing referrals, although employers generally do not ask too many questions. There are other implications such as income tax evasion, low pay rates, unlicensed cab drivers and the jobs for Australians issue. What happens when one of these nonexistent employees gets injured at work? These workers are frequently exploited under the threat of deportation. What of the impact on wages and conditions for legal employees? We are in a period of rapid change. In the last six months of last year another 25 providers were registered—another 25 new businesses whose principals could be anyone with a staff of anybody, selling education to the world market.

In the education business we need to offer value for money and quality education. Just because it is education does not mean that the Commonwealth should not be involved. Look at how the states are cooperating on road rules to get some quality and consistency nationally. Look at funding for private schools. We have a minister who is dead keen to get involved in school education for privately run institutions but oh so reluctant to get involved in a high-profile international issue, also run privately, which is threatened by shonks and people smugglers—that is until, at Labor’s insistence, the issue started getting more running in the press than the
minister was comfortable with. DETYA has to be involved if we are to look after this industry and save it from the shady operators. But the minister is not alone. You would think that the integrity of our national borders and our protection from foreign plant and animal diseases would be a primary Commonwealth responsibility. But the government want to outsource it. They want to sell it. They want to lease it out to an agent. They want to sell it as a franchise in much the same way as the Wesley Mission leased out its rights under the Commonwealth Registration of Institutions and Courses for Overseas Students.

If you go through the list, you can see that a number of these colleges have names which are close to each other. There are a lot of loose implications attached to many of the names. The code of practice should lay down some rules on the naming of these colleges because misrepresentation, intended or otherwise, might reflect badly on the industry. There is no doubt that mail order degrees and certificates available from the US did much to discredit American qualifications in international eyes. We cannot let it get too far out of hand here either if we want to make sure that Australian awards are accepted without question. These are developments we need to keep pace with. That is why this legislation is needed and has been needed for some time. The government has been far too slow in getting this off the ground. Nevertheless, Labor’s concerns have been largely addressed—not fully, but largely dealt with—in this package. In the past there has been no real power for the Commonwealth to search colleges and take attendance and other records that might throw light on a suspected scam. The new provisions in this package take that bold step. It is an essential one. But we still have the Wesley Mission problem—the subletting of a registration to another provider who may be in another state or territory or who may even be in Vanuatu, which is what happened in one case where a provider went to the wall.

There is a host of other problems with the code of practice that I hope the Senate inquiry will sort out, without the negative input of the government pushing that lousy argument that, because it is to do with education, it is really not up to the Commonwealth to get involved. It is up to us to be involved because the benefits go far beyond the profit and loss accounts of the traders in the industry. There are huge advantages in forging cultural relationships within the region, and visiting students are perfect in this regard. There is an opportunity to develop the human capital and to expand the wealth of our region. There are advantages in having our neighbours as students and getting in a bit of networking with future commercial contacts here before they return home. The English language skills and Aussie characteristics that these students pick up will almost certainly apply to better trade relations between our countries. It is everything everybody said about the Olympics, and it is ongoing.

As I said, this legislation goes a long way to meeting Labor’s views on the subject. The main issues are: protecting overseas students, ensuring the integrity of our immigration laws and providing a quality export product. There are a lot of players in this. We need to bring them all together and keep on top of any concerns they might have. Not the least important of those concerns is the consumer. They have paid their fees and they should be accorded rights like any other customer. Many students regrettably do not feel they can seek redress when something goes wrong. We should attend to their needs because it makes for a sound, ongoing business relationship. So this is not a simple area. The opposition has never said it would be. But it has been like drawing teeth in regulating this lucrative business. It has been very frustrating. This is a knowledge industry. Labor’s vision is for a knowledge nation.

(Time expired)

Mr LINDSAY (Herbert) (11.15 a.m.)—I thank the member for Fowler for indicating the opposition’s support for the Migration Legislation Amendment (Overseas Students) Bill 2000 and related bills that are before the parliament. I must just note before I start that we have a group in the gallery. Thank you for being with us this morning in the parliament. For your information, I represent Australia’s largest tropical city—which is not
Cairns or Darwin; it is Townsville. If you can get up there, that would be terrific.

On 19 August 1999 the Minister for Education, Training and Youth Affairs, Dr Kemp, embarked on what I believe to be a very important process. This process was significant, certainly to my electorate, and, in particular, to the university in Townsville, James Cook University in North Queensland. The process was to ratify regulations with regard to overseas students studying in Australia—and there are many issues related to that. In my view, the five bills before us today will provide that industry with an effective regulatory framework. Some of the key features are that state and territory authorities have been consulted on measures to ensure the integrity and long-term validity of the education export industry. It sometimes seems a bit of an enigma to call education an export industry when people are coming into the country. But it is called an export industry because it earns export dollars in overseas currency—hard currency for Australia.

A nationally consistent code as a prerequisite for registrations is being developed in consultation with state and territory authorities, industry and, of course, DIMA. Legally enforceable under the act, the national code will provide improved and more reliable quality assurance for overseas students coming to Australia. Another point is that the secure electronic confirmation of enrolment system will render more transparent the movement of international students, from initial acceptance through to course completion—and of course departure—and provide evidence for scrutinising compliance with the new act and student visa conditions. I do not think anyone will have any difficulty with that. The proposed legislation will address new offences and provide vital new Commonwealth powers to search and enter providers’ premises, investigate and impose sanctions and remove non-bona fide operators from the industry. There will be new assurance fund requirements which will place collective responsibility on industry for safeguarding students’ pre-paid fees and give greater reliability for refunds to students.

These bills are essential to universities nationwide, and certainly to James Cook University in North Queensland. James Cook University has the advantage in Australia of possessing two very desirable faculties that attract overseas students. One is a faculty of marine science and the other is a faculty of earth science. Overseas students and international institutions regard these two departments at James Cook as world class. A university in northern Australia with two departments that are world class explains the overseas interest that James Cook generates. The university is very prominent in marine science because it links in with two other organisations in Townsville, the Australian Institute of Marine Science at Cape Ferguson and the Great Barrier Reef Marine Park Authority. The university, GBRMPA and AIMS work together cooperatively and collaboratively to do the best marine science in the world—and that is in Townsville. The earth science department represents, and looks after, the north-west minerals province in Queensland, which extends from Townsville out to the border with the Northern Territory. It is the largest minerals province in the world. That is why there has been very prominent focus on James Cook University in relation to earth science.

James Cook University is attracting a record number of international students in 2000, which is terrific for the Townsville economy and, of course, for Australia and our educational institutions. As a result, we need to safeguard and increase the number of overseas students that pass through our gates, and pre-paid fees are one of the ways to ensure this.

Nationally, 182,000 international students will study at Australian universities, vocational education and training institutions, schools and English language training colleges in this particular year. That is up 15 per cent on 1999 enrolments. This enormous figure is testament to the fact that reform should be in place. That reform will nurture and underpin the growth that we expect in the years ahead. The dramatic increase in student numbers is certainly mirrored in my local community. Three years ago, James Cook University had 300-odd international students attending that institution. In keeping with the national trend, enrolments have in-
creased this year more than threefold. There are now 960 students of international origin at James Cook University. This dramatic increase can be attributed, I suppose, to two factors: one is sound government policy and the other is the academic and administrative efforts of the people at James Cook.

With the introduction and passage of these bills, the federal government will have delivered another boost to Australia’s education industry. It is clear that the federal government is a friend of tertiary education and economic growth. However, JCU has produced its own change. As a result of overseas demand, they have put in place a specific department that deals solely with the huge interest that overseas students have shown in Australia’s tropical university. Under the excellent leadership of Dr Robert Coelen, the Office of International Affairs has been established to promote the university as a unique establishment, catering for international educational needs. Under this bill, prosperity can be enhanced and, in turn, ensure further economic benefits to the North Queensland region. Already international students in Australia bring terrific economic benefits, contributing an estimated $3.7 thousand million in export earnings in this year alone. This year James Cook University in Townsville generated $8.5 million in revenue, and I cannot speak highly enough of the positive value this figure has on the Townsville economy.

Education is now one of Australia’s major export earners—even greater than wool, and we remember the old adage that Australia rides on the sheep’s back. What we are earning now from education exports is greater than that from wool, and certainly comparable to our wheat exports. This is injecting thousands of millions of dollars this year into the economy and providing thousands of jobs for Australia. These bills will ensure foreign money up front, secure confirmation electronically, and will create a national standard that can monitor the whole process. Also—and this point is interesting to note—James Cook’s overseas policy is to attract overseas students from Asia and America. As I stressed earlier, this is partially due to the unique courses in marine and earth science. I might add that as a result of the rigorous overseas marketing campaign, the world recognises these faculties as world class, generating the respect for the JCU. Hence these bills must be supported to maintain and enhance this standard.

The strong overall growth in international student numbers is driven largely by the 20 per cent growth in the higher education sector. The English language training sector has also grown by about 22 per cent, while the vocational education and school sectors are about the same. An example of this at James Cook University is the language sector of studies. Since the university introduced the groundbreaking method of attracting overseas students through electronic form, the number of overseas students studying French—of all things—at James Cook has gone from 22 students to 76. I might note that this is just subject enrolment. Therefore, overseas interests are not solely focused on JCU’s blue-ribbon courses.

Our involvement nationally in international education shows the world our capabilities as a highly educated, skilled and modern nation. We are committed to contributing to the wellbeing and advancement of others and the building of lifelong personal ties with our neighbours. I might add, Mr Deputy Speaker, that you, like me and most members of parliament, have been privileged to have been able to see the science that we do in Australia in the many different science organisations. In many ways we lead the world in a lot of the science that we do. I pay particular tribute to CSIRO and the developments they do across the country in their labs, which I have been very privileged to visit and to see how we lead the world in the science that they do.

Locally, James Cook offers a truly international education experience for students. According to OECD figures, a higher proportion of international students enrol in tertiary education institutions in Australia than in any other country except Switzerland. What a mighty record. JCU is contributing to that number. In addition, Australian students and communities can enjoy cross-cultural experiences and enriched learning. Do not underestimate that. The way that these inter-
national students have contributed their cultural experiences to us here in Australia has been magnificent. Certainly there are many cultural groups at James Cook University who meet and involve other Australians in their experiences. That interaction with international students is extraordinarily valuable indeed.

JCU’s Office of International Affairs tells me that encouraging overseas students is not only a financial benefit but a cultural one. Overseas students have a major impact in bringing cultural diversity to the region, and JCU recognises this to be an asset both for the university and for Townsville. It is clear that we need to safeguard this position and, in turn, promote Australia’s educational excellence even further. As a result of the minister’s investigation he announced that DETYA would consult with the industry, state and territory authorities and other Commonwealth departments with a view to strengthening the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act of 1991. The government has sought regulatory reform for this industry because of its awareness of the industry’s value to Australia and the shortcomings of the current ESOS Act. The education export industry is healthy. We are attracting a record number of international students. Certainly my university in Townsville will continue to take every advantage of the opportunities available under this program and the confirmation that these bills before the parliament today will provide.

Ms GERICK (Canning) (11.27 a.m.)—I am pleased today to speak on the Education Services for Overseas Students Bill 2000 and related bills. For the 12 years before I entered parliament I was involved in vocational education and training and worked with a number of private colleges which offered training to overseas students. I want to emphasise that the vast majority of training providers ensure that their students do receive a high quality education and that their courses are delivered professionally, with due care being taken of the students.

Over the last 10 years the number of students electing to come to Australia to complete their studies has increased dramatically. This is a positive for our country. It obviously offers increased income to our country and it gives Australian students the opportunity to make friends and networks that are international, which will help to build their careers in the future. It also means that overseas business people and leaders of the future will have experienced life in Australia and will have left with a positive attitude towards our country, which can only be of benefit to us in the future.

When students return to their home countries and find employment and achieve high standards, it improves the standing of Australian education internationally. Of course, the converse applies. If we have a number of private providers collapse or deliver bad training, when their students go home this can damage our reputation irreparably. The problem occurs when a minority of providers do not provide a professional service, instead offering the guise of education as an opportunity for false use of student visas or to rip off overseas students by not offering the standard of education they were offered when they enrolled. If anyone here was planning to enrol a child of theirs at either a private provider or a university, we would go to a range of institutions. We would visit the institutions, we would have interviews with their management; then we would weigh those various visits up, make a decision and place our child where we believed the best opportunities would be available. Because we are local, we could then go and visit; we could go and check reports; and we could ask for interviews with tutors or the principal—all because we are local and would have access to regularly check on our child’s progress. This is not an option that overseas families can avail themselves of. They normally deal with an agent of the provider; they see a promotional video, or videos if they go to see a number of agents, and then they make the decision on where their child will enrol. I remember seeing one promotional video for a college which was really impressive as a tourist video but did not have a lot to do with education. Certainly you would not have walked away from that video having a firm view about the quality of education that your child would be about to receive. This is one of the worst aspects of
these providers doing the wrong thing and abusing the trust that has been placed in them: the great distance from which the students come.

In the early 1990s when I was working in Perth, a college failed and a number of local and overseas students were unable to complete their training and, because at that stage there was no provision to look after fees, they lost their money as well. Being concerned at the negative publicity the industry was receiving, I contacted a director of another college and said, ‘Look, this is very bad. We should be trying to see if there is a way that this college can be saved so that the students’ money is protected and their training can continue, and if that does not work perhaps we could all club together and agree to each take a number of students at cost price so that the students are not going to miss out on their training.’ I was told, ‘No, no. It is actually good if that business goes bankrupt, because then the rest of us are going to make a lot more money.’ They certainly were not interested in helping out any students who had lost money when the college did indeed fail. I was very disillusioned.

I think that director who told me that it was good if a college went bankrupt missed the point, because it took us years to regain the reputation of an industry that could be trusted.

Each time a provider does the wrong thing, those providers who are doing the right thing and working hard are dragged down yet again. That is why these amendments are needed. They are needed so that the regulations that control providers are enforced and a quality education is delivered. All students should be guaranteed a quality education. It does not matter whether it is a primary school, secondary school, private provider, TAFE or university. Any person who enrolls needs to know that when they leave that course they will have a piece of paper that is worth something. In the case of a course provided by a private provider, normally it means that you will have the skills that lead you to a job.

Providers must go through a process where their standards are examined, so that there can be confidence that they have the administration and teaching staff necessary to provide courses at the highest possible standard. Another standard which must be enforced is the protection of student fees. For most overseas students, courses are paid in advance. There needs to be confidence that the student fees will be taken from the trust account only as they are due and not as a top-up for institutions that are having a short-term cash flow problem. I was amazed when I had a look at how the trust funds operated. I always thought there would be a complicated process that you would need to go through to remove the funds, but in fact it seems quite simple.

The other issue that has arisen out of the increase in overseas students is the abuse of the visa system. The amendments go some way towards tightening the system so that the abuses will stop. Providers need to be reassured that the system which is to be introduced to overcome current weaknesses and rorting does not place an unreasonable burden on those providers who are doing the right thing. The providers who have worked to expose weaknesses and ACPET, the industry body, have made positive suggestions as to ways of strengthening regulations to improve the quality of education being provided. The government needs to work with the industry to make sure that the amendments bring about the changes that are needed and that they are enforced. It is important that the costs of these regulations are not a burden that is added to the people who are already doing the right thing. It is a government duty to make sure that training providers are properly regulated, so that people who are doing the right thing are not forced to take a burden on their costs. There needs to be a regulator who has the authority and resources to ensure that standards are maintained. Improvement in the industry cannot be left to those who are already doing the right thing. There needs to be someone who takes on those who are not doing the right thing and enforces the standards. By doing this, the reputation of Australian education will be maintained and the industry will continue to grow and flourish.

It is important to emphasise that the vast majority of providers are offering a high
quality education, and the industry is of benefit to the students and to Australia. Students from overseas should be encouraged to come to Australia because we have the reputation of providing high quality education and of giving a high standard of service while the students are studying at our institutions. These amendments go some way towards ensuring that every student who comes to Australia gets the quality of education they have paid for and deserve. The amendments should ensure that training providers who are not currently providing the standard of education they should be will be forced to improve or move out of the industry. The amendments need to offer protection for student fees. It is most important that the majority of providers who are doing the right thing be no longer tarnished with the poor image of the minority. Training of overseas students is a great opportunity for both the students and Australia. It is important that all necessary steps are taken to help the industry grow and prosper.

Mr HARDGRAVE (Moreton) (11.37 a.m.)—I am pleased to rise to speak on the five bills before the House, the Education Services for Overseas Students Bill 2000 and cognate bills. Essentially, to sum up what this legislation is all about, it is about credibility. It is about the credibility of the Australian education export industry, an industry that is growing strongly under this government’s proactive approach in the matter, with over 180,000 international students now enrolled in Australian institutions. That is a 15 per cent rise on last year and is at a record level. This sector is now earning $3.7 billion worth of export dollars for Australia. This bill certainly enhances the credibility of this industry, ensuring that those who do the right thing are well supported while those who do the wrong thing are dealt with, but not at the expense of the industry’s reputation.

Of course, the credibility of Australia’s migration system—I note that the Minister for Immigration and Multicultural Affairs is at the table—also needs to always be supported and enhanced. The minister is at the forefront of dealing with those sorts of issues and in fact just last week was in my electorate having more consultations with the broad community, as well as those from within the multicultural community, about their concerns and their aspirations for our system of immigration and multicultural affairs and I guess our whole system of running this country. Isn’t it a good thing to think that we live in a country where a cabinet minister will be prepared to spend hours of time talking with—not lecturing, not demanding, but talking with—people here in this country? Some of the comments from those who were at that meeting acknowledged their absolute astonishment. A fellow from Sudan springs to mind who acknowledged just that. So I pay tribute to Minister Ruddock for his approach in these matters. The credibility of our migration system is also important for those born in this country, not just those who choose to be Australians, because it is important that each and every Australian well understands that those who migrate here—either through choice, as in free migration bringing to this nation skills, investment potential or whatever, or those who come here because it is a sanctuary—are all here for the very best of reasons. They are here because they have passed health and character tests that are far higher than those who are born in this country ever face. So these bills before us also strike a blow for saying to those who may doubt just why we want to encourage more to come and study here that there is a lot in it for Australia.

I am a bit surprised to note a couple of the contributions from those opposite. Although obviously supporting the sensible measures contained within these bills, a couple of the comments showed perhaps some poor understanding of what exactly is going on in the real world. I think the member for Fowler raised a concern regarding provisions for students to stay behind. There already are provisions for students who come to this country to study to put a case that they have something to offer Australia once they have completed that study here. The government, always mindful of the aspirations of people in our community and checking them—as I said, Minister Ruddock checks them on a constant basis—is looking at ways to enhance this already existing provision.
Then there is the issue of overstaying that was raised by another member. It always seems astonishing to me and others on this side that the Australian Labor Party will talk tough in debates like this about dealing with those who overstay and those who do the wrong thing by the visa that they are issued, but every time the government tries to put measures forward to deal with these things in a practical, responsible and legal way the Australian Labor Party put up barriers, create scare campaigns and try and insinuate other motives. I find it highly offensive both to my intellect and to my moral being that the Australian Labor Party almost consistently take this particular approach. I welcome those who are willing to raise concerns about overstaying, but I would welcome more tangible, constant and consistent support for measures by this government to deal with things in sensible and legal ways, ever mindful of the individual aspiring citizen involved.

I also want to acknowledge how well served our community is by a major institution in my own electorate, Griffith University, which has been an innovative campus ever since it was opened 27 years ago. It is innovative in its aspirations to have more students from overseas come and study there and innovative in the types of courses being offered to overseas students, which have encouraged them to come. It was only a few weeks ago that I stood with others from the School of Asian and International Studies, which used to be called Modern Asian Studies, as that particular school celebrated its 25th anniversary of teaching. It is a school which at its time was almost alone in studying Asian and international studies. It is a school which more traditional universities used to look upon as being quite quaint. It was pioneered by Colin Mackerras, who is still there. He and his colleagues have certainly proved any doubting Thomases completely wrong. It is a school which has attracted people from other parts of our neighbourhood in an international sense, as well as many Australians, to study and understand better the various cultural and political aspects of nations within our region. It is a school which has served this nation extremely well, and it is certainly worth congratulating it and commemorating its 25th anniversary in this place today.

Today in my electorate we have so many people who have come from nations like Taiwan, the Special Autonomous Region of Hong Kong in the People’s Republic of China, Singapore, Malaysia, Indonesia and some Pacific islands to study at Griffith University. They bring with them full fee paying capacity. They bring with them money into the local area. They bring with them an understanding and an aspiration about the values of Australia and its people. They bring with them a desire to learn more and to offer something back to their own countries. When they take that knowledge back to their countries, they also take with them the very best of impressions of Australia. So the education export industry is a very important one for a lot of reasons, not only that $3.7 billion now earned from the 180,000 international students enrolled but also in assisting us in our standing in the region.

I also acknowledge that schools in my electorate—like Macgregor State High School, my old school; Mount Gravatt; Yeronga; and Redeemer Lutheran College—also have in their ranks people who have come from other countries to study there because of the reputation Australia has earned in nations to our north and north-west for its education standards, its people and its approach. So this bill, which seeks to enhance the old Education Services for Overseas Students Act to try to provide stronger protection for prepaid fees, is a very important piece of legislation. It will provide those overseas students with stronger protection and continuing education, if their provider happens to collapse, through an industry based assurance fund. To be a provider of these education services, you also have to be a subscriber to this assurance fund.

This bill also establishes a national code, which will be legally enforceable, that will provide consistent national standards for the registration and conduct of providers, which will then deliver improved and more reliable quality across the various states and territories. It will also create some new obligations for providers to report, through the electronic confirmation of enrolment system, students'
breaches of their visa conditions. Also, any
bogus provider will find that in fact they will
have committed an offence if they have
failed to provide genuine courses to students
and, in doing so, have intentionally or reck-
lessly facilitated some visa breaches. The
government will have powers to investigate
possible breaches of this legislation and of
the national code and will have greater pow-
ers to impose suspension-cancellation action
and other conditions on providers that breach
the provisions of the act or the national code.
As I said, this series of bills is all about
credibility—credibility in the area of the ex-
port of our education services, credibility in
the area of our migration system and credi-
bility in the provision of some great benefits
to Australia and its reputation beyond our
shores. I welcome the passage of these bills
and the fact that those opposite also seem to
be supporting the measures. I commend the
bills to the House.

Mr SERCOMBE (Maribyrnong) (11.47
a.m.)—As the member for Moreton was
saying, the opposition broadly supports the
thrust of the package of Education Services
for Overseas Students bills. There are a
number of areas where the opposition be-
lieves that improvements could be made, and
I will deal with them through a couple of
points in this brief contribution to the debate.
They are areas where the opposition believes
further improvement can be made. I am sure
the Minister for Immigration and Multicul-
tural Affairs, at the table, will be pleased to
hear that they relate to the Education portfo-
lio section of the legislation rather than to the
Immigration section, which the opposition is
supporting.

As the member for Moreton also said, the
reason this legislation is important is that we
are dealing here with what is Australia’s
fourth largest export industry these days. In
the 1999-2000 financial year, Australia re-
ceived a record number of overseas students.
I understand 120,000 visas were granted, up
nine per cent on the previous year. There is
some discrepancy in the figures that the gov-
ernment makes available about the number
of students actually enrolled. I noticed that
the member for Moreton referred to a figure
of 180,000 enrolled, up 15 per cent, which is
the figure that is used in the second reading
speech of the Minister for Education, Train-
ing and Youth Affairs. However, in the ex-
planatory memorandum the figure of 150,000
is mentioned, so that might point to
some of the difficulties the government has
had with its statistics in this regard.

Nonetheless, whether it is 150,000,
180,000 or somewhere in between, it is still a
very substantial number of students—a very
large industry, as the member for Moreton
said, with $3.7 billion earned for the Austra-
lian economy. It is a very important provider
of activity for the private education sector as
well as for the public sector. Some 1,000
private providers are involved in the indus-
try. In fact, something like 8.3 per cent of the
revenue derived by the higher education
sector in Australia comes from overseas fee
paying students, so we are dealing here with
an industry that we as a nation do need to get
right.

One dimension of the services provided
by the Australian education sector which this
bill does not deal with is the involvement
of Australian educational institutions in a range
of offshore twinning programs, which seem
to have grown quite dramatically over recent
years—projects such as research and devel-
opment activities as well as training activi-
ties. Just reading some of the material on the
Internet pages of some of Australia’s higher
education institutions presents an amazing
array of activities. RMIT in Melbourne, my
home city, is involved in a massive array of
projects and training activities, particularly
throughout the Asian region but more
broadly in the Pacific. RMIT is really very
much a leader in this country in these off-
shore programs.

The figures I have for May 1999 show
Australian universities have 581 offshore
programs. More than 70 per cent of all the
offshore programs of Australian universities
are in Singapore, Malaysia and Hong Kong.
This is an area of educational activity that
this legislation does not deal with, but I sim-
ply refer to it in this context because, given
some of the problems that have given rise to
this legislation, one wonders whether this
parliament ought to be considering the ade-
quacy of the support arrangements in terms
of quality and so on that Australian institutions do provide offshore. This is an area of great economic, social and cultural importance to Australia. We need to protect our reputation, and I think this is perhaps an opportunity to refer to the need for this parliament to be vigilant in this area and to give the same sort of attention and constructive support to the offshore activities of Australian institutions that we are giving to their onshore activities in relation to overseas students.

There are important reasons why this attention has to be given to onshore activities. One just has to look at some of the media coverage over the last year or so on this matter. For example, an article published in the Campus Review of 15 December 1999 entitled ‘DIMA unable to track visa students’ says:

Cancellations of student visas increased in the 1998-99 financial year, mostly for breaches of work rights, yet the Immigration Department’s information system still does not allow it to track visa holders once they have arrived in Australia, to determine whether they are attending classes or not.

A story in the Sun-Herald in March 2000 is headed ‘Private colleges a study in back-door immigration’. Another story in the Australian on 12 January 2000 headed ‘Promise of action on visa rorts’ says:

Private providers for overseas students had ‘been calling for government action to protect [their] reputation for quality and service’ ... ‘It is a pity that this has been put at risk by the actions of a few unscrupulous operators at the bottom end of the industry.’

A story in the Canberra Times on 11 February 2000 headed ‘Expert warns of student visa rorts’ by Emma Macdonald, education reporter, says:

Australia’s reputation as a study destination is suffering overseas because of continued visa rorting, an education consultant based in Germany has warned.

Without boring the House unduly by referring in detail to those articles, they give a sense of the background to why the government has brought forward these measures—perhaps a little tardily—and to why the opposition supports them. Action is welcome because, as has been highlighted particularly by the opposition, problems exist—problems such as lack of financial integrity in some sections of the industry, lack of adequate protection for students, lack of adequate measures to ensure educational quality and inadequate powers through education and migration legislation to deal with abuse.

The Education Services for Overseas Students Bill 2000 deals with many of these problems but not with all of them. We would suggest the following sorts of weaknesses exist in the legislation. Firstly, there is no prevention in the legislation of franchising or subleasing by international educational providers who are on state and federal registers. One does not need to have a great deal of imagination to see that certain types of operators might well be able to achieve some advantage for themselves at the cost of the whole industry by the absence of any prevention of subleasing or franchising arrangement. There is a lack in the legislation of a definition of a fit and proper person—no fit and proper person test for proprietors or chief executives of international providers who are seeking registration. The opposition is also concerned that there is no upper amount being set on the levy applicable to providers under the assurance fund that other speakers have referred to, an assurance fund that the opposition supports. That fund is designed to protect students while ensuring fairness and equity to providers in the industry, most of whom are honest, reputable and good operators. Most of the 1,000 operators in the industry in Australia would have no difficulty fitting the fit and proper person test. It would appear to us that there ought to be some upper limit placed on the levy that is applicable in the private providers area, otherwise very considerable hardship could be imposed on some providers.

We are also concerned about the context and legislative status of the national code of practice that the legislation provides. The voluntary code, which is now to be given legislative effect, carries, among other things, criminal sanctions. States will be required to ensure that all providers adhere to this code and we support that. We are concerned, given the importance of this now in
terms of the liabilities it carries, that there is no requirement in the legislation for the minister to consult with the industry when he is amending the code. He has an obligation to consult with the states but no obligation to consult with the industry. We would have thought that that would be a significant improvement. We are also concerned that, because of the importance of the code both in terms of its possible effect on providers if they breach it and also because of the criminal sanctions, it would seem more appropriate for the code to be formalised: that is, given its importance and the fact that it does carry quite significant implications for those in contact with it, we believe, as a matter of good governance, that there ought to be some more substantial positioning of it, either as a disallowable instrument or as a schedule to the act. I said at the outset that I was amending the code. He has an obligation as a disallowable instrument or as a schedule to the act. I said at the outset that I would be brief. In general terms, the legislation is supported—it is an important industry—but we believe there is scope for further improvement.

Mr MOSSFIELD (Greenway) (11.58 a.m.)—I rise to speak on this basket of five bills, the major bill being the Education Services for Overseas Students Bill 2000, which is supported by the four other bills. Education is Australia’s largest export industry. It nets well over $3 billion annually in foreign exchange. Because of the rapid development of this industry in recent years, the federal and state legislation and regulatory framework has not developed quickly enough to protect students and genuine providers. Over a number of years, the opposition has identified some areas of concern which we are demanding be rectified in this package of bills. We are concerned about the dishonest providers in the industry, the lack of financial probity and ethical integrity in certain sections of the industry, the lack of protection for students against the collapse of providers, the lack of adequate measures at both the state and federal levels to ensure education quality and the inadequate powers in the current ESOS Act or the powers conferred under the Migration Act to deal with the symptomatic student visa fraud and abuse. I would like to refer to a couple of newspaper articles which highlight the concerns the opposition has. My first reference is to an article by Emma Macdonald in the Canberra Times on 11 February:

Australia’s reputation as a study destination is suffering overseas because of continued visa rorting, an education consultant based in Germany has warned.

Dr Keith Nobel, director of International University Services—an agency which helps German students enrol in Australian universities—has written to the Federal Government warning them of potential student visa breaches and the negative effect it could have on future enrolments from Germany.

The overseas student market is Australia’s fourth-largest export industry. Dr Nobel, who is an agent for Sydney University, has warned that Germany’s largest government funding agency for students is concerned by at least one suspected visa breach and had expressed ‘annoyance’ at the Federal Government’s failure to resolve it.

Further on in the article, reference is made to Labor Senator Kim Carr:

Labor’s Parliamentary Secretary Kim Carr pressed the issue of visa rorting in yesterday’s Senate Estimates Committee, warning the case exemplified “the growing international concern about the failure of [federal Education Minister] David Kemp’s administration to ensure quality control in our education system”.

An article by Patrick Lawnham in the Australian on 12 January reads:

The pursuit of possible student visa scams has expanded to cover nine federal departments and agencies—even the Australian Tourist Commission—in an apparent response by the Howard government to pressure from private providers and the Opposition.

The full extent of an interdepartmental committee inquiry has been revealed in a government response to the Labor parliamentary secretary for education, Kim Carr.

The public service committee is looking into allegations of visa rorts and other irregularities, and the need for administrative changes.

Senator Carr said yesterday the response to his question on notice showed the Government “has at last acknowledged the need for a whole-of-government approach”.

That indicates that the concerns of the Labor Party have been expressed over the last couple of months and even before that. The opposition is not entirely confident that these bills address all our concerns. However, we are pleased to note that—and the shadow
ministers responsible for this legislation have indicated this—in their present form the bills will ensure: a significant improvement in the probity and integrity of the Australian international education industry through more thorough, far-reaching regulation and greater powers for the Commonwealth; stronger protection for student prepaid fees through the establishment of a national assurance fund to replace the existing requirement for individual provider trust funds; continuing education for stranded students with another provider in the event of a collapsed college, as part of a single scheme rather than the current patchwork scheme run by various industry bodies; a new national code of practice which is legally enforceable, covering the registration and monitoring of providers; a new electronic enrolment tracking scheme better able to detect breaches of student visa conditions and creating new obligations on education providers to report the movement and addresses of students; a new offence of being a bogus provider; new powers to investigate breaches of both the act and the planned national code, including the power to search the premises of providers, to question operators, students and others, and to seize documents and other items; and, finally, greater powers to suspend or cancel Commonwealth registration of providers who have broken either the act or the code. The subsidiary bills provide for increased registration fees for providers, to cover the cost of administering the new regime, and for the payment of contributions to the proposed assurance fund. The fourth bill deals with the necessary transitional arrangements.

As I have said previously, the opposition is pleased with many aspects of this legislation, which will restore confidence to both the providers and the students in the industry. But the legislation simply does not go far enough, particularly the main bill, the Education Services for Overseas Students Bill 2000. The glaring weakness in this bill is that it lacks legislative provisions preventing the franchising or subleasing by international education providers of state and federal registration—either registered training organisation status or Commonwealth Register of Institutions and Courses for Overseas Students registration. Both of these registrations are maintained by DETYA. There is also a lack in these bills of legislative provisions for an adequate ‘fit and proper person’ test for providers seeking registration. In addition, there are problems regarding the detailed content and legislative status of the national code of practice, and the requirement for consultation associated with the code. Labor has moved and is supporting a second reading amendment which highlights some of these problems.

The Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000 goes to the establishment of a new ESOS assurance fund, designed to protect overseas students’ prepaid tuition fees and continue tuition in the case of the collapse of a provider. Labor is concerned that no upper amount has been set for the levy to apply to each provider.

The Australian overseas student industry is a vital industry for Australia but also for my area of Western Sydney. The Western Sydney Institute of TAFE, the University of Western Sydney and the network of public and private schools all play a vital role in providing these services. In my view, you cannot have a successful higher education system unless you have a first-class school education system. I see the results of both the state and private school systems when schoolchildren from my electorate visit Canberra, and I have nothing but praise for the behaviour of these students, behaviour which reflects well on the teachers, the parents and the students of Western Sydney. When the students come to Canberra, I never fail to advise them to be very pleased with and proud of their schools and the area that they come from.

The value of international students to the economy in Western Sydney can be seen by some information that I have obtained from the Western Sydney Institute of TAFE and from the University of Western Sydney. Dealing with the University of Western Sydney first, currently there are almost 3,000 international students from over 40 countries studying in UWS campuses. These students are studying for both undergraduate and postgraduate degrees in a wide range of study areas, including business, computer
and information technology, science, education, engineering, nursing and health science, humanities, and communications. I have been advised by the Western Sydney Institute of TAFE of the number of students attending TAFE colleges in Western Sydney. I believe that in semester 2 next year there will be 38 new enrolments, with 85 continuing enrolments—a total enrolment of international students in Western Sydney of 123.

The interesting point to make is that most of these students live in Western Sydney during their study period in Australia. Many billet with local residents from their own national background, such is the strong multicultural community that we have in Western Sydney. These billeting arrangements create a relaxed atmosphere for our overseas students who, while they are here, contribute to the local economy. In referring to the 123 students enrolled in TAFE colleges in Western Sydney I should also mention that the Blacktown college in my electorate has 19 students, the Mount Druitt college has 91 students, the Nepean college has six students, the Baulkham Hills college has three students, the Richmond college has three students and the Blue Mountains college has one student. This shows us the spread of international students across the whole of Western Sydney’s TAFE institutions.

I want to refer to one particular success story—and there are certainly many more. This particular student, Chamila Samaraskera, came from Sri Lanka. Chamila came to Australia to study at the University of Western Sydney. After graduating in 1998 with a Diploma in Electrical Engineering Technology, he was accepted into the Minnesota State University in the United States where he is now studying a Bachelor of Science in Electrical Engineering. So we can see the progression of students who are studying in Western Sydney. While he was here, Chamila won the International Student of the Year award at the institute’s annual excellence awards. When asked why he selected the Western Sydney Institute, Chamila said:

I liked Mt Druitt campus very much and it was near to the place I was living, which was Blacktown. I had all the facilities needed for my education and recreation as well. The campus was quite good and I had the option of using the Blacktown campus library as well if I needed it. The train station being near the campus helped me a lot. All the labs were well equipped. On the whole it created an environment very conducive to learning.

This indicates very clearly the value of overseas students studying in the various institutes in Western Sydney.

While I am boasting—and I make no apologies for boasting about the education institutes in the area that I represent—I would like to refer to a letter sent to me by the Western Sydney Institute. They referred to the number of overseas students studying in the Western Sydney Institute of TAFE. They also make reference to the fact that the Western Sydney Institute of TAFE Global Business Development Unit was the winner of the Western Sydney Industry Awards 2000 Export Services Award. The letter says:

We currently have over 700 students studying in TAFE NSW programs running in Malaysia, Hong Kong, Singapore and Fiji with probable contracts to be signed in Egypt. Many of our programs are seamless packages with the University of Western Sydney as collaborative partners.

That once again indicates the value of students studying in the area that I am proud to represent.

The overall intention of this package of bills is to ensure that providers accept the responsibility for students’ education and financial interests. In submissions to the Senate Employment, Education and Training Legislation Committee in August 1998, the Australian Council for Private Education and Training stated that the number of overseas students in Australia had grown from 50,000 in 1990 to 150,000. This considerable growth has meant that the current regulatory guidelines are inadequate to provide the necessary protection for students. Concerns have been expressed about visa fraud, illegal immigrants, providers collapsing and leaving students stranded, as well as local providers poaching students from one TAFE institute to transfer to another. It should be a visa condition that overseas students remain at the institute that they originally enrol at. There is a concern that some visa breaches are the result of poor administration by the Department of Immigration and Multicul-
tural Affairs. Warren Osmond, writing in the 15 to 21 December 1999 issue of Campus Review, says:

Cancellations of student visas increased in the 1998-99 financial year, mostly for breaches of work rights, yet the Immigration Department’s information system still does not allow it to track visa holders once they have arrived in Australia, to determine whether they are attending classes or not.

In the same article a departmental officer is quoted as saying to Senator Carr:

We are not in a position to know how many students who may have been visaed to attend that college actually attended after they arrived in Australia, how many actually arrived in Australia, how many may have left that college subsequent to arriving, how many in addition may have joined that college ...

The article continues:

At present DIMA systems do not allow the department to know how many overseas students said they were enrolled at a particular college.

The department’s official stated:

We have in train changes to our systems which will enable us to do that.

Because of the importance of the overseas student education industry to the Australian economy, there is a need for the Commonwealth to maintain rigid immigration standards. The federal government needs to increase its powers to ensure providers are meeting all the immigration and quality assurance regulations. The Australian Council of Private Education and Training, ACPET, has expressed some concerns about the proposed changes to this legislation. ACPET is critical of the federal and state authorities for not acting on complaints and failing to prosecute providers who acted outside the law. There is, however, some evidence that increased surveillance by the Department of Immigration and Multicultural Affairs and improved student database and data sharing between regulators have resulted in visa breakers and shonky providers being exposed—and this is good news.

While under the proposed new arrangements the states and territories will have the principal responsibility of quality assurance and provider regulation, the Commonwealth government must maintain an overriding responsibility to protect this vital Australian export industry. I have great pleasure in supporting most of the bill before the House, and certainly the amendment moved by the honourable member for Dobell.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.15 p.m.)—I thank all colleagues who have contributed to the debate on the Education Services for Overseas Students Bill 2000, and I remind colleagues that we are debating a package of five bills. The Education Services for Overseas Students Bill 2000 will replace the existing Education Services for Overseas Students Act 1991 as the vehicle for the government’s regulation of education services for overseas students. The second bill, the Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000 will impose the requirement to pay annual contributions and special levies to the ESOS Assurance Fund and outlines other measures for related purposes. The third bill, the Education Services for Overseas Students (Registration Charges) Amendment Bill 2000 will amend the Education Services for Overseas Students (Registration Charges) Act 1997 and outlines other measures for related purposes. The Education Services for Overseas Students (Consequential and Transitional) Bill 2000 will provide for the repeal of the existing ESOS Act and outlines transitional and other measures for related purposes, and the Migration Legislation Amendment (Overseas Students) Bill 2000 will provide measures for improved monitoring and compliance in the overseas student industry.

I note that I have detected opposition support in the main for this legislation. I note also that most members speaking to this legislation have given credit to the institutions within their own electorates for what they are doing. I note also that the member for Lowe has made certain accusations against officials. If they are of a nature which stack up, I think he should take those up with the minister. The Minister for Immigration and Multicultural Affairs has told me this morning that he will take them seriously and that they will be thoroughly investigated.
The opposition has made claims that the government has not enforced the current ESOS Act as it does not want to acknowledge the flaws of the regulatory framework that it established. Contrary to the member for Dobell’s comments that this government is passing the buck to the states, this legislation is part of a three-tiered regulatory system. The other two tiers are those contained within state and territory legislation, and the state and territory tiers of the system include standards and requirements that govern provider and course quality and allow prerequisites for the CRICOS registration and industry level codes of practice governing provider conduct.

The shadow minister has suggested that the trust account system has not been adequately administered by this government. The notified trust accounts have depended on individual provider honesty and good management. This is precisely why strengthening of this act is required. The assurance fund will be managed independently by a professional funds manager and will be beyond the control of individual providers. The shadow minister has been critical of the length of time that the government has taken to respond to protecting the international education industry. I remind the shadow minister that this industry is a complex one, and it is an industry where the members hold very different views, but I can assure the shadow minister that the government is being thorough with its response, and our own proposals took account of the three collapses which occurred in 1999. We consulted thoroughly with the industry and set out the main lines of reform in a position paper at the end of March. Dr Kemp introduced these bills after further consultation with industry at the end of August, and I agree that we need to get on with this reform and I hope that the opposition will cooperate to secure passage of this legislation through the Senate before the end of the year.

In respect of the national code, I thank the shadow minister for his recommendations. The fact that this legislated national code will replace a voluntary industry code will immediately strengthen industry practice. I remind the shadow minister that currently the code is an exposure draft and that we aim to publish a further draft before the Senate stages of the bill. We will look carefully at the suggestions which the opposition has made for strengthening the national code, together with comments from industry and other stakeholders.

The government is seeking regulatory reform for the education and training services export industry because the legislation we inherited from the previous government was inadequate. This export industry is of great importance to Australia, creating jobs and providing tax revenue from businesses within and outside the education sector. It is Australia’s fifth largest export industry, worth more than $3.7 billion per year in export earnings—more than wool and comparable with wheat. Just like the wool and wheat industries, which are regulated to maintain quality, we need to protect the quality and integrity of this education export industry. Just as we seek to grow other industries on the world market, so we want to allow the international education industry to do the same, and we need to ensure the necessary protection to make that happen.

The international education export industry is healthy. It has recovered from the Pauline Hanson-induced downturn; I know certain institutions in my own electorate were concerned at that time. We are now attracting good numbers of international students to this country. Currently, approximately 150,000 international students are studying at Australian universities, vocational education and training institutions, schools and English language training colleges. This figure is up 14 per cent on 1999 enrolments. In my own state of South Australia, the international education industry is making a significant contribution to the economy of the whole state, including my own electorate of Adelaide, which includes Adelaide University and the University of South Australia. This year there are 6,700 international students studying onshore in South Australia, and that is up 20 per cent on 1999 enrolments. In addition, there are 2,700 students studying at offshore campuses of South Australia’s universities—up 19 per cent on 1999. Approximately half of the on-
shore students are attending South Australian universities, and 1,400 students are enrolled in English language colleges. There are a smaller number in VET institutions and schools. This industry is growing across all education sectors, and this legislation will support its continued growth.

Of course, the benefits do not end within the education sector. There are benefits to the housing industry, the retail industry, the tourism industry—because of family visitors—the hospitality industry and other service industries. These students come from countries across the world, from traditional overseas markets such as Malaysia, Singapore, Hong Kong, Thailand, China, Scandinavia, Europe and South America. The international reputation of Australia’s education system is a testimony to the quality of education in this country and is a reflection of the level of service that is offered. This government is determined to ensure a far stronger basis for the operations of the education and training export industry so that it continues to grow and flourish. We need to address the risk posed to the industry and to our international reputation by mismanaged or disreputable providers and non-bona fide students. These operators are a minority, but their conduct reflects on, and has the potential to damage, all providers. Members of the industry themselves recognise that maintaining the reputation of Australia’s education system is integral to the long-term growth of the industry. This legislation will provide greater protection to international students. It will strengthen the integrity of the visa system and the reputation and the ongoing health of this industry in an increasingly competitive global market where other countries are striving to obtain greater market share so that they too can enjoy the many benefits that this industry offers.

In addition to the financial rewards in this age of globalisation and interdependence, the international education industry also yields other less tangible but equally important benefits to the Australian community. It provides our Australian students with the opportunity to extend their networks and to develop an understanding of the global context in which this country is increasingly operating. It helps our students to develop international perspectives, mutual understanding and skills of cross-cultural communication—key competencies necessary for students to become active and responsible world citizens—as well as the much needed qualities in today’s world that foster global harmony and peaceful co-existence. It provides opportunity for international students to experience Australian culture, our society and our system of democracy and to develop linkages here.

Australia’s education and training export industry reinforces positive perceptions of Australia as a trade and investment partner with future leaders throughout the country and throughout the world. Presently a number of business and political leaders in countries in the region are Australian educated graduates who hold affectionate views towards Australia and the Australian people. This can only benefit this nation. International students gain insight into Australian law, culture, institutions and business practices, which fosters a better understanding of Australians overseas. Australians benefit from international students’ contribution to teaching and research, from the exchange of international perspectives and the diversification of fields of study in response to international demand. This legislation will maintain and enhance these benefits.

The current legislation, the ESOS Act 1991, has enabled a few unscrupulous operators to threaten this important industry. The ESOS Act 1991 does not provide reliable financial assurance for overseas students nor certainty as to the quality of education provided, nor does it give a whole of government approach to an industry that relies on the student visa program. Industry has been demanding that government take strong action to address the problem. It should be recognised that this is a diverse industry and not all players hold the same views. Industry recognises that the changes will involve a period of transition, and bona fide providers welcome the enhanced quality assurance and protection for students that this legislation represents. The handful of other providers who have not behaved so well will see that the strengthened regulations are a threat to
their operations. The government is supporting this valuable industry, the interests and wellbeing of all students and the reputation of Australia’s education system. The bills pursue these objectives by retaining the successful aspects of the ESOS Act 1991, by replacing some less effective measures and by providing for new obligations on providers and new powers for the Department of Education, Training and Youth Affairs and the Department of Immigration and Multicultural Affairs.

The package of bills will do the following. The ESOS Act 2000 will replace the 1991 ESOS Act. It will ensure more reliable financial and tuition assurances for the students. The new assurance fund requirements will replace collective responsibility for safeguarding students’ prepaid fees on entry. There will be greater certainty that only providers of quality and integrity operate in this industry. A legally enforceable national code will provide nationally consistent standards for the registration and conduct of registered providers. A secure electronic confirmation of enrolment system will preclude fraud amongst students seeking student visas and will identify students who do not adhere to the conditions of those visas. The electronic system will provide evidence for scrutinising compliance with the new act and student visa conditions. There will be new offences and vital new Commonwealth powers to investigate and impose sanctions and to remove non-bona fide operators from the industry. There will be changes to the formula for the annual registration charge, which will ensure that the Commonwealth can take on a core proactive role in addressing the problems facing it.

The Migration Legislation Amendment (Overseas Students) Bill 2000 contains measures aimed at improving regulation of the education and training export industry and at strengthening the integrity of the overseas students program. The first measure in certain circumstances provides for the automatic cancellation of student visas by operation of law and a process for the discretionary revocation of an automatic visa cancellation. This is intended to create a more streamlined and effective process for dealing with students who fail to observe their visa conditions by not attending classes or not demonstrating satisfactory academic performance and who do not explain the failure to an immigration officer. A safeguard provision has also been made for students whose student visas have been automatically cancelled to apply for the revocation of the cancellation, subject to certain time limits.

The second measure empowers immigration officers to require the production of, to search for and inspect, and in some cases seize, relevant records held by education providers. These new powers are to be used where there is reason to believe that the conditions of student visas have not been complied with. These enhanced search and entry powers will allow the government to better monitor compliance with student visa conditions and thereby strengthen the integrity of the overseas student program.

I would now like to outline some of the main features of this package of bills. The system of individual providers maintaining a notified trust account under the ESOS Act 1991 reflects good practice in the management of prepaid course fees. I pay tribute to the many providers who have operated the system conscientiously and effectively. But it has failed as a mechanism to offer students suitable alternative tuition or a refund if their institution collapses. The notified trust account has depended on individual provider honesty and good management. The assurance fund will replace the requirement for notified trust accounts. The government will provide $1 million in seed funding to establish the fund. All private institutions will be required to contribute to the fund, which will be managed independently by a professional fund manager and which will be beyond the control of individual providers. In this way money will be available to help students continue their education or to obtain a refund if the provider collapses. In many cases, students and their entire families have made great financial sacrifices to come and study in Australia. Often they have pinned their dreams and hopes for employment, access to a good income and a better quality of life on the educational qualifications they will receive in Australia. It must also be remem-
bered that these students choose Australia over the United States, the United Kingdom, Canada and other countries that have now entered the international education market, all of whom are vying for the same share of the additional income that this industry provides. So we do need to work at preserving our interests in this field while, at the same time, recognising our moral responsibility to students that we attract to study in this country.

A minority of students are abusing the conditions of the student visa by working more hours than permitted and/or by abandoning their studies. A small number of private institutions have colluded with the students to offer low cost, low quality education as a cover for working in Australia. The paper based system for confirmation of enrolment has been seen by a few unscrupulous operators as an open invitation to commit forgery and fraud. The electronic system will be secure and it will cut out malpractice. It is being established to a very secure level, and other devices will be used. It will also provide government with evidence relevant to provider compliance with the requirements of this act. It will create a very reliable and comprehensive database of the education export industry. The electronic system for confirmation of enrolment will be used by providers to report students who breach their visa conditions by failing to attend or achieve academic progress. Providers who do not do so will be at risk of sanctions being imposed on them. Around 40,000 electronic confirmations of enrolment have been processed since the system started, and the feedback from users has been very positive. The prospects for the successful implementation of the second phase are very good.

In addition, where the Department of Immigration and Multicultural Affairs holds information suggesting possible breaches by students or providers, they will be able to search for and inspect providers’ records on overseas students and automatically cancel student visas where there are breaches. While quality assurance will continue to be a state responsibility, the national code established by the main bill will introduce nationally agreed standards for the registration and monitoring of providers. The code is intended to complement existing state and territory requirements and relevant national education quality assurance frameworks. Providers will be registered only if a state has certified compliance with the national code, and the Commonwealth will be able to initiate inquiries into the unsatisfactory providers and take some appropriate action. The national code will establish standards for matters including educational resources and facilities; marketing; monitoring and assessment of student performance, attendance and progress; refund policies; grievance procedures; student support services; consistency in the state registration of maximum student numbers and class shifts; and registration of providers where there are subcontracting or franchising arrangements.

The Education Services for Overseas Students Bill 2000 will create new offences and vital new Commonwealth powers to investigate, impose sanctions and remove poor quality or dishonest operators from the industry. Measures in this bill will also enable the Minister for Immigration and Multicultural Affairs to act against providers where emergency measures appear necessary. These changes are necessary to protect this very important industry. The notified trust account of the old ESOS Act did not reliably protect students’ interests when providers collapsed. The paper based confirmation of the enrolment system in 1995 enabled fraud and dishonesty. The Commonwealth was restricted in the actions it could take against providers lacking integrity or quality. These points are all being addressed in the national interest through this reform package. (Extension of time granted)

The Department of Education, Training and Youth Affairs has been rigorous in its efforts to seek industry and other stakeholder agreements to the proposals that have been put forward and has been consulting since last year. A number of options were proposed and considered by industry and government in the process of consultation. This legislation gives the best and most effective approach to the problems facing the industry. Industry associations will always oppose increases in costs to their members, but they
have asked the government to act firmly to stamp out the problems in the industry and to take tough action to bear down on shonky providers who are undermining legitimate businesses. The taxpayer should not have to foot the bill. The costs are moderate; the registration charge will increase by less than $3,000 a year for even the largest of the providers.

The Education Services for Overseas Students Bill 2000 creates new offences and new powers for the investigation of providers for breaches of the national code and the act. Where DETYA receives a report of breaches of the act, such as a college colluding regarding non-attendance, they will be able to obtain documentary evidence, including that obtained through the electronic system. They will have the capacity to inspect, to see, records, to interview staff or to obtain a search warrant. The bill creates new sanctions and, depending on the circumstances, the provider could be suspended or cancelled or prosecuted. The Commonwealth is allocating resources to the cost of administering the Education Services for Overseas Students Act in addition to the resources raised through the annual registration charge. The increase of about 50 per cent in the annual registration charge for institutions registered by the Commonwealth Register of Institutions and Courses for Overseas Students will yield an additional $500,000, which will go towards the enforcement of the new powers. Finally, I would like to foreshadow that I will be moving amendments, which have been circulated, to the Education Services for Overseas Students Bill 2000 during the consideration in detail stage. I commend the bill to the House.

Amendment negatived.

Question resolved in the affirmative.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

Consideration in Detail

Bill—by leave—taken as a whole.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.40 p.m.)—by leave—I present the signed supplementary memorandum to the bill. I move government amendments (1) to (13):

1. Clause 21, page 19 (line 15), after “residential address”, insert “as supplied by the student.”.

2. Clause 33, page 25 (after line 8), at the end of the clause, add:

3. The national code is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

4. Clause 36, page 25 (line 20), at the end of subclause (2), add “and persons who, in the Minister’s opinion, represent the interests of providers”.

5. Clause 40, page 27 (lines 5 to 7), omit all the words in the note from and including “On the other hand.”.

6. Clause 42, page 27 (line 30), at the end of subclause (2), add “and persons who, in the Minister’s opinion, represent the interests of providers”.

7. Clause 54, page 34 (lines 12 and 13), omit subclause (5), substitute:

8. Clause 72, page 42 (after line 18), at the end of the clause, add:

9. Clause 80, page 46 (line 26), at the end of subclause (3), add “and the Panel”.

10. Clause 93, page 51 (lines 24 and 25), omit subparagraphs (i) and (ii), substitute:

(i) if Subdivision A applies and, in the Secretary’s opinion, the cir-
circumstances of the possible breach require urgent action—at least 24 hours; or
(ii) if Subdivision A otherwise applies—at least 72 hours; or
(iii) if Subdivision B or subsection 89(2) applies—at least 7 days;
(11) Clause 106, page 58 (line 17), omit “12”, substitute “4”.
(12) Clause 106, page 58 (line 18), omit “60”, substitute “20”.
(13) Page 98 (after line 6), after clause 176, insert:

176A Review of this Act
The Minister must cause an independent evaluation of the operation of this Act to be commenced within 3 years after the day on which this Act receives the Royal Assent.

Mr LEE (Dobell) (12.40 p.m.)—I wish to raise one issue about amendment No. 5. I will raise other issues more generally about the original bill, which will come up in matters that will be put to the House shortly. The effect of amendment No. 5 is to delete the following words from section 40:

On the other hand, a student cannot bring an action against a registered provider for not complying with the code as this Act does not provide for any such action.

I would ask the Parliamentary Secretary to the Minister for Education, Training and Youth Affairs: what is the effect of the removal by amendment No. 5 of part of this note? Why was it written into the legislation initially, what has prompted its removal and how does its removal affect the consumer protection available to students?

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.41 p.m.)—In fact, there was legal advice that there was no diminution of the consumer protection rights under other legislation. The ESOS Bill is a legislative instrument to protect overseas students through the obligations that can be imposed on education and training services providers and the sanctions that can be imposed on those that do not comply. The amendments do remove the second paragraph of the note on the legal effects of section 40 which have been interpreted as limiting students’ consumer protection rights under other legislation. The ESOS Bill is intended to protect the interests of students through the actions of government. This is necessary as students on time limited visas may not be able to pursue actions through the Australian courts; they may have returned to their own country. Individuals can seek damages for their own losses only. Nevertheless, consumers can individually seek redress through actions under the Trade Practices Act 1975 and state and territory consumer protection laws. The amendment removes a paragraph that said:

On the other hand, a student cannot bring an action against a registered provider for not complying with the code as this Act does not provide for any such action.

Some members of industry were concerned that this suggested a reduction in the student’s consumer rights. As I have already said, although the legal advice was to the contrary, there was no such effect. The
amendment is made to prevent such misconceptions.

Mr LEE (Dobell) (12.44 p.m.)—The last contribution I will make on the debate on the supplementary amendments is this. I could not let this occasion go past without once again emphasising to the government through the parliamentary secretary the concern the opposition has about the inadequate advice given to the opposition about these 13 amendments. As I have mentioned in the second reading debate, three days ago my office contacted the minister’s office and asked specifically whether the government would be moving amendments to the bill that had already been introduced into the House. The advice of the office of the minister for education was that it would not tell the opposition whether or not the government intended to move amendments to its own legislation. I am grateful for the fact that the parliamentary secretary was much more cooperative and two days ago advised the opposition that amendments had been circulated and that the government was moving amendments to the legislation. Obviously, given that our party meeting took place on the Tuesday and these amendments were not circulated until after our party meeting had been held, that made it impossible for the parliamentary Labor Party to follow our normal internal processes and give all our members a chance to consider the effect of these amendments.

I think the parliamentary secretary does understand the importance of having good cooperation between the government and the opposition in considering amendments to important legislation such as this. I would be pretty confident that she would be trying to persuade the minister for education that we need a bit more cooperation than he has given to date on this legislation. Perhaps through her we could send a message that, if the minister is not prepared to be more sensible in his approach to these matters, the opposition will be forced to apply Newton’s third law of motion, which was mentioned yesterday, and which is that for every action there is an equal and opposite reaction. I might leave it at that.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.47 p.m.)—I am obviously quite unaware of any conversations which may have taken place between the shadow minister’s and minister’s offices. I think the shadow minister would be aware that the legislation was put together and then sent out for consultation. That consultation has been extensive. It was predictable, I suppose, that amendments would be drafted after that; otherwise what would be the point of putting out legislation for consultation? I can confirm, though, that these amendments have taken some time to be put together and only went to the government party room on Tuesday. So I do not think these amendments were being deliberately—and Mr Lee interjecting—

Ms WORTH—Well, there are advantages in being in government. There was no deliberate attempt made to keep these amendments from the opposition. I do agree that, where there is complex legislation, and where there are amendments, it is often beneficial for the opposition to have briefings and to be made aware of the amendments. That is particularly so with legislation such as this, which is so important internationally and which is certainly in the best interests of the country. But I am pleased overall that the opposition is supporting this legislation.

Amendments agreed to.

Mr LEE (Dobell) (12.48 p.m.)—If I understand the position we are in now, this gives me a chance to raise some points of concern and put to the parliamentary secretary some questions which the opposition has about the original bill. First of all, the parliamentary secretary made some reference to the role of the states and territories in ensuring that undesirable characters are dealt with. I have a few questions about the fact that the views of states and territories do not seem to be contained in the explanatory memorandum. The parliamentary secretary mentioned that there had been extensive consultation about the legislation and the national code. On page 24 of the explanatory memorandum we have the views of a number of the stakeholders but
not the views of any of the states or territories. I am interested to know why the views of the states and territories have not been referred to, have not been listed. What has been the response of the states and territories to the legislation and the proposed code and, perhaps even more importantly, what is to be the split of responsibilities between the Commonwealth and the states?

If I heard the parliamentary secretary right, in summing up the second reading debate she did seem to be saying that the responsibility for finding the ‘Dodgy Brothers’ operators out there was going to be back with the states. I cannot see the point in our legislating to give the Commonwealth departments these enhanced powers if the parliamentary secretary and the minister for education are still going to point the finger at the states and territories for any failures. Perhaps the simple way to test this is: what are the circumstances where the Commonwealth would use its powers? Could the parliamentary secretary please give me an example of a case where the Commonwealth would use its powers to obtain documents to enter premises and so on? I would be grateful if she could address those matters.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.51 p.m.)—The states and territories have been involved extensively in consultation. At the MCEETYA meeting last March, where this issue was raised, state officials were nominated to work with the Commonwealth on this matter. So there has been consultation with the states and territories. I am sure the shadow minister would appreciate the fact that the states and territories do register their own institutions. I think they would be somewhat concerned if there were going to be any thought that the Commonwealth would take over that responsibility. There was some advice that perhaps the code should go back to MCEETYA, but that is a long process and we do want to see this legislation passed. Of course, almost as we speak the states and territories are having the opportunity to examine the code, to have some input, just as the opposition has because we are debating this in the chamber.

Because of this legislation, where there is a clear breach of the code, the Commonwealth will have the power to step in and to search records, and there will be sanctions.

Mr LEE (Dobell) (12.52 p.m.)—During the second reading debate there were several examples of past failures that not just members of the opposition but even the parliamentary secretary referred to—for example, G-Quest Institute of Advanced Learning; the National Colleges of Australia, which collapsed; and the Wesley Institute for Language and Commerce, which closed. Would the parliamentary secretary indicate whether the Commonwealth would be taking direct action if examples such as these were to be repeated? Are they examples of where the Commonwealth would use the enhanced powers that have been provided to the department through this legislation? Are they the sorts of examples where we could expect some Commonwealth action, or will the Commonwealth action be limited to pointing its regulatory finger at the relevant state or territory body?

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.53 p.m.)—The Commonwealth has certainly been limited in the past, in those examples in particular, by the inadequacies of the previous legislation. But one can simply ask: with this revised bill, can this happen again? If we look at the Wesley Institute as an example, the national code will provide guidance for providers operating under the arrangements with a registered provider. The shadow minister will recall that, in the example of Wesley, it had teamed up with a less than desirable or appropriate partner. The code will provide the guidance for operating under such arrangements, and the Education Services for Overseas Students Bill 2000 will allow DETYA the discretion not to register on CRICOS if there is a reason to believe that the provider will not comply with the act or code. A past history of a provider or an associate would also be considered.

The ESOS Bill 2000 allows for exemptions to the requirements to be in the assurance fund, but this will be provided in the regulations, which will provide much clearer and stricter criteria for exemptions in the
ESOS 1999 regulations rather than in the previous 1991 regulations. In the other example the shadow minister has mentioned, G-Quest college, the Commonwealth’s responsibility was to make sure that the student got the refund, and in that case of course she did. Since then the college has got premises and is undergoing ongoing supervision by the New South Wales authority. Apparently the state was slow in that case, but we will now have that assurance fund up and operating and therefore the Commonwealth will be in a far more powerful position than it has been in previously.

Mr LEE (Dobell) (12.55 p.m.)—The Commonwealth is certainly in a much more powerful position, because it has the power to enter premises, to seize documents, to take photographs and to ask questions—subject to, I am sure, the usual safeguards. What I am not sure of is when the Commonwealth will use these new powers. In the example of G-Quest Institute of Advanced Learning, this was a body that was claiming to be operating at a college but the address of the college was an empty building. All the Commonwealth did on that occasion was to make sure the student got a refund; but it took no action against the fact that this college still claimed to be operating at an empty building. If there are allegations to the Commonwealth that shonky operators or ‘Dodgy Brothers’ are involved in this industry or if the department becomes aware of such allegations, does the Commonwealth intend to use these enhanced powers, or does it simply intend to send a letter off to the states and fob off its regulatory responsibilities to the states? That is the point I am trying to get at. Why are we giving the Commonwealth these enhanced powers if you are going to rely on the states to do all of the enforcement and all of the investigation? Or is the Commonwealth prepared to meet its responsibilities to overseas students and to ensure that it has not only the power but the will to use these enhanced powers to investigate these types of allegations?

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (12.57 p.m.)—The Commonwealth certainly has the power and the will to investigate and to do everything I said in the speech, but I remind the shadow minister that it will be the states and the territories who will register the institutions. I have to say that, if a college was pretending to be in existence but at that stage did not have premises, unfortunately the New South Wales government let us down. But I would hope that, with a greater level of cooperation there and with the states recognising just how beneficial it is to them to have students and have the industry thriving, they will also be more alert to these problems.

Mr LEE (Dobell) (12.58 p.m.)—I might move on to another matter that was raised in passing by the parliamentary secretary. She referred to the new system for seeking to track not only the enrolment but the attendance of students, and she spoke about the fact that a certain number of enrolments had now been processed electronically with phase 1 of the new system. My question goes to the comment that she then made after that. I hope I have got this quote correct; she can let me know if I have misunderstood her. I thought she said, ‘The prospects of implementation of the second phase of this project are very good.’ That suggests that there is no guarantee the second phase is going to be implemented; it is just that there is a very good prospect. I presume the industry is spending significant resources to move to phase 2, and I would be very disturbed if we were simply hoping that phase 2 is going to be operating. Perhaps the parliamentary secretary could give the House a commitment that we are going to move to full implementation of phase 2. I would be grateful for her advice on that matter.

I might just move on to another question, and that is to ask the government: what advice has been received about the constitutionality of the details of these bills, and specifically the requirements set out in the proposed national code which go to the administration of educational institutions which are registered and regulated by the state and territory governments? If the government has received advice about the constitutionality of
the detail of these bills, will the government consider making a copy of such legal advice available to the opposition? I would be grateful for her advice on one or both of those two matters.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (1.00 p.m.)—Phase 2 is expected to be implemented by April 2001. My remarks during the speech do not in any way reflect that we did not intend to implement it but, rather, that the industry was in fact pleased with the way things were going in phase 1 and was cooperating and expecting that phase 2 would go smoothly, as I do. It is certainly planned to be implemented by 1 April 2001.

Mr Lee—The second issue I raised was whether the government has received any legal advice about the constitutionality of the detail of the bills, and whether such advice could be made available to the opposition.

Ms WORTH—No such legal advice has been sought, so it cannot be made available to the opposition. But I guess in this debate we have already been talking about the responsibilities and obligations of the states and territories, the way they have worked with the Commonwealth and then the Commonwealth responsibilities which will come out of this legislation.

Mr Lee (Dobell) (1.01 p.m.)—I hope it is not struck down. The last point I would like to raise is the question of legal sanctions. Clause 4 of part 1 provides that the criminal code applies to all offences under the act. Is that also intended to cover breaches of the national code, which are described in the legislation as only carrying a fine of up to 10 penalty units? If the criminal code applies to offences under the act, does the criminal code also apply to breaches of the code or are people subject only to fines under breaches of the code? We are concerned about this matter because it is one thing for someone to breach the act but a great deal of the new regulatory obligations being placed on providers are covered by the national code of practice. There is no point in having tough criminal penalties for breaches of the act but only imposing financial penalties on those who breach the national code of practice. If we are to ensure proper standards are upheld in this industry, we need to ensure the cowboys operating in it realise there will be very serious consequences if they breach the code as well as breach the act.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (1.03 p.m.)—The code does provide for fines, and obviously criminal activity would require a court appearance and consequent punishment.

Mr Lee (Dobell) (1.03 p.m.)—The point I was getting at is that it is unclear whether a breach of the code would constitute criminal activity. Clause 4 of part 1, as I understand it, provides that the criminal code applies to offences under the act. However, at the moment the bill seems to read that people are subject to fines only for breaches of the national code of practice. I am sure the seven advisers who are here to assist the passage of this legislation are much better informed than all of us and I would be grateful if, for the record, we could have this clarified for the House.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (1.04 p.m.)—The code does only provide for fines, but within the code an operator could also be closed down. That is certainly a disincentive for any operator to be involved in activity which is less than honourable.

Mr DEPUTY SPEAKER (Mr Andrews)—The Clerk has helpfully pointed out to me that the question is that the bill, as amended, be agreed to.

Mr Lee (Dobell) (1.04 p.m.)—I am grateful for your advice and the Clerk’s assistance in these matters. You may not be aware, Mr Deputy Speaker, that this is part of a long-term campaign of mine to broaden the debate on the detail of bills in a way that breathes a little life back into this chamber, as much as we all enjoy those long second reading contributions.

The last point I put to the Parliamentary Secretary to the Minister for Education, Training and Youth Affairs is to express our concern that simply closing down a provider or imposing a fine obviously is not as serious
a penalty as subjecting someone to legal action for a breach of the criminal code. Perhaps between now and consideration of the bill in the Senate we will have an opportunity to explore this issue further in the public hearings before the Senate. The parliamentary secretary would be aware that during the second reading debate we made a number of suggestions on ways that we believe the code could be improved. We suggested that we could strengthen the provisions relating to franchising and licensing. In particular, we gave the example of the Wesley Institute for Language and Commerce, which she referred to in passing before, and said we believed the code could be strengthened by having tougher provisions relating to franchising and licensing arrangements. It is one thing to say that each entity must be registered under CRICOS but another thing to say that, if David Kemp Pty Ltd wants to license Rod Kemp Pty Ltd to operate their educational service, that is going to be properly regulated and supervised by simply providing a licensing arrangement to another body. I would certainly argue that both of those entities should be subject to proper examination.

The second point we have made is that we believe the code of practice could be improved by widening the disclosure requirements of previous offences by intending providers. Basically, we are arguing for a genuine test of whether someone is a fit and proper person to operate a service such as this. If someone has a conviction for defrauding people of their investments, would we want them running a service that is collecting large sums of money from students? I think there would be more protection of Australia’s international education reputation and more protection for the students if we examined—if we had some test—whether someone was a fit and proper person. At the very least we should be requiring people to declare whether they have criminal convictions or have been the subject of reports by the relevant federal and state consumer protection bodies. I understand that in the travel industry people are tested as to whether they are fit and proper to operate in the industry.

The third suggestion we made was that the code could be improved by greater specification of the requirements for the maintenance of records. We were concerned that people might develop automatic computer programs that would update their records so that everyone was marked as attending unless there was some manual override. There has to be a legitimate check by the provider that people actually attend rather than having some automatic routine to update records without there being any scrutiny of whether the person has in fact attended.

If the parliamentary secretary wishes to take those suggestions on board for further consideration between now and when the matters are dealt with in the Senate, I am sure that will convince my colleagues and me about her cooperative attitude to these matters as distinct from that of Dr Kemp, the Minister for Education, Training and Youth Affairs.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Education, Training and Youth Affairs) (1.09 p.m.)—I again remind the shadow minister, as I have previously, that this code is in draft form and that the views of not only the states and territories and other stakeholders but also the opposition will be considered before this reaches the Senate. I thank him for his suggestions. They will be taken seriously, as usual, and we will have strengthened legislation. I hope he will persuade his Senate colleagues to ensure that this legislation is passed this year.

Bill, as amended, agreed to.

Third Reading

Bill (on motion by Ms Worth)—by leave—read a third time.

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

Second Reading

Consideration resumed from 30 August on motion by Dr Kemp:

That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.
Third Reading
Leave granted for the third reading to be moved forthwith.
Bill (on motion by Ms Worth) read a third time.

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT BILL 2000
Second Reading
Consideration resumed from 30 August on motion by Dr Kemp:
That the bill be now read a second time.
Question resolved in the affirmative.
Bill read a second time.

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

EDUCATION SERVICES FOR OVERSEAS STUDENTS (CONSEQUENTIAL AND TRANSITIONAL) BILL 2000
Second Reading
Consideration resumed from 30 August on motion by Dr Kemp:
That the bill be now read a second time.
Question resolved in the affirmative.
Bill read a second time.

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

FAMILY LAW AMENDMENT BILL 2000
Consideration of Senate Message
Consideration resumed from 8 November.
Senate’s amendments—
(1) Schedule 1, item 3, page 3 (line 11) to page 4 (before line 1), omit the item, substitute:

3 Section 60C (after table item 13)
Insert:

13A Division 13A—Enforcement of orders affecting children
• court may do any or all of the following:
  (a) require a person who contravenes an order affecting children to participate in an appropriate post-separation parenting program designed to help in the resolution of conflicts about parenting;
  (b) make a further parenting order that compensates for contact forgone as a result of the contravention;
  (c) adjourn the proceedings to enable an application to be made for a further parenting order;
—stage 2 of parenting compliance regime
• court must take other action in respect of a person who contravenes an order affecting children if the court is satisfied:
  (a) where the contravention is an initial contravention—that the person has behaved in a way that showed a serious disregard for his or her parenting obligations; or
  (b) where the contravention is a second or subsequent contravention—that it is not appropriate for the person to be dealt with by requiring his or her attendance at a post-separation parenting program;
—stage 3 of parenting compliance regime
(2) Schedule 1, page 6 (after line 2), after item 5, insert:

5A At the end of section 65D
(3) If the application for the parenting order was made as a result of the adjournment under paragraph 70NG(1)(c) of proceedings under Subdivision B of Division 13A of Part VII:

(a) the court must hear and determine the application as soon as practicable; and

(b) if the court makes a parenting order on the application, the court may, if it thinks it is appropriate to do so, dismiss the proceedings under that Subdivision.

Note: The applicant may apply to the Family Court or to the Federal Magistrates Court for the application for the parenting order or for the proceedings under Subdivision B of Division 13A of Part VII, or both, to be transferred to the Federal Magistrates Court or to the Family Court, as the case requires (see section 33B of this Act and section 39 of the Federal Magistrates Act 1999).

(3) Schedule 1, item 7, page 9 (after line 2), after section 70NB, insert:

70NBA Application of Division

Despite anything contained in any other provision of this Division, this Division does not apply in respect of a contravention, committed before this Division commences, of an order under this Act affecting children if a court made an order, in respect of that contravention before this Division commences, under this Act as previously in force.

(4) Schedule 1, item 7, page 11 (line 28), omit “without reasonable excuse,”.

(5) Schedule 1, item 7, page 11 (after line 29), after paragraph (1)(b), insert:

(ba) the person does not prove that he or she had a reasonable excuse for the current contravention; and

(6) Schedule 1, item 7, page 12 (lines 14 to 31), omit subsection (1), substitute:

(1) If this Subdivision applies, the court may do any or all of the following:

(a) make an order in respect of the person who committed the current contravention, or (subject to subsection (2)) in respect of both that person and another specified person, as follows:

(i) directing the person or each person to attend before the provider of a specified appropriate post-separation parenting program so that the provider can make an initial assessment as to the suitability of the person concerned to attend such a program;

(ii) if a person so attending before a provider is assessed by the provider to be suitable to attend such a program or a part of such a program and the provider nominates a particular appropriate program for the person to attend—directing the person to attend that program or that part of that program;

(b) make a further parenting order that compensates for contact forgone as a result of the current contravention;

(c) adjourn the proceedings to allow either or both of the parties to the primary order to apply for a further parenting order under Division 6 of Part VII that discharges, varies or suspends the primary order or revives some or all of an earlier parenting order.

(1A) In deciding whether to adjourn the proceedings as mentioned in paragraph (1)(c), the court must have regard to the following:

(a) whether the primary order was made by consent;

(b) whether either or both of the parties to the proceedings in which the primary order was made were represented in those proceedings by a legal practitioner;

(c) the length of the period between the making of the primary order and the occurrence of the current contravention;

(d) any other matters that the court thinks relevant.

(7) Schedule 1, item 7, page 14 (line 26), omit “without reasonable excuse,”.

(8) Schedule 1, item 7, page 14 (after line 27), after paragraph (1)(b), insert:
(ba) the person does not prove that he or she had a reasonable excuse for the current contravention; and

(9) Schedule 1, item 7, page 16 (line 33), omit “VII”, substitute “V”.

(10) Schedule 1, item 20, page 28 (line 27), omit “must”, substitute “may”.

(11) Schedule 1, item 20, page 28 (line 31), omit “obligation imposed on”, substitute “power given to”.

(12) Schedule 1, item 31, page 31 (lines 7 to 13), omit the item, substitute:

31 Saving

The amendments made by the previous items in this Schedule do not affect any act or thing done by a court under Division 2 of Part XHIA of the Family Law Act 1975 before the commencement of this Schedule, and any such act or thing continues to have effect according to its terms after that commencement as if those amendments had not been made.

(13) Schedule 2, item 10, page 41 (line 4), at the end of subsection (1), add:

; or (e) in respect of the making of a financial agreement—a party to the agreement engaged in conduct that was, in all the circumstances, unconscionable.

(14) Schedule 2, item 10, page 41 (line 32), omit “Court.”; substitute “Court; and”.

(15) Schedule 2, item 10, page 41 (after line 32), at the end of section 90KA, add:

(c) in addition to, or instead of, making an order or orders under paragraph (a) or (b), may order that the agreement, or a specified part of the agreement, be enforced as if it were an order of the court.

(16) Schedule 2, page 42 (after line 2), at the end of the Schedule, add:

11 After subsection 105(2)

Insert:

(2A) Subsection (2) does not prevent a court from making an order under paragraph 90KA(c).

(17) Schedule 3, item 2, page 44 (line 17), omit “(Enforcement of orders affecting children)”, substitute “(Consequences of failure to comply with orders, and other obligations, that affect children)”.

(18) Schedule 3, item 3, page 44 (line 23), omit “(Enforcement of orders affecting children)”, substitute “(Consequences of failure to comply with orders, and other obligations, that affect children)”.

(19) Schedule 3, item 66, page 61 (line 18), before “; substitute:”, insert “(first occurring)”.

(20) Schedule 3, item 79, page 65 (lines 13 and 14), omit “(whether instituted by one party, or jointly by both parties, to the marriage) under subsection (1) or”, substitute “under subsection”.

(21) Schedule 3, item 81, page 68 (line 2), omit “109A”, substitute “109B”.

Mr WILLIAMS (Tangney—Attorney-General) (1.14 p.m.)—I move:

That the amendments be agreed to.

In moving this motion, I wish to make a few comments about the passage of this important legislation. The government welcomes the essentially bipartisan support that the major initiatives of this bill received in both chambers of the parliament. The bill marks a further chapter in the reform of family law that this government has committed itself to. The major reforms made by the bill are to introduce a new regime for the enforcement of parenting orders, to introduce binding financial agreements, to enable the commencement of private arbitration of disputes about property and to make a range of miscellaneous amendments. There is only one amendment made by the Senate about which I wish to comment. The Senate amended the grounds for a court to set aside a financial agreement. The Senate added to those grounds a new paragraph 90K(1)(e). That paragraph states that a court may set aside a financial agreement where a party to the agreement has engaged in conduct that was in all the circumstances unconscionable.

Although the government did not oppose this amendment, it was in our view not necessary. The bill as it stood included grounds for setting aside where the agreement is void or voidable. These grounds incorporate both common law and equitable grounds and, in the view of the government, included the position where an agreement would have failed because of unconscionable conduct. In the government’s view, the amendment was to make it clear that engaging in unconscionable...
able conduct was a ground for setting aside. It is not the intention that that ground now be taken to have greater importance than other equitable or common law grounds, nor that it have a different meaning than it would have at common law or in equity.

The provisions of the new section 90K are modelled upon the existing provisions of paragraph 87(8)(c) of the Family Law Act. Those provisions relate to maintenance agreements entered into in substitution of rights under the Family Law Act. There have been a number of cases where the Family Court has indicated that the terms ‘void’ and ‘voidable’ include the full range of equitable and common law grounds for the setting aside of agreements.

For example, in the case of Cameron and Cameron (1988), the Hon. Mr Justice Kay, adopted the words of Justice Mason, as he then was, in Commercial Bank of Australia Ltd and Amadio (1983), where His Honour stated that the equitable grounds for the setting aside of agreements included fraud, misrepresentation, breach of fiduciary duty, undue influence and unconscionable conduct. This approach was recently affirmed by the Full Court of the Family Court and in Blackman and Blackman (1998). In the government’s view, the new provisions should be interpreted in a similar way as they have been interpreted by courts in the past in relation to paragraph 87(8)(c). I provide a copy of a further revised explanatory memorandum. If that is too big to go in the files, I will substitute it with a shrunken version at a later date.

Mr McCLELLAND (Barton) (1.18 p.m.)—We also welcome the bipartisan approach to the resolution of matters that are the subject of debate in this chamber and also the Senate. I think it is fair to say that all parties approached the debate in a constructive fashion. This is a particularly difficult area of the law. Members of parliament see it time and again with constituents coming in with various difficulties under the Family Law Act. Fundamentally people need to appreciate that, of necessity, those who walk away from Family Court proceedings are losers, in the sense that their combined assets are divided and also the time with their children of necessity will be reduced to the extent that the other party will have their residence or access order, which will necessarily mean that they will have less time. So commentators who review what is done by this government or any government in the family law area need to appreciate the balance involved and need to appreciate the reality is that we are talking about personal traumas, both psychological and financial, not only for the married couple but also for children, and I think all parties have approached it, as I have said, in a constructive way.

We welcome the government eventually coming on board with amendments that we put forward in good faith following well-informed and well-considered representations from the non-government sector. We appreciate that there needs to be a culture in the Family Court that, if orders are made by the court, the court has an obligation to ensure that those orders are complied with; otherwise the court system itself becomes a farce. However, there will be exceptional circumstances in situations of domestic violence and the like where a mandatory obligation may be too oppressive and heavy-handed, and the government has come on board ultimately with that argument, which we welcome. In respect of orders in the non-residents and access area in relation to children and orders generally we also welcome the government’s agreement that it was necessary to still give the court some discretion as to what enforcement or penal actions it takes. Having made the point that we moved for such discretion, it should still be underlined to the court and to participants in the family law area that it is the expectation of all parties, including the parliament and I think it is fair to say the community, that when the court makes an order that order should be enforced, except in exceptional circumstances. The outcome of the debate has been constructive and we are prepared to support the government’s motion.

Question resolved in the affirmative.
Debate resumed from 29 June, on motion by Mr Hockey:

That the bill be now read a second time.

Mr FITZGIBBON (Hunter) (1.22 p.m.)—

The Trade Practices Amendment Bill (No. 1) 2000 is a wide-ranging one which proposes around 14 amendments to the Trade Practices Act 1974. Those amendments include a whole range of small business and consumer protection initiatives and all of those will be supported today by the opposition. Many of the amendments relate to enforcement and penalty provisions. I will leave those aside. I do not think they need discussion at any great length. I have indicated the Labor Party supports them and we invite those changes, in particular those changes which relate to consumer protection.

Many of the amendments, particularly the enhanced enforcement and penalty provisions, are important protection measures for the Australian consumer and, of course, flow from the Australian Law Reform Commission’s report dating back to 1994. They include increasing the maximum penalties under the act to $1.1 million for offences against the consumer protection provisions, providing the court with the ability to impose non-monetary penalties such as community service orders, probation orders and adverse publicity orders for contravention of the act, extending the limitation period of the act to six years and ensuring the courts give preference to compensation over fines and pecuniary penalties. I repeat that the opposition supports them.

Items 3 and 4 introduce a very sensible amendment, one which I moved in this place earlier this year during the debate on A New Tax System (Trade Practices Amendment) Bill 2000. Extraordinarily, on that occasion the government voted down my amendment. As is acknowledged in the Bills Digest, I later introduced the provision by way of a private member’s bill on June 5 this year. The amendment will ensure that in future the Trade Practices Act unconscionable conduct provisions do not override state and territory laws that are not inconsistent with the Trade Practices Act.

The request for the so-called savings provisions first came from the New South Wales government in 1988 when it introduced new retail leases legislation to provide small business retailers with an easy to access, low cost, dispute resolution process. That very effective legislation—I congratulate New South Wales small business minister Sandra Nori on it—is yet to be proclaimed in New South Wales because of fears it may be found to offend section 109 of the Constitution. Section 109 of the Constitution provides that when a law of a state is inconsistent with the law of the Commonwealth the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid. This amendment should have been introduced into this House at least a year ago. The delay in doing so has been unacceptable and I know it has been a matter of some concern to the New South Wales government, but I welcome the fact that the government has finally chosen to move on it.

Three of the amendments to the Trade Practices Act contained within this bill flow from the unanimous recommendations of the Joint Select Committee on the Retailing Sector of which, of course, I was a member. For me these are the amendments of most interest in the bills and to which I will devote most of my comments today. Those amendments, first, insert the term ‘region’ into section 50 of the Trade Practices Act. Section 50 is the merger provision. The second will raise the transaction limit under 51AC of the Trade Practices Act from $1 million to $3 million. Of course, 51AC is the new provision offering protection to small business against the unconscionable conduct of larger players in the market. The third amends the act to allow the ACCC to take representative action and to seek damages on behalf of third parties for breaches of part IV of the act, including, of course, the all important sections 46 and 47. I welcome to the House the member who chaired that committee I mentioned earlier.

These changes are welcome, if a little late. The first expands the definition of what constitutes a market under section 50. It will
allow the ACCC to take into account when considering a merger application or any like proposal the impact on competition within a particular region. Currently the act defines a market as a substantial market for goods and services in Australia in a state or territory. The amendment contained within this bill will allow a much broader definition and therefore allow the ACCC to consider the likely impact of an acquisition or a merger in a particular region. The joint select committee had in mind here the notion of creeping acquisitions, particularly in rural and regional Australia where you will find that one particular acquisition of an independent store by a Coles or a Woolworths may not in itself constitute a lessening of competition in a wider market, but certainly over time a number of like acquisitions could certainly impact upon competition in a given rural or regional community or a rural region. I congratulate members of the National Association of Retail Grocers, who were probably most responsible both for the establishment of the inquiry and for giving it the necessary profile to ensure that it was taken seriously and that the recommendations were effective. Labor first committed itself to the inquiry prior to the 1990 election and the coalition reluctantly committed itself following our decision to do so.

The second amendment in this bill emanating from that retail inquiry is the lifting of the transaction limit under section 51AC of the Trade Practices Act. The raising of the limit from $1 million to $3 million will ensure that all firms have access to this new protection against unconscionable conduct, which we see evidence of from time to time from the larger players. Labor warned at the time that the $1 million transaction limit was far too low, particularly for those high volume low margin small business people like service station operators, for example. Speaking of service station operators, I have to say that this bill would have provided an excellent opportunity to make some other amendments to the Trade Practices Act, including one which I have been proposing for some time. That is an amendment to make exclusive fuel supply arrangements between the major oil companies and petrol retailers, or indeed any fuel retailers for that matter, contrary to section 47 of the Trade Practices Act.

This is an important amendment. As a public policy issue, fuel prices are at the top of the tree for the general community. I have been saying for some time that this simple amendment to the Trade Practices Act would for the first time introduce real competition at the wholesale level by allowing service station operators to shop around for their fuel rather than be tied to an exclusive arrangement with one oil company. This is a proposal which enjoys the support of the ACCC, the National Farmers Federation, the Motor Trades Association of Australia, a number of state consumer affairs ministers and, more recently, the Western Australian government’s petrol pricing issues committee, which is dominated by the conservative Court government. This idea is more important than ever before because of the GST-induced increase in petrol prices that we have seen, which is very clear now.

We are grateful to Access Economics, who yesterday again confirmed that the government is enjoying an enormous windfall as a result of the GST’s impact on fuel. Again this puts to rest the idea that the oil companies would enjoy savings in terms of better wholesale taxes and those savings of around 1.5 cents or 1.6 cents could then be passed on to the consumer. As Access has pointed out, those savings are fictional. They are unrealistic and indeed largely based on an appreciation in the Australian dollar. I do not think there are too many punters around at the moment putting their house on the likelihood of a significant rise in the Australian dollar over the next little while. This morning we heard from the Australian Automobile Association, which appeared before the federal parliamentary Labor Party’s petrol committee. Its spokesman put the government’s current fuel windfall at something in the order of $2.5 billion—if you also factor in the windfall from the resource grant tax.

These are important issues at the moment, and I would have thought this bill provided the government with a perfect opportunity. We have a number of trade practices amendments here. We could have simply inserted that additional amendment into this
bill, which would, as I have said, have declared any exclusive supply arrangement between the major oil companies—or any company for that matter—with a reseller of fuel restricted under the Trade Practices Act, in particular, section 47.

The third amendment contained within the bill which flows from the retail committee’s recommendation is the proposal to extend to the ACCC power to take representative action under Part IV of the Trade Practices Act. This is nothing new, Mr Deputy Speaker, as I suspect you would know. This recommendation also came from the Reid committee, an earlier committee looking at small business issues, in particular tenancy issues, and one which is eminently supportable and makes a lot of sense. The ACCC already has the power to take representative action under Parts IVA and V of the act, and it makes sense to extend that to Part IV. I understand the reasons it is not in Part IV already are largely historical and date from the time when different ministers had different responsibilities for different parts of the act. It is time that inconsistency was addressed.

This is, of course, a simple concept that would give the ACCC the opportunity to recover damages on behalf of an injured party—a small business person—who has been subject to some sort of foul play that breaches sections 46 or 47 of the Trade Practices Act, whether it be predatory pricing or any other type of offence under that part of the act. While the ACCC is in court prosecuting the offending party it can gather compensation for the small party that has been injured. That is eminently sensible. At the moment larger players can be fined up to $10 million for these offences but, of course, that $10 million goes back into general revenue for the government. No part of that $10 million can be passed on to the injured party.

These are the three amendments that flow from the committee’s recommendations. I express my disappointment that a number of other recommendations were not adopted. In other words, the government has dropped the ball on the unanimous recommendations of the committee. That is very disappointing, in particular the failure to make the retail code that comes from the inquiry a mandatory one obliging all participants in the industry to participate. Of course, making the code voluntary gives the larger players the opportunity to opt in and out of the code. In franchising, the government has been happy to embrace a mandatory code and it should have done so with respect to the retailing code as well.

Mr Brough—It was a voluntary one first.

Mr FITZGIBBON—The parliamentary secretary indicates that the government has said that if in time the code is not successful in addressing many of the industry concerns that flowed from the retailing committee—and there were many of them; there were some very sad cases illustrating the impact unfair practices have had on smaller players in the retailing market as there were, of course, during the earlier Reid committee process—the government would look at enhancing it in such a way as to make it mandatory. I appreciate that interjection. I just do not understand, having embraced a mandatory code in the franchising sector, why the government does not just grab—

Mr Brough—Because it was voluntary at first.

Mr FITZGIBBON—I appreciate that interjection from the parliamentary secretary as well. Yes, it was voluntary at first and what happened?

Mr Brough—It didn’t work.

Mr FITZGIBBON—It did not work and the government was forced to move to render the code mandatory in the franchising sector. Why not? Why give people the opportunity to opt in and out when the code does not suit them? More importantly, the mandatory nature of the code is very important when it comes to negotiating those things that will be contained within the code, because if people have the ability to walk away from the nego-
tiation process at any time obviously that gives them significant leverage when debating and negotiating what lies within the code. That is only common sense. 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

(1) condemns the Government for failing to fully embrace the recommendations of the Joint Select Committee on the Retailing Sector including:

(a) the establishment of a mandatory code embracing the principle of “like terms for like customers” and the mandatory notification of retail stores and wholesale operation acquisitions by publicly listed corporations, and

(b) the establishment of a National Uniform Retail Tenancy Code, and

(2) calls on the Government to facilitate open debate about the full impact of the GST on the viability of small businesses”.

These recommendations on which the government has dropped the ball were not revolutionary. I know that any larger player doing the right thing within the sector need not fear them at all. I had a very good briefing from Coles Myer this morning about what it has done to embrace the spirit of the committee’s report and, indeed, its recommendations, including the code. It demonstrated that it has made some significant changes which make me feel more comfortable about transparency and its ability, or lack of it, to play the game unfairly at the expense of smaller players. I do acknowledge that.

The recommendations this government has failed to embrace are not revolutionary and should not have raised any great fear for those larger players operating in the market. The establishment of the uniform national retail tenancy code speaks for itself. We have a hotch-potch of retail legislation across this country. It is particularly difficult for those who operate in more than one state, but some of that retail legislation is very good. I have already referred to the New South Wales government’s legislation and its very good low cost, easy to access dispute resolution mechanisms, but others fail dismally and I think it is time for the Commonwealth to show some leadership on this issue. There could be arguments about the constitutionality of the Commonwealth being involved. If that is a problem—and I do not concede that it is—there is nothing to stop the Commonwealth bringing the states together in council to embrace a uniform code that would adopt the sorts of principles that have been adopted by the government in New South Wales, a system that I expect will work exceptionally well.

I turn to the second part of my amendment: the call on the government to facilitate open debate about the full impact of the GST on the viability of small firms. The Prime Minister has demonstrated on a number of occasions during question time this week that he is totally and absolutely out of touch with what is happening in the small business sector, despite a growing pool of business peak groups and media commentators warning of the real dangers faced by small firms. The Prime Minister, the Treasurer and even the Minister for Employment, Workplace Relations and Small Business refuse to acknowledge the difficulties small business is facing at the moment. Let me share with you, Mr Deputy Speaker, some of those views. The first came from the latest edition of Business Review Weekly. It says:

During the 1996 federal election, Prime Minister John Howard promised small businesses he would halve their paperwork and red tape. He lied. What Howard meant was that by 2000, the paperwork of most small-business owners would double ... and that small-business owners would have less time to spend running their businesses and more time filling in forms.

That is a pretty hard hitting criticism from quite a reputable magazine. What was the Prime Minister’s response to the Business Review Weekly article? He said:

I do not accept the charge made ... in the article.

The next comment came from Mr Rob Bastian, the Chief Executive Officer of the Council of Small Business Organisations of Australia. Referring to the business activity statement, he said:

It might be only one [double-sided] page but the BAS takes a hell of a lot of work to finish. My takeout is that businesses are gradually getting
through it, but are pretty angry about the time it’s taking them. The paperwork burden is just getting worse.

The key words are, ‘The paperwork burden is just getting worse.’ This is in reference to a policy of a Prime Minister who promised the small business community that their paperwork burden would be halved.

**Mr Wilkie**—Didn’t he mean to say there’d be half as many small businesses?

**Mr FITZGIBBON**—I appreciate the honourable member’s interjection when he says that maybe he meant he was out to halve the number of small businesses. Certainly international experience is that there will be fewer small businesses operating in the market over the next 12 months than there were prior to the introduction of the GST. When we put this matter to the Prime Minister in question time, again he went into denial; he did not accept the proposition put. Let me share with the House what Mr Bastian, who has been a fairly consistent supporter of the government, particularly on tax issues in recent years, said to that. He said: How the hell can he say that? I would say that the paperwork has increased exponentially. You would be hard pressed to find a single business owner who agreed with the PM.

Yet what does the Prime Minister say in response? He said:

I stand by the remarks I made yesterday.

They were the remarks that he did not accept the proposition put by the Business Review Weekly or Mr Bastian, or the growing pool of accountants and accounting organisations around this country who now agree that we have had too much reform too fast, if we can call it reform. Some call it the introduction of a flat tax, whether they have the ability to pay or not. I do not, but I use the word very loosely. We have had too much change and many small business operators are struggling.

Do you know what they want from the Prime Minister, Mr Deputy Speaker? All they really want is acknowledgement. They want the Prime Minister to come in here and accept that he has got a few things wrong, he understands their problem and is committed to doing something about it. Acknowledgement: it is a pretty simple thing; but he remains in denial and simply says he does not accept the proposition put by those highly respected media commentators. He is going to have to start beginning to offer some acknowledgement.

We saw the Morgan and Banks survey last week, which was a damning criticism of the government’s policy. Something like 92 per cent of small business people say profitability is down as a result of the introduction of the GST. Why? Firstly, they are spending so much time filling out paperwork they do not have time to run their business, to focus on the things that really matter—their core area of service and sales. Secondly, the government was so desperate to get through the political mire of the GST it went out there with a big stick and said to the small business community, ‘You get that business activity statement wrong or you exploit prices and you may find yourself up for a $10 million fine.’ That is pretty scary stuff for a one-, two- or three-man or woman small business operator. What do they do? When in difficulty, trying to work out how to apply the GST to their prices, they default to safety. They say the best thing they can do here is increase their prices less than they should as a result of the GST to ensure they do not make a mistake and therefore do not face the consequences that flow from a breach of the new provisions of the Trade Practices Act. They are absorbing the GST into their profit margins. This explains partly why the government got one piece of good news on the lower than expected inflationary impact of the GST in the first quarter after 1 July. It is because more than one million small business people are not passing the GST on. They are absorbing it into their profit margins, and they cannot keep doing that forever. There will be a crisis somewhere down the track.

Maybe we will see that become manifest with the deadline for the business activity statement, which is effectively tomorrow, because Monday is too late. Maybe we will see it become more manifest with the return of the second business activity statement, when people are not getting wholesale sales tax credits and have already raided every
cookie jar available to fund the cash flow problem created by the first business activity statement. I am not crying that the sky is falling. Indeed, I think the member for Cook would concede that, as shadow minister for small business, I have been very cautious over 12 months not to do that very thing. My view is that, having lost the war on the introduction of the GST, the best thing the opposition can do is identify the real issues and do all we can in opposition to facilitate amendments in this place to make the GST fairer and less complex. I say we will continue to do that. The government can call it roll-back or finetuning, whatever they like, but the fact is that we have now had around 1,550 amendments to the government’s new ‘simple’ tax system. We will continue to push for changes which will make life easier for the small business community.

I have done a survey in my own electorate on the GST. Can I say to honourable members that I did my best to do it in a scientific way, not using a push poll method or any method that would deliver the results I was looking for in order to make a political point. The key question in that survey was the first one, which simply asked: (1) if the GST has had a positive impact on your business, (2) if it has had a negative impact, (3) are you unsure, or (4) is it too early to tell, or something like that. Fifty-two per cent of small firms in my electorate said that the GST had had a negative impact on their business. Another large slice said they were still unsure. Those people further on in the survey, when given the opportunity at the end to make a general comment, made very negative remarks about the impact of the GST. So if you extrapolate those across and include those with those who said it had negative effects, the figure was more like 61 per cent.

The government is in denial, absolutely in denial. Either that or it is just displaying complete arrogance with respect to the way small business regards the GST and it must now act. (Time expired)

Mr BAIRD (Cook) (1.52 p.m.)—It gives me great pleasure to rise today, because what we are speaking on is the response of the committee that reviewed Australia’s retail sector. Was it a question of market dominance or of market failure—the report is entitled *Fair market or market failure?* I was particularly pleased to chair that committee. The member for Hunter, who has just spoken, was one of its members. It is important to note that the recommendations of the committee were unanimous and that committee members from all parties worked together very well to address the real problem in our economic situation of the market size of the major retailers. I think the results that we produced were accepted pretty broadly. In fact, I was expecting the member for Hunter to applaud the government for the number of recommendations that were accepted. I think it was more than most of us on the committee anticipated would be the situation. I for one would like to commend the Minister for Employment, Workplace Relations and Small Business for his leading the recommendations through the cabinet and, of course, Minister Hockey for bringing through these particular recommendations.

I notice that the member for Hunter had several other comments. I notice he took the opportunity to speak about small business generally rather than the specific recommendations of this inquiry. He has difficulty in getting a say these days, so he uses whatever forum is available. I wonder whether his survey was the same as that of the member for Dickson, who outlined what percentage of her electorate supported the GST and those who did not, the results of which added up to about 108 per cent. I do not know whether it is the same kind of dodgy survey.

The member for Hunter quoted the Morgan and Banks study, without referring to the fact that some 90.5 per cent of those who responded to the Morgan and Banks survey actually commented that they were totally opposed to the Labor Party’s proposal of the roll-back of the GST. He failed to mention that and glided right on over it. So if we are going to quote the Morgan and Banks study let us do it in its entirety, because across the board the Morgan and Banks
study was very positive about the implementation of the GST. Then, of course, I listened to the third allegation from the member for Hunter, who talked about the impact of the CPI, saying that he thought that companies were simply absorbing the impact of the GST and that there would be lots of problems with companies going under as a result.

It was particularly interesting that this very morning the economic development subcommittee of the committee had a briefing from Chris Richardson from Access Economics, who said that Access Economics was extremely pleased with the CPI figure, because it means that it was about right. He said that, if it were much lower, it would show what the member for Hunter is alleging has happened: that companies were simply absorbing it and not passing it on, which would present difficulties later. He said that, if it were much higher, you would assume that companies were using it to exploit the situation. So he believes that the CPI impact from the GST will now disappear. This was a one-off exercise and because of the level of it, the implications that the member for Hunter is suggesting are erroneous.

So this very morning, just about an hour ago, in the economic development committee, Chris Richardson, who is brought out by all the media organisations in this country to comment on matters of public importance related to the economy, said very clearly that as far as he, as a leading economist in the country, is concerned, the impact of the GST had basically been pretty much a whimper; that the GST has been accepted far more in the community than he would have expected; and that the impact in terms of inflation and in terms of companies going to the wall, which was alleged by the member for Hunter, has, in fact, not occurred. This is not the member for Cook alleging this, or the member for Hughes. This is the forecast of Chris Richardson, a leading economist from Access Economics.

So I suggest that, while I am sure that the member for Hunter has been busy in his room preparing his speech, it would be worth while if he came along to some of the briefings by leading economists on how they see the impact of the GST, rather than talking to some of his trade union mates who give him, as per normal, the bum steer. We all know that the GST has been well accepted, with cuts in income tax right across the board. Those who are paying wages have received major cuts, some $12 billion in tax cuts. Some $4 billion in cuts for exporters means that small business as well as large business are receiving the benefits. Of course, the benefit is to the whole Australian economy.

So there have been many benefits right across the board through the implementation of the GST and these facts were affirmed by Chris Richardson this very morning in terms of the overall impact of the GST.

So this report, which we will continue to speak on after question time, has been well received. It indicates the credentials of this government, in relation to small business, recognising the problems and ensuring that the ACCC’s guidelines are reformed. I commend Minister Hockey and Minister Reith for their role in bringing forward these changes which have been asked for by the NARGA organisation, the major retailers. We have a retail ombudsman, we have a code of conduct and we have changes which are in line with the recommendations made to the committee. I think it is appropriate that this House recognises that it was a unanimous recommendation from the committee which has been taken on board by the ministers and brought into this parliament’s legislation. I reserve the right to speak after question time.

Mr SPEAKER—I thank the member for Cook for his courtesy, but the right to speak would have been extended to him anyway. The debate is interrupted in accordance with standing order 101A.

LEADER OF THE OPPOSITION: ANNIVERSARY OF ELECTION

Mr HOWARD (Bennelong—Prime Minister) (2.00 p.m.)—Mr Speaker, before you call for questions, I seek the indulgence of the House to raise a matter. I understand that last night a very happy occasion was held on the other side to mark the 20th anniversary of the election to the federal parliament of the Leader of the Opposition. Can I say on behalf of government members, on behalf of
the Liberal and National parties, that we congratulate the Leader of the Opposition on his 20 years of service. Anybody who has that strange mixture of commitment and I suppose a touch of craziness to commit themselves for so long deserves our praise. There are not many people who serve 20 years, and there are few of us on this side.

The Leader of the Opposition entered parliament on 18 October 1980 and I remember him as a new member then, I having been here for a few years longer. He has given very strong service to his party and he has certainly been a very committed member. I congratulate him on that service and that commitment. Despite our obvious political differences, I respect the contribution that he makes to his party and to the parliament, and I wish him and his family every bit of health and happiness in the future they would wish for themselves.

Mr SPEAKER—I join the Prime Minister and I would have thought not only all members of the parliament but the staff of the House in extending similar sentiments to the Leader of the Opposition. I gather he too is seeking indulgence, and I extend that to him.

Mr BEAZLEY (Brand—Leader of the Opposition) (2.02 p.m.)—I thank the Prime Minister, you, Mr Speaker, and through you the staff of the parliament for the extension of their best wishes and congratulations. It comes, needless to say, as a total surprise but a very welcome one. The Prime Minister was very gracious in the remarks that he made, and I thank him for those remarks. It is a privilege to serve in this place. All of us feel that very keenly, I know. All of us do the very best we can for this country and do the very best we can for our political persuasions. To be recognised in that way by the Prime Minister and you, Mr Speaker, but particularly by the remarks of the Prime Minister, is gratifying, and I thank him for it.

QUESTIONS WITHOUT NOTICE

Petrol Prices

Mr CREAN (2.03 p.m.)—My question is to the Treasurer. Do you recall last week quoting British Prime Minister Tony Blair and saying that you agreed with him on petrol tax? If so, have you seen last night’s pre-budget speech by the Chancellor of the Exchequer, which announced ‘a freeze on excise duties—an across-the-board duty freeze on all fuels ... until April 2002’? Treasurer, if the British Prime Minister is prepared now to give petrol tax relief to struggling motorists, why won’t you?

Mr COSTELLO—As I recall, I quoted Mr Blair as agreeing with our Prime Minister and saying that Mr Blair had endorsed statements that were made that day by Prime Minister Howard on the importance of protecting surpluses and low interest rates. As it turns out, I am very familiar with the statement that was made by the Chancellor of the Exchequer, who said he is not going to increase duty on fuel again until April 2002. That was the statement that he made—again until April 2002. I can understand why the Chancellor of the Exchequer might take that view. The excise on petrol in Britain is 49p a litre, which is $A1.32 a litre.

Mr Crean—it has been frozen.

Mr COSTELLO—He says it is frozen—frozen at $1.32 a litre. That would be a great thing. I think even the Labor Party would freeze it in Australia at $1.32 a litre. After it is frozen, until the Chancellor for the Exchequer puts it up in April 2002, at 49p or $1.32 a litre, a value added tax is then applied at 17½ per cent, making a total tax in Britain at 63.2p per litre—$A1.70. That is not the price in Britain. That is the tax in Britain—49p and 17½ per cent value added tax.

I noticed that the other thing the Chancellor of the Exchequer indicated was that in Britain there would be a vehicle excise duty rate for lorries cut, but not a cut anything of the dimension of that introduced in Australia on 1 July of this year where for lorries—that is, trucks—the cut in excise was 24c a litre. I think the lorry drivers of Britain would be looking at Australia wistfully, wondering whether or not they could have the Australian treatment of a 24c per litre cut. All that goes to say that the Australian Labor Party opposed the 24c a litre cut. I have already referred in this House to the report of Senator Cook, who singled this out for criticism on the grounds, quoting the Australian Con-
reservation Foundation, that we were the only country in the OECD reducing fuel taxes—that was the criticism—and then recommended that Labor vote against our policy. So here is the Labor Party, which was criticising us before 1 July for being the only OECD country to cut fuel taxes. We cut fuel taxes by 24c a litre. Our fuel tax compared to Europe is dramatically lower—

Mr Crean—Mr Speaker, I raise a point of order on the standing order going to relevance. He is just about to sit down and he has still not answered the question he was asked: is he going to give the Australian motorist relief?

Mr Speaker—The Deputy Leader of the Opposition will resume his seat. The Deputy Leader of the Opposition knows that the only requirement on the Treasurer is that his answer be relevant to the question, and it was.

Mr Costello—If the Deputy Leader of the Opposition wants to hold up Britain as an example of his policy, then the people of Australia ought to know what that policy is. That policy is a tax of $1.70 per litre on petrol. I want to make that entirely clear—not a price of $1.70 per litre but in Australian dollars frozen until 2002 at $1.70 per litre. The Labor Party might think it is a good idea to freeze excise at $1.70 per litre. We think that would be massively high when we have an excise of 38c per litre.

Mr Crean—I seek leave to table the speech of the British Chancellor of the Exchequer as well as a press release calling for a fair deal for transport and the environment. Leave granted.

Economy: Performance

Mrs Moylan (2.09 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of any independent research which measures improvements in Australia’s economic performance?

Mr Costello—I thank the honourable member for her question. I can refer the House to a very interesting bulletin published by the US Federal Reserve in October 2000. The US Federal Reserve Bank reported that, as most people know, the US economy has surprised observers, growing briskly with low inflation. Its growth has averaged 4.2 per cent per annum, and this bulletin notes that the impressive performance of the US economy reflects an acceleration in recorded labour productivity. The performance of the US economy has indeed been quite impressive. Over the period 1996 to 1999 labour productivity grew in the US at 2.5 per cent and multifactor productivity at 1.47 per cent. These are exceptional growth rates. The US Federal Reserve noted that that was part of the American economic story. But what will interest members of the House and Australian readers is that the US Federal Reserve went on to find a country which had done better, and it remarked in its text the following:

Only two of the foreign industrial economies in our sample, Australia and Switzerland, showed a rise in labor productivity growth over 1996-98 compared with the earlier periods. For Australia, the acceleration ... was particularly strong ... In contrast ... growth slowed in Canada, Japan, and the major European countries. In most smaller European countries, such as Belgium, Denmark, and the Netherlands, labor productivity also decelerated ...

The US performance, as found by the Federal Reserve, on productivity from 1996 on was, as I said, an increase in labour productivity of 2.5 per cent and multifactor productivity of 1.47. The US Federal Reserve found the comparable figures for Australia: 3.12 compared to US at 2.57, and 2.11 compared to the US at 1.47. In other words, the country which the Federal Reserve found had even exceeded the US in an increase in productivity, the key determinant of the new economy, was Australia, and the upturn in Australia occurred from 1996 onwards.

That is a result no doubt of putting the budget back into balance, locking in a monetary policy target, changing the industrial relations system and heightening competition policy, and some of the benefits that we are now seeing for our people are reflected in greater jobs growth. The labour force figures this morning, released for the month of October, found that unemployment in Australia, at 6.3 per cent, is the lowest it has been in a decade. It is the lowest since Labor put the Australian economy into recession in 1990, the lowest since Labor
peaked unemployment at 11.3 per cent under its then so-called employment minister, the now Leader of the Opposition.

The other interesting news from the labour force figures this morning was that the female unemployment rate, at 5.9 per cent, is the lowest on record, and the member for Pearce no doubt had picked that up in the figures today—at 5.9 per cent, female unemployment the lowest on record. Since the government came to office, around 800,000 new jobs have been produced in the Australian economy. So strong growth, low inflation, strong jobs growth, falling unemployment and labour productivity which matches and beats the US economy. And I am sure all members, including members of the Labor Party, will recognise the good news for Australia in those productivity figures where Australia leads the world, the result of good policy, and with a new improved tax system with more reform the benefit will be more jobs for young Australians.

Nursing Homes: Kenilworth

Ms MACKLIN (2.14 p.m.)—My question is to Minister for Aged Care. Minister, can you confirm that the Kenilworth Nursing Home in my electorate of Jagajaga has had five sets of sanctions imposed on it, yet three reports to you since June 1999 have established that the residents remain at serious risk. Are you aware that the latest report identifies problems in the areas of care, infection and medication control, and refers to a resident left for six days with a broken leg before they were admitted to hospital? Can you confirm that the same report notes that 14 out of the 20 residents were restrained chemically or physically without some authorisation? Minister, why have you allowed residents to remain at serious risk since June 1999 when the first report identified the serious threat to these residents? Have you failed to protect the residents of the nursing home because you fear a repeat of the Riverside fiasco?

Mrs BRONWYN BISHOP—I thank the member for her question because it allows what is being conducted in Kenilworth to be put in the correct perspective. Firstly, there have been five sets of sanctions put in place against the proprietor of Kenilworth. During that time, the right to have any new residents admitted has been taken away. We have withdrawn or revoked 10 beds, with a further five subject to notification. There are teams of nurses who go in and monitor the health of the residents from both the department and the agency. Furthermore, there is the advocacy service in Victoria, a highly reputable organisation, which goes into that home on a regular basis. We are now down to eight residents remaining in that home at this stage.

Ms Macklin—I seek leave to table the latest review audit report, which shows that those residents are still at risk.

Leave not granted.

Education: Funding for Non-government Schools

Mrs VALE (2.16 p.m.)—My question is addressed to the Minister for Education, Training and Youth Affairs. Would the minister inform the House how resources are taken into account in the present ERI funding system for schools? Does this system provide an equitable basis for funding schools?

Dr KEMP—I thank the honourable member for Hughes for her question. The existing school funding system that was put in place by the Labor Party, which goes under the title ‘ERI system’, was reviewed by KPMG in 1996. KPMG concluded, in summary, that the ERI fails to meet most of the tests of an effective indicator of need. Yet this is the system that the Labor Party continues to want to introduce into the school funding legislation. The best way to illustrate the operation of this system and its complete failure to effectively identify need is to take a particular example. Let me give the example of a well-resourced school which has a gymnasium, multipurpose hall, a new musical auditorium, new science laboratories, computer rooms and dark room, five orchestras and ensemble groups and its sports include tennis, cricket, rowing, netball, touch football, hockey, swimming, diving, athletes, tae kwon do and snow skiing. The school has magnificent harbour views and serves one of the wealthiest communities in Australia. Yet, under Labor’s funding system, this school received no less than 40 per cent per pupil of
the cost of sending a child to a government school. This is not a category 1 school we are talking about; this is a category 8 school. This school is Loreto, Kirribilli, the school to which the former Labor minister Graham Richardson has put on the public record that he sent his children to. This is the kind of school which Labor members resort to.

This is a school into which Labor, under its funding system, has pumped $27 million since 1985. I am not saying that this school received some $27 million from the Labor Party under this extraordinary classification because a Labor minister sent his children there. Some people might make that sort of accusation but I would not. This example illustrates the utter failure of Labor to put in place a needs based funding system for non-government schools.

Let us contrast that with one of these infamous category 1 schools in Sydney that Labor is about to deny significant resources to. This is a category 1 school in south-west Sydney, located in Macquarie Fields, south of Liverpool. This category 1 school charges the exhorbitant fees of a little over $200 per student. Its facilities are lavish. This school is run out of a scout hall. It has less than 20 students. Yet, under Labor’s ERI system, it is categorised as being in category 1.

Mr Howard—It is elite!

Dr Kemp—This is one of Labor’s elite schools which caters to the wealthy in our community and Labor is going to freeze its funding. This is the Bethel Learning Centre and its SES score is 93. It is resourced at a much lower level than the average parish school and serves a poorer community. Under Labor, this school will receive $595 per student. Under the government’s fairer funding reforms, in 2004 this school will be entitled to $4,904 per student. Labor intends to deny this school, serving a low income community, some $4,300 per student. Yet it is satisfied with a funding system which gives a school serving one of the wealthiest communities in Australia 40 per cent of the cost of educating a child at a government school. It is the kind of school that Labor leaders like to send their children to.

The ERI system is totally unfair. It is totally discredited. No-one in the non-government sector supports it. All the major Australian churches have said that this system must be abandoned. Yet the lazy leader of the Labor Party, without a policy, wants to preserve this system in the school funding legislation. What utter hypocrisy we see on the part of the Labor Party.

Mr Speaker—Does the member for Lyons have a point of order?

Mr Adams interjecting—

Mr Speaker—I refer him to the standing orders.

Port Adelaide Electorate: Queen Elizabeth Hospital

Mr Sawford (2.22 p.m.)—My question is directed to the Minister for Health and Aged Care. Is the minister aware that on every weekday in the first two weeks of October the Queen Elizabeth Hospital in my electorate of Port Adelaide activated ambulance-bypass because of overcrowding? Why are 40 elderly patients who cannot find nursing home places in western Adelaide occupying Queen Elizabeth Hospital beds? What action will the minister take to make sure that the recent closure of the 47-bed Hindmarsh Nursing Home will not further exacerbate Queen Elizabeth Hospital’s overcrowding and compromise the quality of emergency care at this hospital?

Dr Woolridge—In case the honourable member had not noticed, the Commonwealth does not run public hospitals. What the Commonwealth—

Ms Macklin—You run nursing homes, though!

Dr Woolridge—You might direct that to the Minister for Aged Care if you can actually work that out. What the Commonwealth does is fund the states through health care agreements, and the states are expected to use that to run their hospitals. In terms of the funding for the hospital in your electorate that you mentioned, off the top of my head I can say that the funding has gone up 25 per cent in two years over and above what we funded under the last health and aged care agreement signed by Labor in 1993. So, in
terms of the hospital, you should direct your question to Dean Brown.

**Education: Funding for Non-government Schools**

Mr SOMLYAY (2.24 p.m.)—My question is to the Minister for Education, Training and Youth Affairs. Would the minister advise the House how the government’s school funding policy encourages investment in, and widens access to, education? Is the minister aware of the existence and impact of alternative policies?

Dr KEMP—I thank the honourable member for his question. The Labor Party’s policy of funding schools through the ERI is a policy of discouraging investment in education, because as soon as parents contribute to their school and build up its resources the Labor Party system operates to reduce support for that school. So what the Labor Party’s policy actually does is create a system of high fee, elite schools. At the same time, it is utterly inequitable in its operations in relation to the classification of schools. These are arbitrary classifications in many cases, highly politicised classifications in others. We see just how flawed this system is when we look at the schools in category 1. Let us have a look at the impact of this funding system on a school in category 1 in South Australia. A letter has been circulated to all members of this parliament by the Principal of Prince Alfred College in South Australia.

**Opposition members interjecting—**

Dr KEMP—The Labor Party should listen to this. This is not a bit of correspondence from Sharan Burrow or Denis Fitzgerald. This is a bit of correspondence from somebody who cares about the education of young people in Adelaide. I table the letter for the interest of members, and I will read from it:

The reality is that despite—

**Opposition members interjecting—**

Dr KEMP—They do not want to hear the reality; they just want to stir up a little bit of hatred and envy. That is all that they have to offer; they have no policy. The letter reads:

The reality is that despite our category 1 classification neither this school nor the overwhelming majority of our parents are wealthy. The label ‘wealthy’ or ‘elite’ seems to be applied simply stereotypically because we are a category 1 school. Yet this classification is based on financial data gathered in the early 1980s before my students, who are in year 12, were born. Being a category 1 school might suggest we had some wealthy parents in the early 1980s, but it bears no relationship whatsoever to our present economic circumstances.

The principal goes on to say—and this is a consequence of the Labor Party’s policy:

The inflexibility of the ERI model prevents us from reducing fees as we would wish in order to make ourselves as open as possible to as wide a clientele as possible.

The principal goes on to make the point that the ALP’s amendments must inevitably have two highly undesirable effects:

First, it will force category 1 schools to become economically elitist institutions by narrowing the population base which it can afford to attend. Second, it will challenge severely the financial viability of many category 1 schools, such as ours, as the funding gap between us and schools in category 2 and beyond widen sharply.

What we are seeing here is the inevitable impact of the Labor Party’s policy. It is a high fee policy, to push up the fees in schools that are well resourced so that only people like the Labor Party leaders—like Bob Hawke, Paul Keating, Kim Beazley and Simon Crean—can afford to send their children there. They want to oppose a policy which will allow more parents access to these schools. They do not care if these schools go to the wall and they do not care if these schools are put in a position where they cannot lower their fees, because what the Labor Party are about is making a down payment on the support of the Education Union. They want the support of that union in the election campaign. They are not interested in the realities of their policy. The Leader of the Opposition has been so lazy that when the Labor Party put forward amendments in the Senate they put forward amendments which everybody can see have no credibility. You have no credibility up in the gallery with those amendments. The sheer laziness of those amendments is obvious to everybody. You have had years to work out a policy, and you have not done it.
What you are doing is putting an upward pressure on fees and keeping fees high, whereas our policy is a low fee policy. Our policy encourages parents to invest in education. The Labor Party want to stop parents investing in education and to push education investment down. That is the hypocrisy of their position.

**Western Australia: Public Hospitals**

Mr BEAZLEY (2.30 p.m.)—Mr Speaker, on a personal explanation: my children do not go to Prince Alfred College. I do not know where he got that view.

Mr SPEAKER—The Leader of the Opposition may make a personal explanation at the conclusion of question time. He should come straight to his question or be sat down.

Mr BEAZLEY—My question is to the Minister for Health and Aged Care. Minister, are you aware that on Tuesday last week all elective surgery at every Perth public hospital was cancelled and that on Monday last week two of Perth’s major public hospitals went on ambulance bypass? Are you aware that Perth’s metropolitan hospital service has been forced to plead with the public for them to visit their GP rather than seek treatment at a hospital emergency department? Minister, in the interests of patients who are suffering in Perth will you urgently increase the funding for public hospitals?

Dr WOOLDRIDGE—It has been urgently increased in a way that you could never have dreamt of when you were finance minister.

**New Tax System: Business Activity Statement**

Mr ANDREW THOMSON (2.31 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of the due date for the first quarterly business activity statement? Would the Treasurer inform the House of the assistance that the Australian Taxation Office is providing to business, including any flexibility that the Commissioner of Taxation will be showing?

Mr COSTELLO—I thank the honourable member for Wentworth for his question. The first quarterly business activity statement is due on 11 November. Those businesses that are not lodging electronically should submit their BAS and any payment by tomorrow, that is, Friday. Of course, if you are remitting electronically, you can do so across the electronic system, which will be operating on 11 November. This is a concessional lodgement date. The original date was 21 October 2000. As we get into the system, it will be the 21st day of the month after the end of the quarter.

With regard to help, the tax office help lines have been operating at a very strong capacity. As the commissioner notes, call centres in Bankstown, Penrith and Liverpool have had 11,000 calls per day. The tax office has visited almost 300,000 businesses in Australia to help them with their first BAS form. As the commissioner has written in a number of newspaper articles, the tax office has made it clear that those people who make a genuine attempt to understand and meet their tax obligations will get fair and reasonable treatment from the tax office, which will give them the benefit of any doubt during the first year and accept at face value a genuine attempt to meet obligations—with the meaning that penalties will not apply where an honest mistake has been made.

I would urge those businesses that have not already done so to do their BAS. They will find that it replaces 11 other systems of payment: provisional tax, company instalments, farm management deposits, pay as you earn, prescribed payment systems, portable payment systems, TFN withholding, non-resident interest, dividend and royalties, mining withholding, natural resource withholding and withdrawals from Australian film industry trusts. A business that is involved in any or all of those systems can now do the one system under PAYG with their BAS, which is due in tomorrow. For those who are remitting through agents, as I have already informed the House, agents have the option, as long as they have 50 per cent of their clients in by 11 November, including their larger clients, to remit until the end of the month and still be on time.

The government has already received monthly BASs from those companies that are in the monthly system for the three months that have already finished. This will
be the first quarterly BAS for the smaller companies. The government will be updating its revenue forecasts on the back of receipts to date, and expects to be in a position to release a midyear review next week. The midyear review is a practice that was put in place by this government, whereby for the midyear we update our forecasts, announce changes in measures and update statements of revenues and expenditures with the budget outcome. It is expected that by the middle of next week—preferably on Wednesday of next week—the midyear economic outlook will be released by the government. Obviously, we will not have full returns from all the quarterly BASs, but the government will be using those returns that have been made, together with the monthlies, to put the best estimate of revenue from those collections in its midyear review.

Welfare Recipients: Government Policy

Mr SWAN (2.36 p.m.)—My question is directed to the Prime Minister. Prime Minister, will you confirm that your government’s fines against welfare recipients are causing a flood of people to charities and are resulting in your government collecting around $170 million in fines each year? Prime Minister, will you also confirm that the special tax task force charged with cracking down on high wealth tax cheats will net just $48 million each year? Prime Minister, doesn’t this prove that your government is weak on the strong but very strong on the weak?

Mr HOWARD—I do not accept the proposition that underpins the honourable gentleman’s question. The government has enacted a large number of measures, including a new tax system, that have reduced the opportunities for tax evasion and tax avoidance in this country. Indeed, some of the anti-avoidance measures enacted by this government were opposed by the Australian Labor Party in the Senate; so the member for Lilley has no capacity at all to suggest that we have been soft on tax avoidance.

In relation to the activities of Centrelink and others in relation to compliance, let me say this: it has never been, and never will be, the policy of this government to unfairly or unreasonably persecute people. It is not unreasonable, and it was a practice and attitude adopted by the Labor Party when it was in office, to ensure that people who are not entitled to claim social security benefits are not allowed to do so. I do not imagine that the member for Lilley is arguing that any government should turn a blind eye to instances where people have been improperly claiming social security benefits. I am not aware that the ‘flood’ to which you refer is a consequence of any unreasonable conduct by the government. If people have proper examples to support that allegation, then I and my colleagues are very happy to investigate them.

We have to strike a balance between, on the one hand, not being overzealous but, on the other hand, having a proper regard for the fact that we are dealing with taxpayers’ money. The people that you look after in your electorate expect you and us to make sure that their dollars are spent wisely. They do not like their money going to people who are not entitled to it and they expect the government to chase that. But they expect the government, in chasing it, to be reasonable and fair and not unreasonable. I think that we have struck the right balance. We do care for the dollars of hard-working Australian men and women. The people who elected you as the member for Lilley do not want their hard-earned taxes squandered in payments to which people are not entitled. I simply say to the honourable member for Lilley that your concern for an equitable welfare system is noted, and I can assure you that the government will continue, as it has done in the past, to keep the balance right.

Industrial Relations: Union Amalgamations

Mr CADMAN (2.39 p.m.)—My question is addressed to be Minister for Employment, Workplace Relations and Small Business.

Opposition members interjecting—

Mr SPEAKER—The member for Mitchell will wait until the House has come to order.

Mr CADMAN—I ask the minister: does the government have a policy to allow for union amalgamations? Does this policy assist reported merger discussions between the CFMEU and the MUA? What impact would such a merger have on union funds?
Mr REITH—I thank the member for Mitchell for his question.

Opposition members interjecting—

Mr REITH—I acknowledge the enthusiasm of the opposition to hear the answer.

Mr SPEAKER—The minister will resume his seat. For 100 years, this House has existed on the fundamental premise that everyone has the right to be heard within the standing orders. The minister has the call.

Mr REITH—Mr Speaker, it is good to have an enthusiastic audience on the other side.

Mr SPEAKER—The Minister may think so, but the Speaker does not.

Mr REITH—Mr Speaker, let us hope their enthusiasm does not force them later on to rise to their feet with a point of order to prevent the answer being given. Firstly, in respect of amalgamations, I do not think there is much doubt, or that anyone could in fact dispute, that the policy of super-unions, that was really forced through in the 1980s and perhaps the early 1990s by the previous Labor government, has been a disaster for many unions. It has been a disaster because it has elevated the elite—such as the then ACTU president and now member for Hotham, and the member for Batman—putting them out of reach and out of the way of the thinking of the rank and file. However, the fact is that the existing legislation allows for amalgamations, and whether or not the MUA is here to stay will of course depend on the views of the members.

In contrast, I would have to say that our policy on this side is to make it easier for disamalgamations. The reason for that is quite simple: we believe that the rank and file, if they so desire, should have the opportunity in a vote for disamalgamation to create a union in which they have a greater say. I am not surprised that the elites on the other side are not in favour of that, but I can tell you that the rank and file do want to have a greater say and that whilst they are denied a greater say they will continue to leave the trade union movement—as they have been doing in droves in recent years. When the workers have a greater say, I put it to the House that as a result you will have unions that are more accountable, more transparent in their actions and, therefore, more responsive to the needs of the workers.

If you have such a system in place, then I believe you will have more responsible trade unions and you will also have in place, by the voice of the rank and file, the means to restrain those union bosses who think that it is fair enough to hand out $450,000 of rank and file money to the Labor Party, which has been announced by the CFMEU. That is not the only example where we have a big union funding, and in fact buying, legislation from the Leader of the Opposition. The latest example involves a sum of money—which would be, conservatively, I am advised by my department, in excess of $100,000—to provide for the member for Melbourne to pay for his legal expenses in a case which he is currently running.

I have had some advice from my department that what could be said is that, prima facie, the funding of the member for Melbourne to pursue discovery of waterfront documents seems clearly at odds with undertakings given to the ACCC. My department further advises that the funding of one party to take forward the legal action on behalf of another party could appear to be an example of champerty—an illegal sharing in the proceeds of litigation by one who promotes it or where one party gets direct benefit from legal actions undertaken on its behalf by another. The member for Melbourne will not be surprised that I have sought legal advice on the legality of a deal which provides him personally with more than $100,000 to fund a political campaign in which he is the dummy, as usual, for the MUA.

Information Technology: Outsourcing

Mr CREAN (2.46 p.m.)—Talk about funding a political campaign. My question is to the Prime Minister.

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

Mr CREAN interjecting—

Mr SPEAKER—The Deputy Leader of the Opposition is warned!

Mr McMullan—Mr Speaker, I rise on a point of order. On what grounds do you re-
quire the Deputy Leader of the Opposition to resume his seat, given the short speech that the member for Eden-Monaro made in preface to a question the other day about which no action was taken whatsoever?

Mr Speaker—There has been a general requirement to raise the standard at question time.

Mr Wilkie—What about consistency?

Mr Speaker—The member for Swan is warned! There has been a general effort by the occupiers of the chair to avoid people opening questions with preambles.

Mr Stephen Smith interjecting—

Mr Speaker—The member for Perth is warned!

Mr Crean—My question is to the Prime Minister. Prime Minister, can you confirm reports that at a recent meeting of departmental secretaries, chaired by your own head of department, Max Moore-Wilton, the group expressed ‘no collective faith in the economies of scale touted by the department of finance’ on its outsourcing program? Can you confirm that the secretaries’ proposal to you for an external review of outsourcing was resisted by the Minister for Finance and Administration? Why was the Minister for Finance and Administration unable to convince you? Why did you back your officials over your minister?

Mr Howard—I thank the honourable member for Hindmarsh for her question today. Mr Speaker, the Prime Minister, the Minister for Trade and I will be attending the APEC meeting in Brunei during the course of next week. This meeting will have particular importance for many Australians because, at the APEC meeting, the government will be making very clear to the leaders of the Asia-Pacific region our concerns about high world oil prices and in particular the threat of unsustainable oil prices to the economies of the region. The East Asian countries have come through a very severe economic crisis. They are recovering, although in some cases that rate of recovery is beginning to slow. The high oil prices of recent times, particularly with international oil prices above $30 a barrel, have the potential to do great damage to those non-oil producing Asian economies. This should be a very significant component of the APEC discussions.

Secondly, the government will also look to APEC to respond effectively to the challenges of the new economy. What we want to see in the APEC region is not a digital divide but a digital dividend. We want to ensure that all of the countries of APEC are able to develop their information and communications technology capability and that there is sufficient penetration of that technology to the broader communities throughout APEC. It would be unfortunate if over the years there were an increasing divide between countries such as the United States, Australia and Japan on the one hand and, on the other, those countries which have so far not been able for economic reasons to adopt information and communications technology to the extent of the developed countries.

Thirdly, my colleague the Minister for Trade will be working to maintain a regional consensus in support of the World Trade Organisation in the difficult post-Seattle environment, and in particular to build support in APEC for a new global trade round as soon as possible. Finally, Australia will con-
continue to assist the developing APEC economies manage the impact of globalisation through highlighting the linkages between economic reform and development and through the provision of our $5 million three-year Social Protection Facility. It has often been said in this chamber that APEC is the pre-eminent economic forum in the Asia-Pacific region. It is a very important forum and I think its importance can be underlined by a recent paper entitled ‘APEC regional trade and investment 2000’, launched earlier today. It shows that Australia’s exports to APEC increased by 16 per cent, to $71.2 billion, in 1999-2000. So this is a very important meeting that I think will continue to provide the momentum that APEC needs.

Information Technology: Outsourcing

Dr Lawrence (2.53 p.m.)—My question is to the Minister for Finance and Administration. Can the Minister confirm reports that both the CSIRO and the self-styled ‘Influential Minister for Industry, Science and Resources’ have been highly critical of your botched IT outsourcing program? Minister, if your outsourcing adventure is not producing anything like the savings you said it would, as well as being demonstrably bad for Australian science, isn’t it now clear that your administration of the program has been grossly incompetent?

Mr Fahey—I thank the honourable member for her question. I should firstly point out to her and to the House the process. In fact, I took the CSIRO staff association through this process this morning in what I thought was a very constructive meeting. I took them through it as a result of an invitation I extended to them some considerable time ago to come and talk to me about outsourcing if they had some concerns. So the invitation was mine. The process is that any matter that is going to be considered for the purposes of market testing in the information technology and outsourcing program is firstly determined by the agencies themselves. The scope of the contracts is submitted by the agencies. This concern that has been expressed by members of the CSIRO for some time is in fact one that I believe has required some attention on my part. Consequently, I invited the Acting Secretary of the CSIRO to my office about three to four months ago, and I made it clear that the government’s intention in respect of the science agencies, and the CSIRO in particular, was to ensure that there was no diminution in scientific outcome. I made that abundantly clear to the acting secretary. I have said that publicly a number of times.

Again, the process is that the agencies themselves will work through the scope of the contract as to what is relevant and what is not. That process is taking place and has been in other areas. Ultimately, a steering committee is established consisting of representatives of each of the agencies concerned. They must tick off those bids that are placed. That steering committee makes recommendations to the Department of Industry, Science and Resources, to the Department of Communications, Information Technology and the Arts, to the Department of Finance and Administration and to OASITO, and those recommendations ultimately come through for ministers themselves to consider. I know that in discussions I have with the Minister for Industry, Science and Resources we have particular regard to the science agencies’ concerns, and there is no intention on the part of this government to foist upon any agency, let alone science agencies, an outcome that diminishes the scientific results and the work that those very valuable agencies of the government do. So a lot of mis-truths have been pedalled about this. Very clearly there is a program that has all sorts of checks and balances in it, and it ensures that there is a proper process for market testing to bring about a more efficient and effective outcome, to promote the industry itself—that is, the IT sector—to ensure there is regional development and to encourage investment in this particular sector of our economy, and the investment has been significant. The jobs in regional Australia have been significant and the outcomes have brought about savings for taxpayers. There is a review, and that is entirely appropriate. That was foreshadowed when the program commenced back in 1997.

Mr Crean interjecting—

Mr Fahey—I would draw the attention of the honourable Deputy Leader of the Opposition to the fact that recommendation 3(a)
of the ANAO report suggested that a process ought to be developed in respect of a review and evaluation. I take it seriously, and we are going through the normal process. I believe it is appropriate for someone external to government to do that review, and I have announced that. I look forward to the findings of that review because there is always room for improvement in any program, and I look forward to any advice that might be given to ensure that that review is there. But I assure you that we are looking for an outcome that represents value for money and that gives a more efficient and effective result that assists the IT sector of our economy and that assists all the agencies of government, including the CSIRO.

**Defence: Community Consultation Team Report**

Mr LINDSAY (2.59 p.m.)—My question is addressed to the Minister for Defence. Would the minister advise the House of the significance of the report of the community consultation team, released earlier today? How will the government respond to the report?

Mr MOORE—Mr Speaker, before answering the question, can I seek your indulgence to welcome in the gallery a group of Torres Strait World War II veterans, members of the Torres Strait 1st Light Infantry Battalion, and some of the veterans’ widows. They are guests here this afternoon courtesy of the Department of Veterans’ Affairs and the Department of Defence, and introduced by the member for Leichhardt. They are here to attend their first Remembrance Day ceremony in Canberra, on Saturday.

This morning the government released the report of the community consultation team. I must say at the beginning that this is a very innovative way in which the government has gone about public policy formation. We were able to take right around Australia a team of people who have a deep knowledge of defence itself and we invited people to contribute, both in word and in writing, to the report that was made. Responses were received in the form of some 1,150 written submissions, and over 2,000 people attended 26 to 28 meetings spread right around Australia. Following the deployment to East Timor, the community interest and involvement in defence has been remarkably strong. Therefore, it is not surprising that these responses were both articulate, to the point and very supportive of the Australian defence effort. It was supportive in terms of the personnel that form the ADF in Australia; it also reflected support for some funding increases for the defence forces of the nation. More importantly, that funding was seen to be necessary, but most necessary was the management of that funding within the defence department—something which the government is giving very great attention to.

This report forms a very good basis for the white paper to be presented on Wednesday, 6 December. Making good policy is important, and this report contributes to that—certainly from the way in which the team conducted its consultation around the nation. Finally, I would like to thank the members of the team—Andrew Peacock, David MacGibbon, Major General Clunies-Ross and Stephen Loosley—for the very great contribution that they made to it. All four people pay very great attention to both foreign and defence issues, and their contribution was most marked. On behalf of the government, I thank them and all the people who participated in the report.

**Education: Funding for Non-government Schools**

Mr LEE (3.02 p.m.)—My question without notice is addressed to the Minister for Education, Training and Youth Affairs. Does the minister recall his earlier answer in which he detailed the needs of Prince Alfred College in Adelaide? Is the minister aware that Prince Alfred College’s web site advertises fees of $10,266 per year for year 11 and year 12 students? Is the minister also aware that Prince Alfred College advertises its Scotts Creek Field Centre on the River Murray, its aquatic centre offering sailboarding, sailing, kayaking, canoeing, rowing and the clipsall innovation centre funded by a $1 million donation. Minister, why do you think Prince Alfred College needs an extra $1.3 million a year, or $1,525 per student, when low fee independent schools in Adelaide like Temple Christian College in Mile End and Sienna College in Findon get...
Dr KEMP—This question from the member for Dobell just highlights the intellectual bankruptcy of the Labor Party’s approach to school funding, because of course the small Christian schools that the member for Dobell compared unfavourably with Prince Alfred College—in terms of the amount that they would be getting—will be getting considerably more funding per head than will go to the students at Prince Alfred College. They will be funded at a much higher proportion of government school costs. The member for Dobell would never mention that, because that is the fundamental reason why this policy of the government’s is recognised as fair by every major religious grouping in Australia. The Labor Party never addresses the issue of real fairness. What also amazes me about the question from the member for Dobell is that he apparently dismisses, without even considering it, the points that are made by the principal of that school in relation to the school’s financial viability and the school’s capacity to set fee levels that are suitable for the present day parent community of that school.

The Labor Party’s policy—and let us be quite clear about this—is to make sure that that school is locked into the highest possible fee structure, regardless of the impact of that structure on the financial viability of the school. The member for Dobell thinks it is clever to get up here and complain about the impact of the SES funding model on that school, which delivers to it a fair rate of per capita funding, without taking into account at all the consequences of the Labor Party’s policy for that school. This question really highlights the difference between the opposition and the government.

The opposition is not concerned with fairness. It is not concerned with lowering school fees. It is not concerned with making schools more accessible. It is not concerned with encouraging investment in schooling. It is concerned with dividing Australian schools into two groups, including those that are only going to be accessible to the well-to-do in the community—a group of elite schools that the Labor Party and its union mates can continue to hold up for the purposes of their appeals based on social envy. The Labor Party wants to lock that element into the schooling structure. It put it there painstakingly over 13 years in office. It froze the funding for these schools for 15 years. It was never concerned with the viability of these schools. It was never concerned to put any downward pressure on fees. Everything that it does is designed to create a set of elite schools that will be accessible to the very few. Labor leaders like Bob Hawke, Paul Keating, Kim Beazley and Simon Crean make good use of schools like Melbourne Grammar, they make good use of schools like Canberra Grammar and they make good use of schools like Wesley College. But they want to make sure that more and more parents do not get access to those schools; they want to make sure that fewer and fewer parents get access to those schools. Only the Labor elite can go to the Labor elite schools—but do not open them up to the community.

I am proud that the government’s policy is a very democratic policy of school funding that will spread access to schools, that will better resource Australian schools and that will lay the foundations in this country for a schooling system which will truly make us a society that can take advantage of the knowledge economy in the 21st century.

Mr SPEAKER—I call the member for Hinkler.

Mr Ripoll interjecting—

Mr SPEAKER—Let the electors of Oxley note that the member for Hinkler is being denied the call by the interjections of the member for Oxley.

Private Health Insurance: Statistics

Mr NEVILLE (3.09 p.m.)—My question is addressed to the Minister for Health and Aged Care. Minister, would you update the House with the latest information showing the number of Australians with private health insurance.
Dr WOOLDRIDGE—I thank the honourable member for his question and his interest. Earlier today PHIAC released the figures for the September quarter and revised their figures for the June quarter. Previously they had advised that in the June quarter 41.2 per cent of Australians were covered by private health insurance. In fact, the health funds had not been able to process the claims. They now say the figure for the June quarter was 43 per cent of Australians. This morning they have said that 45.8 per cent of Australians are now covered by private health insurance. This means that 8.8 million Australians are now covered by private health insurance. This means that 8.8 million Australians are now enjoying the benefits of private health cover. Since December 1998, over 3.1 million Australians have joined private health cover. During the two-week extension in July for Lifetime Health Cover, over half a million Australians took advantage of the extension and joined private health funds. This is an incredible result. The increase since December 1998 is more than the total decline in the nine years under Labor, which had an ideologically driven health policy to let the private sector wither on the vine, without regard for the fact that our entire system was built on a balance between public and private. The member for Hinkler would be interested to know that in his own electorate around 48 per cent of people are now covered by private health insurance. This goes up to as high as 67 per cent for the electorate of the member for Sydney.

We did what we have done with private health insurance for two very specific reasons. The first is to give Australians choice. Australians value choice very much. Choice was eroded because private health insurance became unaffordable—the 30 per cent rebate has fixed that—and because people were taking a short-term view, which Lifetime Health Cover has fixed. The second thing we hoped to do was to, in the words of Bob Carr or Peter Beattie or Graham Richardson—all of whom have had to run health systems—restore some balance between the two systems. We now estimate that, when the pre-existing ailment rules expire, 550,000 extra Australians will be able to access treatment in the private sector, although some of that will be as private patients in public hospitals. This will take pressure off the public hospital system in a way that was always intended when Medicare was originally designed. This gives us great reason for optimism.

The government has further decided that, in spite of the fact that we would be entitled to claw back $1 billion from the states under the Australian health care agreements, we will not be clawing back this money. The states will be able to keep the full benefit of that. They will also keep the increased revenue coming from private patients in public hospitals. This revenue has been in decline for the best part of a decade. In the September quarter we are seeing the very first indications that it has flattened out, reversing a long-term trend, and it looks as though it will be increasing. So this is a new source of funds for public hospitals. It takes some pressure off public hospitals in the medium term, it is a long-term solution and it is very good news for Medicare.

So we now have a safe, secure and healthy private health sector working alongside a public sector that can look forward to some prospect of having pressure taken off it—

Ms Macklin interjecting—

Mr SPEAKER—The member for Jagajaga is warned.

Dr WOOLDRIDGE—and the only risk to this is an ideologically driven Labor Party that does not want to see balance and choice in health care.

Education: Funding for Non-government Schools

Mr HORNE (3.13 p.m.)—My question is to the Deputy Prime Minister and Minister for Transport and Regional Services and it concerns regional education and his answer yesterday. Minister, are you aware that under the government’s new funding system the annual funding increases for all the independent schools in your electorate of Gwydir, including Wellington Christian College, your own example from yesterday, is less than $350,000? Are you also aware that the King’s School will receive an annual increase of $1.4 million? Minister, is it fair to regional schools that King’s School alone gets four times more than the total for all the independent schools in your electorate?
Mr ANDERSON—I thank the honourable member for his question. There are a significant number of these schools. With one or two exceptions they are certainly very small in my electorate, on a per capita basis, which is really the only significant factor that needs to be considered here. They are doing very, very much better under the arrangements that we have put in place than under those you had in place, and they appreciate it very much.

Job Network: Performance

Ms GAMBARO (3.15 p.m.)—My question is addressed to the Minister for Employment Services. Is the minister aware of statements accusing Job Network members of profiteering, parking job seekers and throwing people off benefits? Would the minister detail these statements, and what is the government’s response?

Mr ABBOTT—I thank the member for Petrie for her question. I note that last week she attended a very good function that was held by East Coast Training, a function from which the member for Dickson was conspicuously absent. What the member for Dickson needs to understand is that every time she attacks the Job Network’s operations, she is not attacking the government but she is attacking organisations like the Salvation Army, Mission Australia, Centacare and private sector organisations based in Queensland such as Sarina Russo Job Access, Work Directions and so on—organisations that constitute the heart of the Job Network. In April, the member for Dickson told the House that Job Network members were ‘taking only the most easy cases because their private providers’ margins depend on this’. Last week she told the House:

... every extra dollar that is kept as a profit by a provider means that one less dollar is spent on training the unemployed.

So she is accusing Job Network members of profiteering. Last week she said:

I hear time and time again that, especially if you are a mature age job seeker … there is a very significant chance that you will be ‘parked’.

Again, another accusation against Job Network members. Then she said last week in the House:

A lot of people have recently told me that they are extremely dissatisfied because they have been unfairly breached while registered with Job Network members.

Again, a very serious accusation against Job Network members, for which she cannot produce a shred of evidence. This is what she tells the House, and then she had the gall to come into the chamber yesterday and say:

... the Minister for Employment Services misrepresented me when he said that I had attacked Job Network providers ...

She does nothing but attack Job Network providers. The injured innocence she goes on with! What can we say about the member for Dickson except that she is suffering from TDD—truth deficit disorder? That is her problem. I have got to say she has got a very bad case of it even by the standards of the Queensland ALP.

Electoral Matters: Fraud Allegations

Mr McMULLAN (3.19 p.m.)—My question is to the Prime Minister. Prime Minister, why did you announce with such alacrity that one anonymous allegation concerning the federal election in Fisher in 1987 should be referred to the CJC and might be the subject of a Commonwealth inquiry when you have taken no such action in relation to allegations concerning four other electorates in Queensland, two of which are currently held by the Liberal Party and one of which was won by the National Party? Why haven’t you done anything about serious allegations of political intimidation and possible breaches of Commonwealth law in the recent preselection battle in Menzies involving threats to revoke federally issued radio licences from persons who did not support your chosen candidate, Mr Andrews?

Mr SPEAKER—The Manager of Opposition Business will come to his question.

Mr McMULLAN—I am coming to the third part of my question. Why haven’t you done anything regarding serious allegations that the member for Eden-Monaro breached electoral disclosure laws in 1994 to hide services provided to the CLP in the Northern Territory election that year?
Mr SPEAKER—The Manager of Opposition Business is advancing an argument, and will come to his question.

Mr McMULLAN—Why do you act with urgency in these matters when it suits your political interests and fail to do so when it does not?

Mr HOWARD—I thank the Manager of Opposition Business for his question, which I might say was not entirely unexpected. Can I remind the honourable member that in recent weeks I have myself specifically referred through the Minister for Justice and Customs to the Federal Police two sets of allegations. One is the one you referred to in your question—that is, the one that appeared in the Courier Mail. One of the reasons why I referred that matter to the Federal Police is that the Queensland Premier said the day before I referred it to the Federal Police that it ought to be referred to the Federal Police. That is one of the reasons.

The second matter that I referred to the Federal Police through the minister, which is the correct procedure in relation to referrals by the Prime Minister and other ministers, was the allegations made by Mr Brian Courtice, the former member for Hinkler, in relation to claims he made concerning I think the 1984 election in the seat of Hinkler when he ran against Mr Brian Conquest. So the scorecard, if you like, on referrals by me to the Federal Police is one set of allegations involving the Australian Labor Party and one set of allegations involving people on our side of politics.

Can I say in relation to other allegations that it is open to anybody, as the Manager of Opposition Business knows, to refer any allegations that see the light of day. As a member of parliament, you do not need the say-so of the Prime Minister to refer something to the Federal Police. If you as the member for the seat you represent or as a private citizen wish to refer something to the Federal Police, you can do so by writing directly to them.

Mr Tanner—It is on your selection.

Mr SPEAKER—The member for Melbourne is warned.

Mr HOWARD—The notion which is implicit in the question asked by the honourable member that somehow or other it has got to go through me is quite false. It is absolutely false. If you look at the record, I have referred allegations against my side of politics to the Federal Police and I have referred allegations against your side of politics to the Federal Police.

Mr Crean—Menzies.

Mr SPEAKER—The Deputy Leader of the Opposition is warned.

Mr HOWARD—The two things have been handled in a completely even-handed fashion. If you are unhappy about other things, if you want to refer allegations to which you made reference in your question to the Federal Police, you can. It does not need my say-so, and it is indeed quite inappropriate that you imply that it does. I have handled this matter in a completely even-handed fashion. And the only thing I would add is that I think the members of the Liberal preselection committee in the seat of Menzies made an excellent decision.

Unemployment: Mutual Obligation Requirements

Dr WASHER (3.25 p.m.)—My question is addressed to the Minister for Community Services. Would the minister advise the House of what improvements the government has introduced to ensure that job seekers are committed to finding employment? Would the minister also advise what improvements have been introduced by the government to ensure that job seekers are meeting their mutual obligation requirements?

Mr ANTHONY—I thank the member for Moore. I know he has got a very keen interest in employment matters and is a very good representative in Western Australia. No wonder he has got a keen interest, because under the coalition government unemployment rates are still at 6.3 per cent—the lowest for many years. It is encouraging to note that this year 85,000 Newstart recipients moved off Newstart into employment. What is also encouraging is that in regard to our preparing for work agreement, which we introduced in October last year, since July
this year over 200,000 job seekers have signed their preparing for work agreements. This is an important agreement because it outlines the obligations and sends a very clear message to job seekers on what is required, and also it is done to help target them to get into employment as quickly as possible.

I am a little surprised to hear some of the comments being made by the Australian Labor Party. The member for Lilley has been talking about the level of breaches happening at the moment. Under the Labor Party’s policy when they were in government, when someone on Newstart allowance got a breach they lost their payments totally.

Mr Howard—Really? I thought they would be more compassionate than that.

Mr Anthony—Exactly as the Prime Minister has said: we would have thought you were more compassionate. You masquerade as being compassionate. When we were elected into government, we introduced a fairer system on breaching, and that was a gradual reduction, where you had three chances before you lost your entitlements. It is interesting that at the moment the member for Lilley claims that one in two job seekers are in breach. This could not be further from the truth. Of the 1.3 million people who received Newstart allowance in the last financial year, 86 per cent did the right thing: they fulfilled their mutual obligation requirements, which is particularly important to maintain the integrity of the social security system, which is funded by the Australian taxpayers.

Mr Martin Ferguson—These are the Reith rules, are they?

Mr Anthony—They are complaining about it, but they actually voted for the legislation. The member for Lilley actually supported these breaching measures when they came through in 1997. The hypocrisy is breathtaking. Importantly, what we have done is to ensure that, if there is a view that perhaps a breach is unfair, there is a process of appeal: with Centrelink, with the SSAT, where fewer than one per cent go through, and finally with the Administrative Appeals Tribunal. I can perhaps understand why the member for Lilley and other members of the Labor Party are concerned about breaching. Every day we are now seeing your friends in the AWU and your Queensland Labor mates breaching the Electoral Act.

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

PRIVILEGE

Mr Hawker (Wannon) (3.29 p.m.)—I would like to raise two questions of privilege. Firstly, in relation to an in camera hearing by the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, it is clear, from verbatim accounts taken from the transcript of its 6 October hearing that appeared in a Time magazine article called ‘Attacking the Flaws’ of 6 November, that the transcript has been made available to the journalist. The transcript had very limited distribution to the six members of the Defence Subcommittee present on the day, to witnesses for correction—and each witness only received that section of the transcript which contained their own evidence—to Hansard officers and to the three staff of the secretariat.

The committee believes that the release is a matter of privilege that has created a substantial interference in the work of the committee. The committee’s capacity to assure witnesses to the current inquiry into military justice that in camera evidence is secure is critical to its future conduct of the inquiry. These leaks have jeopardised future hearings in the inquiry. In the longer term, the committee believes that the leaking of the transcript has undermined its credibility and integrity with both individuals and the Department of Defence. This is a department with which the committee must deal on a regular basis. The committee has been critical in the past of the department’s lack of frankness. On this occasion, when the department has been encouraged to be open and frank, the committee now finds itself embarrassed.

The matters being dealt with by the Defence Subcommittee in its inquiry into the annual report of the Department of Defence are particularly sensitive. They deal with
questions of military justice that remain un-
resolved. Given that there are claims of in-
timidation of witnesses and that the matters
have still to be dealt with by judicial
authorities, the committee was concerned to
understand what had happened in 3RAR by
speaking to all relevant people but not to
interfere in possible prosecutions. Most wit-
nesses, whether accused or claiming to be
victims, were still serving soldiers and offi-
cers. Some victims were concerned to be
allowed to get on with their military lives
without having publicity cloud their career
prospects. Many of the witnesses were re-
luctant to appear and made it clear they
would not have appeared willingly at a pub-
lic hearing. Some of the serving soldiers did
not wish to have past troubles revisit them or
to have themselves made notorious in their
new barracks situation. A number were anx-
ious not so much for their physical safety but
for their capacity to pursue subsequent legal
action. The committee was also concerned
not to assume the role of a court or to judge
the guilt of those accused in the absence of
all the facts.

The imperative of the sub judice rule was
uppermost in the decision to hold much of
the hearing in camera. The Department of
Defence was anxious that its current legal
processes would not be aborted, as had oc-
curred on a previous occasion. The commit-
tee gave solemn and repeated assurances to
the witnesses and to the department not only
that the evidence would be taken in camera
but that this evidence would be carefully
protected, that neither names nor ranks
would be used to identify individuals and
that, on that basis, witnesses could speak
frankly to the committee about exactly what
happened. Over the day, possible victims and
perpetrators, military policemen, medical
officers and senior officers gave evidence in
good faith based on these assurances. The
Army cooperated extensively in the process
on the basis of these assurances. The level of
betrayal has been exacerbated by the extent
to which the people participating needed and
received reassurances, both before and dur-
ing the hearing, that their evidence would be
kept private.

The committee is unable to assist on the
source or sources of the leaked documents.
The chairman—that is me—formally asked
the members of the committee and staff
members present who had access to the tran-
script whether they have any knowledge of
the disclosure, and each has denied having
any knowledge of the matter. As a conse-
quence, the Joint Standing Committee on
Foreign Affairs, Defence and Trade has re-
solved:

That the Committee endorse the above state-
ment that the leaking of in-camera evidence has
substantially interfered with the work of the
committee and is of the view that this matter
should be referred to the Committee of Privileges.

Without doubt, this betrayal represents the
worst abuse of parliamentary privilege I have
ever had the misfortune to witness. Some
issues of leaks in other cases fall into the
category of embarrassment or discomfort.
This is not such a case. This has the potential
to permanently damage the career prospects
of honest, hardworking and loyal Australian
soldiers. As to what effect it may have on
their personal lives, one can only speculate
and sympathise. In short, this is a dishonour-
able act, an act of betrayal, and every effort
must be made to find the culprit or culprits.

Mr SPEAKER—I have given precedence
to the member for Wannon because of the
gravity of the matters he has raised. I have
looked closely at the documents that the
member for Wannon submitted to the House
on an earlier occasion and, as the House is
aware, I asked the member for Wannon, as
chairman of the subcommittee, to seek his
committee’s advice. I thank him for that re-
sponse. In the light of the joint committee’s
conclusion, and having regard to the prece-
dents and practices of the House, I am will-
ing to allow precedence for a motion.

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

That, having regard to an article in Time
Magazine of 6 November 2000, the matter of
whether in-camera evidence taken by, or confi-
dential information provided to, the Defence Sub-
committee of the Joint Standing Committee on
Foreign Affairs, Defence and Trade be referred to
the Committee of Privileges.
Mr HAWKER (Wannon) (3.35 p.m.)—On the other matter of privilege, Mr Speaker, Corporal Craig Smith appeared before the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade on the same Friday, 6 October 2000. He provided both public and in camera evidence to the committee. His public evidence received extensive coverage within the national news media. Subsequent to his appearance before the subcommittee, Corporal Smith received death threats and harassment. On 21 October this publicly culminated in a death threat being painted on a wall within his barracks. The committee, through me as Chairman of the Defence Subcommittee, has interviewed Corporal Smith. It has also sought additional information from the Army. It is evident that Corporal Smith received harassment prior to his appearance before this committee on 6 October. However, subsequent to 6 October, Corporal Smith believes that, firstly, the threats and harassment that he has been subjected to have escalated and, secondly, he has for the first time received death threats.

The committee accepts that the threats that Corporal Smith has received are made with an intent, in the first instance, to intimidate and silence him. However, the threats towards Corporal Smith must be placed within the context of his having given evidence on institutionalised brutality. The committee must therefore take seriously the possibility that these threats will be acted upon. It is clear from the initiatives undertaken by the Army that Corporal Smith’s safety is in question. The Army has accepted his request to be located in accommodation the whereabouts of which is known to only a limited number of people. In addition, the Army has referred matters to both the Australian Federal Police and the military police. He has also been offered, but has rejected, offers of personal security.

Finally, the committee continues its investigations into military justice, including issues of brutality. It is of great concern to the committee that, given the harassment received by Corporal Smith, subsequent witnesses will be more reluctant to step forward. The committee is unable to assist with the identity of the perpetrator of these threats. Corporal Smith was not able to assist the committee in this regard. The committee points out that both the Australian Federal Police and the military police are conducting investigations into this matter. Accordingly, the Joint Standing Committee on Foreign Affairs, Defence and Trade has passed the following motion:

That the committee endorse the above statement which outlines Corporal Smith’s belief that he has suffered intimidation as a consequence of his appearance before a hearing of the Defence Subcommittee on 6 October 2000. The committee is of the view that this matter should be referred to the Committee of Privileges.

Mr SPEAKER—As the House would be aware, this matter was raised yesterday by the member for Chifley, then referred initially to the Defence Subcommittee and then to the Joint Standing Committee on Foreign Affairs, Defence and Trade. I have looked at the extensive material submitted to the House by the member for Chifley and I am grateful to the Chairman of the Defence Subcommittee, the member for Wannon, for his response. In light of the joint committee’s conclusion, and having regard to the precedence and practice of the House, I am once again willing to allow precedence to a motion.

Mr HAWKER—Thank you, Mr Speaker. I move:

That the matter of whether Corporal Craig Smith has suffered threat or intimidation as a consequence of his appearance before the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade on 6 October 2000 be referred to the Committee of Privileges.

Mr LEO McLEAY (Watson) (3.39 p.m.)—I am in a rather perplexed position. I do not wish to oppose the motion, but I wonder what is the point of referring the matter to the Privileges Committee at present. We have heard the Chairman of the Defence Subcommittee tell the House that there is a police investigation into this matter going on. Both the AFP and the military are trying to find out what happened to Corporal Smith and who the people were who were involved in threatening Corporal Smith. To ask the Privileges Committee to investigate that
strikes me as just a little bit difficult. I am a member of the Privileges Committee. I know my colleagues on the committee. I do not think that we have any better skills in this than the AFP might have. It is a vexed question. The parliament has to protect witnesses who come before the parliament and the fact that this man has had his life threatened, it would seem by other people in the military for what he has said to a parliamentary committee, is a disgraceful and awful thing, but I do not know how the Privileges Committee can progress this at this time.

I hear what the member for Wannon said about the previous leaking of the committee report. They are the sorts of things that the Privileges Committee can come to some conclusions on. I wonder whether it might be useful to defer this matter until we come back, when you might be able to report to us where the police inquiry is up to. It would seem to me, if the House wants to protect the House’s privilege and the privilege of the House’s committee, that we may be in a better position to do that when the police inquiry is completed. As I said, I do not want to oppose the motion, but—

Mr Tuckey—We are referring the matter. We are not condemning persons unconditionally.

Mr LEO McLEY—Give up, Wilson! What would you know? I am a bit concerned that we are going to ask the Privileges Committee to inquire into something the AFP and other—

Mr Tuckey interjecting—

Mr LEO McLEY—Do I have to put up with this idiot?

Mr SPEAKER—The Chief Opposition Whip has the call and is entitled to be heard in silence.

Mr LEO McLEY—If we have the police and some other law enforcement agency inquiring into the matter, I do not know whether the Privileges Committee helps along that way. Maybe we also could get in the terribly unfortunate position of muddying the waters. If two weeks does not have any effect on it, it might be better if we were to wait until we come back and you, Mr Speaker, on behalf of the House, could look into it further. I have no doubt that you have considered some of this before granting precedence to the motion. If I am wrong and you have other reasons, I am happy to sit down and hear them.

Mr NUGENT (Aston) (3.43 p.m.)—Mr Speaker, I chair the Joint Standing Committee on Foreign Affairs, Defence and Trade and, therefore, have been involved in this particular matter. It seems to me that the joint standing committee was in the position whereby a member of this House had raised this matter as a matter of privilege, you referred it to the joint standing committee and, for the reasons which the member for Wannon has already enumerated in great detail, the joint standing committee felt that it was appropriate that it be investigated as a matter of privilege. Quite clearly, we are aware that there are police investigations going on. It would seem to me that, rather than delay the matter being dealt with in being referred to the Committee of Privileges, the Committee of Privileges would be able to avail itself of police investigations and other information in its own deliberations and that that would be the most appropriate way to deal with the matter.

Mr SPEAKER (3.44 a.m.)—Perhaps, given that I was asked a question or two by the Chief Opposition Whip, I should respond and indicate that I had, of course, considered separating these two matters, even deferring the matter to which the Chief Opposition Whip has alluded. However, given that the delay of a fortnight would then take us into a House sitting of a fortnight and close to the Christmas-January period, I felt that that may not be opportune. The House must, in my view, be master of its own destiny, as everyone would agree. It is totally unacceptable for anyone to believe that they will be intimidated in any way if they appear as a witness before any committee of the House, particularly if they appear as a witness in camera. I know the Chief Opposition Whip, given his experience, would concur. It also seemed to me entirely proper that, while the matter is being investigated by other agencies, the House should leave no stone unturned to ensure that the right of people to appear before House committees is entirely
protected. For that reason, I have recommended that it be referred to the Privileges Committee.

Honourable members interjecting—

Mr SPEAKER—The member for Batman, the Manager of Opposition Business, the member for Cowan and the Minister for Forestry and Conservation are in no way assisting either the debate or the dignity of the House.

Mr Leo McLeay—Mr Speaker, I rise on a point of order. I do not usually ask for retractions, and privilege is supposed to be a matter that all of us are supposed to take extremely seriously. I have never got up and spoken on a privilege matter and suggested a deferment in the 21 years that I have been a member of this House. To then have a minister suggest that there was some ulterior motive in that, like this—

Mr Tuckey interjecting—

Mr SPEAKER—The Chief Opposition Whip has the call, and I warn the Minister for Forestry and Conservation!

Mr Leo McLeay—like this minister has, I find very offensive, and I would ask you to ask him to withdraw the remarks. He might try to fall back on the suggestion that they were not unparliamentary but they were certainly very offensive.

Opposition members interjecting—

Mr SPEAKER—Neither the member for the Northern Territory nor the member for Prospect are assisting the chair. Minister for Forestry and Conservation, the Chief Opposition Whip finds the comment made offensive, and I would ask you to withdraw it.

Mr Tuckey—Mr Speaker, I will withdraw anything that was offensive, but he has been guilty of a breach of privilege, and it is in the Hansard.

Mr SPEAKER—The Minister for Forestry and Conservation cannot add to the withdrawal he has given.

Mr Tuckey—I withdraw.

Mr SPEAKER—I thank the minister. Question resolved in the affirmative.

PERSONAL EXPLANATIONS

Ms KERNOT (Dickson) (3.48 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms KERNOT—I do, on a daily basis.

Mr SPEAKER—The member for Dickson may proceed.

Ms KERNOT—In question time today, the Minister for Employment Services continued to misrepresent most of my comments on Job Network, but I single out his claim that I have no evidence for my statement on the parking of mature age unemployed. I quote—

Mr Reith—Mr Speaker, I rise on a point of order. That statement is not a statement of misrepresentation. This is just a debate which the member has, and she is not entitled to debate. The exact quote is not a misrepresentation; it cannot possibly be a misrepresentation.

Mr McMullan—Mr Speaker, on that point of order: if the member for Dickson is not able to respond to this matter, then she will continue to be the subject of serial misrepresentation by this serial misrepresenter, and she must have the chance to make her defence.

Mr SPEAKER—I was listening closely to what the member for Dickson was saying. She had not indicated where she was personally misrepresented. I am prepared to hear her, but she must indicate where she has been personally misrepresented.

Ms KERNOT—The minister said that I have given no evidence to support a statement about the parking of mature age unemployed job seekers in this country. I was going on to say to you that I have cited in my own documents, in my speeches, in my press releases, a quotation from the House of Representatives—

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

Ms KERNOT—I need to tell you what I have said.

Honourable members interjecting—
Mr SPEAKER—The member for Charlton is now warned.

Mr Leo McLeay interjecting—

Mr SPEAKER—And so is the Chief Opposition Whip. To date, the chair has done nothing but facilitate the member for Dickson. Given the response from opposition members, one would have thought there was some sort of effort here to frustrate the member for Dickson.

Mr Snowdon interjecting—

Mr SPEAKER—The member for the Northern Territory is now also warned.

Mr Reith—My point of order is that, if there was a misrepresentation, she has repudiated it. But, furthermore, it is clearly not a matter of misrepresentation; it is just a debating point and, under the standing orders, she is not allowed to use this procedure just to continue a debate in which she has come off second best every time.

Mr SPEAKER—I was listening to the member for Dickson. She had indicated where she was misrepresented. For all that the chair knows, she may have been indicating a further misrepresentation. For that reason I was happy to further hear her out. If she advances an argument, I will require her to resume her seat.

Ms KERNOT—I do have a second matter, but I ask you: may I simply cite my statement where I have been misrepresented?

Mr SPEAKER—The member for Dickson has indicated where she was misrepresented in her earlier statement.

Ms KERNOT—Yes, I have said on the record, Mr Speaker, that several witnesses commented on being parked instead of being assisted to find work, implying that the funds they generated—

Government members interjecting—

Mr SPEAKER—The member for Dickson has indicated that she was misrepresented. There is no need to elaborate on that. I have allowed her to make that point. The member for Dickson said she had a second point.

Ms KERNOT—I do, Mr Speaker. In the Main Committee yesterday the member for Fisher linked allegations of electoral impropriety in the 1987 election for the seat of Fisher to my election as the member for Dickson in 1998, imputing that I was not validly elected. Those allegations are entirely without foundation and represent a persistent abuse of privilege by the member for Fisher.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (3.53 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr SLIPPER—I do indeed, just a moment ago by the honourable member for Dickson.

Mr SPEAKER—Please proceed.

Mr SLIPPER—I did not impute that the member for Dickson was not properly elected. I said that what was Fisher in 1987 is now Dickson—it is the same geographic area. Given the fact that the same Labor supporters are there—

Mr SPEAKER—The member for Fisher will resume his seat.

Mr FITZGIBBON (Hunter) (3.53 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr FITZGIBBON—Yes.

Mr SPEAKER—Please proceed.

Mr FITZGIBBON—in an article on page 22 of today’s Australian, the journalist wrote:

Labor’s small business spokesman, Joel Fitzgibbon, says the Government is oblivious to the plight of small business and its concerns over the BAS.

The article then goes on to quote me:

‘The ATO needs to acknowledge the extent of the confusion and reduce the impact wherever possible,’ he said.

I certainly concede I said all of that.

Mr SPEAKER—So where have you been misrepresented?

Mr FITZGIBBON—The article then goes on to say:

He says small business needs a two-year amnesty from penalties and fines to get on top of the BAS.
Mr Ronaldson—Mr Speaker, I rise on a point of order. The member is required to show where he has been misrepresented.

Mr SPEAKER—The Chief Government Whip, of course, makes an entirely valid point of order. The member for Hunter, while he has managed in a manner I did not approve of to get away with a preamble, now needs to indicate instantly where he was misrepresented.

Mr FITZGIBBON—It was not intentional, of course, Mr Speaker. I appreciated the phone call I received this morning from the journalist responsible, indicating that there had been an error made by the subeditor. The quote should have been attributed to one of the nation’s accountants.

Mr MURPHY (Lowe) (3.55 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr MURPHY—Yes, most grievously.

Mr SPEAKER—Please proceed.

Mr MURPHY—Yesterday morning in this House I said:

On 22 June 2000, at 12.13 p.m. precisely, my electorate officer, Ms Susan Sheather, received a telephone call in my office here in Parliament House from a woman who identified herself as Mrs Dawn Colston. She attempted to intimidate Ms Sheather and threatened to blow the whistle on all Labor Party members of parliament if I were to continue to ask questions in parliament about her husband.

Today at 11.23 a.m. Australian Associated Press carried a report on its wire service titled ‘Dawn Colston fights back’ in which Mrs Colston claims my remarks were ‘fictitious accusations’ and that ‘the conversation reported in parliament never occurred’. Contrary to the AAP report, I have had independent confirmation yesterday and again today from a senior member of the parliamentary press gallery here in Canberra that Mrs Colston has admitted to telephoning my office in Parliament House. The conversation did occur. I stand by Ms Sheather and I stand by my speech in parliament yesterday. I will not be threatened or intimidated by Mrs Colston.

QUESTIONS TO MR SPEAKER
Questions on Notice

Mr DANBY (3.57 p.m.)—Mr Speaker, under standing order 150, would you request the Minister representing the Minister for Industry, Science and Resources to answer my question No. 1911 of 4 September 2000? Likewise, would you request the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs to answer question No. 1964 on the Notice Paper of 7 September 2000?

Mr SPEAKER—I will follow up the matters raised by the member for Melbourne Ports, as the standing orders provide.

AUDITOR-GENERAL’S REPORTS
Report No. 9 of 2000-2001


Ordered that the report be printed.

PAPERS

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

Motion (by Mr Reith) proposed:

That the House take note of the following paper:


Debate (on motion by Mr McMullan) adjourned.

Mr REITH (Flinders—Leader of the House)—I present papers on the following subjects, being petitions which are not in accordance with the standing and sessional orders of the House:

Calls on the Government to discontinue support for economic sanctions against Iraq—from the member for Grayndler—803 Petitioners.

Calls on the Prime Minister and the Federal Government to say sorry to Indigenous Australia on behalf of the nation—from the member for Calare—580 Petitioners.
MATTERS OF PUBLIC IMPORTANCE

Education: Funding

Mr SPEAKER—I have received a letter from the Leader of the Opposition (Mr Beazley) proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The failure of the Government to pursue a needs-based funding policy for non-government schools.

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 BEAZLEY (Brand—Leader of the Opposition) (3.59 p.m.)—One of the things of which the Labor Party are enormously proud and which stands as a pillar of what has been a century-long tradition of advancing the educational needs of young people in this nation is that we introduced and put in place the needs based principle for funding public and private education. We did this more than 25 years ago—in fact, we are coming up to about the 25th anniversary, and we should have had a celebration of it. Instead of having a celebration of it, we have to deal with a government that are utterly blind to the real meaning of needs based education and the purpose of that policy educationally. Day after day in this parliament we have had the most absurd defences of an utterly unjustified education bill. In its most important aspects, it is an utterly unjustified bill introduced by a minister who is totally blind to the consequences of what he is doing and the absurdity of his defences.

On this matter, the government have been concerned to portray us as fighting a class war. This is the government which, day after day in question time, have stood up in this place and abused members of the opposition for their affiliations with working class organisations like the trade unions. This is the government which, day after day in this parliament, have got up to use the forms of the House to abuse those Australians who choose—most of them low and middle income Australians—to organise themselves collectively for the purpose of bargaining for their wages. This is the government which abuse us when we are critical of a movement away from our needs based funding principle, and criticise us for basing our arguments not on questions of need or on the validity of educational policy but for somehow or other fighting a class war. How could they be so blind?

I must say that I had not actually realised—and I thank the Sydney Morning Herald for this—that the reason this government have got so out of touch may well lie in the personal experiences of those opposite us. I have never seen a clearer demonstration, until I looked at this article in the Sydney Morning Herald, of why the Labor Party are completely representative of ordinary Australians and why the Liberal Party are blind to privilege. The figures in the article are extraordinary. We discovered that about two or three of their cabinet ministers had been to public schools and the entirety of the rest of them had been to category 1 private schools, the most privileged schools in this country. Only people of that background could have the extraordinary insensitivity to walk into this parliament and describe a school that charges fees of $10,000 a year as poverty stricken. Only somebody of that background could walk into this parliament and describe a school charging $10,000 fees, Prince Alfred College in South Australia—and it will be news that will surprise many in Adelaide—as poverty stricken.

Then the Sydney Morning Herald went on to analyse the background of my frontbench. What did they discover? Eighteen had gone to government schools, nine had gone to Catholic schools, and two to private schools—admittedly not category 1 schools. Looking at the experience of the average Australian, 70 per cent of our children are in public schools; about 23 per cent of our children are in Catholic schools; and seven per cent of our children are in other independent schools, of which two per cent are in category 1 private schools. In our structure we represent, with absolute accuracy, the experience of the average Australian family. In our experience in education at least, our background is absolutely on song with the
average Australian—which is why, I suspect, we can understand this issue. In the case of the government, more than three-quarters of their cabinet are drawn from schools which two per cent of students attend. So only they could come forward and say that these schools are enmeshed in poverty in a way that requires massive increases in subventions to them. Unfortunately, this blindness has produced an anti-education policy. Unfortunately, this blindness has produced a set of decisions which masssively and materially disadvantage ordinary Australians, entrench privilege, and increase opportunities for some as they deny opportunities to others.

The Minister for Education, Training and Youth Affairs has very proudly wandered around the place quoting the fact that schools which benefit from increases of any description are prepared—at least their organisations are prepared—to write to him and tell him that they think it is just fine that the government are proceeding down that track. He takes it too far, however, when he says that every one of them says his system is fair. They do not. The body which represents 70 per cent of the private school children in this country have done no such thing. They support the passage of the bill; that is true. They support it on the basis that they have been effectively excised from this new system, and on the basis of their being excised they support the passage of the bill.

When invited to comment on the fairness and equity involved, the relevant spokesper-son for their organisation, Father Tom Doyle, told the Senate two things. Firstly, he objected to and thought it unfortunate that the enrolment benchmark adjustment, which saw public schools lose funds, was still there in the bill and that it ought to be removed; secondly, the SES funding formula on which the other independent schools now have their funding based, as opposed to his system, requires to have included within it the ca-pacity of the schools to raise funds through donations and via fees. He was not up there arguing that the system was fair; he was pointing out the deepest flaws in this sys-tem—one of the reasons why the substantial majority of private school students, or at least those representing them, have asked successfully that they be excised from the system.

Now we move to Dr Kemp’s demonisa-tion of all those who dare criticise him—this chap who represents those two per cent who attend those private schools but who repre-sent more than three-quarters of this cabinet. He has been lectured on this matter today by the editorial writers of the Age, who have pointed this out to him, for example, over his abuse of those who wrote an advertisement and paid for it themselves as being part of some sort of conspiracy. The editorial said:

The letter calls on senators to reject the govern-ment’s proposed funding formula, which it says is “inequitable and discriminatory”. Dr Kemp has dismissed the signatories as “the usual suspects”. He also singled out for criticism the Family Court judge, John Fogarty, who said the plan has the potential to entrench marriage breakdown and long-term unemployment. Yet it is true that if spending on private schools increases to the det-riment of spending on public schools this will, in the long term, help to entrench inequality and poverty, and that these do contribute to marriage break downs and unemployment.

That was the balanced view of the Age. Dr Kemp guffaws away like a hyena from his bench of privilege. The editorial goes on to say:

There is more than enough evidence to show that too many students in the state system are not being educated to an acceptable degree, in an age when knowledge carries a higher premium than at any time in history. A recent report, for example, found that boys who go to the poorest Victorian public schools have 10 times the failure rate of boys who go to the top private schools. If the government’s funding plan will not have the ef-fect of worsening these inequalities, it is up to Dr Kemp to demonstrate to the Australian public how it will not. Attacking those who legitimately voice their concerns does nothing to further the debate.

The policy does nothing to further an answer to the problem. There is absolutely no doubt about that. It is an extraordinary thing that King’s School, one of the most privileged schools in this country, will get an extra $1.5 million a year at a point in time when they are advertising the fact that the funding that they are getting from this Commonwealth will effectively be incorporated within plans to produce for the school a museum and to
provide a massive upgrade and airconditioning of a large number of very good schoolrooms—whilst a substantial number of young people in government schools and Catholic schools now exist in demountables. When you move away from needs based funding, these are the sorts of situation you produce.

When Labor put in place the needs based funding, we incorporated within it a small portion of funds for category 1 schools because all were taxpayers and all should receive some benefits. We included schools like King’s School, and we put them there between 13 per cent and 17 per cent of average government schools’ costs. When this debate began so many months ago, the Prime Minister said that, in his considered position, this was adequate. There are many reasons why we believe that the funding should be left at that level. One is that we cannot accept a formula that does not take account of the fact that these schools already have within them the embedded consequences of enormous contributions over the years to improve their facilities—most of them tax deductible—and huge fees. He said, of course, that somehow or other the position that we have adopted discourages these schools from lowering their fees. What nonsense! Under our formula, if schools raise their fees they risk losing Commonwealth funds. If schools raise their fees now, they will be rewarded. That is effectively what will happen to them.

One of the things that we also took into account when we put these things in place was that these schools get enormous donations. So they are not just getting direct subventions from the Commonwealth; all these schools have permanent donations schemes associated with them. High wealth individuals making those contributions effectively get a 50 per cent subsidy from the taxpayer. If you included not only the enormous consequences of the huge increase in funding that they are receiving but also the annual taxation benefit which effectively flows from contributions to these schools—if these statistics were able to be drawn—I guarantee you would not now be looking at going from 13 per cent to 31 per cent of average government school costs but a great deal further than that.

Labor have put up three sensible amendments. One amendment has been to remove that very offensive enrolment benchmark adjustment which discriminates against government schoolkids. We have also excised the category 1 schools in the same way that the Catholic system voluntarily has sought their excision from the operation of this. That is the second of our amendments. The third is to use the product of not permitting King’s School and others to get an extra $1.5 million and to ensure that that product goes to special needs kids—the most needy in the public and private systems.

The government’s view is that it will not proceed with this bill if those three amendments get up. In order to defend their old boys club—their old school tie—the government are prepared to jeopardise the funding to all the Christian schools, to the public schools and to those who have received legitimate increases. That is not an education principle; that is a privilege principle. (Time expired)

Dr Kemp (Goldstein—Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service) (4.15 p.m.)—The Leader of the Opposition has once again demonstrated his great capacity to yell loudly while saying absolutely nothing. What he has certainly confirmed is that he knows and understands little about education policy. He has never had any interest in this area, as we know. Indeed, as he told his biographer, Peter FitzSimons, when he got the education portfolio:

... I lost a lot of ambition and I stopped straining ... I thought that there was less capacity to achieve in that portfolio than just about any I have had.

He was described by the Australian in 1993 as ‘one of the most reluctant of education ministers—it’s no secret that Beazley’s intellectual interests lie elsewhere’. That was fully confirmed by the pathetic case for these weak amendments that the Labor Party has put forward and that the Leader of the Opposition has just mounted. These amendments have no intellectual integrity. They rely on a system of funding that has been rejected by
the entire non-government sector, and they will have disastrous consequences and very inequitable consequences for many schools serving low income communities. This concept of category 1 has no integrity to it. It includes schools that serve communities that could by no stretch of the imagination be regarded as wealthy.

In this whole debate the Labor Party is showing remarkable hypocrisy, because Labor leaders have never hesitated themselves to send their children to these high fee schools which their policies put out of the reach of many Australians. We saw Bob Hawke and Paul Keating, and we see Kim Beazley, Simon Crean and other members of the Labor Party backbench—the member for Fowler over there—make use of these high fee schools because they can afford to on their high incomes. What they want to entrench is a policy that makes these schools less accessible to other Australians. Indeed, some would go further: they would believe that the Labor Party is actually driven by the objective of destroying a number of these schools, because many of these schools have been in financial difficulties as a result of the fact that the Labor Party froze their funding for 15 years.

Which are these wealthy schools, these category 1 schools whose funds the Labor Party is going to freeze? Here is one of them: Minimbah Primary School, just outside Frankston—a school that is clearly serving a middle and lower income community. Under Labor’s system Minimbah Primary School would get $995 per pupil. It would get significantly more, some couple of thousand dollars more, under our system of funding. Yet the Labor Party wants to cut its funding. When the Labor Party, if it ever does, comes into office, it would come with a policy to slash the funding of this primary school.

In question time today I referred to the case of a primary school in the south-west of Sydney, at Macquarie Fields, south of Liverpool. This a category 1 school. It is a school that Labor is prepared to give $595 per student under its ERI system. It is a school that charges fees of a little over $200 per student. The Leader of the Opposition is clearly under the impression in the course of this debate that category 1 schools all charge high fees. Certainly the tendency of category 1 is to force the schools to raise their fees, because it gives them so little support. But what the facts show is that category 1 includes many schools that have very low fees. This school, the Bethel Learning Centre, would receive $595 under the Labor Party system but $4,904 under our system. When the Labor Party puts forward its amendments, it is saying that if ever it were to come into office it would slash the funding of this school by some $4,300. That is going to be its education policy. That is because it is trying to incorporate in this legislation a totally corrupted funding system.

The Leader of the Opposition says that the government is unrepresentative in its views about these schools; that there is something about the government that makes it unable to understand what people want and what is important. What the opposition leader never mentions, first of all, is the fact that this government has put far more money into government schools and in building up those schools than the Labor Party ever did. The number of government school students in Australia over the last four years has increased by 2.3 per cent. Our funding for government schools has gone up by 26 per cent—$402 million more than the Labor Party ever put into government schools. Not only that, because of his lack of interest in education, when the Leader of the Opposition was education minister, 30 per cent of young Australians could not read and write, and he went out of his way to suppress the evidence of this so that nothing would be done about it. Yet he comes in here in his loudmouthed, critical and hypocritical way and says that somehow or other he is concerned with equity in education. He did nothing! He underfunded these schools. He gave them far less funding than they have got from us. He did nothing to insist that these schools produce decent educational outcomes for students. Yet he has the hypocrisy to say that this government is not concerned with equity.

What about the non-government side? What is the view of the non-government schools? The first thing the Leader of the
Opposition does insult them. He says that the reason they support this legislation is that we are giving them money. But what motivates the churches of Australia, all the major religious groupings and every major ethnic group in Australia? The Leader of the Opposition says they are motivated by the fact that they are getting money under this bill, and that is why they support it; that all their references to the fact that this is finally justice for them are somehow or other untrue and that they have bad motives in this. This is an extraordinary allegation by the Leader of the Opposition and it shows how desperate the Labor Party is that it makes these allegations against the Australian churches and the major ethnic communities in Australia. He tries to imply that somehow or other the Catholic Church in Australia is really supporting this legislation reluctantly. On the contrary. Let me quote from the Reverend Tom Doyle, the Deputy Chair of the National Catholic Education Commission, who is expressing, I understand, the views of all the Australian Catholic bishops. This is what he has to say about the government’s legislation:

... it 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 Christian controlled schools say this about the government’s legislation:

The Government is to be congratulated. Low income Australian parents and their families have been given a real chance to exercise genuine choice in the education of their children.

And Dr Peter Tannock said:

It will give Catholic schools and systems real—

**Mr Sawford**—Tell us what a low income family is.

**Mr DEPUTY SPEAKER (Mr Jenkins)**—Order! The honourable member for Port Adelaide.

**Dr KEMP**—The Leader of the Opposition talks as if somehow or other this legislation is unfair to Catholic schools, that somehow or other the parish schools are being underfunded. What does Dr Peter Tannock, the chairman of the National Catholic Education Commission say about this legislation? He says:

It will give them real increases in resources and a secure, long-term funding base. It will also help many Catholic schools to cope with cost pressures which are pushing up fees to levels which make it very difficult for families on low and moderate incomes.

And Peter Crimmins, the Executive Officer of the Australian Association of Christian Schools, said:

Choice in schooling is now a reality for working class Australian families.

That is as a result of the policies of this government. The Labor Party does not like to hear this because the unions that back the Labor Party—the Australian Education Union and the Australian Council of Trade Unions—do not like parents exercising choice. They do not particularly like low income parents exercising choice. That is why the Labor Party in office refused to fund new low fee schools at the level of need that was even assessed by their own unfair system. They made sure that the fees at these schools were just high enough to lock a lot of parents out of choice. Their leaders were exercising choice on their high incomes. They were out there sending their kids to Melbourne Grammar and Wesley and Canberra Grammar. They were out there sending their children to these schools, but they made sure through their policy that working-class Australians could not exercise this choice. That is the absolute hypocrisy of the Leader of the Opposition. He quotes the deeply distressed editorial in today’s *Age*, which complains that the government has criticised as ‘the usual suspects’ 120 signatories to a letter in the *Australian* supporting the Labor Party amendments.

**Mr Lee**—Sigrid Thornton.

**Dr KEMP**—Sigrid Thornton is entitled to support the Labor Party. It is a democracy.

**Mr Lee**—What about Paul Kelly?

**Dr KEMP**—She is quite entitled to do so and so is he. They are all entitled to support the Labor Party.

**Mr Lee interjecting**—

**Dr KEMP**—And I know who John Cain and Joan Kirner are: two failed and discredited premiers. They were signatories. And I know who Sharan Burrow is—the President
of the ACTU. And I know who Denis Fitzgerald is. He is the President of the Australian Education Union. You have to admire them: in addition to their own names, they actually had the Australian Education Union sign up separately. What an achievement that was. They are really building a coalition of support for the Labor Party on this. The Labor Party might have been abandoned by every major ethnic community in Australia, by rural and regional Australia and by all the Australian churches—but the unions are faithful to the end. It was good to hear the Leader of the Opposition give them such strong support in his speech, because that is what it is all about on the Labor Party side. It is not about justice; it is not about fairness; it is not about transparency. It is all about the political manipulation of school funding to try to destroy as many of these high fee schools as possible and, apart from that, to make sure that low income people do not get the opportunity to exercise school choice—because they might exercise that choice. Many of them now will be as a result of this government’s policies.

Let me get back to the Age for a moment because their obvious distress concerned me. Their editorial had tear blots all over it about this insult that these people were the ‘usual suspects’. I am always prepared to listen to a reasonable argument, but this letter contains four paragraphs in which it said that the SES funding system was unfair. There was not an ounce of argument. These people arrogantly dismissed years of work by those in the non-government sector who tried to break away from Labor’s politicised system and put in place a fair, objective, transparent, funding system. That is why they like this, because it is not being politically manipulated. But you want to get it right at the start. You want to get into the Senate and get a little bit of politicisation in at the very start of this new system.

Mr Lee—Mr Deputy Speaker, I rise on a point of order. The minister keeps accusing you of doing these things. I ask you to ask the minister to direct his comments through the chair.

Mr DEPUTY SPEAKER—The minister will refer his remarks through the chair.

Dr Kemp—I make one last comment about the SES system. It was the system that Labor used to distribute funds to disadvantaged schools. When they wanted to get funds to students in need they used an SES index—and the same person who designed their index designed ours. (Time expired)

Ms Plibersek (Sydney) (4.30 p.m.)—The Minister for Education, Training and Youth Affairs has had the opportunity today to canvass a lot of the rhetoric that he has been using over the past few months when it comes to education funding. The rhetoric has been about fairness, it has been about needs and it has been about choice. But the community knows that this is just rhetoric. It is not the reality of what is happening in education funding at the moment. Nobody believes the hype. The minister himself has referred to a letter signed by 120 prominent Australians, some of whom send their children to private schools but who still do not believe this minister’s claim that this funding system is a fairer funding system for the non-government sector. I have been overwhelmed by letters and phone calls from P&Cs and school principals in my electorate—and not just public school P&Cs and principals. The Catholic schools obviously do not believe the hype either, because they have opted out of the system. They have taken probably less money than they are entitled to because they prefer not to be part of this minister’s system. I received another petition just today from 85 people in my electorate. This is not the first petition I have had; it is one of many. The petition that was sent to me today from Vicky Previtera says that Dr Kemp’s new bill is ‘unfair, unjust and divisive’, that the model is flawed and that, if the bill is passed in its present form, students in wealthy private schools will get a disproportionate allocation of government funds compared to students in public schools. She is not the only one who thinks so. She has managed to get 85 signatures pretty easily. This is not the first petition I have seen.

The minister has argued that his new funding system delivers to the private schools that are the neediest. The examples that we have seen day after day in this place
prove the lie of this assertion. In New South Wales alone, look at the schools that are benefiting most. Trinity Grammar gets $3.1 million. I do not think that by any stretch of the imagination Trinity can be referred to as a 'needy school'. Newington gets $1.8 million and King’s gets $1.5 million.

Mr Lee—It gets $1,351 per capita.

Ms PLIBERSEK—It gets $1,351 per capita, as the shadow minister reminds me. Parents are asking themselves: how can this possibly happen? How can these wealthy schools be allocated such dramatic increases in funding all the while under the guise that they are somehow needy, that they are somehow in need of these increases? The SES formula deals with the socioeconomic status of the area that parents live in, rather than any real measure of the wealth of the parents or the wealth of the students. So, for example, a wealthy farmer or a wealthy doctor living in a country area is treated like—

Mr Causley—Where are the wealthy farmers? I haven’t seen any.

Ms PLIBERSEK—I know a few wealthy farmers, actually; I do.

Ms Roxon interjecting—

Ms PLIBERSEK—As the member for Gellibrand reminds me, most of the wealthy farmers are in parliament. So a millionaire living in a low income area gets the socioeconomic status score of someone on a low income. What that means is that the 61 wealthiest private schools will divide between them an extra $57 million per annum of funding by 2004. Each school will get an average of $900,000. The Catholic schools, in contrast, receive about $60,000 per Catholic school.

The minister has claimed that somehow public schools are also benefiting from this system. Indeed, there has been some slight increase for public schools as well, but most of this increase is due to indexation, which the Labor Party introduced in 1993. The minister would have to pass another bill to get rid of the indexation, so I do not think he can claim any credit for that indexation. On top of indexation, what are these schools getting? On top of indexation they get $4,000 per school. That compares with $900,000 for the wealthiest category 1 schools, $60,000 for the Catholic schools, and $4,000 for the average public school. It is hardly fair when you consider that the wealthiest private schools deal with 5.6 per cent of non-government students and the Catholic schools deal with 65 per cent of non-government students, and they are sharing $100 million between them, compared to the extra $57 million that the category 1 schools are sharing between them.

Government schools, which deal with 70 per cent of students, get an extra $106 million. When the minister talks about needs he seems to forget that government schools are the schools that deal with 80 per cent of students in the major equity target groups. They are the students from low socioeconomic status families, indigenous students, students from rural and remote areas and students with a disability. Most of them go to government schools.

Turning to students with a disability, it is important to note that the minister has particularly disadvantaged the 85,000 students with disabilities in government schools. Government secondary school students who have a disability were previously receiving about $126 per student extra on top of the normal funding allocated to the school. Their funding will drop to $110 per student. Labor, in contrast, is planning to quadruple funding for this needy group. The SES model is not a measure of students’ needs, it is not a measure of parents’ needs and it is also not a measure of schools’ needs.

When you look at where the money is actually going, which schools it is going to, the fundraising capabilities of these schools has not been taken into account. We have heard over the last few weeks about the incredibly generous donations from the wealthy old boys networks at these schools. We heard a little bit about Scotch College yesterday. Who can forget Richard Pratt’s $1 million donation to Scotch College? Their most recent funding efforts raised $6.2 million, on top of the SES funding increase of $1 million. That $6.2 million has to take into ac-
count the fact that the donors are receiving very generous tax concessions for those donations. So the real government funding of those schools is much higher than the minister claims.

King’s raised $2.8 million in its most recent fundraising drive, on top of the $1½ million it is getting as part of its SES funding increase, and it is about to embark on an excellent $16 million building program. I am sure that is money well spent, although when I was at Jannali Girls High, where I received an excellent education in the demountable buildings that we had there, I would have been amazed if we had had to build new classrooms because classrooms had a lack of airconditioning or they were too small or, indeed, if we had had to put a new facade on the Futter Hall so that it might be matched architecturally with the other upgraded buildings! We were lucky to have the textbooks that we needed, and yet we had incredibly committed teachers and an excellent learning environment that meant that the students at the public schools I went to were, I feel, in no way disadvantaged by the fact that they went to public rather than private schools.

The other argument that the minister frequently uses is about needs and about choice. Perhaps this is the most offensive part of the argument, because he is somehow suggesting that these SES funding increases will make it easier. He said that the government want working-class families to have the opportunity to send their children to independent schools. We heard today about Prince Alfred College in Adelaide that is getting $1.3 million, or $1,525 per student, compared with another one of these independent schools, Sienna College, that is getting $57 per student. We have heard example after example of this. Wesley College will receive a little over $3 million over the next four years. They have said that they might drop their annual fee of $11,000 by about $200. Scotch College, which has an annual fee of $11,484, are thinking about dropping their annual fee by about $100. I can just imagine the queues rattling the wrought iron gates, wanting to get up the landscaped drive to the beautifully designed architectural buildings, because those fees have dropped $200 or $100! It is an absolutely absurd proposition that this new funding model will make it in any way easier for working-class families to send their children to schools that are benefiting the most from this new model.

Mr Lee—Mr Deputy Speaker, I raise a point of order. You may not have heard it during the debate, but during the contribution of the member for Sydney the minister referred to me as ‘you little grub’. I find that offensive and I ask you to ask the minister to withdraw that unparliamentary remark.

Mr DEPUTY SPEAKER (Mr Jenkins)—If the minister used that expression and the honourable member for Dobell has found it offensive, I ask the minister to withdraw. I am in the position that I did not hear it, but if the minister did say it, probably in the context of what is going on it is offensive and I would ask him to withdraw it.

Dr Kemp—If anything that I have said was found offensive, I withdraw it.

Mr CAUSLEY (Page) (4.40 p.m.)—Sometimes I get disgusted with human nature and usually it is the Labor Party that brings out that disgust in me. Today we are seeing some of the lowest human principles that you could ever imagine. Quite frankly, the politics of envy in this whole debate just astound me, and the distortions of the truth in the debate astound me as well. There is no doubt in my mind, looking very carefully at some of the arguments that have been put forward, that they are deliberately intended to distort. There is no doubt about that at all.

If anyone wants to look at my background, I went to one of the smallest schools in Australia. I had multiple-class teaching. I had two teachers in my primary school who taught 80-odd students. We hear the Teachers Federation today whining about what they have to do at school. These two teachers did a magnificent job with a number of students in multiple classes. Then I went to an intermediate high school. I was quite happy that I did very well at that intermediate high school and I was not envious about people who went to better schools because I was very pleased with the education that I was provided by Australia. This country is very
lucky with the education system that we have and what is provided.

*Mr Sawford interjecting—*

**Mr CAUSLEY**—The member for Port Adelaide, we have to understand, comes from the side of the Teachers Federation. He has to defend the Teachers Federation at all costs. This is where the whole debate is coming from: a few members of the Teachers Federation who are trying to control this whole debate. Might I say that the vast majority of the teachers in the public system are very good teachers, but they are intimidated by people who come from the Teachers Federation and who try to run this agenda and who think that everyone should go to a public school. Of course in Australia we do have choice. We can get away from people like that if we want to; we can go to another school. That is what this is all about. I would say to the member for Port Adelaide: if he is worried about this and the Teachers Federation is worried about it, why doesn’t he analyse—

*Mr Sawford interjecting—*

**Mr CAUSLEY**—I will tell you in a minute, because you probably need the education. Why don’t you analyse on behalf of the Teachers Federation why people are moving from the public school system to the private school system? I will soon tell you why: it is because of the Teachers Federation; that is why. Parents are choosing to put their students in a school where they do not get the intimidation from the Teachers Federation.

Something that always seems to be lost in this debate is that parents who send their children to a private school pay full tax in this country. They pay full tax to pay for students that go to the public school system. That is always lost in this debate—that those parents make that choice and they go into debt to send their children to the private school system. The parents of many of you people on the other side did that—45 per cent of them did that. That was a choice. They had every right to make that choice.

We seem to get carried away with the figures that are being thrown around. King’s School comes up all the time. I know a number of very good schools in Sydney, one of them being Sydney High, and that is not a private school. It gets support from parents too, and some very wealthy parents. It gets support. We do not hear anything about that. I have schools in my electorate where the parents are relatively wealthy and they support the school to a greater extent than lower income ones.

*Mr Sawford—*Tell us what Sydney High gets.

**Mr DEPUTY SPEAKER (Mr Jenkins)**—Order! The honourable member for Port Adelaide is not assisting.

**Mr CAUSLEY**—If we look closely at some of the funding, which is never mentioned in this House, the Howard government contributes not only to private schools. If we look at Sydney Girls High, there has been a contribution of $3.2 million.

**Mr Slipper**—How much?

**Mr CAUSLEY**—$3.2 million. If we look at James Ruse Agricultural High School, it is $3.1 million. If we look at Toowoomba State High School, $3.1 million. We hear all these figures that are being thrown around just picking out a particular school. Let us have a look at the lot. The question asked of the Leader of the National Party at question time I thought was fairly inane, but it is typical of what these people are trying to do. They pick out a few small private schools in a country electorate and say, ‘Look, you are only giving them $350,000, but you are giving King’s all these millions of dollars.’ But how many students go to those small private schools out in the country? Very few. If you look at what is being given to these schools per capita, then you might start to get the truth of what it is all about.
The Leader of the Opposition mentioned the *Sydney Morning Herald*. I have had a long association with the *Sydney Morning Herald*, and I have to say I have not seen a great deal of journalistic strength there and certainly it has not been very objective over the years; so I do not take too much notice of the *Sydney Morning Herald*. I challenge those journalists, if they want to come out and make these statements, to have a look at the facts. I have not had one complaint in my electorate from private schools. I have had a few—nothing like the member for Sydney—from the public school system that were generated by the Teachers Federation, and when I went back and explained to them how the system worked—

**Mr Sidebottom**—It is always the AEU, is it?

**Mr CAUSLEY**—The member for Brad- don interjects. He is one of the private school boys of the opposition. He went to St Virgil’s College, Hobart. I dare say that particular college is very happy to get some assistance. I have not had any complaints—in fact, quite the opposite. I have had the private schools coming to me saying, ‘Please get this bill through as quickly as possible because we think this is the fairest funding for education we have seen in a long time.’

The member for Dobell would be credible if he started to talk about what is happening in the state school systems. The state school systems have not increased their spending to the extent of the federal government. He never mentions the state school systems. He tries to say it is all the responsibility of the federal government, yet everyone knows that the public system is run by the state governments. They are the ones who provide the public education. It is the responsibility of the federal government to support the private school system, and that is exactly what is happening in this case.

If we look again at some of these schools that are supposedly rich, three that were mentioned were King’s, Brisbane Grammar and I think Scots College in Sydney. Let me say something about these schools. Historically, these schools have catered for isolated country children. We heard the member for Sydney saying that all these rich farmers send their children to private schools. The problem we have is that the farmers are not rich. She is living back in the 19th century somewhere. The fact is that these people cannot afford to pay large fees and the children have not got the chance to go to a high school. The only opportunity they have is to go to a boarding school, and these are the schools that are providing for them. I have to say that they are finding it very difficult. The great city of Armidale, city of schools—

**Mr Slipper**—Well represented.

**Mr CAUSLEY**—Well represented by the member for New England, who is not here at the present time. The private schools there, the Armidale School, the New England Girls Grammar School and the Presbyterian Ladies College, are all battling at the present time. Yet these people say that we are going to hand them bucketsful of money. They need the support at the present time, because these particular schools cannot carry on unless they get some support. *(Time expired)*

**Mr Ronaldson**—Mr Deputy Speaker, I raise a point of order. During the speech of the member for Page, the member for Port Adelaide made a comment to the honourable member which I found offensive. I would ask him to withdraw that.

**Mr Sawford**—Mr Deputy Speaker, I am not too sure what you are actually referring to, but if it pleases the House I withdraw whatever I said that the member found offensive.
Mr DEPUTY SPEAKER—I thank the member for Port Adelaide. Order! The discussion has concluded.

JURISDICTION OF COURTS (MISCELLANEOUS AMENDMENTS) 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 Slipper)—by leave—read a third time.

FUEL QUALITY STANDARDS BILL 2000

First Reading
Bill received from the Senate, and read a first time.
Ordered that the second reading be made an order of the day for the next sitting.

COMMITTEES
National Capital and External Territories Committee
Reference

Mr DEPUTY SPEAKER (Mr Jenkins)—The Speaker has received a message from the Senate transmitting the following resolution agreed to by the Senate:

That the following matters be referred to the Joint Standing Committee on the National Capital and External Territories for inquiry and report by 5 April 2001:

(a) the development and implementation of the tender process followed in the sale of the Christmas Island resort; and
(b) the outcome of the tender process, the current status of the resort and proposals for the resort’s future development.

Publications Committee
Report

Mr LIEBERMAN (Indi) (4.55 p.m.)—On behalf of the Publications Committee, I present the 21st report of the committee sitting in conference with the Publications Committee of the Senate. Copies of the report are being circulated to honourable members in the chamber.

Report—by leave—agreed to.

TRADE PRACTICES AMENDMENT BILL (No. 1) 2000

Second Reading
Debate resumed.

Mr BAIRD (Cook) (4.56 p.m.)—As I mentioned earlier today in the debate on the Trade Practices Amendment Bill (No. 1) 2000, Mr Deputy Speaker Jenkins, I believe that the government’s response to the committee looking at the retail sector, of which you were a member, has been very good. I believe that the recommendations that we put forward have been responded to and that, for the most part, the recommendations have been accepted. I want to pay particular tribute to the role that you, Mr Deputy Speaker, played in your role as deputy chairman, in that we were able to reach unanimous recommendations on behalf of the committee. We were looking at a situation that was concerning retailers across Australia, one in which we recognised there were some significant problems out there. We recognised that the major retailers did have an oligopolistic market situation and it was clear that they were also, in some cases, using their market position to force small retailers out of the market, as you and I observed at that time. That was a concern, and obviously the National Association of Retail Grocers were involved in drawing that to our attention.

I am very pleased to see the progress that has been made to date on the inquiry’s recommendations. It was only yesterday, the same as the member for Hunter has mentioned, that I received a briefing from Coles Myer, and they outlined the changes that have been made. It is appropriate that we recognise the steps of improvement that they have taken. Also, the National Association of Retail Grocers—while they did not get all of the recommendations that they were wanting, particularly the cap—still achieved some of their objectives. I will go through the recommendations that were made by the committee. The first one was:

The Committee recommends that the Trade Practices Act 1974 be amended to give the Australian
Competition and Consumer Commission the power to undertake representative actions and to seek damages on behalf of third parties under Part IV of the Act.

This representative action process is taken into the legislation. In the past, the Australian Competition and Consumer Commission would take on board certain cases where it was alleged that a major retailer had forced a small retailer out of business, but if any damages were applied they simply went into consolidated revenue rather than as a reimbursement to the company that was forced out of business. This clearly enables the ACCC to come in and take representative action on behalf of the small retailer. This is what we want to see. This is directly taking on board the concerns of individual retailers—we saw evidence of such practices in various parts of Australia—that there is an ability to take action and that, where there are penalties, they would accrue to the retailer that was damaged, in many cases put out of business. That is appropriate and I commend the government for taking that on board. So that is recommendation 1, representative action—implemented.

Recommendation 2 states:

The Committee was of the view that the Australian Competition and Consumer Commission should consider heavily concentrated regional markets, such as that which exist in South East Queensland, when assessing acquisitions or mergers under the provisions of section 50 of the Trade Practices Act 1974.

Again, that recommendation has been implemented as part of the legislation we have before us. In fact, it is particularly important, pursuant to the recommendation, that included in the bill is ‘a region of Australia and the definition of a market for the purpose of section 50, mergers and acquisitions’. This amendment seeks to confirm current practice in the original intent of the legislation that the ACCC and the courts consider the competitive impact of proposed mergers or acquisitions on substantial regional markets.

The committee actually looked at the situation in Cooma, where we found a takeover of one of the local stores. The result was that two stores were both owned by the one major. So, instead of having competition, there was a monopoly in one town. It was the concern of the committee that in future, when the ACCC is looking at the impact on the market overall of takeovers, that they look not only on an Australia-wide basis but also regionally. Obviously, it does not disrupt the market overall in Australia but it certainly disrupts the market in Cooma, for example. So I am very pleased to see that this recommendation has been taken on board by the government and is part of the legislation.

Recommendation 3 states:

The Committee recommends the establishment of an independent Retail Industry Ombudsman through which small business can bring complaints or queries relating to the retailing sector for speedy resolution.

That recommendation has been implemented. In fact, we have an acting ombudsman in place. Small retailers can bring their complaints directly to the ombudsman, as can growers who feel they have been poorly handled by the major retailers. They may have forced down prices or used conduct which we would consider unbecoming and inappropriate. So this has changed as well. I am very pleased that Coles Myer have said they are now presenting details in their pricing and their relationship with those suppliers. They are becoming more open and transparent, in response to this inquiry. The ombudsman hopefully will resolve many of the complaints and difficulties by picking up the phone and saying to Woolworths or Coles Myer, ‘What are you doing to this small fruit and vegetable producer on the Gold Coast?’ Up on the Sunshine Coast, there was one particular case where the small retailer ended up giving his eggs away as the major retailers tried to force him out of business. They brought the price down and down and the small retailer ended up giving his eggs away. That should not have occurred. By having an ombudsman, the retailer can ring up and say, ‘I want you to know what they are doing to me up here. They are constantly blitzing by lowering the price.’ I understand that Coles Myer now have an audit trail when they are in a particularly competitive position, stating what the reasons were, the dates and what they did. They are openly accountable, and that is a big step forward.

Recommendation 3 was implemented. Recommendation 4 states:
The Committee recommends that mandatory notification of retail grocery store acquisitions by publicly listed corporations be prescribed within the mandatory Code of Conduct ...

In fact, cabinet decided that it would be a voluntary notification which they are now doing on an ongoing basis. The government have said that, if this fails, they will then move to a mandatory requirement. Obviously, it will be looked at in terms of how that progresses. To date, since the inquiry report has been brought down, each acquisition has been notified to the ACCC. Recommendation 5 states:

The Committee recommends the drafting of a Retail Industry Code of Conduct by the Australian Competition and Consumer Commission in consultation with retail industry groups and other relevant parties for the purpose of regulating the conduct associated with vertical relationships throughout the supply chain.

That recommendation has been implemented. It was a unanimous recommendation of the committee. They got together—the National Association of Retail Grocers of Australia, the National Farmers Federation and the supply groups were all there—and worked it through and we now have a code of conduct. That has forced the majors to greater accountability. The code of conduct has been agreed by all the parties and we will be monitoring its success and progress. Recommendation 6 states:

The Committee considers that the $1 million transactional limitation of section 51AC of the Trade Practices Act 1974 hinders access by some small businesses to the unconscionable conduct provisions of the Act. The Committee therefore recommends that this limit be increased to $3 million.

Implemented. Cabinet decided and agreed that this should be the case, and so in this legislation the overall amount of where this can take place has shifted upwards. It increases that transactional limit from $1 million to $3 million for section 51AC—unconscionable conduct in business transaction.

The report, Fair Market or Market Failure? brought down in August last year, was a bipartisan report by the Joint Select Committee on the Retailing Sector. It looked at the whole question of whether it was a fair market or there was market failure. The results have been outstanding. We have had a whole change in the marketplace where we have moved from some of the predatory pricing activities that the majors were undertaking in some areas to one where both Roger Corbett of Woolworths and Dennis Eck of Coles Myer have taken the initiative, made the changes and implemented policies as a result of this inquiry. It was not just the majors who implemented the changes. The National Association of Retail Grocers were on board in negotiating through the code of conduct, working with Minister Reith in setting the guidelines. Mr Eck was involved and Mr Corbett was involved. In the early days there were some difficulties, but they all realised they had a task in front of them, and the general view is that it has been particularly successful.

For the many retailers across Australia, this is an important step forward. The changes to the Trade Practices Act have been very significant and very welcome. Other elements in this legislation include the ACCC’s power to seek declarations, reporting requirements, the extension of the limitation periods of the TPA, a preference for compensation, community service orders, advertisements, penalties, et cetera. The retail sector is a vibrant, free market which has done well for the consumer across Australia, producing real benefits, real reductions in prices and an enormous amount of choice that we have never seen before in Australian supermarkets. At the same time, we have a code of conduct, we have an ombudsman and we have representative action, which will be a real change. For the small retailers across Australia, this legislation will create a fairer market environment, which I am sure all members of this House would support.

Mr WILKIE (Swan) (5.08 p.m.)—I rise to speak on the Trade Practices Amendment Bill (No. 1) 2000. The Labor Party has a section in its policy platform relevant to small business entitled ‘Small business: creating jobs and wealth’. There is a subsection dealing with fair trading which states:

Market economies sometimes produce market failures. Ample evidence in Australia suggests that the small business sector has unduly suffered in some unfair trading environments.
At the 2000 national conference, Labor committed itself to implementing in government all of the recommendations of the Joint Select Committee on the Retailing Sector. Sadly, all the government can do with this legislation is implement some of these recommendations or water down others to make them ineffective. In other words, the Minister for Employment, Workplace Relations and Small Business has sold out small business yet again to benefit the big end of town.

I support the amendment moved by the shadow minister for small business, Joel Fitzgibbon. There is obviously a need for a mandatory code of practice. Voluntary codes do not work—we know that from past experience. In fact, the voluntary code in another area was thrown out and a mandatory one had to be introduced. The recommendation for a mandatory code is unanimous in the report. I wish the government would actually read its own report and follow some of the recommendations that are contained therein. The voluntary nature of the code will provide the major chains with the upper hand in negotiations over its content and any future amendments to it. Keen to bring them into the net, the government will create a code with absolutely no effectiveness. The committee very seriously considered a number of recommendations which were much tougher than those eventually delivered, doing so with the desire to make recommendations which would help to level the playing field and which would be likely to gain the support of the government. To further water down the committee’s recommendations is a sell-out of massive proportions. If a mandatory code is justifiable in the franchising sector, then it is eminently justifiable in the retail sector, where industry concentration is so high. The government also appears to remain reluctant to act on retail tenancies, which is a key issue for small firms—and I will touch on that later.

As I have stated, the bill I am supporting today is the government response to the report of the Joint Select Committee on the Retailing Sector, Fair market or market failure? It is a long-overdue piece of legislation. Although not going far enough, it goes some way towards establishing a balance to industry in the nation. It gives small businesses more reasonable powers to be able to seek redress and fairness in relation to unconscionable conduct. It is a most important bill, given the lost opportunities that the government has had since it came to power to amend and improve the Trade Practices Act. Small businesses are crying out for fairer competition laws—that is, those businesses that have survived this government. Statistics from the annual report of the Inspector-General in Bankruptcy provide a telling insight into the problems of the industry. Last year over 26,000 businesses went under. The year before, 24½ thousand went under. I also note that these statistics have risen over 25 per cent since Labor left office. Right across Australian industry, big business has been steadily engaged in what big business is good at—that is, making itself bigger. In the process, it has been making life harder and harder for small businesses. The worst excesses of big business result in standover tactics, degrading and unnecessary bankruptcies and stress for countless small businesses.

We also have a problem of concentration. In the retail area, Australia is now the most concentrated market in the world. The big three retailers continue to dramatically increase their market share at the expense of independent small and medium businesses. That has not just meant fewer small businesses; it has also meant less employment, as small businesses tend to be far more labour intensive than big businesses. The small business sector is, in many respects, responsible for the recent growth in this country. It is well known that 60 per cent of the employment growth over the last 10 years has come from the small business sector. According to the Australian Bureau of Statistics, there are almost 675,000 people in self-employment and a further 308,000 in partnerships. In businesses employing up to 100 employees, a staggering 3.2 million people were employed. Furthermore, the contribution to GDP from traditional small business sectors is also of interest, with retail generating 5.8 per cent; accommodation, cafes and restaurants generating 2.3 per cent; and personal services generating a further 2.3 per cent.
In retail trade—the sector most dependent on these legislative changes—the statistics are poignant. In 1998-99, the Australian retail industry was worth $33.4 billion in terms of gross value added. This was equal to about six per cent of gross domestic product. In August 2000, it employed a total of 1.3 million people, which is equal to about 14 per cent of all employed persons. In terms of employment, the industry is a major employer of part-time staff. About 45 per cent of staff in the industry are employed part time, which compares with a figure of 26 per cent for all employed persons. The industry accounts for 25 per cent of all part-time employment. In 1998-99, the industry consisted of 156,000 businesses, of which 151,000, or 91 per cent, were small businesses. In terms of employment by business size, 49 per cent of employment in this industry is by small businesses.

At this point in our history, a government of any political persuasion should be seeking to facilitate the growth of these small firms, and you do that in a number of ways. In the first instance, you create a climate of economic growth and a climate within which the price of money is low—that is, interest rates are low. Of course, this is fundamental. However, macro-economic foundations are not the only consideration. Business policy must be premised on establishing a fair and equitable trading system, terms of trade and parity of legal opportunity for all businesses. Those of us who understand small business know that this is the real, everyday grind behind success or failure.

I can report to this House that the matter of fair trading and the issues of unconscionable contracts have quite a history. On 26 May 1996 the report of the House of Representatives Standing Committee on Industry, Science and Technology into fair trading was tabled in the House of Representatives. That report was known as the Reid report and was entitled *Finding a balance: towards fair trading in Australia*. In seeking to alleviate the burdens on small business, the report is littered with the despair of small business people and their experiences in the areas of retail tenancy, franchising and abuse of market power by large business. It is no surprise that the recommendations in that committee report embrace those issues of concern to small business. It was more than warmly received as a report. The report got it right about small business, and the legislation was eagerly awaited to deliver key reforms to that sector in the areas of unconscionable conduct provisions, a uniform retail tenancy code and lease renewal—to name just three of the areas of concern. However, somewhere between the reporting of the committee and the drafting of the bill, these key recommendations were omitted. They vanished into the policy vacuum that has characterised the current government.

A key part of Labor’s agenda for industry must also be to harness the energy, drive and flexibility of small business to provide opportunities for as many Australians as possible. Labor recognise the enormous job creating potential of Australian small business. We recognised that the Reid report represented the appropriate strategic intervention for small business to guarantee a fair and competitive economic environment and to address the obstacles the small business community faces, including their market power disadvantage, compliance costs and access to finance and justice. Members of this side of the House have always understood that we need to utilise mechanisms available to us, including legislation, to ensure that a fair trade environment exists in Australia. Retail tenancy represents a unique case in point. Within large shopping centres you do not have any right to the space that you occupy. You can be forced to relocate somewhere else during the term of your lease at your own expense. If your business goes well, the landlord is likely to evict you and put in someone else at a higher rent in order to profit from your work. If your business
goes badly, they will enforce the conditions of the contract to the letter.

In 1995 Labor introduced the Trade Practices (Better Business Conduct) Bill, which was to prevent harsh or oppressive conduct by retail landlords and franchisees and was to give the Australian Competition and Consumer Commission greater powers to stamp out such conduct. Let us be clear about the history of this legislation. The Liberal opposition refused to pass the bill. The fair trading section of their small business policy, which was released prior to the last election, said:

Complex black letter law, as proposed by a Labor Government, will stifle the dynamics of the small business sector and lead to greater uncertainty and cost. Therefore it is not seen as the most appropriate starting point to address current small business difficulties.

This approach is also not consistent with small business’ repeated calls for less government interference with and regulation of the affairs of the sector.

My gravest concern is that half the nation’s retail tenants could be out of business by the time we obtain unconscionable conduct legislation. If you think that is an exaggeration, I will take you back to a recently released bankruptcy report and its figures on small business bankruptcies that indicate that almost 28,000 businesses will go under this financial year.

I would also like to detail the distressing series of events currently unfolding at a local shopping centre called the Heart of the Park in my electorate of Swan. Overseas investors purchased the Heart of the Park shopping centre in September 1994. It is owned by a company called Eastern Prosperity—prosperity for them, possibly—which is a Singaporean investment group. At that time, I am led to believe, there were 35 shops operating in the centre. That this investment group has neglected the centre is an understatement. The centre has had a series of incidents, including raw sewage flowing into the centre through flooded drains. The centre springs major leaks whenever it rains, and I should note that these leaks are in the vicinity of power outlets and light fittings. I am also told that electrical malfunctions are a constant menace to both health and trade due to the poor quality of the electrical system. Tenants indicate that if one shop decides to plug in an extra appliance there is a good chance that the rest of the shops may black out. While at the centre recently during a rainstorm, I witnessed water flowing through light fittings and running down the walls of one of the shops—in fact, quite a few of the shops. Extractor fans in the ablution blocks were raining water, and unlocked doors to an empty shop had gaping holes in the floor and the roof.

The centre has received work orders from Western Power, Water Corporation and the local health department of the Victoria Park Council. Unfortunately, I believe that some of these work orders are still pending. To add to this embarrassing litany, Worksafe—a state department—has also been involved. Life for tenants certainly is not what can be described as luxury, but it is the same for customers. Potholes fill the car park, with many up to six to eight inches deep, covering about 20 per cent of the car park area. But that is all right because two years ago the investment firm was going to build another car park; they just never got around to it. This is beginning to sound like one of those Honest Johnny promises—pigs might fly. This promise is about as full as the other promises given to the residents.

I might make mention, however, of one ray of sunshine. Nick Catania of the WA retailers group sought and obtained some relief in negotiations in 1997 with the firm and more recently with the state opposition shadow spokesman for small business, Mr Clive Brown, who has offered invaluable support and advice. Of course, you could not expect support from the Court Liberal government in Western Australia. They have consistently refused to enact legislation which would assist these small business operators. Like their federal colleagues, they go on about supporting small business while allowing the big end of town to exploit them to full advantage. That is why the federal government is not supporting all the recommendations contained within the select committee report. Residents, after these discussions, held out some optimism that im-
improvements were to be forthcoming. However, Jackson Construction came in late 1997, set up their construction logistics at the rear of the centre and then, just as mysteriously, disappeared.

Now here is the rub: there is a new buyer on the horizon. I am told that the new buyer wants some changes. They will keep Woolworths, the large retailer there, and will have seven specialist stores, but the new centre will now contain 43 new residential apartments. It is obvious to all what is happening: buy the centre, run it down, wait till the despondent tenants leave, then flog it off at a great profit for real estate purposes. Well, fine—but what about the tenants’ rights? This is their sole form of income. They are all going bankrupt due to the neglect of the centre. They have been lied to by successive owners and agents in order to keep them there, have risked everything and have gone further into debt to survive, and now find the effort and sacrifices they have made may be for naught. Recent closures include Azalea Florist, who left last Friday. Sadly, I have been told that Helmut Watzek of Cafe Berlin who has been at the centre for 14 years will be departing on Saturday week. It has now got to the stage where 14 tenants have now employed a barrister and are taking the matter to the Federal Court, but I feel some sorrow that this has been the only course of action available to these tenants.

Finally, and most distressingly, I can also report to the House intimidation by Mair and Co., the new agents. Mair and Co. have proceeded to interview tenants and have taken to the tactics of indicating in letters that the tenants have to pay certain arrears that they dispute or were not aware of, relating to the GST. At this stage in the battle, many residents feel that this is blatant harassment. As one long-term tenant puts it, ‘Right across the board we believe that the representation made to the tenant body has been misleading and deceptive.’ Let me close this example by referencing a recent article from the VIC Park Post:

Payment on demand, another closure and the removal of a much respected and highly regarded security officer. Mair and Co., after interviewing tenants, have decided to be tough and according to many inconsiderate.

In conclusion, by supporting this bill I offer my support for small business. I recognise that reality for small business is the hard daily toil of keeping a business afloat. Government has an obligation to ensure that support is given to the sector. The passing of the Trade Practices Amendment Bill 2000 will assist in establishing a necessary framework for the rapid adoption of a fairer trading environment for all business. The problem is that the legislation does not go far enough. The government should be condemned for not implementing all 10 recommendations contained in the Joint Select Committee report on the retail sector. Sadly, yet again, the minister and his cronies have sold out the cause of small business to the big end of town.

Debate (on motion by Ms Gambaro) adjourned.

REMEMBRANCE DAY
Mr BRUCE SCOTT (Maranoa—Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence) (5.25 p.m.)—Mr Speaker, I seek your indulgence.

Mr SPEAKER—I am happy to grant it.

Mr BRUCE SCOTT—Thank you, Mr Speaker. Before the House rises for a fortnight, I thought it appropriate that we recognise that this coming Saturday will mark the 82nd anniversary of the armistice of the First World War. It is the day on which, since that day, we honour those who have experienced the horror of war, and we publicly recognise their contribution, because each and every individual who served during a century of service, defending the values that we hold dear in this country, helped to make a difference.

This year, Remembrance Day falls on a Saturday and, of course, Saturday morning for many is a busy time, as people go to sporting events and Saturday morning shopping, and businesses are winding up their business activities for the week at Saturday lunch time. But I would like to ask all Australians that they give a minute of their time at 11 o’clock this Saturday to honour the contribution of all those who have served our
country and particularly to remember the 102,811 Australians who have died in giving service to our country. As we remember those who have died and we honour those who have served, we will be reminded also that, as we speak in here in this House and on Saturday, there are members of the Australian Defence Force, men and women, serving in peacekeeping missions in many parts of the world, including the Sinai, East Timor and Bougainville.

In the Parliament today in the Speaker’s Gallery, we had some very special guests: the Torres Strait Islander members of the Light Infantry Battalion. They are very special guests here in Canberra for the very first time, to be at the national commemoration service at the Australian War Memorial on Saturday. They will be there, and I think we should acknowledge the great contribution that the Torres Strait Islanders gave our country in our darkest hour during the Second World War. It is marvellous to see some Torres Strait Islander veterans and widows and also descendants of veterans here to commemorate Remembrance Day in our national capital.

I am reminded that on Tuesday of this week the nation stopped for the Melbourne Cup. I do not think it is too much to ask Australians this Saturday at 11 o’clock to give a minute of their time to remember those who gave their all that we may enjoy a freedom and democracy which is unsurpassed in the world.

Mr EDWARDS (Cowan) (5.28 p.m.)—Mr Speaker, I also seek your indulgence.

Mr SPEAKER—I am happy to grant it.

Mr EDWARDS—Thank you, Mr Speaker. On behalf of the opposition, I would like to be associated with the very genuine remarks made by the Minister for Veterans’ Affairs. Saturday is of course the 11th day of the 11th month, and I join with the minister in asking fellow Australians to stop for one minute and reflect on those who gave their life for the things that we value. I thank the House.

Good and Services Tax: Savings Bonus

Ms ELLIS (Canberra) (5.29 p.m.)—A matter of some concern to me over recent weeks has been the apparent confusion or misunderstanding on the part of older members of my community with regard to the aged persons savings bonus. As members are aware, this bonus was announced by the Prime Minister prior to the last election, when he said on 18 August 1998:

For every person aged 60 and over there will be a savings bonus—a one-off tax free payment of $1,000 in relation to investment income that you might have.

As a result of that announcement—that promise—many older Australians believed that what was said was actually meant—that our older folk would receive $1,000 on the basis that most of them believed they would qualify within the bounds of that statement. Of course, we have since learned otherwise, and I believe that this is where the confusion and misunderstanding have really been evident.

Since about 1 July this year, my electorate office has received many representations from concerned folk about incorrect calculations of the bonus payments, complicated application processes and a lack of information about the bonus generally. To really understand this reaction, and to gauge the level of community concern, I wrote to constituents, inviting their comments. It would not be an exaggeration to say that my office was inundated with responses—phone calls, letters, emails, faxes and personal visits. After some weeks, we continue to receive those responses.

It is fair to say that a small number of the responses were favourable to the bonus and that the constituents concerned had received their full amounts. In fact, one woman advised me that she was very satisfied and had received her bonus of $1,000 within 11 days. I was pleased to hear this story. The last thing I want to see is the older members of my community receiving anything other than quick, clear and appropriate responses from government programs. I only wish I could say the same for everyone who responded. The overwhelming majority of comments were not favourable at all. Many of these
folk are very disappointed, and I have to say that those who received as little as $1 feel insulted to say the least.

Some have pointed out total confusion when, as one member of a couple with joint savings investments, they received a different payment from their spouse. A very brief summary of complaints I have received follows, ‘The paperwork and effort to send as little as $1 constitutes a waste of money,’ and, ‘The government spent over $400 million on GST advertising and promotion, and yet they did not tell me that I would not get this bonus.’ Some folk are being sent from Centrelink to the Australian Taxation Office and back for forms, information and advice they should be able to get from either office. Self-funded retirees who received just $1 of pension during the last financial year will miss out on the supplementary bonus. The most profound comment, which I might add came from quite a number of respondees, was, ‘I’m pleased because I received $1,000, but it seems unfair when my neighbour, who has very little, received nothing. I don’t understand this form of assistance.’

Just very quickly I will quote from a couple of the responses I have in front of me. Mrs C. of Monash said:
I received $1,000 but do have concerns for other aged person I know who could well have done with the bonus who missed out. It seems to me only the ones having money invested received the bonus.

Mrs K. of Gordon said:
I received a form from Centrelink, which I filled out and sent back. A reply was sent, telling me I didn’t have any savings—which is true—therefore I was not entitled to anything. The same woman goes on to say:
For one thing, I could have kept my bank account over the $500 needed to keep bank fees lower, giving me a measure of security.

Unfortunately, I could go on for hours—which I do not have—quoting letters from constituents in reply. It is a bit of an understatement to say that a large number of our older folk are disillusioned by the Prime Minister’s position on this matter. This group of our community treat people in a very fair, open and honest way. Remarkably, maybe I say sarcastically, they deserve and expect to be treated in the same way and not to be treated in the same way and not to be taken for granted. I find it quite tragic that an enormous number of people from our older community are more than disillusioned with the government and a process that they see as dishonest, misleading and taking them for granted. (Time expired)

Ms GAMBARO (Petrie) (5.34 p.m.)—I rise this evening to draw attention to the success of the training and employment providers that provide wonderful service both to my electorate and to the Dickson electorate, where I recently attended a function. East Coast Training and Employment at Strathpine are one of the largest of 24 group training companies in Queensland. Last Friday night I had the pleasure of attending their annual awards night, which some 500 people attended. Since its beginning in 1988, East Coast Training and Employment have consistently demonstrated their ability to provide employment and training assistance to people such as indigenous Australians, school leavers, long-term unemployed, mature age applicants and the disabled. They showed their dedication once again with a huge turnout the other night, which seems to get bigger and better every year. They work with many Australians in conjunction with a wide range of Australian government programs.

Earlier this year, the federal government announced that $2 billion was to be provided for apprenticeships and traineeships over the next four years. Last Friday night was about recognising the wonderful work of apprentices and awarding the apprenticeship and traineeship graduates. Under the scheme, group training companies such as East Coast Training and Employment are able to assist in creating more of these opportunities for our local community across a wide range of industries and services. To date, East Coast Training and Employment have been very successful in providing a whole host of apprenticeships.

During the past year, group training members doubled apprenticeships and traineeships to more than 320. This increase has been largely the result of the federal gov-
ernment’s strategy and the promotion of the new apprenticeship scheme. Last Monday, 30 indigenous Australian apprentices and trainees began their training with East Coast Training and Employment as part of a contract to promote 100 indigenous Australians under the federal government’s structured employment program, STEP, over the next 12 months. I applaud the initiatives taken by the minister. This contract is provided by the federal government to support disadvantaged people in the area with measures that provide opportunity and support to indigenous communities and also reduce unemployment. They are integral to developing a diverse and a skilled labour force. I also want to congratulate East Coast Training for their employment opportunities for these young people, for embracing federal initiatives and for maintaining the level of support that they have provided.

The success of the vocational educational training system is contingent upon the participation in the labour force of facilitators such as East Coast Training and Employment. Their demonstrated ability and dedication to young people not only in my electorate but also in the electorates of Dickson and Fisher is absolutely exemplary. They actively demonstrate a positive commitment to reducing unemployment. Their overall enthusiasm was really evident the other night. It was wonderful to see those young people participating. I would also like to add some words about the Clarke family's contribution. Each year, East Coast Training will provide an award in memory of the Clarke family’s contribution. So I would like to mention how brave the Clarke family are. It really took great strength to come along the other night. I would like to thank East Coast Training. I am looking forward to a bigger and brighter award night next year. I want to congratulate them for their continued work. I want to thank them also for the great positive outcomes they have achieved for the whole of the region. I hope they continue to provide the wonderful opportunities they do for apprenticeships and traineeships in our area. I applaud them in their work.

**Fremantle Artillery Barracks: Sale**

Mr EDWARDS (Cowan) (5.38 p.m.)—Much is said about the need to remember and honour our veterans. Part of that process of remembering and honouring is found on Remembrance Day, when we pause for a minute, or on Anzac Day. Part of the process of remembering and honouring is seen in the need to preserve and maintain our military heritage. It is in that context that I raise the government’s unpatriotic decision to sell the Fremantle Artillery Barracks and Military Museum. In defence of its decision, the government is currently advising the people of WA that the main reason for the decision to dispose of the artillery barracks is that the site is surplus to requirements.

The sale is being conducted as a priority sale to the private University of Notre Dame and is supported by the Special Minister of State, Senator Ellison, and the Minister for Education, Training and Youth Affairs. The sale has the in-principle approval of the Minister for Finance and Administration, the Minister for Defence, the Minister for Veterans’ Affairs and the Prime Minister. Despite this, the people of WA have not given up their strong fight for this military heritage precinct and they are being ably supported by the member for Fremantle.

Western Australians were recently incensed by Liberal Senator Abetz when he told people in WA that he would ‘sell the National War Memorial if there was a quid in it’. Of course, the government now denies what Senator Abetz told the people of WA. Tomorrow, however, a number of statutory declarations, sworn by several highly respected Western Australians will be produced at a Senate hearing into the sale. The stat decs will relate to the statements made by Senator Abetz, and I hope that the Prime Minister, when he has documentation about what Senator Abetz had to say in WA, will call on him to apologise.

The Prime Minister, no doubt embarrassed by his senator, has now given a public commitment in relation to this heritage precinct. He told the West Australian, reported today,
that he is now considering saving the Fremantle Artillery Barracks and giving it back to the state as a Federation gift. I understand that he made a similar commitment on the ABC when talking to Liam Bartlett. That commitment has given fresh hope to those fighting to save the barracks, and I hope his commitment to Western Australia will be as true as that of those whom we will remember at 11 a.m. on Saturday. We are not asking the Prime Minister to give his life, but we are asking that, now that he has given his word, he keep it.

In saying that, I well recall the Prime Minister’s promise to never, ever introduce a GST. I also recall his promise to pensioners over the seniors saving bonus and I also remember his promise on petrol prices. I can assure those who are fighting to save this important heritage precinct in Western Australia that we on this side will do all in our power to keep the Prime Minister to his word this time. I want to quote from a press release that was put out by the member for Fremantle on 7 November. It is under the heading, ‘South Australia gets gift while Fremantle Artillery Barracks go begging.’ It says:

Dr Carmen Lawrence, Federal Member for Fremantle, today renewed calls for the Fremantle Artillery Barracks to be gifted to the people of Western Australia.

Dr Lawrence has revealed that while the Federal Government is persisting with plans to sell off Western Australia’s Military heritage, it was also handing over a similar site to the South Australian Government.

The Federal Government will hand over the Torrens Parade Ground in Adelaide to the State of South Australia as part of celebrations for the Centenary of Federation in October next year.

Dr Lawrence went on to say:

The Fremantle Artillery Barracks, like the Torrens Parade Ground are of unique and irreplaceable historical and community value. The Torrens Parade Ground first saw troops sent to the Boer War while the Fremantle Artillery Barracks housed many thousands of troops before they left the port of Fremantle for the first and second world wars. Both sites—

According to Dr Lawrence and many other people—

I strongly endorse and support those remarks by the member for Fremantle. I call on the Prime Minister to stand by his word.

Environment: Kyoto Protocol

Mr BILLSON (Dunkley) (5.43 p.m.)—
The usual suspects are saying the usual things in the days leading up to the next international conference to move forward the Kyoto climate change protocol. Something new needs to be added to the dialogue between the parties meeting in The Hague over the next fortnight if the Kyoto protocol is to be ratified in the foreseeable future. The plan for curbing the harmful emissions from human and industrial activity that contribute to our changing climate needs to also pass the test of a fair sharing of burden and effort, whilst not disproportionately impacting on the economies and living standards of participating nations.

The key missing ingredient is trade. Trade matters when trying to advance climate change policy and the ratification of the protocol. Yet the diplomatic line is one of not complicating already difficult negotiations with the further complexity of a trade overlay. As neat as this diplomatic thinking is, without adding the trade ingredient the job simply will not get done. With developed countries like Australia and Japan facing adjustment pressures to meet emissions caps, a genuine fear is that industry and economic activity will migrate to developing countries like Korea and other Asian Tiger economies where no such pressure exists.

Trade between developed and developing countries is a sticky and prickly subject at the best of times. Add in a cost of complying with Kyoto in developed countries that developing countries need not worry about, and you hear people talking about free kicks and unfair trading advantage. Recognising that climate change is an international challenge which impacts far beyond the borders of developed countries, it makes sense to factor in climate change compliance as the missing trade related ingredient. Under this approach, developing countries without a national
emissions cap continue to be free to conduct their domestic affairs and pursue higher living standards within their own countries and between other developing countries, without the need to contain and account for their emissions.

However, where these developing countries seek to build their economies and living standards on the backs of lucrative markets in developed countries, climate change considerations must be a part of this trade. This can be achieved by requiring those seeking to bring imports from a developing country into a developed country to purchase an emissions permit or climate compliance certificate equivalent to the emissions produced by the production process for the import. We make containing and accounting for greenhouse emissions a part of doing business in developed economy marketplaces, regardless of where goods and services are produced. This neutralises the potential for windfall competitive gains to developing countries at the expense of developed countries. This model does not create any domestic disadvantages for and between developing countries. It incorporates developing countries directly into the global efforts to tackle climate change and creates an incentive for developing countries to opt in to the protocol.

At present, the protocol’s flexibility mechanisms enable developed countries with emissions caps to work with developing countries to share in the benefits of emissions reductions that can be laid off against the developed country’s emission target commitment. This represents investment, technology transfer and intellectual property gains for developing countries with no pain. Why would a developing country without emissions constraints want to commit to a cap when they have access to all of the upside benefits of the Kyoto protocol and are not subject to the disciplines of full signatories?

The potential exists for developing countries to increase their emissions well above the rate of any reductions developed countries are likely to achieve. We need to create incentives for developing countries to fully participate in the Kyoto protocol and help achieve global reductions in greenhouse gas emissions. This trade based climate change compliance idea can achieve this and respond to the objections standing in the way of the protocol being ratified in the foreseeable future. Some of the revenue generated from this system can assist emissions abatement efforts in the import receiving developed countries. The rest of the revenue could be made available to the developing countries which seek climate change compliant trade and, therefore, choose to opt in as full signatories to the protocol to help with adjustment and early abatement measures, providing the financial assistance developing countries are seeking.

This type of scheme can rely on the emissions values for different types of production and activity that have already been calculated for emissions accounting purposes. The emissions trading regime being envisaged can provide the transaction infrastructure and systems. By introducing a climate change compliance requirement that accompanies the trade of goods and services from emissions cap-free developing countries into developed countries that have the discipline of containing and accounting for greenhouse gas emissions, we have the tools to move the Kyoto protocol forward to ratification. Without this type of measure, or at least evidence that trade considerations are on the radar screen, the negotiations at COP6 in The Hague over the next fortnight may end up being remembered as work of feverish inconsequence.

Shipping: Bunga Teratai Satu
Aviation: Whyalla Airlines

Mr MARTIN FERGUSON (Batman) (5.48 p.m.)—As I rise this evening, we have a Malaysian vessel wedged on our Great Barrier Reef. It has destroyed over 100 metres of the reef and carries fuels and chemicals that could cause more damage to the reef. I am hopeful that additional damage will not occur. However, the grounding of the Bunga Teratai Satu has sent a warning shot over the bow of the Deputy Prime Minister and Minister for Transport and Regional Services, Mr Anderson. That shot joins the relentless warnings from this side on the risks he is taking in pursuing his current
shipping policy. The problem is that the Howard government’s shipping policy has hung Australian shipping out to dry. It is a risk to our marine environment, our national security and the national interests of this country. I had hoped that the minister would have got the message from the Laura D’Amato spill in Sydney Harbour last year. Obviously, judging by recent events on the Great Barrier Reef, he has not.

I rise this evening to put the minister on notice that he is far from hearing the last of this issue. The opposition is going to pursue every avenue of questioning to find out why this ship ran aground on our Great Barrier Reef. The circumstances of this particular incident will not be the only focus. Labor will be demanding answers to a number of questions. Firstly, why did the minister issue a continuing voyage permit to this vessel on 3 August—five days before it was detained for serious safety deficiencies? It is important to note that AMSA’s web site refers to serious safety deficiencies of ships detained. I note this because the minister is trying to play down the seriousness of those deficiencies at the moment. It is irrelevant in the circumstances that the Bunga Teratai Satu was not operating under the permit when it went aground.

What the incident has done is alert us to a very public case study of how decisions have been made—decisions to give foreign vessels open access to our coastline through the use of permits. I will also be demanding to know the full reasons as to why a pilot was not on that ship. My questions will also seek to pin down who will be paying for the damage to the reef and for the costs of the rescue, which are going to be quite substantial. I note in passing that, if there had been an oil spill, the shipowner would be paying the cost. I want to know if the taxpayer is expected to cop the cost of the incident I refer to this evening.

The minister’s reaction to this incident has been totally inadequate. He has called—surprisingly—for yet another inquiry into safety on the reef, in a knee-jerk way to avoid his responsibilities. I suggest to the House this evening that the minister has been remiss by not standing up in the House this week to explain to the Australian public how this incident occurred. Many members on both sides of this House, especially those in coastal electorates and those who have participated in maritime safety reviews over the past decade, know the importance of a safe, efficient shipping industry to our country and to our environment. The reaction of the Minister for Transport and Regional Services and Deputy Prime Minister of Australia has been par for the course in his management of transport policy since assuming those responsibilities. We are all hoping, obviously, from the Australian community’s point of view for the safe removal, sooner rather than later, of the Bunga Teratai Satu from the reef. I express the appreciation of the House this evening to all those involved in the rescue effort. I only hope that there is no further damage to our Great Barrier Reef. We must all pull together to ensure that the Howard government changes its shipping policy before we have a disaster that cannot be recovered. If not, we must hold the transport minister accountable.

I also note in conclusion this evening the release of some preliminary recommendations regarding the Whyalla Airlines tragedy. I simply say that, as in other cases of transport policy, Whyalla must not occur again. I, therefore, ask the minister to ensure that the recommendations of the ATSB are acted on and that CASA is requested as a matter of urgency to prioritise its attention to the interim recommendations, to minimise the risk of future loss of life or injury. CASA, sooner rather than later, has to start to front up to its responsibilities. (Time expired)

Remembrance Day

Mrs Vale (Hughes) (5.52 p.m.)—Like many Australians, I too have a close relative who died in one of the many theatres of war in which Australia has been committed. My grandfather died in the war that was known as the Great War, or rather now known as the First World War. He left a young wife, my grandmother, Nelly Jones Dempsey of Carrington in Newcastle in New South Wales. He also left his two-year-old daughter, Mary Delma Dempsey, who was my mother. That he had died in World War I was all that I had ever known about my grandfather, until last
year when, checking the records of the Australian War Graves Commission, I learnt that he was one of the many thousands of young Australians who died in the mud in Belgium with many of his mates. His name was Donald Peter Dempsey, service number 1113, 18th Battalion AIF. He died at Ypres on Monday, 8 October 1917.

So it was with renewed interest and a deepened respect that I stood with a solemn gathering outside the Penshurst RSL last Sunday to honour those Australian heroes, both men and women, who had given their lives for our freedom. For one silent moment we stood under a cloudy morning sky and remembered in our hearts and minds the terrible price that was paid by young Australians for the liberty of another generation of young Australians. I would like to pay tribute to Mr Mike Paris, the Honorary Secretary, Southern Metropolitan District Council of RSL Sub-branches, who was the master of ceremonies on Sunday morning, for the way in which he involved the young school students from local schools in that very meaningful ceremony.

In my research this afternoon I came across a lovely quote, if you like, from a book by Dr Richard Reid, who is a war historian with the Australian Department of Veterans’ Affairs. His book is entitled He is not missing. He is here! He paints a very vivid picture of what it must have been like in the trenches, in the mud, in Belgium in those days. He says:

On 10 November 1918, thousands of Australians, men of the 1st and 4th Divisions, First AIF, plodded wearily along the roads near Le Cateau, France. They were moving forward to relieve the British 32nd and 66th Divisions in the front line. Two months previously, these same Australians had fought their way across the Somme in some of the fiercest battles of the war. This time, however, they did not go into action because early the next morning, at 0500 on 11 November, the Germans signed an armistice at Compiègne. At 1100 hostilities ceased along the Western Front. Australia’s official war historian, Charles Bean, was also heading up to the front on 11 November. He noted that among the soldiers all was calm with the cessation of the fighting but the further he motored from the front line, the louder the celebration became. Back in London, he witnessed the wild scenes of delight that lasted for many days in the capital. He wrote:

“But we knew that the strange quietness along the front in France and Belgium was an expression of feelings deeper still.”

One soldier who exhibited these feelings was a Corporal R. Morgan, 2nd Battalion, of Meadowbank, New South Wales. He was obviously a contemporary of my grandfather. Dr Reid writes that this soldier’s diary caught the ‘mood of sad reflection’ of those who were unable to participate in the joyous celebrations:

At about noon ... was told an Armistice had been declared ... it was hardly creditable [sic] ... so to all intents the war is finished or so it seems. And as one sits and ponders sadly of those many pals who are ‘gone to that home from which no wanderer returns’ ... the very flower of our manhood have paid the greatest price, not willingly for not one of them but longed to live, return home, and forget the horrors of the past.

In this great war—the war to end all wars—Australia lost over 60,000 dead. Over 46,000 of these died on the Western Front in France and Belgium and over 8,000 in Gallipoli in Turkey. Until 1939 the anniversary of the war’s end was marked in Australia and in those countries with whom it was allied between 1914 and 1918 as Armistice Day. It was a day on which to remember those who had died in the war. But, of course, after the Second World War it was considered to be no longer appropriate and in 1945 the British and the Australian governments changed the name to ‘Remembrance Day’, and so it has remained. In Australia, Remembrance Day is now regarded as a day on which to remember the dead in all wars in which Australia has taken part. It is also a day on which we Australians remember the dead of all those nations with whom we were allied in battle.

World War II: Prisoners of War

Mr ALBANESE (Grayndler) (5.57 p.m.)—The announcement by the Blair Labour government that it plans to compensate British soldiers held as prisoners of war by Japan during World War II is a welcome one. It is expected that around £10,000 will be paid as compensation to each of the 7,000 survivors of Japanese war camps. This
amounts to approximately $27,000. It is time for the Australian government to follow this lead and compensate former Australian POWs held in Japanese camps. Of the 22,000 Australian soldiers captured by the Japanese military, only 14,000 returned home. The number captured represents only four per cent of those Australians who saw active service, but those who died represent a massive 30 per cent of all Australians soldiers who died during the war. Due to long-term health effects arising from the brutal treatment by the Japanese military, they continue to die at four times the rate of other returned soldiers between 1945 and 1959. Since then, the rate of death has been 20 per cent higher than for our returned soldiers. In answer to a question I asked of the Minister for Veterans’ Affairs, received this week, I learnt that there were only 2,819 former POWs alive as of 30 June 2000. When I asked the same question last year, the figure was 3,078. This represents the passing of 8½ per cent in the last year.

Figures, however, do nothing to convey the human tragedy that was played out in the Japanese prisoner-of-war camps. These veterans suffered so much, and continue to live with the effects of the brutal treatment they received. The Australian government should consider making a similar payment as a gesture that later generations recognise the extraordinary sacrifice made by these courageous Australians. This Saturday, Remembrance Day, would be a timely opportunity to make that announcement, which would be supported by these Australians and by the Australian people.

Mr SPEAKER—Order! It being 6 p.m., the debate is interrupted.

House adjourned at 6.00 p.m.
Mr DEPUTY SPEAKER (Mr Nehl) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Nursing Homes: Kenilworth

Ms MACKLIN (Jagajaga) (9.40 a.m.)—I would like to talk about a very serious matter taking place in my electorate with respect to the Kenilworth Nursing Home. Unfortunately, reports dating back to June 1999 have outlined serious risk to the health of residents of this nursing home. Following on from the events at Riverside, such concerns should have been dealt with much more quickly than has been the case.

I have seen the most recent audit report from the agency which has been looking into the care of residents at Kenilworth. Unfortunately, there are problems in a whole range of areas, including clinical care, medication management, pain management, hydration and nutrition, and skin care, particularly stopping bedsores. Too many of the residents have been restrained, both chemically and physically. One resident was seen to have been kept in a bed for two days while the audit team was there, with the bars pulled up on the side of the bed. The fire and emergency services are not adequate.

I mention one particular case that is of great concern that shows dramatically what is going on in this nursing home. A resident who fell out of bed was documented as having pain for six days prior to being transferred to hospital for treatment for a broken leg. Analgesia is recorded as having been given three times within the six days, while this resident was kept in the nursing home without being sent to a hospital, which is what should have happened.

This government has had report after report about this nursing home, and people are still living in this nursing home with their health at risk. It is not good enough. An administrator or a nursing adviser should have been placed in this nursing home a long time ago. The government should act now, put in an administrator and get this place cleaned up so that, at least for the residents that remain, there can be a much higher standard of nursing home care. What has happened to the residents of this nursing home is an absolute disgrace. It has occurred because of the inaction of this government; it should get in there and clean up what is a very serious problem relating to the standard of health care being given to the residents of Kenilworth Nursing Home.

Petrol Prices

Mr NEVILLE (Hinkler) (9.43 a.m.)—I would like to speak this morning about the empty rhetoric, lack of policy and sheer hypocrisy of the opposition in the current fuel debate. Three days ago, we saw one of the most hollow efforts of the opposition in an attempt to move the so-called petrol amendment. This was nothing more than a stunt, a leech-like act, trying to suck some blood from the recent National Party central council meeting at Kingaroy. It was not motivated by any great concern for country people; it was merely an attempt to embarrass National Party members in their electorates.

The headline in the Crean-Ferguson press release of 7 November was: ‘Paul Neville betrays Hinkler voters on petrol’. No doubt this was the standard press release, with the names changing from electorate to electorate. People in Australia will not be fooled. They will remember that off-farm excise rose from 6c to 34c a litre during Labor’s 13 years in office. They will remember that Labor added 9.5c a litre in non-indexed excise increases and that excise increased by an average of 5.2 per cent a year over their 13 years in office. I am pleased to see that the shadow minister for small business and tourism is present in the
chamber today, because he has unashamedly told us that Labor will cancel the Fuel Sales Grants Scheme.

Mr Sercombe—Misrepresentation.

Mr NEVILLE—No, not misrepresentation. You are on the record, my friend. Five hundred million dollars will be taken from country people. You did not support the 24c a litre—

Mr DEPUTY SPEAKER (Mr Nehl)—I assure the member for Hinkler that the chair was not involved in not supporting that. Address your remarks through the chair, please.

Mr Fitzgibbon—Mr Deputy Speaker, I raise a point of order. I have made a personal explanation in the parliament on this matter. I have been misrepresented on this point. Given that I have made a personal explanation in the parliament, I think the member should desist from making that charge again.

Mr DEPUTY SPEAKER—There is no point of order. The honourable member for Hinkler has the call.

Mr NEVILLE—Not only that, the Labor Party has not supported the 24c a litre diesel fuel rebate. If you take a line on excise based on the 13 years that Labor was in office and take it to where it would be now had they remained in office, we would be paying over 50c a litre in excise, which is simply outrageous. I will not vote for these sorts of facile, exploitative and insincere amendments that are put to the House. If and when the National Party has something definitive to say about petrol and wishes to do so in the House, then I will support it. I will not be supporting any bodgy Labor motions.

Defence Estate: Maribyrnong

Mr SERCOMBE (Maribyrnong) (9.46 a.m.)—In recent decades the Maribyrnong River valley in Melbourne has undergone significant rejuvenation where its environmental values and recreational opportunities are broadly recognised. This has got particular focus at the moment because of the intent of the Department of Defence to dispose of some 14 hectares of land that they have occupied for many decades in the Afton Street, Essendon, area. Consultants’ reports have been prepared in relation to that disposal. The consultants’ reports, amongst other things, point out that this particular part of land has two regionally significant remnant grassland areas and two Aboriginal archaeological sites, along with a number of other features of some considerable importance in that part of Melbourne. The defence department’s consultants’ report says:

It is considered that through a sensitive and comprehensive design process it is possible to develop housing on a small portion of the site (approximately 15-20%) without detrimentally impacting on the conservation values of the river environs and the views into and out of the site.

That particular proposition and desire of the defence department to generate some residential development on this site is totally rejected by the local community. It really has many significant problems to it.

I will briefly make two points from amongst the number of arguments that are relevant. Firstly, to gain access to the particular portion of the site that the defence department seems to wish to develop for residential purposes, a road will need to be constructed through an area that, as recently as January 1999, has been identified as badly contaminated. The topography of the area means that that road construction would have some difficulties with it and would certainly disturb badly contaminated areas. The evidence for that is a report prepared for Melbourne Water by a company called Enetech Pty Ltd. That proposition is not on, either for present or prospective local residents.
Secondly, the consultants’ report that has been prepared for the defence department is, in fact, inaccurate in a number of areas. For example, the report says:

Under legislation, the optimum value of the land must be realised.

That is the rationale for some residential development. A check with DOFA has established that disposal of property at full market value is a policy position only and is not required by legislation. The consultants also talk about the inability to gift the land to the local council or other interest groups. Elsewhere in their report, that is precisely what they propose for the 85 per cent of the land that is not proposed for residential purposes. So the local community is in its rights to call for the enhancement of the recreational and environmental value—

Aboriginals: Projects

Mr HAASE (Kalgoorlie) (9.49 a.m.)—I rise today to highlight a major impediment to Aboriginal advancement. Too many projects are being set up to fail—so well meaning, but so misguided. An abundance of funds has been created by a majority of opinion motivated by an assumed guilt and the belief that through the allocation of money will come absolution. In the mid-90s, an operating citrus orchard in Wiluna in Western Australia, known as Desert Gold, was handed over to Aboriginal interests. With 20,000 prime trees, all necessary infrastructure, eight accommodation units and both grid power and emergency generators, the orchard—worth millions of dollars and producing in excess of 1,000 tonnes of fruit per year—is now in ruins, abandoned.

I ask: who gains in such an exercise? Is it mainstream bureaucrats, entrepreneurs, infrastructure providers? It is certainly not the Aboriginal people. They are left humiliated and further accused of waste. They continue to be dependent. The welfare mentality is not helping. Highlighting this in yesterday’s Australian, Tracker Tilmouth, the former Director of the Central Land Council, says that the Northern Territory Labor Party treats its Aboriginal electorate like ‘pet niggers’ and will pay dearly for it at the polls. He says that Labor’s two Aboriginal politicians, John Ah Kit and Maurice Rioli, had been ineffective because Labor’s party machine ensured they remained ineffective. He goes on to say:

For the past 20 years, we’ve all voted Labor—to our detriment. They just expect us to vote Labor. It’s a plantation mentality.

Education, and the teaching of the importance of education, is the future for Aboriginal people. Education is the long-term answer. This will only be achieved through the mainstream population first understanding the facts. Communities have a collective responsibility to recognise the value of education. It is not the sole responsibility of educators to turn schools into a circus to attract children to attend. Parents must encourage their children to take advantage of all facilities, high quality and expensive facilities, both primary and secondary, to equip them for the future. Of the funded projects that fail, too often the cause is through lack of management skills or maladministration. Too often, control is given to the most influential, not to the most capable.

Aboriginal leaders should have more faith in the democratic process. There is too great an imperative to get control now, fearful that the money bubble may burst. Aboriginal leaders need to appreciate that good government is here to stay and that money will continue to be allocated for meaningful projects and, with good administration and good management, those projects will be productive for Aboriginal people into the future.

Regional Assistance Program: Funding

Mr FITZGIBBON (Hunter) (9.52 a.m.)—I begin today by thanking the member for Hinkler for two things: the first is for highlighting, once again, the Prime Minister’s broken
promise on petrol prices and the impact of the GST, and the second is for highlighting the National Party’s duplicity on this issue. Back in their electorates they are screaming blue murder over petrol prices, but here in Canberra they are doing something very different. In other words, they are here supporting the Prime Minister’s stubbornness on this issue and his refusal to give relief to the motorists who so well deserve it.

I want to begin the main part of my contribution today by quoting from the webpage of the Sydney based Wine Society. It reads:

The Wine Society grew out of a visionary idea and a spirit of friendship. The idea was that if a group of wine lovers got together, they could find and buy excellent wines more easily and affordably than any individual could.

That is quite an admirable thing to do. The Wine Society was started in 1946 by a Sydney neurosurgeon, Dr Gilbert Phillips. Until now, the society has sold its wines only to its 55,000-odd members. But that is about to change. The Wine Society is now embarking on what could be described as a commercial operation, selling fine wines to any comer, and it is using an e-commerce strategy. The question I want to pose today is this: should the Sydney based Wine Society be receiving Regional Assistance Program money to establish a wine centre in The Rocks in Sydney? The question has to be asked whether this investment will create jobs in high regions of unemployment. Will some $300,000 of Commonwealth money, designated to assist the regions, go to a wine centre in The Rocks in Sydney?

I must say that Minister Jackie Kelly has already answered those questions. The Wine Society went to Minister Kelly for money under the Regional Tourism Development Program, but she decided that she was having difficulty finding any merit in the project in terms of assistance to the regions. The New South Wales Department of State and Regional Development came to the same conclusion. Whilst it is a worthy project and a project I would be happy to support in any way that I could, both Minister Kelly and the department found it very difficult to see how this project was going to assist unemployed people in the region.

The last question that has to be posed is: on what basis did Minister Reith, under the Regional Assistance Program, determine that building a wine centre in The Rocks in Sydney was going to help unemployed people in regions such as my own region in the Hunter, where wine tourism is very important? I am calling upon Minister Reith today to table the application from the wine centre and disclose the basis on which he made his decision. (Time expired)

Gambling: Interactive Gambling (Moratorium) Legislation

Mrs DRAPER (Makin) (9:55 a.m.)—It is with grave concern that I again rise to speak about the Interactive Gambling (Moratorium) Bill 2000, which was defeated in the other place by the Labor Party. I am addressing the chamber today, as I was not able to conclude my speech on the last occasion I spoke in relation to this issue.

As I have stated earlier in this place, the legislation sought to introduce a 12-month moratorium on the further expansion of the interactive gambling industry. The bill was not designed to rein in innovation but to protect at-risk gamblers, and therefore their friends and families, while the government broadly examined the feasibility, implications and future of the industry.

The defeat of the bill was a crushing blow to families around Australia, to many of those affected by the gambling addiction of loved ones. Labor ignored the opportunity to do the right thing. Instead, responsible policy formulation was replaced by opposition for opposition’s sake. As I said previously, vulnerable individuals in our society could have been protected by a 12-month moratorium on the expansion of interactive gambling services.
According to the South Australian government, in 1999-2000 net revenue from pokies for
the Enfield, Tea Tree Gully and Golden Grove areas was almost $32 million. These areas,
located in my electorate of Makin, contain many families who suffer directly from the
gambling habits of family members.

The jump in accessibility to gambling offered by the Internet could lead to an increase in
gambling addiction and debt in my electorate and in general across Australian society.
Australians love a flutter—there is nothing wrong with that—but the setting where two
lovable larrikins indulge in a back street game of two-up is far removed from the prospect of a
teenager, armed with a credit card, playing poker online.

The negative social implications resulting from excessive gambling plague many
Australians, with one in 10 Australians affected in some way by problem gambling.
According to the Productivity Commission’s final report into Australia’s gambling industries
in 1999, Australians are the world’s biggest per capita gamblers, losing an average of $760
per adult. Losses now figure in excess of $11 billion, double the amount at the start of the
1990s. Australia has 290,000 problem gamblers each losing $12,000 annually and impacting
on the lives of five others.

The report highlighted the fact that the levels of problem gambling are linked to the
accessibility and type of gambling products. Unfortunately, the opposition has made it much
easier now, ensuring greater gambling access for problem gamblers. Labor has fundamentally
disregarded community welfare and concern on this issue.

Finally, I would like to take this opportunity to commend my South Australian colleagues
the Hon. Nick Zenephon MLC and the Hon. Angus Redford MLC for their comments in their
dissenting statement from the conclusions of the report of the select committee on Internet
and interactive home gambling and gambling by other means of telecommunication in South
Australia.

Mr DEPUTY SPEAKER (Mr Nehl)—Order! In accordance with standing order 275A,
the time for members’ statements has concluded.

JURISDICTION OF COURTS (MISCELLANEOUS AMENDMENTS) BILL 2000
Second Reading

Debate resumed from 8 November, on motion by Mr Williams:
That the bill be now read a second time.

Ms O’BYRNE (Bass) (9.58 a.m.)—The Jurisdiction of Courts (Miscellaneous
Amendments) Bill 2000 seeks to introduce amendments to resolve problems that have
occurred with the establishment of the Federal Magistrates Service. It is intended to clarify
the jurisdiction of the Federal Court and the Federal Magistrates Service. There has been, as
members would be aware, some concern regarding the effectiveness of the conferral of
administrative review jurisdiction in proceedings transferred between the two courts.

This bill will give the Federal Court the power to hear applications that are referred to it by
the Federal Magistrates Service under the Administrative Decisions (Judicial Review) Act
1977. It will also hopefully clarify the power of the Federal Magistrates Service to hear
matrimonial causes transferred to it by the Family Court.

In order to clarify issues of effectiveness of judgments in areas of concern highlighted by
the Solicitor-General, the bill provides that judgments made without jurisdiction by the
Federal Magistrates Service in such matters will have the effect of a valid decision, although I
am aware that the shadow Attorney-General has raised some concern about whether or not
parliament can validate those decisions in this process.
As members will be aware, the legislation for a federal magistracy was in the House late last year and it received royal assent on 23 December. In January, the Attorney-General announced that a magistrate would be appointed in Launceston, in my electorate. Northern Tasmania—as everyone would undoubtedly be aware—has been without a permanent judge since the retirement of Justice Butler in 1996. The replacement of this judge was promised by the then Liberal member holding my seat. This promise was never fulfilled. Waiting lists in Tasmania are currently running at an unacceptably high rate, with over 100 cases in the north of the state waiting for some kind of judicial assistance. That is 100 families waiting to have their incredibly difficult and personal matters resolved so that they may get on with their lives. The Attorney-General, instead of addressing the delay by replacing our judge or following the recommendations of the Family Law Council, decided to set up this additional layer of jurisdiction, an additional layer that already needs reform in order to operate successfully.

Interviews for the Launceston magistracy position took place at the beginning of the year, with the position due to start on 1 July. On 1 July, a number of appointments were made, but none in Launceston. On 24 July, two other announcements were made for magistrate appointments, bringing the total appointments to 12 out of the promised 16. Again, the Launceston position was not among them. In his press release, the Attorney-General did indicate that the decision on the remaining positions would be made in the near future. It is now November and our magistrate is still not operating. Newspaper reports refer to the decision having been made, but the Attorney-General has still not announced who it is and when they will start work. Other magistrates services in other states have been exercising full jurisdiction since 3 July.

It is not that I believe that the federal magistracy will actually be the salve to our family law court ills in Tasmania. I believe that the resource allocation will be inadequate but, frankly, we are so desperate for judicial assistance in Tasmania that even a magistrate with a part-time family law capacity is better than nothing. But we should expect to get something out of this process. After all, the federal government has expended $27 million to avoid replacing the vacant Family Court judge positions in Australia. The Family Court’s budgets have been slashed by some $15.4 million over four years because the Attorney-General believes their workload will be diminished by that amount. That remains to be seen. Indications that I have had are that this funding removal will make the family law court job just that much harder. Caroline Counsel of the Law Institute of Victoria was reported in the Age saying:

The introduction of the federal Magistrate’s Court had badly dented family law court funding and the federal government did not understand what it cost to maintain a court charged with the very serious task of involving itself in the most intimate aspects of private life.

The cuts to the Family Court have meant a loss of some 80 jobs. A journalist for the Hobart Mercury actually went to the trouble of doing a calculation based on the transfer of money from the family law court budget to the magistracy compared with that by the Federal Court, and organised a specific time allocation that the magistrate would have to deal with family law cases. The Attorney-General, however, is much more vague and has used terms such as ‘expected’ and ‘significant’ in terms of resource allocation. Either way, the creation of an additional layer of bureaucracy by making the Magistrates Court a completely separate court has created problems, not only in the judicial area but also in the practical area. There are still issues of premises, access to libraries, and staff. We fully expect that, as the court gets into full swing, other administrative issues will emerge. On the judicial level, reports in the Financial Review of June this year said that the Chief Federal Magistrate, Diana Bryant, had
already signalled that more magistrates would be needed to deal with the court’s anticipated workload.

Access to judicial solutions has not been the only problem that the magistracy has faced. I understand that the federal magistracy will not have the same access to counselling services. Chief Federal Magistrate, Diana Bryant, in the aforementioned interview, also mentioned that she was dealing with the vexed problem of alternative dispute resolution and how to offer it effectively within the budget. Whilst I had understood that the magistracy would have counselling services, it appears that underresourcing might be putting at risk that valuable service. We cannot undervalue the work by Family Court counsellors, who spend time with families in crisis and who can provide appropriate reports to the court. They have proved successful in diminishing the number of cases that still require judicial resolution.

This bill is about facilitating the operation of the federal magistracy. We will obviously support it. However, I am still to be convinced that the government has made appropriate decisions in managing the family law provision issue. An additional level of bureaucracy which leaves both systems underfunded cannot be the most effective resolution. In my electorate of Bass, the failure to appoint a magistrate as even a part-time measure is having a disastrous impact on families. We support this bill to assist in trying to make this system workable, but I continue to condemn the government for its ongoing disregard for the needs of Tasmanian families in crisis.

Ms LIVERMORE (Capricornia) (10.04 a.m.)—On the face of it, the Jurisdiction of Courts (Miscellaneous Amendments) Bill 2000 is a non-controversial bill, and the opposition is supporting its passage through the parliament. Its controversy, if you can call it that, lies in the context of what is happening at a broader level with the Family Court and Family Court services in regional Australia, particularly in my electorate of Capricornia. The bill clears up a number of oversights in the jurisdiction of the Federal Court and the Federal Magistrates Service in relation to applications under the Administrative Decisions (Judicial Review) Act 1977 and the jurisdiction of the Federal Magistrates Service in matrimonial causes under the Family Law Act 1975.

The context this bill falls into is the relationship between the federal magistracy and the Family Court. According to the Attorney-General, the establishment of the Federal Magistrates Service was designed to ease the burden of the Family Court’s workload. I think most members in this place would not argue with the fact that that workload is substantial and growing all the time and that ways need to be found to assist families in settling their disputes. The setting up of the Federal Magistrates Service involved a cut of $15.4 million from the Family Court’s budget. That cut was justified by the fact that the money was to be allocated to the federal magistracy, which would have the effect of assisting the Family Court to divest itself of some of its workload.

In Rockhampton, which is the major centre in my electorate, we have seen plenty of evidence of the cuts to the Family Court budget, but we have not seen much at all in the way of replacement services for what we have lost in the Family Court area. What is happening in the registry in Rockhampton is the first obvious sign of the budget cuts to the Family Court. In Rockhampton the subregistry is attached to the Townsville registry. A few weeks ago, the subregistry office was downgraded from a full-time operation to a two day a week operation. The subregistry is now going to be open for two days a week, but for five days a week when the circuit is sitting in Rockhampton. That is about 26 weeks a year.

This has already had the effect of forcing the receptionist/filing clerk, who was employed there for some years, out of that job. When you are told that your job is going to go from five days a week full time to two days a week for part of the year and five days a week for other
parts of the year—which is still subject to negotiation over circuits and sitting dates—it is not much of an option for a highly experienced professional person. Stacey Vea Vea, who has held that job—she is very highly regarded for her competence and her compassion in always looking to assist clients coming to the Family Court registry—has been snapped up by a local firm of lawyers. They saw her skills as being too valuable to be wasted, and she certainly felt that way too. She saw the job as not being a very attractive option. At the moment, someone else is filling the role on a casual basis, and I am assured by the Family Court registry in Townsville that there will be endeavours to fill that position full time. But, given the fact that it is a fairly strange sort of job these days, it seems unlikely.

We are losing not only the person doing the documentation and filing work, but all the other services the registry has traditionally offered in Rockhampton. The registry provides a lot of information to people who are experiencing family breakdown, assistance in filling out documents and in assessing the right documents people require for the situation they find themselves in. Stacey Vea Vea, who has a lot of experience and a professional manner, has assisted a lot of people with those questions and problems.

I am really worried that we are losing that service, and there is not much to replace it in Rockhampton. Like most regional centres, we are not spoiled for choice in these sorts of things. Often people come in from places such as Gladstone in the electorate of the member who sits opposite, Emerald and a variety of outlying areas. They come into the registry but the door is closed, because who knows what two days of the week it is going to be open? They see the closed door, and wonder about their options in Rockhampton. Maybe they could go to Legal Aid, but it is obviously stretched as well for resources and staff, or they could go to the community legal centre. But I still think they find themselves in a fairly distressing situation after seeing that closed door at the Family Court registry, when in the past they could have gone in, had some myths dispelled and had some guidance from a professional officer of the Family Court as to the right direction in which to go. Those people would be a lot closer to getting some matters resolved and feeling more positive about being in control of the process. For those people, a lot of them self-represented litigants, seeing a closed door at the court will have a fairly negative impact on their view of just how likely it will be that they will find anything positive in the Family Court process.

The other issue is that this is supposed to be some kind of budgetary measure. I do not really see that much is going to be saved. You are still going to need to pay rent on the premises—you cannot pay rent for two days a week for half the year and five days a week for the rest of the year. You are saving a tiny amount on salary, but I think the figures just do not add up when you consider the loss in terms of the service that was being provided to the community.

I am fairly unconvinced that we are ever going to see this service again in Rockhampton. The Townsville registry said, ‘Well, we’ll be getting work from Rockhampton; people will be calling us from Rockhampton,’ but there is no way of keeping statistics on that. So, when work is picked up from Rockhampton that could otherwise have been done by the Rockhampton subregistry and the Rockhampton filing clerk, there is no way of actually knowing the level of that demand. Now that we have seen the foot in the door of the downgrading of the Rockhampton subregistry, regardless of how much extra work is being generated in the Townsville or Brisbane registries, it is very difficult to see how we are ever going to demonstrate the demand in a statistical way in order to get the service back.

There is some light on the horizon. According to the lawyers in Rockhampton, the federal magistracy, in particular the Federal Magistrate, who appears to be taking on the responsibility for the Rockhampton circuit, is being extremely cooperative. There is talk of
whether there can be resources used from the Federal Magistrate’s budget to support the registry in Rockhampton. That is very positive, and the lawyers in Rockhampton are certainly grateful that the Federal Magistrate is taking a fairly pragmatic view on that. But it still sounds pretty ridiculous when, in effect, money is taken from the Family Court budget to set up a Federal Magistrates Service, and now the Federal Magistrate is talking about trying to look at ways of putting money back into what is effectively the Family Court structure.

The government can dress this up as much as it likes by pretending that it is offering some new, better service to Rockhampton in the form of a Federal Magistrate—there are definitely benefits, and the local practitioners are looking on it as positively as possible—but, as much as it is dressed up, it is effectively a downgrading of the services that we have enjoyed in Rockhampton in the Family Court area. It basically flies in the face of the Prime Minister’s promise to us earlier this year that there would be no cuts to services in regional Australia.

Another point about the Family Court services in Rockhampton relates to counselling. Again, it is a tale of the demise of the services in our Family Court registry office. We started out with two full-time Family Court counsellors. I remember that when I first started working in family law in Rockhampton we had two excellent Family Court counsellors. They had a very high rate of settling family law disputes, and other family law practitioners have told me that they certainly found it to be the case as well. The Family Court counsellors were very well regarded professionally by the legal fraternity in Rockhampton, and that level of cooperation between the legal fraternity and the Family Court counsellors did produce a very high rate of settlement, which was something to be very proud of.

Over the last couple of years it has slowly dwindled away: some Family Court counsellors left, some took leave—and these people were not replaced. We currently have a private psychologist who is contracted by the Family Court to do two days per week of court-ordered counselling. There are now definite moves towards contracting that counselling work out totally to community organisations.

I met with representatives of some of the prospective counselling organisations a few weeks ago to find out their views on the work that they were being asked to do and what their needs would be if they were going to pick up this work. The feeling from those counselling organisations was a positive one, but there were very big qualifications. All of the counsellors stressed that they would need a very high level of training and support from the Family Court structure. The Family Court structure in Queensland is basically in Brisbane or Townsville, so I am not sure that the level of support needed is really going to be there for community counsellors in Rockhampton.

I was really struck by the situation when one of the previous Family Court counsellors in Rockhampton—who is now a private psychologist—talked about when he started in the Family Court as a counsellor in the 1980s. He had two months of full-time training when he started in that position. I cannot see that the Family Court is going to come to those community based organisations and say, ‘Great, we’re going to pay for you to undertake two months of full-time training before we throw you in at the deep end to conduct this counselling for the Family Court.’ If that happens, that is fine, but I think it is very unlikely.

Another woman at the meeting is a barrister in Rockhampton, but she is a former social worker. She talked of her experience as a social worker when Family Court counselling positions came up. Traditionally, it was only the most experienced social workers who would even consider applying for those jobs, because of the level of difficulty involved and the level of experience required in handling the really fraught and distressing personal situations that people were being confronted with. My real concern is that the optimism shown by the community based counsellors at this meeting seemed to be based on a fairly hopeful and
flimsy premise that there was going to be a very high level of training and support from the Family Court. My real fear is that this is not a genuine attempt by the Family Court to explore new and better ways of dealing with family breakdown. It is really just a flick pass: it is the Family Court trying to cut corners—to cut money out of the counselling services and save money. I feel for the community based counselling services in that scenario, and I also feel for the families who rely on counselling to try and resolve their situations in the most amicable and practical ways possible.

Obviously, Family Court counselling is very different from the relationship counselling which the community organisations are currently engaged in: you cannot disconnect it from the legal process that is going on. The counsellor is not just concentrating on the relationship of those people in a vacuum; it is totally connected to the legal process going on, and the outcome of the counselling session has to be fed back into the legal process—either in terms of resolving the dispute between the two partners or in terms of reporting back to the court for ongoing legal determinations. So I think it is a quantum leap between the sort of relationship counselling that organisations like Relationships Australia and Anglicare are currently engaged in and the role that they would be expected to perform for the Family Court if they take on the court’s kind of counselling work. A very high and comprehensive level of training will be required for those counsellors to take on that role.

The other aspect of counselling is the relationship between the Federal Magistrates Service and counselling. It appears that there is no specific provision at this stage for the federal magistracy to include a counselling service. Before we in Central Queensland completely put our faith in the Federal Magistrates Service as the answer to Family Court matters and dealing with Family Court cases, I would really want to know how counselling will be incorporated into the Federal Magistrates Service. Is there going to be a fee for service from those community based counselling organisations? If so, where is that money coming from out of the Federal Magistrates Service budget? This issue is one that came up when I met with lawyers recently. They feel that the current lack of clarity on that issue puts them in a quandary. They are quite attracted by the idea of being able to have a very regular service from the Federal Magistrate, to get family law matters dealt with quickly and expeditiously. But they do not want then to deprive their clients of the prospect of having counselling as well, as part of finding an outcome or a settlement to their issues.

The lawyers in Rockhampton that I spoke to are really proud of the level of settlement, without having to go through the full court process, that is achieved. They have a very cooperative relationship amongst the legal practitioners in Rockhampton and have traditionally had a very cooperative relationship with the Family Court counsellors and, currently, the psychologist who is doing the Family Court counselling on a contract basis. I was certainly very pleased and proud of the lawyers’ attitude when Robert McClelland and I had a meeting with them a couple of weeks ago. Their concern was all about their clients, about the families that they saw coming to them, needing help to settle their differences. It is certainly not about increasing the level of Family Court services in Rockhampton just so that we can ramp up litigation in the town; it is really about making sure that there are appropriate, affordable and accessible services for the families that are needing the help. The lawyers have expressed their concerns to me and have vowed to join with me in fighting to keep this issue alive, to make sure that our registry is not downgraded and to ensure that counselling services are available to families, whether it is through the community based organisations or through the Family Court—as long as the Family Court does not see counselling as just another way to slash and burn and save pennies.
If it is a genuine attempt to find new ways of settling family disputes, community based organisations may be able to play a role in that. But if it is, as I suspect, just a cost cutting measure, a flick pass of the Family Court’s responsibilities, you will certainly be hearing a lot more about it from me and from the legal fraternity and community of Rockhampton. This is just another cut to our services and we have seen it too many times not to recognise the thin edge of the wedge. We do not want to see the other end of the wedge. We are going to keep fighting for our counselling services and for our registry services.

Mr ANDREWS (Menzies) (10.23 a.m.)—The Jurisdiction of Courts (Miscellaneous Amendments) Bill 2000 clarifies the jurisdiction of the Federal Court and the Federal Magistrates Service with respect to applications under the Administrative Decisions (Judicial Decisions) Review Act 1977 and the jurisdiction of the Federal Magistrates Service in matrimonial causes under the Family Law Act 1975. More specifically, it clarifies that the Federal Court has the jurisdiction to hear applications under the Administrative Decisions (Judicial Decisions) Review Act that are transferred to it by the Federal Magistrates Service, and the Federal Magistrates Service in turn has jurisdiction to hear such applications as are transferred by the Federal Court. The bill also clarifies that the Federal Magistrates Service has jurisdiction to hear matrimonial causes transferred to it by the Family Court.

The amendments regarding this jurisdiction were made by the Federal Magistrates Bill 1999 and the Federal Magistrates (Consequential Amendments) Bill 1999. The courts and the Law Council of Australia were consulted during the drafting of these bills. The bills were publicly available for over six months before they were passed by parliament and were the subject of scrutiny by the Senate Legal and Constitutional Legislation Committee which received over 20 submissions. No issue was raised with the government about the effectiveness of the conferral of this particular jurisdiction. However, recently, and prior to the introduction of this bill, it came to light that there might have been some issues about the effectiveness.

The government was advised that there was some slight uncertainty about the effectiveness of the conferral of the administrative review jurisdiction in proceedings which were transferred between the courts. The advice the government received was that although the conferral of the matrimonial causes jurisdiction on the Federal Magistrates Service in transferred proceedings is more likely than not to be effective, this is not entirely certain. Hence, the amendments in the bill before the Committee are being made purely to clarify these areas of jurisdiction for the avoidance of doubt in the future. However, the government does not wish there to be uncertainty about the effectiveness of judgments made in cases that the Federal Magistrates Service has already heard in these areas of its jurisdiction.

Whilst no applications under the Administrative Decisions (Judicial Review) Act have been transferred by the Federal Magistrates Service to the Federal Court, such applications have been transferred from the Federal Court to the Federal Magistrates Service, and matrimonial causes proceedings have been transferred from the Family Court to the Federal Magistrates Service. So, in order to avoid any doubt about the effectiveness of judgments made in these cases, the bill provides that any such judgments made without jurisdiction by the Federal Magistrates Service will have the effect of a valid decision. This approach has been adopted in the past to deal with possibly ineffective judgments, and the approach has been approved by the High Court.

Additionally, under the Trade Practices Act 1974, the Federal Magistrates Service can only award damages of up to a monetary limit of $200,000, or such other amount as is prescribed, in respect of proceedings instituted in the court. Whilst the intention was that this limitation apply to all trade practices proceedings before the Federal Magistrates Service, there was some doubt as to whether it applies to proceedings transferred to the Federal Magistrates.
Service by the Federal Court. The opportunity has therefore been taken in this bill to make an amendment to clarify this.

The other members who have contributed to this debate, notably the members for Barton, Bass and Capricornia, have taken the opportunity accorded by this bill to raise a range of issues unrelated specifically to what are fairly mechanical provisions in the bill in relation to the transfer of jurisdiction. They have taken the opportunity to raise other matters concerning the Family Court more generally, and the Federal Magistrates Service. Whilst the precise matters in the bill are merely seeking to ensure clarification by way of their nature, it is true that the Federal Magistrates Service and the Family Court remain matters of great importance to the government and members on the government side of the House.

I believe that the Federal Magistrates Service is something which we can be very proud of having initiated in this country and, contrary to some of the advice which has been proffered by members of the opposition, the Federal Magistrates Service is delivering real results into the Australian community. In just its first few months of operation the service has become an increasingly important part of the Australian justice system. To date, in the family law area alone, over 7,000 applications have been filed with the service, and in the non-family law area, over 500 applications have been filed. In addition, several hundred applications have been transferred from the Family Court and Federal Court to the service.

This is in the context of a long process of review of the way in which the Family Court is operated in Australia. The honourable member for Banks, the honourable the Attorney-General and I were members of the House of Representatives Legal and Constitutional Affairs Committee. We all know there has been a review of the way in which the Family Court has operated. There was a joint select committee of the parliament that looked into that, and there has been an ongoing process. One would expect this as a natural course, given that the Family Court of Australia was established back in 1975. Twenty-five years have passed and, therefore, one does need this ongoing review of that court, of the justice system generally, and of the way in which it delivers to the people of Australia.

One can recall that the purpose behind the Family Court at the time was to achieve a number of things. One was, as part of the implementation of a new system of family law replacing the old Matrimonial Causes Act 1959, to make access to the courts better and simpler in an area which contains and has surrounding it sometimes great personal and emotional trauma for the parties concerned, not the least of which are the children, with some 150,000 involved indirectly through their parents in Family Court proceedings each year. As well as bringing about better access, it was also to remove some of the undesirable aspects of the old matrimonial causes system and to simplify the process. What was propounded and what was proffered to the people of Australia back in 1974-75 was that this would be a simple system, that it would have a grassroots aspect to it, so there would be easy access to justice.

As a process of the reviews which have gone on—and I compliment the Attorney-General for having brought forward this Magistrates Court legislation for the federal system—I believe what we are doing in Australia is returning to some great extent to what was actually held out, to what the promise was, back in 1974-75: that there would be some immediate access to justice that would have some community involvement so far as this matter was concerned. Therefore, the objections, some of which have been raised by the members for Barton, Bass and Capricornia, to various aspects of this ought to be taken in the context of the historical background of what was being attempted, particularly in the Family Court, in 1974-75, the process of review that has gone on, and the commitment of the government to try and achieve access to justice in this area in a way which perhaps has been clouded by subsequent events and experience over the last 25 years.
I note that the Attorney is here and I am sure that he will have comments to make in relation to those speeches by the honourable members opposite that I have referred to. Rather than both of us address the same issue, it might be to the advantage of the House if the Attorney addresses those matters rather than I do. I just wanted to put it in that broad context—which I would have been able to do for the next 10 minutes if need be, but, given that the Attorney is here, that brief outline of the historical basis of the legislation will suffice. On that note, I am happy to indicate my support for the bill before the House and urge all honourable members to do likewise.

Mr WILLIAMS (Tangney—Attorney-General) (10.33 a.m.)—in reply—I thank the member for Menzies for his very useful comments. I thank all those who have spoken on the Jurisdiction of Courts (Miscellaneous Amendments) Bill 2000. For a bill that is non-controversial it seems to have generated a lot of debate about matters that are not directly relevant, but, in any event, I thank the members for Barton, Bass, Capricornia and Menzies.

The bill deals with some specific areas of jurisdiction of the Federal Court and Federal Magistrates Service. It will clarify that the Federal Court has jurisdiction with respect to applications under the Administrative Decisions (Judicial Review) Act 1977 that are transferred from the Federal Magistrates Service. It will clarify that the Federal Magistrates Service has jurisdiction with respect to applications under the judicial review act that are transferred from the Federal Court and also with respect to matrimonial causes under the Family Law Act 1975 that are transferred from the Family Court. In addition, the bill will clarify that a limitation applies to the amount of damages that the Federal Magistrates Service can award in trade practices matters transferred from the Federal Court.

The members for Barton, Bass and Capricornia have taken the opportunity to raise a range of issues, unrelated to the bill, concerning the Family Court and the Federal Magistrates Service. Before I address those concerns, I would like to say that, while this bill is merely clarificatory in nature, issues concerning the Federal Magistrates Service are very important to the government. That service is an initiative of which I believe we can be justifiably proud, and I welcome the support of the member for Menzies in that regard. Contrary to the rhetoric offered by the opposition, the Federal Magistrates Service is delivering real results to the community. In just a few months of operation, the service is becoming an increasingly important part of the Australian judicial system. To date, in the family law area, over 7,000 applications have been filed with the service. In the non-family law area, over 500 applications have been filed. In addition, several hundred applications have been transferred from the Family Court and the Federal Court to the service.

Contrary to the dire predictions of the opposition, the service is helping Australian families resolve their family break-ups quickly and cheaply. It is giving those in the community who are discriminated against a cost-efficient and time-effective means of challenging those who discriminate against them. Importantly, it has introduced an element of flexibility and variety for the resolution of disputes under Commonwealth law into the Australian judicial system.

While the member for Barton claims the service has been a waste of money, I am sure that those who have been through its doors would disagree. The member for Barton suggested that part of the government’s motivation in establishing the service was to deflect public attention from the Family Court, I can assure him this is completely untrue. The government established the Federal Magistrates Service because it is the most efficient way of handling the increasing volume of less complex matters in the Federal Court and the Family Court. Quite simply, there was a need in the community and the Federal Magistrates Service addresses that need. I do not consider providing additional judicial resources to deal with such cases to be a waste of funds, as suggested by the member for Barton.
The member for Barton questioned why the government did not appoint magistrates to the Family and Federal courts rather than establishing the Federal Magistrates Service. As was indicated in the extensive parliamentary debate on the bills to establish the service, the government did consider the possibility of appointing magistrates within the existing courts. There were, in fact, two levels of judges within the Family Court when it was first created. The distinction was quickly lost and the judges are now at the same level. Going back to two levels of judges within the existing court would, in any case, have seriously limited the scope for cultural change and innovation.

The Federal Magistrates Service is developing a new culture, with an emphasis on user-friendly, streamlined procedures. The service is operating in a manner which is as informal as possible while consistent with the discharge of judicial functions. This could not have been achieved by appointing magistrates to the existing federal courts. Indeed, my discussions with members of the profession since the service began operating have further reinforced the importance of this cultural change. The service is making a difference because it is seen as offering an alternative, not merely a lesser level of existing court services.

The member for Barton also queried why the government did not give state magistrates more jurisdiction instead of establishing a new court, suggesting that the government had failed to consider this option. The government considered and rejected the alternative of expanding the family law jurisdiction of state magistrates. The government believed that giving additional jurisdiction to existing state magistrates would be a more expensive option than establishing the Federal Magistrates Service. Complex agreements would have been needed with each state and territory, and additional costs would have been involved in training state magistrates, who would not necessarily have been appointed on the basis of their experience with federal law, and it would not have resulted in a different kind of court service being offered to family law litigants.

The member for Barton mentioned that he thought that practical difficulties would arise between the Federal Magistrates Service, the Federal Court and the Family Court with respect to liaison regarding files and the sharing of premises, libraries and staff. The Federal Magistrates Service was open for business in most locations on 3 July 2000, as planned. Magistrates have been sitting since July in Adelaide, Brisbane, Canberra, Melbourne, Newcastle, Parramatta, Townsville and Sydney, and on circuit to several regional locations. The service and the Family and Federal Courts have worked closely and cooperatively to ensure that the service was up and running quickly.

The member for Barton referred to an interview in the Financial Review with the Chief Federal Magistrate in which he mentioned that there were some teething problems in integrating the service with the systems of the Federal and Family Courts. I point out that that interview was conducted in June this year, before the service was operational. Several months have passed since then. Administrative arrangements have been successfully negotiated with the Federal and Family Courts. These include arrangements about sharing of accommodation, courtrooms and libraries. I understand that these arrangements are working smoothly and that any teething problems have been resolved. Indeed, I have been impressed by the spirit of cooperation and coordination which has been evident in the way in which the different courts are working together to ensure that litigants are given the smoothest possible access to the different services that the courts offer.

The member for Barton mentioned that cuts have been made to the Family Court’s budget and that this may result in some staff losses. The reduction in the Family Court’s resources reflects funds transferred to the Federal Magistrates Service, as well as savings from the abolition of wholesale sales tax. It was always intended that some resources would be moved
from both the Family Court and the Federal Court to the Federal Magistrates Service, as the service will be doing work that would otherwise be undertaken by the existing courts. The amount transferred from the Family Court includes some resources associated with registrars appointed by the Family Court as an interim measure pending establishment of the Federal Magistrates Service. While some of the funding for those positions has been transferred to the Federal Magistrates Service, the Family Court has also decided to retain some registrar positions. The Family Court is an independent agency responsible for its own administration. No direction has been given, or could be given, on how to achieve efficiencies.

The member for Barton also indicated that he thought there might be problems with potential cuts by the Family Court to regional circuits and queried whether the Federal Magistrates Service would have the resources to fill any gaps in regional circuits which might result. I am advised that the Family Court has recently conducted a review of its existing circuits. As a consequence of the review, I am advised that changes to circuit arrangements have been made in some areas, taking into account factors such as waiting times at the particular locality, the waiting time between circuits, and the nearest Family Court registry. The Federal Magistrates Service is already providing circuits to some regional areas. The Family Court and the service are working closely together to consider the best way of providing circuits to regional areas. For example, the Family Court and the Federal Magistrates Service have already coordinated their circuit arrangements in regional Victoria to ensure that an adequate balance of circuits continues to be provided.

With regard to counselling services, the Family Court has advised that it is examining the potential for providing services in partnership with community organisations and it is consulting with the community on options for the future delivery of those services. This move is being made in recognition by the Family Court that providing a pre-filing counselling service is not its core business. It is moving to community partnerships for such services. The court has advised that it will maintain services wherever possible, particularly in rural and regional areas, but it is exploring how best they can be delivered.

The government provides funding to community organisations for counselling and mediation services in family law matters. The government will continue to work with the Family Court and community organisations to develop a comprehensive approach to the provision of those services. There are many community organisations that have been providing family and child counselling under government funded programs for a number of years. The claim made by the member for Barton that they may lack sufficient expertise to properly carry out such counselling is quite insulting to them and I reject it. The government has more confidence in the skills of specialist counselling services than the opposition seems to have. In the government’s view, these are organisations whose counselling staff are both dedicated and qualified to assist families in breakdown. The member for Barton’s comments about them do them a grave disservice.

I agree with the member for Barton on one point: it is vital that as many litigants as possible be diverted from the judicial system to resolving their own disputes, particularly in family law. This will continue to be a centrepiece of the government’s aim in family law dispute resolution policy, and we will continue to make use of specialists outside the adversarial court system to assist in that process.

The member for Barton stated that he was concerned that the Federal Magistrates Service does not have sufficient resources to provide primary dispute resolution services such as counselling. The claim made by the member for Barton that the service is not offering counselling is totally untrue. In fact, the service is using the primary dispute resolution services of the Family Court. This includes services for counselling and for conciliation.
Additionally, in excess of $1 million over three years has been allocated to the service for primary dispute resolution services provided by community bodies. These arrangements are in addition to funding to be provided to legal aid commissions and directly to community organisations. My department has also been holding discussions with the Federal Magistrates Service about their priorities for the primary dispute resolution—that is, PDR—funding. Further discussions will be held to advance the development of the service and to ensure that it has the resources available to provide PDR services as and when required.

The members for Barton and Capricornia expressed concern about possible cuts to family law services in Rockhampton in particular. As I have said, the Family Court of Australia is an independent agency responsible for its own administration. It is therefore a matter for the Chief Justice to decide how court services are best delivered in regional centres like Rockhampton. I understand that the Federal Magistrates Service has already started conducting circuits to Rockhampton, which would be listed to fit in with the timing of Family Court circuits.

With respect to counselling services, I am also advised that the Family Court is not proposing to withdraw from its responsibilities for counselling services in this area, but is consulting with the community on options for the future delivery of counselling services in Rockhampton. This includes the possibility of providing services in partnership with community organisations. There is no proposal to scale back the level of counselling services available in Rockhampton.

The members for Barton and Capricornia mentioned that the Family Court’s registry in Rockhampton had recently been reduced to being open for two days a week when there were no circuits being conducted. I understand that this change was made because there was not sufficient filing or other work to occupy a full-time staff member. I have no doubt that the Family Court will ensure that suitable arrangements are made for the filing of documents and the provision of other services to suit the convenience of practitioners and members of the public in the region.

The member for Bass raised the issue of the sufficiency of family law services in Tasmania. I understand that the resident Family Court judge in Tasmania was unavailable earlier this year but the Family Court had made other arrangements to ensure that matters could still be heard. This included the Chief Justice and other judges sitting in Tasmania. The court also used videoconferencing equipment for some processes such as directions hearings. The resident judge is now back on duty and I understand that he has been hearing cases.

The Federal Magistrates Service will help reduce backlogs in the courts and help ease the workload of the Family Court because it will be able to deal with many matters currently heard by the Family Court. Since the Federal Magistrates Service has been operational, the Family Court and the service have been liaising closely to ensure that Tasmania has received sufficient coverage of family law services. The Federal Magistrates Service is providing services in Tasmania both on circuit and through video and audio conferencing. In fact, I understand that the Chief Federal Magistrate herself has conducted hearings in Launceston and Hobart and will be sitting in Launceston again later this month. I expect to announce the appointment of the federal magistrate to be located in Launceston in the very near future.

I mention again that the amendments contained in the bill are being made purely to clarify the areas of jurisdiction dealt with in the bill for the avoidance of any doubt. The government’s advice is that existing judgments of the Federal Magistrates Service in these areas of jurisdiction should be treated as valid and that it is more likely than not that the jurisdiction is already validly conferred. However, the government does not wish there to be any uncertainty about the effectiveness of judgments made in cases that the Federal
Magistrates Service has already heard in these areas of jurisdiction. To avoid this, the bill provides that any such judgments made without jurisdiction by the Federal Magistrates Service will have the effect of a valid judgment.

Having supported the establishment of the service in the parliament, the opposition appears to be having second thoughts. The government does not share the opposition’s misplaced misgivings about the efficacy of the Federal Magistrates Service. Quite the contrary; the government is extremely pleased with the performance of the service in its first few months of operation. I believe the community is well pleased. I believe the community will be looking to the government to expand the Federal Magistrates Service in the future. Again, I thank members who have contributed to the debate on the bill and I commend the bill to the Main Committee.

Question resolved in the affirmative.
Bill read a second time.
Ordered that the bill be reported to the House without amendment.

ADJOURNMENT

Motion (by Mr Ronaldson) proposed:
That the Main Committee do now adjourn.

Carers Allowance: Eligibility

Mr MELHAM (Banks) (10.50 a.m.)—I rise to speak on behalf of one of my constituents, Mrs Jacqueline Davies of Picnic Point, concerning the Commonwealth carer payment. Mrs Davies cares for her husband Warren Davies, aged 62 years, who has non-functioning polycystic kidneys with end stage renal failure. The nature of the care is that Mrs Davies must prepare her husband for peritoneal dialysis four times daily. Each time he showers, she must be on hand to disinfect his catheter site. Mrs Davies monitors and administers his medication and prepares the specialised meals appropriate for a person without functioning kidneys. Mr Davies lacks manual dexterity and cannot carry out these functions.

Mr Davies has been a recipient of the disability support pension for over two years, and Mrs Davies has received a carer payment for a similar period. In July this year, Mrs Davies’s entitlement to the carer payment was subjected to a standard review conducted by Centrelink. On 28 July, Centrelink cancelled Mrs Davies’s carer payment, and an authorised review officer affirmed this decision on 18 August. The law concerning carer payment was changed by the Howard government in July 1999 and now requires that the adult carer receiver be assessed and rated using the adult disability assessment tool. The basis of the cancellation of Mrs Davies’s carer payment was Centrelink’s assessment that, when applying the adult disability assessment tool, Mr Davies did not score the required 25 points.

On 25 August 2000, Mrs Davies lodged an application with the Social Security Appeals Tribunal to have Centrelink’s decision to cancel her carer payment reversed. The tribunal found that the care required for Mr Davies did in fact score above 25 points, using the adult disability assessment tool, but that the score obtained from the treating health professional questionnaire was only 4.50. This second eligibility test, filled out by Mr Davies’s treating doctor, was assessed at below the required score of at least 10.

The problem with this second assessment was that the questionnaire provided to the treating doctor was too restrictive. In a letter dated 26 July 2000, Mr Davies’s treating doctor stated that both the dialysis treatment and the preparation of Mr Davies’s high protein, low
phosphate diet were very time consuming but that, ‘There is absolutely no provision on the health professional assessment form to include any of these crucial details.’

We have here the perfect example of red tape making a legitimate carer’s life more difficult than it need be. The new assessment tool introduced by the Howard government in July 1999 does not allow the treating doctor to fully explain the needs of the patient. In effect, the change in eligibility of Mrs Davies to receive a carer payment was not based on any change in the care required by her husband or her ability to provide that care but rather on the change of wording in a Centrelink form—not a change in circumstance, but a change of wording on a Centrelink form. This is a scandal. This compassionate, conservative government has allowed a scandal to develop by changing the form. What it is about is denying people their legitimate benefits. This is what the Social Security Appeals Tribunal found. Paragraph 16 states:

There is no disagreement about the nature and extent of care required by Mr Davies and provided by his wife. The evidence of the health professionals and Mrs Davies makes it clear that Mr Davies’ life and wellbeing depend on his wife providing the care that she does and that there are no services in the community which could do so.

The tribunal goes on to say at paragraph 25:
The tribunal accepts on the basis of the totality of the evidence that Mrs Davies personally provides constant care on a daily basis for her husband Warren.

Under this government and Centrelink and the way they have constructed the new forms, she does not get the carer pension. Why? Because a health professional could not put all the facts forward. This is a scandal that has to be remedied.

What annoys me is that Centrelink at the moment seem to be doing everything in their power to take people off benefits. So instead of having compassion, they are using red tape to disqualify people from benefits they should get in due course. They are changing the forms to restrict the health care professionals from providing proper, full material to decision makers in an excuse for uniformity. The argument is that articulate people are getting benefits. So if we get a tick in the box, we will get fewer benefits. It has to be fixed. It is a scandal. I will not rest until Mrs Davies’s carer pension is reinstated. (Time expired)

Ballarat Electorate: University of Ballarat

Ballarat Electorate: Governor of Victoria Export Awards

Mr RONALDSON (Ballarat) (10.55 a.m.)—The ARC results rankings benchmarked for 2001 have just been released and there is some fantastic news for the University of Ballarat. In five years the University of Ballarat has moved from 37th place in the ARC grants, as measured by dollars per academic staff member, to 16th. With SPIRT grants, the University of Ballarat now ranks number one in grants per hundred staff and second in terms of dollars per staff member.

The majority of the grants for the university are for research in and for regional communities, and the progress of the university, quite frankly, has been nothing short of absolutely sensational and spectacular. The University of Ballarat now ranks above La Trobe, RMIT and VUT and ahead of all other regionally based universities. This is a tribute to the dedication of the staff at the University of Ballarat and reflects on the acceptance of the university community and the wider community of the role that the University of Ballarat plays in a very extended region. The university community has taken up the challenge. They have accepted the responsibility for regional communities and, conversely, the people of the wider Ballarat region are also looking at the university as a very significant regional development leader.
This is fantastic news. It reinforces the fact that you do not have to live in Melbourne or Sydney or the other capital cities to get a great education. It also means that regional communities are taking up the challenge of looking after themselves, of supporting their own communities, and of driving regional development in regional centres—and we are doing it very well. My congratulations to everyone at the University of Ballarat.

More good news—and the good news just keeps on rolling: earlier this week in the 2000 Governor of Victoria Export Awards, two Ballarat based organisations—the only two regionally based organisations in Victoria—received awards at the Governor of Victoria Export Awards. Gekko Systems, a new and innovative company in my electorate, won the minerals award and Sovereign Hill won an honourable mention. I am sure some honourable members might say that they have not been to Sovereign Hill—I think the member for Port Adelaide, who is in the chamber, has actually been to Sovereign Hill because he and I have talked about this before, and he has quite rightly spoken very highly of Sovereign Hill and other areas that surround it.

Mr Sawford interjecting—

Mr RONALDSON—I gave you the opportunity when I did not mention that. Wendy Taylor from Sovereign Hill was there and, quite justifiably, she was very excited; and Elizabeth Lewis-Gray, the executive director of Gekko, accepted the award for Gekko. The Ballarat Courier said of Gekko:

The company specialises in the design, development and distribution of mineral processing equipment and systems with a particular focus on gravity separation.

Mr Sawford—Ballarat is booming!

Mr RONALDSON—Ballarat is absolutely booming. I am very pleased to tell honourable members that our unemployment rate has dropped from some 16 per cent or 17 per cent under the Labor Party down to about eight per cent. I say that is still too high—we have still got a lot of work to do—but it is most certainly a significant improvement. We want to get to a position in Ballarat where everyone who wants a job is able to access one.

Sovereign Hill has been a leader in export. It is an export industry. As for Gekko Systems, I have been to the Gekko plant and it is absolutely fascinating to see new Australian technology taken to the world. The machines, both large and small, are operated in some of the most remote parts of the world where they are being used very effectively—another example of great Australian industries driving exports for the future of this country.

Mr JENKINS (Scullin) (11.00 a.m.)—When the federal government puts policies into place at a macro level, it must be aware of the implications at the micro level—at the local level. No aspect of public policy demonstrates this better than health policy. Take, for example, the snapshot of the Northern Hospital in my electorate in the suburb of Epping. There were 9,893 patients treated at the emergency department of the Northern Hospital in the June 2000 quarter; 175 patients had to wait longer than 12 hours in the emergency department for a bed—this was up from 96 in the June 1999 quarter. The emergency department went on to bypass four times in that quarter, which is down from six in the quarter before. There were 864 people on the waiting list for urgent and semi-urgent surgery, up from 769 in the previous quarter; 334 of the semi-urgent cases have been on the waiting list longer than 90 days—longer than the ideal time. At the Austin repat hospital, which also services the local area, there were 325 cases of semi-urgent classified patients having been on the waiting list longer than 90 days.

Regrettably, these statistics are the legacy of the Commonwealth government’s health policy, coupled with seven years of damage to Victoria’s health system by the Kennett government’s bed cuts, staff reductions and massive underspending on health. It takes time to
turn around this neglect. Following the biggest boost to health expenditure in Victoria in a decade, the Bracks government put an additional $60 million into the public hospital budget this year to open up beds and tackle excessive waiting times. Generally, there has been some improvement in emergency department performance overall, as has been indicated by the June quarter statistics, but the problem is still there.

The additional problem that Victoria faces is that it is not getting its fair share of nursing home beds from the Commonwealth. This is responsible for enormous strains on the public health system. For instance, the waiting list for institutional aged care places has increased from in the order of 31 days to 55 days. There is a shortage of something like 1,500 Commonwealth nursing home and hostel beds in Victoria. This leads to older patients inappropriately waiting in hospital wards, sometimes for up to two months. This phenomenon of bed blockage is contributing to the way in which the waiting lists are continuing to increase and to the inappropriate use of the acute care beds.

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The statistics for the Northern Hospital demonstrate quite clearly the abject failure of the private health insurance rebate but, more importantly, the other piece of Commonwealth policy that we need to look at, as I have said, is the shortfall in the number of hostel and nursing home beds. In the north-east region of Melbourne—the municipalities of Banyule, Nillumbik, Whittlesea and Darebin—the government's own target indicates that there should be 3,115 beds. At the moment, there are only 2,710—that is a shortfall of 405 beds for institutional aged care. Until we see Victoria getting its proper share of the moneys for aged care, and until we see the Commonwealth government realising that the policies that it has put in place have had no real effect on the performance of public hospitals, there will be no improvement.

As I said, the private health insurance rebate has failed. Despite the fact that the percentage of Victorians with private health insurance rose from 31.1 per cent to 40 per cent from the March to June quarters, the number of public patient numbers rose by 3.6 per cent in the same period. Therefore, it is clear that the rebate is doing nothing to ease the pressure on hospitals like the Northern Hospital and the Austin repat. Until we have an understanding from the Commonwealth government that it should be entering into partnerships with state governments like the Victorian government who wish to see an increase and an improvement in the performance of its public hospital system, these figures will not turn around.

**Australian Labor Party: Queensland**

**Mr HARDGRAVE (Moreton) (11.05 a.m.)—** Last night, in the adjournment debate in the House of Representatives, the member for Rankin lamentably tried to execute a ham-fisted, general scattergun attack on the Liberal Party in Queensland. I will not give credence to any of his comments; needless to say, I think he has been badly misinformed and his information is based on the wrong premise. The member for Rankin and others in the Australian Labor Party, as they start to panic about the reality of the Shepherdson inquiry and associated allegations, need to understand that there is a series of very clear differences between the Liberal Party and the Australian Labor Party.

The Liberal Party in Queensland has no requirement for membership to participate in any ballot to be on the electoral roll in the area in which that ballot is taking place. In the case of the Liberal Party in Queensland, members choose their own level of involvement in activities. They are not factionally controlled, and they are not told, as individual members, what they should do. The Liberal Party believes very strongly in the role of the individual, while the Labor Party believes in the concept of the collective and enforces it in every possible way. Also, the Australian Labor Party is trying to judge the Liberal Party by its own standards.
The Labor Party in Queensland is also heavily embarrassed by the fact that it used those from minority ethnic groups as a form of ethnic branch stacking, which is something that simply does not happen in the Liberal Party in Queensland. In fact, by the ALP’s own standards, it is attempting to condemn the Queensland Liberal Party’s ability to attract a wide range of people from a broad cross-section of the local community. The Liberal Party in Queensland has had success in endorsing a number of people from ethnic backgrounds into seats that can be won. At the next state election David Lin, a candidate in Stretton, will defeat the Socialist Left candidate Stephen Robertson; and Steven Huang, who is also from Taiwan and is the candidate in Mount Gravatt, will beat the Socialist Left candidate Judy Spence.

It is worth knowing that the Australian Labor Party leave themselves wide open with the simple observation of their panic as the Shepherdson inquiry continues. The member for Rankin has also left himself open to some of the clear questions that he needs to answer. The allegation is very clear that, during the Mundingburra by-election, which is the focus of the Shepherdson inquiry, the member for Rankin worked on that campaign as a staff member for then Premier Goss—at taxpayers’ expense, I suspect. He also had a close working relationship with—and may even have stayed with; it would be interesting to see if that is true—Andy Keogh, who has confessed to electoral fraud and has been given a 10-year suspended sentence for that. Questions have also been raised about whether or not the member for Rankin may then have been witness to some of the things in the allegations currently being tested by the Shepherdson inquiry. Certainly, he was there when it all happened. The member for Rankin, in his ham-fisted attack last night, has left himself wide open to answer those questions. When you add those to the other questions that Queensland Labor representatives in this place have to answer, you can again see why panic has set in in Labor Party ranks.

The member for Griffith has people within his ranks and his constituency who have been enrolled in a dodgy fashion. I certainly hope that the member for Griffith has not been a beneficiary of his faction’s activities in this regard—people enrolled by Lee Birmingham and Warwick Powell in the areas in and around the electorate of Griffith and, in some cases, within my own electorate. The member for Lilley, who gave a personal explanation in very carefully crafted words yesterday to try and evade the fact that he was the assistant state secretary and the campaign director of the Labor Party over the various years—

Mr Albanese—That is just not true!

Mr HARDGRAVE—It certainly is true. He was there over the various years with which the Shepherdson inquiry is dealing and about which other allegations are being made now, and that means that the member for Lilley is obviously very cognisant of his own concerns in this regard.

Mr Sawford—I rise on a point of order: in reference to what happened in the House yesterday when the member for Lilley refuted that outrageous allegation, is it proper that, in this Main Committee, that untruth be stated again?

Mr DEPUTY SPEAKER (Mr Nehl)—I thank the honourable member. I acknowledge that the member for Lilley refuted the allegation, but that does not stop other members, if they believe the truth to be different, from continuing in that way.

Mr HARDGRAVE—As I said, the fact is that allegations other than those before the Shepherdson inquiry involve the time in which he was the state secretary. (Time expired)

South Sydney Rugby League Club

Mr ALBANESE (Grayndler) (11.10 a.m.)—I rise today to place on record my concern about the decision by Justice Finn in the Federal Court last Friday to exclude South Sydney
from the 2001 National Rugby League competition. I believe this tragic decision is a loss not just for South Sydney but for Rugby League, for the community and indeed for the legal system. There are no winners from last Friday’s decision. It is about time that those who control Rugby League actually listen to public opinion and act in the interests of the game. South Sydney lost last Friday in the Federal Court, and I declare an interest as a member of the South Sydney Rugby League Board. However, this Sunday we will be taking this issue to the court of public opinion—the streets of Sydney. We will be gathering at Redfern Oval at noon to march to the Sydney Town Hall for a rally at 1 p.m. I expect that the figure of 40,000—the number of people who marched last October—at least will be matched on Sunday.

The court decision appears to suggest that perceived corporate interests can override community and moral concerns. This is one decision which cannot go unchallenged. The issue is about much more than sport. It goes to the very heart of the alienation which people are feeling about our society. It is indeed about whether the dollar can override all human and social relationships. It is against the history, spirit and tradition of Rugby League. No organisation can survive without its soul, and South Sydney is indeed, as the world’s most successful Rugby League team, the soul of National Rugby League.

Rugby League certainly cannot survive if it is alienated from its supporters. The current Rugby League World Cup, in which countries such as Russia, Lebanon and the Cook Islands, et cetera, have teams in spite of having no Rugby League competition and no Rugby League players, is a farce. The fact is that a number of Rugby League players in Australia were rung up and asked which country they would play for—shopping around—even though they had no link at all to those nations. The lack of interest in the World Cup shows the farcical nature of the National Rugby League leadership and how out of touch they are with the fans. Last Friday was unique in that a Federal Court decision was televised live nationally on two channels. But, at the same time, no-one cares about the result of a game such as Australia versus Russia—110 to four—either at the game or at home watching it on TV. It shows where the whole thing went wrong in Super League in 1995—this view that Rugby League was a world game and that Andrew Ettinghausen, we were told, would be as well known internationally as Michael Jordan. It was never possible. Rugby League is a game played in Sydney, Brisbane, the coastal and country areas of those two states, Auckland and parts of England, but nowhere else. That does not mean it is not important. That does not mean that it does not play a vital role in the lives of those people who I am proud to stand with last Friday at South Sydney Rugby League Club—people who had their hearts broken by this callous decision.

The courts should not be making the decision, of course. The NRL can put South Sydney in the competition tomorrow. The Auckland Warriors fell over because they could not even pay their players from last year. They have renamed the team ‘New Zealand Warriors’ in order to get out of their financial obligations. At the same time, a team like Souths is told that there is no place for them in the competition. The leadership of the NRL is out of touch. The head of the NRL, David Moffatt, could not even be bothered coming to the court to hear the decision, showing contempt for those people—those battling Australians—who have gone out and fought for South Sydney to remain in the competition. As the song goes, ‘South Sydney marches on,’ and they will be marching on Sunday. (Time expired)

Forde Electorate: Local Community Centres

Mrs ELSON (Forde) (11.15 a.m.)—It was my great pleasure last Friday to join with local residents and the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald, to officially open the Kalbar Rural Transaction Centre in my electorate.
want to take this opportunity today to thank and congratulate the Kalbar community on their initiative and support in establishing the centre.

The centre brings vital services, including Medicare Easyclaim, Electricity Credit Union banking, QGAP, tourist information, Internet access and business and secretarial skills, under one roof for the benefit of all the residents in the small rural township of Kalbar. The Kalbar Regional Organisation for Promotion is the driving force behind the new centre, which was approved in the second round of application grants under the Howard government’s Rural Transaction Centre initiative.

I also add how very proud I am to be part of a government that is actively supporting and helping to finance such worthwhile local initiatives. The whole rural transaction centre concept is about helping local communities to help themselves. It is a very practical approach that has been tremendously successful. Unlike the previous Labor government, we do not believe that we ought to be prescriptive and tell local communities what we think is best for them. Our attitude has been that we want to help facilitate local programs run by people who care about their community and who know what will work best for them. It is an approach reflected in just about everything the Howard government does, and it means that more money goes directly to where it is needed most—local communities—rather than to peak bodies in capital cities.

It was great to see so many local residents turn out last Friday for the opening. I am sure that the services provided at the Kalbar RTC will provide an ongoing boost to the local community and their local economy. My thanks again to all the hard-working members of the Kalbar Regional Organisation for Promotion, or KROP, as it is well-known around the area. I would like to single out Tom Watson, Wilson Neindorf, Elsa Frith and Aulbry Heck for their hard work and also thank all the other local residents involved in making the transaction centre a reality.

Of course, the rural transaction centres are part of the social bonus that resulted from the 16 per cent sale of Telstra. They reflect our strong commitment to returning services to regional areas and securing a better deal for regional Australians. Our commitment stands in stark contrast to Labor’s record on rural services, which saw 277 post offices close in its last six years in office.

Our commitment to regional Australia is also wonderfully reflected in other local initiatives that I am very proud to support. The weekend before last, the rural town of Boonah in my electorate was host to delegates from all around the nation and overseas at the second annual sitting of the Boonah Economic Development Institute. The institute was established last year as a think-tank for rural revitalisation—it is, in essence, a ‘living laboratory’ for rural economic development. Each year the institute runs a series of intensive workshops, offering practical advice to improve the skills of rural representatives from throughout Australia and overseas. The workshops are run by international-standard facilitators, and the institute itself is an Australian first.

Once again, the Howard government is proud to provide financial backing for the institute. Earlier this year the Treasurer visited the small town of Boonah and announced the funding under our Regional Assistance Program. The institute itself is just one of many projects spearheaded by the Boonah Shire community that the Howard government has been very proud to back. I want to thank and congratulate everyone at the institute on another successful sitting, especially Wendy Creighton and Rick Stanfield, who continue to work tirelessly for this community. The great thing about the institute, of course, is that it has the potential to really assist communities throughout Australia to instil the same dynamic, self-help approach that Boonah Shire has adopted and that has proven so very successful over the past few years.
It is innovative and exciting and has already proven highly successful—just the sort of practical, local project that our government wants to encourage and assist.

Once again I thank the dedicated community leaders and the many workers involved in both of these successful projects, and it is my great pleasure to be able to continue to work with them for the betterment of our local area. I would also like to add my thanks to Judith Troeth, who took the time to come to the institute.

Main Committee adjourned at 11.20 a.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Australian Business Number**
(Question No. 1741)

Mr Kelvin Thomson asked the Minister representing the Assistant Treasurer, upon notice, on 14 August 2000:

1. What checks have been put in place to ensure that only those with a genuine entitlement to, and requirement for, an Australian Business Number (ABN) have been issued with one.

2. How many cases have there been of organisations being issued with more than one ABN when they only applied for one ABN.

**Mr Costello**—The Assistant Treasurer has provided the following answer to the honourable member’s question:

1. There have been a number of strategies put in place to ensure that only those with a genuine entitlement to an ABN are issued with one.

   (a) The ABN application form requires an applicant for an ABN to declare that they are carrying on an enterprise and to certify that the information given in their application is accurate and complete. An applicant is warned that penalties apply for giving false or misleading information, so there is a preliminary deterrent in place.

   (b) There have been a number of entities identified where the ATO has been provided with insufficient information to determine conclusively that the entity is carrying on an enterprise but where the applicant declares that they are doing so. While the ATO will usually register these entities on the basis of the declaration, such entities may expect contact from the ATO after registration to establish that they are entitled to an ABN. The contact may be in the form of a self-assessment checklist or a field visit.

   (c) As part of the ABN register maintenance process, activity reported by entities will be monitored. This will detect new cases which have registered but have failed to show business activity, which will prompt a follow-up. It will also detect where existing entities have ceased business but have not notified the Registrar, which would also be followed up.

2. A very small number of duplicate ABN registrations have arisen, mainly as a result of duplicate applications.

**Regional Forest Agreement: Tasmania**
(Question No. 1895)

Mr Laurie Ferguson asked the Minister for Forestry and Conservation, upon notice, on 31 August 2000:

1. Further to the answer to question No. 1224 (Hansard, 9 May 2000, page 15325) has the Minister written to the Tasmanian Government unilaterally proposing changes to the agreed funding provisions of the Tasmanian Regional Forest Agreement (RFA); if so, did any process of review and consultation with key stakeholders precede this letter.

2. What reduction in funding has the Minister proposed for funding to Tasmania for

   (a) the program to protect conservation values on private land in support of the CAR reserve system,
   (b) the implementation of new intensive forest management initiatives,
   (c) the implementation of employment and industry development measures,
   (d) road infrastructure,
   (e) tourism infrastructure and
   (f) new reserve management.

3. What has been the response of the Tasmanian Government to the Minister’s reported proposal.
Mr Tuckey—The answer to the honourable member’s questions is as follows:

(1) No. I wrote to the Tasmanian Government suggesting a joint review of priorities within the agreed funding provisions of the RFA. I expressed Commonwealth concerns regarding the efficiency of direct Tasmanian Government competition with the private sector in purchasing farmland for plantation establishment. The terms of the Tasmanian RFA provide for the Parties to work cooperatively to address any matters raised relating to the interpretation or implementation of the Agreement.

(2) No reduction (a) to (f).

(3) While my letter was written with the intent to achieve more productive industry and employment outcomes for Tasmania from Commonwealth funding, the Tasmanian Government has chosen to politicise the issue by making press statements suggesting that the Commonwealth has called for $35 million to be diverted from new intensive forest management initiatives and that this would put in jeopardy 360 jobs. These assertions are not correct.

Office of Asset Sales and IT Outsourcing: Scientific Agencies
(Question No. 1952)

Mrs Crosio asked the Minister for Finance and Administration, upon notice, on 7 September 2000:

(1) Is he aware of plans of the Office Of Asset Sales and IT Outsourcing (OASITO) to replace IT infrastructure and services at CSIRO, Australian Nuclear Science and Technology Organization (ANSTO), Australian Antarctic Division (AAD) and the Bureau Of Meteorology (BOM) with a single IT contract.

(2) Will request for tenders be announced; if so (a) when (b) what are the terms and conditions of the tender and (c) will the successful tenderer have access to the CSIRO’s client’s information and (ii) be required to have scientifically qualified staff who will work closely with the scientific staff at the CSIRO, ANSTO, AIMS, AGSO, AAD and BOM.

(3) Will the successful tenderer be required to supply staff on site to all scientific agencies and sites; if not, which sites in which agencies will not have permanent on-site IT staff.

(4) What formal assessment or study has been completed, either by the Government or another organisation to ensure that outsourcing the IT infrastructure and services will be more productive and beneficial to the development of science in Australia.

(5) Due to the size, complexity, viability and importance of such a contract to the development of Australian Science, would local IT business be best suited to the terms of the contract.

(6) Can he guarantee there will be no job losses at the CSIRO, ANSTO, AIMS, AGSO, AAD and BOM as a result of outsourcing IT infrastructure and services.

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

(1) Yes, the agencies in “Group 9” (CSIRO, ANSTO, AGSO, AAD & BOM) are preparing to outsource IT infrastructure in accordance with the whole of government IT Infrastructure Initiative.

(2) (a) Release dates for Request for tender documentation will be determined by OASITO in consultation with Group 9 agencies.

(b) The terms and conditions of tender are currently being developed.

(c)(i) Any access provided to data held by client agencies will be under strict contractual arrangements protected by commercial confidentiality provisions. Contractors are also required to comply with the Privacy Act.

(ii) Group 9 agencies will assess the technical merits of the solutions tendered to evaluate the ability of the tenderers to deliver IT services to the scientific staff in the relevant agencies.

(3) Tenderers would design solutions to provide IT services to meet the service specifications set out by Group 9 agencies. These solutions can be expected to utilise onsite IT staff where necessary.
Assessment of tenders submitted by commercial organisations will provide the analysis necessary to determine the benefits to the Group 9 agencies of obtaining IT infrastructure services from an external provider.

The tender process to be conducted will be an open tender process. In any event, substantial involvement of Australian industry is expected. Indeed, the Industry Development framework for the IT Outsourcing program is designed to grow the Australian IT & T industry and seeks substantial involvement of small to medium enterprises in contracts let under the Initiative.

Experience from previous outsourcing transactions shows that most former employees of organisations outsourcing IT infrastructure are offered employment by the successful contractor.

**Aged Persons Savings Bonus: Returned Cheques**

*(Question No. 1965)*

Ms Hall asked the Prime Minister, upon notice, on 3 October 2000:

1. Have savings bonus cheques been returned to him by disgruntled pensioners; if so, what will he do with those cheques.
2. What will he do, or has he done, with cheques and money orders made out to him and sent by pensioners insulted by receiving cheques for minuscule sums.

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

I am advised by my department as follows:

1. and 2. Some aged pensioners have returned their Aged Persons Savings Bonus (APSB) to the Government. Under an arrangement between the Department of the Prime Minister and Cabinet (PM&C) and the Department of Family and Community Services (FACS), Savings Bonus returns, including cheques, money orders and returned Savings Bonus cheques sent to the Prime Minister are transferred to FACS to be processed in accordance with the Financial Management and Accountability Act 1997.

**Aged Persons Savings Bonus: Australian Appeals Tribunal**

*(Question No. 1969)*

Mr Kerr asked the Prime Minister, upon notice, on 3 October 2000:

1. Is there an independent tribunal to deal with appeals lodged by claimants to unfavourable decisions relating to the Government’s Bonus for Older Australians; if not, why not.
2. Are receipt of all appeals acknowledged in writing by the Australian Taxation Office; if not, why not.
3. Do the qualification guidelines for the Bonus for Older Australians preclude claimants from receipt of the bonus because they have suffered a financial loss in previous years; if so, why.

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

1. Claimants can seek a review under Part IVc of the Taxation Administration Act 1953 which covers objections and allows for an appeal to be made to the Taxation Appeals Division of the Administrative Appeals Tribunal (AAT).
2. The AAT acknowledges in writing all appeals received and notifies the ATO.
3. Losses carried forward from a previous year do not preclude a claimant from receipt of a bonus. However, if those losses are capital losses from a previous year that are being applied to a capital gain in 1998-1999 or 1999-2000, the taxpayer’s adjusted savings and investment income will be reduced by the amount of the capital loss, which may affect the amount of bonus that person is eligible for.

**Comcar: Subsidies**

*(Question No. 1984)*

Mr Tanner asked the Minister for Finance and Administration, upon notice, on 3 October 2000:
What are the forward estimates for (a) 2000-2001, (b) 2001-2002, (c) 2002-2003 and (d) 2003-2004 for operating subsidies for COMCAR.

Mr Fahey—The answer to the honourable member’s question is as follows:
The subsidy for COMCAR for each of the relevant financial years is $5.1 million per financial year.

Centrelink: Contracts with IBM
(Question No. 1987)

Mr Tanner asked the Minister representing the Minister for Family and Community Services, upon notice, on 3 October 2000:
(1) Further to the answer to question No. 1566 (Hansard, 14 August 2000, page 17327), what IBM or IBM-owned products which are not implemented in Centrelink at present, does Centrelink plan to implement prior to outsourcing.
(2) If there are no current plans, is Centrelink developing plans to implement IBM products that are not presently implemented.
(3) Which of the products referred to in parts (1) or (2) are within the scope for outsourcing.
(4) What incumbent products will the IBM products replace.
(5) What are the recommended products and who approved these plans.
(6) Were any of these products acquired in the agreements listed in the answer to question No. 1566; if so, which products.
(7) Was the Office of Asset Sales and IT Outsourcing notified of the plans.
(8) Have these IBM products been tendered by the short listed outsource providers.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:
(1) Centrelink currently has plans for IBM mainframe capacity upgrades.
(2) See (1) above.
(3) All mainframe capacity is in scope for outsourcing.
(4) New IBM mainframe technology will be used to upgrade existing IBM mainframe capacity.
(5) The recommended product to upgrade existing IBM mainframe capacity is an IBM e-server zSeries 900. The plans were approved by the National Manager, Infrastructure Services.
(6) Not applicable.
(7) Yes.
(8) Questions concerning the tender process should be referred to the Office of Asset Sales and IT Outsourcing.

Commonwealth Bank: Australian Workplace Agreements
(Question No. 2032)

Mr Martin Ferguson asked the Minister for Employment Workplace Relations and Small Business, upon notice, on 9 October 2000:
What discussions took place between him, his staff, his Department, and/or the Office of the Employment Advocate concerning the Commonwealth Bank’s decision to offer Australian Workplace Agreements to Commonwealth Bank employees; when did these discussions occur; and who was involved.

Mr Reith—The answer to the honourable member’s question is as follows:
I am advised that three meetings took place between the Office of the Employment Advocate (OEA) and the Commonwealth Bank to discuss logistical arrangements for the lodging and processing of AWAs for employees in the bank’s branch network. Employers planning to make large numbers of AWAs are encouraged in the OEA’s A How-to Guide to contact the Office to expedite the processing of
the AWAs. Prior to these meetings there were no discussions between the bank and the OEA concerning the offer of AWAs to branch staff.

The details of the meetings are:

1. 28 August 2000 (attended by bank staff, the bank’s consultant, the Employment Advocate, a Deputy Employment Advocate, and the Regional Manager of the OEA’s National Processing Team)
2. 12 September 2000 (attended by the bank’s consultant, the same OEA Regional Manager, and the manager of the OEA’s Agreements Management Unit), and
3. 26 September 2000 (attended by bank staff, the bank’s consultant, the same Deputy Employment Advocate, and the same OEA Regional Manager).

Following the interlocutory decision of the Federal Court on 29 September 2000, officers of my Department met with the Commonwealth Bank’s Deputy Director of Human Resources on 4 October 2000. This meeting was to ascertain the bank’s views on the Federal Court decision to issue an injunction preventing it making AWAs. There were discussions about the outcome of this meeting between staff from my office and my Department. Similarly, following the interlocutory decision of the Federal Court on 29th September 2000, staff from my office have been directly informed by the Bank of their views on the Federal Court’s decision.

Illegal Immigrants: Estimated Arrivals
(Question No. 2048)

Mr O'Keefe asked the Minister for Immigration and Multicultural Affairs, upon notice, on 11 October 2000:
(1) What is the current estimate of the numbers of people who have arrived “unauthorised by boat” in the 1999-2000 period referred to in his letter promoting Austcare Refugee Week 2000.
(2) What is the current estimate of the total number of “unauthorised arrivals” during the same period.
(3) What is the current estimate of the percentage of total unauthorised who arrive by boat.

Mr Ruddock—The answer to the honourable member’s question is as follows:
(1) For the period 1 July 1999 to end June 2000, 4175 persons arrived without authorisation by boat. In addition there were 236 crew on these boats.
(2) For the period 1 July 1999 to end June 2000, the total number of unauthorised arrivals was 5895, consisting of:
- 4175 unauthorised boat arrivals
- 26 stowaways
- 1694 air arrivals
(3) For the period 1 July 1999 to end June 2000, the percentage of total unauthorised arrivals who arrived by boat was 71 per cent.

In the first quarter of 2000-01 (July-September) there have been 398 unauthorised arrivals by boat (inclusive of 9 stowaways) and 143 unauthorised arrivals by air. Over this period 73 per cent of unauthorised arrivals arrived by boat.

Child Care: Special Needs Subsidy
(Question No. 2089)

Mr Wilkie asked the Minister for Family and Community Services, upon notice, on 30 October 2000:
Will the Government review the practice of making Special Needs Subsidy payments for the child care industry quarterly in advance instead of quarterly in arrears, to alleviate cash flow difficulties faced by providers of this service; if not, why not.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:
The Government does not plan to review the practice of quarterly payments in arrears for the Special Needs Subsidy Scheme.

This practice has been introduced in July 2000 following a successful pilot conducted in 1999.

Payment in arrears was introduced to reduce the complex workload for services and the Department associated with the need for acquittal of payments in advance for this program.

Child care services who experience cash flow difficulties with payments in arrears have been advised to discuss alternative transitional arrangements with the relevant State Office of the Department of Family and Community Services.