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Wednesday, 6 December 2000

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

CUSTOMS LEGISLATION AMENDMENT AND REPEAL (INTERNATIONAL TRADE MODERNISATION) BILL 2000

First Reading
Bill presented by Mr Truss, for Mr Williams, and read a first time.

Second Reading

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.31 a.m.)—On behalf of the Attorney-General, I move:

That the bill be now read a second time.

This package of three bills, the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000, the Import Processing Charges Bill 2000 and the Customs Depot Licensing Charges Amendment Bill 2000, provides a modern legal foundation for Customs management of import and export cargo.

It does so in four ways:

• by creating the legal framework for mandatory electronic reporting of cargo movements;
• by making provision for compliance management that recognises the existing 'one size fits all' approach is no longer appropriate to the many industry sectors which deal with Customs;
• by improving controls over cargo and its movement; and
• through creation of new cost recovery arrangements to support the changes to cargo processing.

Over the last five years, the volume of air cargo in Australia has grown by 59 per cent and sea cargo by 48 per cent. This growth is forecast to continue.

In fact, industry predicts air cargo will increase by 37 per cent and sea cargo by 18 per cent over the next three years.

Accompanying this growth are new developments in cargo shipping and handling techniques to complement sophisticated supply chain management, including ‘just in time’ processing demands.

International trade is harnessing the benefits of developments in information technology and so must Customs.

But, in facilitating the movement of international cargo, Customs cannot compromise its law enforcement role in relation to prohibited imports such as drugs and firearms, intellectual property rights and links with the role of the Australian Quarantine and Inspection Service (AQIS).

The Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill is the principal bill in this package and will amend the Customs Act 1901 to allow for more contemporary methods of communication between Customs and the international trading community.

Use of open Internet based systems of communication with choice of interactive or EDI communication channels will be a feature of Customs new technology giving effect to this government’s commitment to the information economy.

For many traders, Internet communication will be more cost effective than using traditional EDI methods.

As I implied earlier, Customs will be employing a range of compliance management techniques.

The amount of information required, and the timing of receipt of the information, may be varied depending on the level of risk that a particular import or export consignment poses and a company’s history of compliance in providing accurate information to Customs.

Such flexibility will save compliant importers and exporters both time and money.

This is reflected in reduced cost recovery charges that are outlined in the Import Processing Charges Bill 2000 and the Customs Depot Licensing Charges Amendment Bill 2000.

In relation to Customs community protection obligations to which I referred earlier, this package of bills establishes new report-
ing requirements for carriers bringing cargo into Australia.

Details of sea cargo must be electronically reported to Customs at least 24 hours prior to arrival in Australia and air cargo at least two hours prior to arrival.

Electronically reported pre-arrival cargo information provides Customs and AQIS with the ability to clear legitimate cargo quickly and stop high risk cargo for closer inspection.

As a further protection against the importation of prohibited goods, those responsible for unloading ships or aircraft will be required to report what they have unloaded.

This information will be used to identify any surplus or missing cargo.

I would now like to focus on new arrangements for the control and verification of export cargo that this bill will bring about.

Customs now has a greater role to play in the verification of cargo reported for export.

The reasons for this are threefold.

First, exported goods are exempt from GST.

As such, it is necessary for information about exports to be provided accurately to government so that appropriate input credits can be calculated.

Second, there is evidence that goods are being unlawfully diverted from export into domestic commerce as part of revenue fraud rackets.

Third, the export permits requirements of other government agencies must be effectively administered.

Inaccurate export information or, worse, no information at all, has the potential to encourage illegal activity and affects the accuracy of data being passed to the Australian Bureau of Statistics.

Material errors in trade data have consequential impacts on economic forecasting and Australia’s international standing.

It is therefore in everyone’s interest to improve the levels of compliance in relation to exports.

This bill introduces a number of measures that are aimed at achieving just that, including:

- prohibiting licensees of Customs warehouses from releasing prescribed goods for export until they confirm with Customs that the goods have been entered for export and export approval has been given; and
- a requirement that consolidations of certain goods for export (such as tobacco products and alcohol) must only be done at a prescribed place and that the operator of the prescribed place must confirm with Customs the arrival and departure of the goods.

To emphasise compliance with the new requirements for both imports and exports the bill introduces strict liability offences for breaches, with the option of issuing an infringement notice for an administrative penalty of 20 per cent of the amount of the proposed maximum penalties.

The government does not impose strict liability lightly.

Generally speaking, its imposition will involve consideration of whether a public welfare or public interest pertains.

In this case, the government believes that it does for several reasons:

- firstly, there is a significant risk to revenue if imports or exports are inaccurately reported. For instance, goods wrongly described, in type or quantity, may result in underpayment of correct duty and GST, and
- there is a significant risk to our community if prohibited imports such as narcotics are not stopped at our border. Receipt of accurate and early reporting of cargo is essential for both Customs and Quarantine officers to better assess community protection risks and intercept high risk cargo before goods move beyond border controls into domestic commerce.

The proposed controls and sanctions are designed around early identification and intervention of high risk cargo. The vast majority of low risk cargo will flow unimpeded.
The final element of this bill that I wish to emphasise is the revision of the powers of Customs officers to monitor compliance by industry.

These powers are a vital adjunct to the controls I have mentioned.

They have been drafted in accordance with the report of the Senate Standing Committee for the Scrutiny of Bills dated 6 April 2000 which examined entry and search provisions in Commonwealth legislation.

I stress that the audit powers set out in this bill can only be exercised with the consent of the occupier of premises and, without that consent, only on the basis of a monitoring warrant issued by a magistrate.

In concluding, I note that there has been a good deal of media comment in recent times suggesting that Australia is not encouraging the development of a knowledge based economy or that it is falling behind others in its utilisation of information technology.

This bill further develops themes contained in the Electronic Transactions Act 1999 and provides a foundation for a new electronic era for managing cargo.

It demonstrates Australia’s commitment to the innovative use of new technology to further government objectives.

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

Debate (on motion by Mr Horne) adjourned.

IMPORT PROCESSING CHARGES BILL 2000

First Reading

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

Second Reading

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.40 a.m.)—I move:

That the bill be now read a second time.

This bill is part of a package of three bills, which also includes the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000 and the Customs Depot Licensing Charges Amendment Bill 2000.

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

Debate (on motion by Mr Horne) adjourned.

CUSTOMS DEPOT LICENSING CHARGES AMENDMENT BILL 2000

First Reading

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

Second Reading

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.42 a.m.)—I move:

That the bill be now read a second time.

This bill is part of a package of three bills, which also includes the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000 and the Import Processing Charges Bill 2000.

This bill introduces new charges in support of the simplified processes for amending Customs depot licences contained in the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000.

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

Debate (on motion by Mr Horne) adjourned.

CUSTOMS TARIFF AMENDMENT BILL (No. 4) 2000

First Reading

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

Second Reading

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.43 a.m.)—I move:

That the bill be now read a second time.

This bill introduces new cost recovery arrangements to support the proposed changes to the management and processing of cargo that are set out in the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000.

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

Debate (on motion by Mr Horne) adjourned.
toms Tariff Act 1995. All the amendments have previously been tabled as customs tariff proposals. Therefore, I will outline only the major amendments.

Firstly, on 21 June, the Minister for Trade, the Hon. Mark Vaile, and the Minister for Industry, Science and Resources, Senator the Hon. Nick Minchin, jointly announced that a settlement had been reached with the United States in relation to the Howe Leather trade dispute.

Part of that settlement involves Australia reducing the customs duty on 30 tariff items from five per cent to free from 1 July 2000. This bill gives effect to those agreed duty reductions.

Item 17 in schedule 4 to the tariff act provides concessional entry for goods that have been exported from Australia and are subsequently reimported in an unaltered condition. The amendments to item 17 and the creation of a new item 17A in this bill clarify the provisions of this concession so that it reflects the original policy intent for each of a number of uniquely different import transactions.

Finally, this bill reintroduces a five per cent duty rate on woven fibreglass fabric from 1 September 2000. The duty on these goods was removed in December 1999 as part of the nuisance tariff exercise.

One of the criteria used to determine the existence of a nuisance tariff was that there was no local production of the goods covered by that tariff item. Despite an extensive consultation process, a producer of these goods did not identify itself until after the duty reductions had been introduced. As the intention was not to disadvantage local manufacture, the duty on this item is being reinstated.

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

Debate (on motion by Mr Horne) adjourned.

PETROLEUM (SUBMERGED LANDS) LEGISLATION AMENDMENT BILL (No. 3) 2000

First Reading

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

Second Reading

Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry, Science and Resources) (9.46 a.m.)—I move:

That the bill be now read a second time.

This bill proposes a mixture of policy and technical amendments to the Petroleum (Submerged Lands) Act 1967 and two other acts that are incorporated with it.

The policy amendments consist first of a partial revision of the Commonwealth-state-Northern Territory relationship in managing offshore petroleum resources.

Under the act, administration of offshore petroleum resources is shared between the Commonwealth, the states and the Northern Territory. Major decisions are made by joint authorities consisting of the Commonwealth Minister for Industry, Science and Resources and the respective state or Northern Territory minister responsible for petroleum. On the other hand, day-to-day administration is carried out by the designated authority (in other words, the state or Northern Territory minister) on behalf of the Commonwealth.

An evaluation of the role of the Commonwealth government in offshore petroleum exploration and development was completed in 1998. On the basis of recommendations from this evaluation, the then Minister for Resources and Energy subsequently announced a number of reforms to improve the administration of offshore petroleum exploration and development in Australia.

The proposed reforms include changes to the administrative arrangements between the Commonwealth, the states and the Northern Territory to clarify roles, minimise duplication and progressively shift administrative responsibility to the states and the Northern Territory while retaining Commonwealth involvement in issues that have national implications.

The administrative aspects of the reforms include development of a memorandum of understanding, at ministerial level, between Commonwealth, state and Northern Territory governments. This memorandum will be underpinned by intergovernmental protocols and regular compliance audits to ensure that all jurisdictions are adhering to the protocols.
The reforms also have a legislative aspect. This is addressed in this bill and partly also in the Petroleum (Submerged Lands) (Registration Fees) Amendment Bill 2000, which is complementary to it. In consultation with the states and the Northern Territory, the government has identified a set of powers under the act which are currently held by the joint authority for each adjacent area but which could be transferred to the designated authority.

The transfer of these selected powers will help streamline the administration of offshore petroleum resources to the benefit of the petroleum industry, and free Commonwealth resources for more strategic policy issues of importance to the industry and the broader community.

The powers recommended for transfer, such as nominating a discovery block or registering a dealing in the petroleum title, are relatively routine in nature. The Commonwealth will monitor compliance with protocols over the next three years and then conduct another review of the allocation of powers between the joint authority and the designated authority. Further powers may be able to be transferred at the end of that process.

The second major policy reform contained in the bill involves changes to the datum provisions of the act.

Adoption of the Geocentric Datum of Australia in Commonwealth legislation forms part of the government’s Australian Spatial Data Infrastructure program. The Geocentric Datum of Australia is essentially a response to increased use of the global positioning system, or satellite navigation, for surveying, navigation and similar purposes.

Offshore petroleum title areas under the Petroleum (Submerged Lands) Act are defined by coordinates and the Australian Geodetic Datum, but this is not directly compatible with the global positioning system. The solution which this bill delivers is to bring petroleum title administration under the Geocentric Datum of Australia.

After consultation with the states, the Northern Territory and the petroleum industry, a plan has been agreed for adopting the Geocentric Datum of Australia in the act. The amendments in this bill provide the framework for this to occur. It is important to note that there will be no shift in the position of any petroleum title area over the seabed as a result of the changes. Various elements of the implementation, as specified in this bill, will be provided for in the regulations to be made after the passage of the amendments. The government will progress the implementation at a pace that does not place undue pressure on Commonwealth, state or Northern Territory resources. The relabelling of adjacent area descriptions in schedule 2 is expected to be addressed in future legislation.

The bill also makes a change to the provisions in the act that deal with the liability of officials. It proposes that the liability of officials be made consistent with the right and responsibility that objective based regulations now give to petroleum companies to pursue best practice under their own management systems.

All the other amendments in the bill are minor technical corrections to the act, the Petroleum (Submerged Lands) Fees Act 1994 and the Primary Industries and Energy Legislation Amendment Act (No. 1) 1998.

In conclusion, Mr Speaker, the amendments in this bill are one element of a more extensive process to streamline and modernise Australia’s administrative arrangements for managing its offshore petroleum resources. As such, the content of the bill will help ensure that Australia remains an attractive location in the world for petroleum exploration and development. This in turn will deliver benefits, in terms of more jobs, an improved fiscal and external position as well as increased energy self sufficiency, to all Australians.

I commend the bill to honourable members and present the explanatory memorandum.

Debate (on motion by Mr Horne) adjourned.
PETROLEUM (SUBMERGED LANDS) (REGISTRATION FEES) AMENDMENT BILL 2000

First Reading

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

Second Reading

Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry, Science and Resources) (9.53 a.m.)—I move:

That the bill be now read a second time.

This bill is complementary to the Petroleum (Submerged Lands) Legislation Amendment Bill (No. 3) 2000, which transfers a number of powers under the Petroleum (Submerged Lands) Act from the joint authorities to the designated authorities.

A small number of powers or functions of the joint authority that relate to the registration of titles and dealings under the act appear in the Petroleum (Submerged Lands) (Registration Fees) Act 1967. These functions involve the joint authority in determining the rate of fee payable in a number of different situations.

Under the same policy decision as applies to the transfer of powers in the Petroleum (Submerged Lands) Legislation Amendment Bill (No. 3) 2000, this bill seeks to transfer these functions to the designated authorities.

I commend the bill to honourable members and present the explanatory memorandum.

Debate (on motion by Mr Horne) adjourned.

FOREIGN AFFAIRS AND TRADE LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2000

First Reading

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

Second Reading

Mr DOWNER (Mayo—Minister for Foreign Affairs) (9.55 a.m.)—I move:

That the bill be now read a second time.

In 1993 the Commonwealth, state and territory governments agreed to develop a national uniform criminal code by 2001. As part of this development, the Commonwealth enacted the Criminal Code Act 1995.

The schedule to that act, simply called the criminal code, enables the most serious offences against Commonwealth law to be codified and also establishes a cohesive set of general principles of criminal responsibility. When this codification is finalised, it will represent a significant improvement on the existing Commonwealth criminal law, where serious criminal offence provisions are currently scattered throughout the broad range of legislation. It is noteworthy that these provisions have not been created or interpreted in a consistent manner.

The government’s criminal code project is, therefore, a vital step towards the goal of ensuring greater clarity and consistency in the criminal law across Australia.

An important step in the process of finalising the criminal code is to ensure that all offence-creating and related provisions throughout Commonwealth legislation are drafted in a manner that is compatible with the general principles established by the criminal code.

While a majority of offences will operate as they always have without amendment, there are some that will require adjustment. It is important that all such amendments are made prior to the application, on 15 December 2001, of the criminal code’s general principles of criminal responsibility to all offences against Commonwealth legislation. This will ensure that there is a seamless transition for what is now widely recognised as one of the more worthwhile contemporary law reform projects.

The purpose of this bill, the Foreign Affairs and Trade Legislation Amendment (Application of Criminal Code) Bill 2000, is to apply the criminal code to offence-creating and related provisions in legislation administered by the Foreign Affairs and Trade portfolio, and to make all necessary amendments to these provisions to ensure compliance and consistency with the criminal code’s general principles. This bill is one in a series designed to apply the criminal code on a portfolio by portfolio basis.
A number of amendments are necessary to offence-creating and related provisions within legislation administered by the Foreign Affairs and Trade portfolio. These amendments, made in the schedule to the bill, are all technical in nature. In general, the purpose of these amendments is merely to ensure that these offence-creating provisions will, after the commencement of the criminal code, be interpreted in the same manner as they are currently.

This bill will encourage the fair and efficient prosecution of offences by clarifying the physical elements of offences—that is, the precise conduct which is proscribed by an offence, and by amending inappropriate fault elements—that is, the particular mental state of a defendant required for him or her to be found criminally liable. I anticipate that this measure alone will save many hundreds of hours of court time otherwise spent in complicated, and sometimes inconsistent, interpretation of offence-creating provisions. It follows that courts will enjoy significant savings in time, costs and resources as a result of the amendments.

The amendments made by the bill apply to such significant portfolio legislation as the Chemical Weapons (Prohibition) Act 1994, the Comprehensive Nuclear Test Ban Treaty Act 1998 and the Nuclear Non-Proliferation (Safeguards) Act 1987, among others. As such, the amendments will ensure the proper and efficient implementation of Australia's international obligations with respect to the multilateral arms control and disarmament regimes.

The amendments to the offence provisions of the Passports Act 1938 will help ensure the continued integrity of Australian passports as highly reliable documents of identity.

Amongst the most significant amendments are those expressly applying strict liability to some offence-creating provisions. Under the criminal code, where it is intended that a strict liability standard apply to a particular offence, this must be expressly stated in the act. In all other cases, the prosecution will be required to prove fault in relation to each element of the offence. These amendments are necessary to ensure that the strict liability nature of some provisions is not lost in the transition to application of the criminal code's general principles.

Without these amendments, offences that would have been interpreted as offences of strict liability, prior to the introduction of the criminal code, would have become more difficult for the prosecution to prove. This unintended consequence of the transition process would reduce the protection that was originally intended by the parliament to be provided by these offences.

We can confidently expect that these improvements will save valuable court time and bring greater consistency and cohesion to Commonwealth criminal law.

This bill is one of the steps in a process that will give Australians greater certainty, protection and confidence under the criminal law.

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

Debate (on motion by Mr Horne) adjourned.

SYDNEY HARBOUR FEDERATION TRUST BILL 2000

Second Reading

Debate resumed from 5 December, on motion by Mrs Bronwyn Bishop:

That the bill be now read a second time.

Mr KELVIN THOMSON (Wills) (10.01 a.m.)—It is not often that we get the opportunity to decide the fate of land which has been preserved more by good luck than good management. The land is described in my briefing notes as ‘significant tracts of land’, which reminds me a bit of the Monty Python reference to ‘huge tracts of land’. The fact is that we have before us a historic opportunity to convert old Defence lands in prime positions around Sydney Harbour for long-term public ownership and public use. To use the words of the Prime Minister himself:

The foreshores are one of Sydney’s prized assets, indeed one of the nation’s prized assets ... it is a jewel in the Australian crown—the Harbour foreshores of Sydney—a real jewel in the crown.

To quote from a recent publication by the interim Sydney Harbour Federation Trust:
To understand Sydney, we must understand the Harbour. In a tough, south-east facing coastline, with little respite, it offers absolute refuge. The massive sandstone cliffs to the oceans are the citizens’ sea-walls. Their opening to the harbour within makes a tempestuous water threshold of heroic natural proportions—a place of funnelling winds and brisk tidal flows, often setting up a confusing and dangerous seaway. This gateway is pillared by two capes of different characters.

To the South, a long cliff face, punctuated by the magnificent Macquarie Light, tapers down to form a low tailed peninsula. This lighthouse, designed by James Barnet, interpreting Greenway’s original structure, is in superb condition and has recently become one of the Trust’s responsibilities. Seen clear cut against the sky, its beautiful form has become a great symbol for the city. Not to mention the reassurance it gives the mariner seeking the harbour entrance through these rugged walls of stone on dark nights in heavy seas.

To the north, a bluff, high near vertical headland faces straight into the South-East foul weather provenance. It has been beaten mercilessly for thousands of years. This is North Head, the location of our first site.

In 1979, Prime Minister Malcolm Fraser and the then Premier of New South Wales, Neville Wran, agreed to a transfer of Commonwealth land to New South Wales, including the North Head foreshore, Dobroyd Point, Middle Head foreshore from HMAS Penguin around to Chowder Bay and part of South Head. It was also agreed that when the Commonwealth no longer needed the remaining Defence land it would be handed over to New South Wales for inclusion in the Sydney Harbour National Park. In September 1998, Prime Minister Howard announced that the government would establish a Sydney Harbour Federation Trust to assume responsibility for the remediation and management of five foreshore sites being vacated by Defence.

The Sydney Harbour Federation Trust Bill 2000 as first presented to the Senate did not provide any additional protection to the lands than that which they currently have. Nor did it guarantee delivery of the Prime Minister’s promise of inclusion of the lands into the Sydney Harbour National Park. The government’s commitment to protecting this ‘jewel’ seemed hollow, and in fact the trust as proposed by the government allows the minister to bypass due process. What the government’s bill did do was to remove parliamentary accountability for financial management of the trust, provide exemption from state planning and environmental laws and allow for sole ministerial discretion for the sale of these lands. The trust is meant to be a transitional management arrangement. After a period of 10 years, the Prime Minister has indicated that North Head, Middle Head and Georges Heights will be transferred to the New South Wales government for inclusion in the Sydney Harbour National Park and at that time future management arrangements for Cockatoo Island and the Woolwich site will be decided. Yet the government’s bill did not ensure that this would happen. The bill had no sunset clause, nor did it mention transferral of land to New South Wales. It did not guarantee ongoing public ownership. The government’s bill failed to incorporate the intent of either the 1979 Fraser-Wran agreement or the election promises made by the Prime Minister. The Prime Minister misled the Australian community and failed to deliver on his stated intent on this issue. Indeed, even the government’s own members of the Senate inquiry into the legislation recommended considerable amendment. After extensive consultation with local councils, community groups and the state government, the Labor Party and the Australian Democrats put to the Senate—a swath of amendments to ensure that these lands are protected.

The bill, as passed in the Senate, provides protection for these key harbour lands. Amendments passed in the Senate included: first, a clear stated purpose of the bill identifying that the key object of the act is to establish a trust to facilitate the transfer of ownership and management of the land to the Sydney Harbour National Park; secondly, a reference to the intended transfer of ownership of the land to the Sydney Harbour National Park and a definition of which areas of land will be transferred; and thirdly, a mechanism to allow transition of ownership before 10 years has passed. Once contamination has been remediated and disused buildings removed, there is no reason why the site could not be transferred immediately.
to the Sydney Harbour National Park. It is our view that transferral of ownership to New South Wales should be undertaken as soon as remediation of each site is complete, and the legislation should provide for hand-over in a staged manner following remediation.

We also moved amendments—which were passed—for the removal of the exemption from state planning and environmental protection legislation. It is unacceptable for these sites to be exempt from state environmental protection and planning legislation. The Commonwealth might wish to place additional requirements on the management of this land over and above the state regime—that is fine—but the state planning framework should be followed as a minimum requirement. Exemption from state legislation is in direct conflict with attachment three of the 1997 heads of agreement on Commonwealth-state roles and responsibilities for the environment. In addition, management plans developed by the trust should be consistent with SEPP-56, with state regional planning and with Sydney Harbour National Park management practices to ensure the smooth transition of ownership.

To support an exemption from relevant state planning and environmental protection legislation, a rationale for such exclusion must be provided and a process established to ensure that appropriate planning and environmental protection measures are adopted. Furthermore, this process should not duplicate processes that are already in place. In addition, management plans developed by the trust should be consistent with Sydney Harbour National Park management practices so that we get a smooth transition of ownership.

We have also expressed concern about sole ministerial discretion regarding the sale of land and commercial leasing arrangements beyond the 10-year existence of the trust, and moved in the Senate to remove that sole ministerial discretion. We also moved in the Senate to ensure that management plans for each area of land would be subject to parliamentary approval. The fate of such significant areas of Sydney Harbour foreshore should not be decided at the discretion of the minister with no opportunity for appeal. Indeed, the sale of publicly owned land is a matter of major controversy—and it always should be. That matter should always be discussed in some detail, and the requirement for parliamentary approval ensures that. We also moved in the Senate for a fairer, more representative membership of the trust. Trust membership as proposed by the government is weighted towards Commonwealth representation.

When this bill came before the Senate initially, we considered it to be a lost opportunity. We think land of this significance needs greater recognition and we noted that, while there was a commitment for the ownership of the land to be transferred to the Sydney Harbour National Park, the bill did not do that. It did not define the areas of land to be transferred. We believe the government should state clearly in the legislation that the trust is being established for the purpose of transferring the ownership of sites to New South Wales and that it should provide a timetable and a process for doing so. The failure to define the area of land was a matter of concern, as was the absence of tenure status. We believe each site should be mapped and specified, with the ability to add additional sites by regulation. As I said earlier, we believe the idea that ownership transition must wait for 10 years is misconceived. Once we sort out the problems with contamination and remove the disused buildings, there is no reason why sites cannot be transferred immediately to the Sydney Harbour National Park.

Following debate on this bill in the Senate, the government has brought a fresh set of amendments to the House. We received a copy of those amendments—some 23 pages of amendments and nine pages of explanatory memoranda—at 11 o’clock yesterday morning and they represent substantial changes to the legislation. We intend to reserve our position on those amendments until we have had the opportunity to consider their full implications and to consult various stakeholders. Although we acknowledge that many of the changes made in the Senate have now been incorporated and redrafted as
amendments—and we welcome that move—we still have significant concerns. We intend to engage in consultation before this legislation returns to the Senate and we will address the government amendments in the other place.

We still have a view about the issue of exemption from state planning laws. Given that it is the government’s intention to transfer the lands into state or local government ownership, there can be no justification for the exemption from state planning and environmental laws. We are concerned that exemption from state laws will leave the lands relatively unprotected and that this is essentially poor policy, politically motivated. Protection of these lands will require the cooperation of both governments, and this should be reflected in the content of the legislation. As I indicated earlier, if the Commonwealth is not happy—if it is not satisfied with the protection being offered by state law—there is nothing stopping it from imposing additional requirements over and above that state law.

The legislation allows for long-term leases beyond the term of the trust which, combined with an exemption from state law, allows the Commonwealth government to pursue long-term management strategies established using the exemption from state laws—although they operate under state law at a later date. There are also ongoing issues to do with the membership of the trust. The amendments further dilute the representation of New South Wales from two in six members to two in seven members, one of whom is to be an elected member of a council. There is no provision for community representation, and the indigenous representation is limited to someone who, in the opinion of the minister, represents indigenous interests.

The issue of most concern to community groups has been that issue of sale of land and the ability of the minister to sell trust lands. The amendments still allow for the sale of land listed in schedule 2. So we do not think this issue has yet been fully addressed. North Head does not appear in the schedules, although it has been nominated as trust land.

I will conclude by making some comments on the second reading speech of the Minister for Aged Care in the House last night, which I found quite disappointing both in tone and in content. We certainly disagree that the government’s intention has been compromised by the Senate amendments. The Senate amendments ensure that the intention is delivered. How can the lands remain in public ownership if they are sold? How can the Prime Minister return Sydney Harbour foreshore Defence sites to the people of Australia and protect the natural and heritage value of these sites, as he said in the 1998 election policy, if they are to be sold?

Furthermore, the government’s suggestion that it is in some way compromising on the size and composition of the trust is ludicrous. Instead of balancing the numbers to reduce the extent of weighting to the Commonwealth, the government has further diluted New South Wales involvement. The Senate amendments still give the Commonwealth a casting vote, but they provide a more balanced representation. As I said before, the one indigenous representative is not appointed by indigenous groups but is simply someone who is to be, in the minister’s opinion, representative of indigenous interests—and we know about how well some ministers in this government understand indigenous interests or what might be representative of them.

Exemption of the trust from state planning law is not good public policy. The reason why these lands have been exempted from state law in the past is that they were Commonwealth lands used for defence purposes. Lands which are being progressively handed back to the state or other public institutions should be required to be subject to state planning law. It is not correct to suggest that the powers of veto, which the state government may have, are going to be used in some arbitrary way; they will not be used simply in the arbitrary and politically motivated way that the government would wish to suggest. They are a necessary part of state involvement and ongoing state involvement in the protection of this wonderful area.

The opposition will consider the government’s amendments, which have been drafted in quite complex form, before they arrive at the Senate and express a position on
them finally when they arrive there. But, in the meantime, I do put on record some of our ongoing concerns. Apart from that, we do welcome and support the legislation.

Mr ANDREW THOMSON (Wentworth) (10.19 a.m.)—I find myself being the only government member speaking on the Sydney Harbour Federation Trust Bill 2000 this morning. The other government members whose electorates abut Sydney Harbour are occupied with executive business; that is to say, they are all ministers. So it falls to me to say a few things about Sydney Harbour and perhaps its significance in what might be called the greater amenity of Sydney. If the Deputy Speaker is happy with this, I would like to talk a little bit beyond the harbour itself. Certainly I will talk about what it and this trust mean for the people of Sydney, but perhaps I could touch on a couple of other issues that likewise will need resolution by government and this parliament maybe in the near future. Indeed, in this morning’s newspapers, there is mooted a proposal for a new airport. That would, it being not that far away from the harbour, have some effect perhaps on the amenity, and it is worth discussing in the context of this.

One of the things that has always puzzled me in a way about this country’s early history is why Cook, on those early voyages, sailed past Port Jackson and landed in Botany Bay. It was not until 21 January 1788 that Governor Arthur Phillip—who had been a retired naval officer on half-pay farming at Lyndhurst in Britain before being offered the position of Governor of New South Wales—led a party of marines to examination a harbour named Port Jackson by Cook as he sailed northward in 1770.

The little fleet of three boats attracted the attention of several parties of natives who greeted the strangers with the chant “Warra-warra-warra”.

The historian David Collins wrote, “by the gestures that accompanied them, the words could not be interpreted into invitations to land or expressions of welcome.”

This may not surprise us now, looking back at this a couple of hundred years hence, but it must have puzzled those Aboriginal people immensely when this party of—what would they have thought of them?—strange creatures in vessels turned up on the beach at Camp Cove, which any of us can visit to this very day. We can sit there and lean back, as I have done, and imagine what it must have been like for that little party of three boats to sail in between those two immense pieces of land in North and South Head and see for the first time through, if I might describe it as, Anglo-Saxon eyes what this harbour really looked like. The fact that Cook had sailed past it was a bit of a puzzle. But that is history. As Messrs Jervis and Kelly go on to say:

The boats entered Port Jackson, and found a beach just inside South Head, where the party landed and cooked a meal. This little beach is marked on a map drawn in 1788 as ‘Camp Cove’. It is a historic spot—it was the first place in Port Jackson where the white men landed.

Exactly so. But Sydney Harbour means more perhaps to Australia than simply that place where Phillip and those other seamen landed. It also means things to some of the people who have migrated to Australia: for example, the gentleman in this chamber who sits next to me, the member for Fairfax, Mr Alex Somlyay. When I asked him what his early memories of Sydney Harbour were—he grew up in Sydney, after immigrating there with his parents from Hungary—he told me that he can remember sitting with his brother, I believe, as a two-year-old on the knees of a large American sailor. He was aboard the troopship USS Harry Taylor, a troopship which had served in Europe. I think, during the Second World War and was then in commission to bring immigrants to Australia. He sat on the knees of a large African-American sailor in a beautiful white uniform, he remembers, and looked up and saw for the first time Australia, in the form...
of the Sydney Harbour Bridge. He said he was too small to see over the gunwales of the ship as it came into the harbour, and the very first thing he saw was that steel structure. So, in a sense, the bridge and the harbour, for a lot of people, blend in and become one and the same, and they mean different things to different people.

But certainly what is rare about it is to have such an expanse of natural beauty inside such a large city. This is not a common thing in the world. You think of London and its beautiful parks. I strolled through one not long ago and walked past Buckingham Palace on the way down to Westminster and thought, ‘The city is blessed with these parks—Hyde Park, Green Park, St James Park and so forth—but there are obviously not enough.’ Paris? There is the Bois de Boulogne and I suppose the Seine, but again they seem to glory more in their buildings, their architecture and so forth.

What do you think of if you think of New York City or at least Manhattan and you are trying to relax? Central Park. On the way home from the conference in The Hague about the greenhouse treaty that some people are promoting to try to destroy a lot of Australian jobs, I stopped in Manhattan and, indeed, stayed in a club just near the edge of Central Park. I got up in the morning and had a little walk around. I thought to myself, ‘What an appalling place Manhattan would be without Central Park!’ In Rome, there are little pockets of tree canopy here and there but, more or less, it is antiquity that Romans enjoy—the history of the place. In Tokyo, where I lived for a long time, six years of my early adult life, it is the Imperial Palace and the lawns and the space around that that are of such value. Space is really what people crave in Japan, if they live in the city.

So Sydney and its harbour go together and, therefore, it is important that this trust be established and work to preserve it as much as is possible—or practicable, perhaps. But when you think of it in a more abstract sense, how, you might ask yourself, should we regard this blessing of nature there in the city? We are adults and we tend to think of these things in terms of it being nice to have some beauty and so forth and nature close by but, if you go down there—as I do when the weather warms up with my small daughter—on the edge of the foreshore and enjoy a bit of swimming and so forth, after a little while you notice there are quite a lot of children there and you think that perhaps we ought to think of these things really through the eyes of children and the value as they grow up of having this expanse of, to put it bluntly, tree canopy instead of concrete or some other man-made substance. That is probably what is most valuable about this.

It strikes me that what some colleagues on both sides of the House have been talking about most recently, ‘social capital’, is a very interesting notion. It is a flexible one and it means a lot of different things to different people. But it has always occurred to me that excessive urbanisation causes discomfort to people, sometimes unconsciously; people do not quite realise that they are uncomfortable because there is just too much concrete around them. You would not extrapolate that in an absurd way to say that the more tree canopy there is around people the necessarily better behaved they are. But there is something yet to be really pinned down about the design of cities and the effect of a lack of nature on people.

It may have something to do with the idea that, if there is a reasonable respect for nature imbued in people as they grow up, that habit of respecting nature may help them respect rules and therefore become better citizens and so forth, whereas if they find themselves growing up in what you might call an environmentally cruel environment—I am sorry to use such an awkward phrase, but I think my colleagues understand what I mean: a place that is ill designed, where there is just not enough allowance for trees and gardens and so forth—they do not really get the idea that there is something not man-made that one ought to respect and look after and, therefore, as they grow up, it is harder to get them to appreciate the need for consensus and getting together with other citizens rather than being a little selfish.

But you have to guard against going too far the other way, when respect for nature really lapses or warps into an obsession with nature. You can get a kind of neo-paganism
where people worship trees and so forth and feel there is some sort of religious zeal about protecting it. The balance in that case is upset, and opportunities to people for reasonable enterprise are denied, and you see parts, even of Australia—where we are generally a practical, developmentally minded people, which is a good thing—where occasionally that goes too far, as in parts of Tasmania where this kind of green extremism has had a very damaging effect on people’s livelihoods.

Another thing about Sydney Harbour that is worth noting is the presence of the naval infrastructure on Garden Island. To the eyes of those neo-pagans, the presence of the hammerhead crane and all the big ships is an ugly thing, but it is not ugly to me. I think it is valuable, because it ought to remind people who see it that, to enjoy such a prosperous and happy place as Australia and Sydney, you need a lot of resources and money in your defence. Some important things are going to be said about that later today.

I cannot let this topic go without talking a little bit more about the general amenity of inner Sydney which we enjoy, part of which involves hosting an airport between my electorate, that of my neighbour the member for Sydney and some other electorates nearby. In times past, I will admit to having been a bit of a NIMBY about this. I have been a bit selfish in the past about flight paths and so forth. I must say that I felt a little embarrassed some months after that third runway opened and the jets were coming over and all that; I realised that I had made too much of a fuss early on about it.

Thinking about the harbour, my electorate, those of my neighbours and some of the things I have complained about in the past, I saw this morning a maybe fanciful, maybe reliable story in the newspapers about a proposal to extend the infrastructure of the airport across Botany Bay to Kurnell. If you lived around Botany Bay and you saw the people around the harbour getting this trust and heard all these wonderful noises being said about Sydney Harbour, I wonder how you would feel about your own little piece of water, Botany Bay, and whether or not a little bit of attention might be paid to it. It may not be quite as beautiful, objectively speaking, as the Port Jackson harbour, but then again that is in the eye of the beholder. It is a little bit unfair to say to people over there, ‘Look, we’re more beautiful than you, so we’ll muck around with your amenity and we’ll do what we can to preserve ours.’ There ought to be a little bit of burden sharing around.

It is an old Australian tradition that, where you want to progress and look after people through progress, you have to share the burden of that around. There is a modern trend around that is a bit selfish, and it tends to kill that tradition off. How would it be if people in areas where the police were not called so often said, ‘We want to pay less tax because we do not need those police so often; those folk across the way seem to have a problem with a lot of criminals and they need the police all the time, so they ought to pay more tax than us.’ You would say that that is an absolute nonsense, that it is fundamentally unfair. The ‘BANANA—build absolutely nothing anywhere near anything—syndrome’ is a phrase that I have heard uttered in California. It is the sort of theme that has taken hold of a tribe of councillors from western Sydney: ‘We could possibly tolerate the slightest bit of aircraft noise while the people there in inner Sydney can have a little bit more.’ We have got to have a little more burden sharing around the place.

I do not know whether or not this thing in Kurnell is possible. The article says:

Environmentalists would be certain to point to potential damage to important mangroves and to the large national park to the immediate south. So the mangroves and the park to the south, the Royal National Park, are going to be damaged. I do not know that that would be the case. If it is bad enough to damage the Royal National Park through a bit of noise, isn’t it bad enough to damage the tree canopy around the eastern suburbs of Sydney? It is a silly thing to say, although I can imagine these greenies, these neo-pagans, are going to say it if this proposal looks like going ahead. You can protect mangroves when building nearby. If this is finally the solution to the need of Sydney to accommodate more aircraft, then so be it. Frankly, I think we ought to stick with Badgerys Creek. It was
the original decision, and both parties support it. If you give in to the BANANA supporters, what is next? You will never be able to build anything. There are good people on both sides of this House who have grave misgivings about this sort of greenie nonsense. You see it all over the place from treaties to airports and everything else. Burden sharing, that old sort of Australian fairness, is really what this has to be about.

There is another thing I have to say about Sydney Harbour and its beauty, although not all in the House will agree. I have said some ferocious things about what I regard as a terrible blot on the landscape near the harbour, near my electorate—that is, the mess in Kings Cross. I know that the member for Sydney has hopped into me a bit for being a little harsh on some of the residents there. I was not aiming at the residents when I said that we ought to get rid of all the pimps, the killers, the bums, the hookers and the crims that hang around that bad end of Kings Cross. I know a gentleman who owns a large hotel in Coogee, and I understand that he has purchased one of the hotels in Kings Cross and is putting a substantial amount of money in it to improve and upgrade it. That strikes me as the sort of rejuvenation that perhaps might end up giving the government of New South Wales the political will to do something about all those villains, to use a generic term, that hang around and, when it gets dark, come creeping out like animals down that other end of Kings Cross.

If it is worth preserving the harbour trust, then it is worth thinking a little more about the environment of the harbour and inner Sydney, the amenity of the place, the airports and possible solutions, and it is worth doing what we can to make sure that this terrible syndrome of BANANA-ism does not get out of control. We ought to be quite realistic about what we have to build, whether it is housing, airports or other things. We should not be ashamed of seeing a reasonable amount of development happening in the Sydney area. You cannot give in to this sort of selfishness. Burden sharing is an important thing, whether it is airports or other things.

This trust is a reasonable effort. I have a feeling that, if the gentleman who seems to be chairing the interim authority, Mr Kevin McCann—a fine man and a golfer—is appointed the chairman of this trust, it will be well governed, his stewardship will be reliable, and we can look forward to handing on something important, in a legislative sense, to our children.

Ms PLIBERSEK (Sydney) (10.38 a.m.)—I have been waiting many months to speak on the Sydney Harbour Federation Trust Bill 2000. I believe this is a very important bill because the future of our beautiful harbour depends on it. If we fail to protect the harbour now, our decisions will haunt future generations. Just yesterday, the government told us of a long series of amendments that they are proposing. Many of the amendments that Labor and the minor parties have made in the Senate are unacceptable to the government, but the government has proposed a number of amendments of their own, some of which give partial effect to our amendments.

Although the Sydney Harbour Federation Trust Bill has been on the Notice Paper for months now, it was only yesterday that we were given the government's amendments to study. If the government chooses to consult with Labor only on the day the bill is to be debated, we have a right to reserve our decisions on some of those amendments. When the legislation is debated again, we may propose further amendments, and we may accept or reject some of the government's amendments. The rhetoric of this bill says that it is designed to protect parts of Sydney Harbour and return them to public use. Of course, as with much of this government's rhetoric, the stated intention of the legislation is somewhat different from the effect the bill will have if passed. From the outset, Labor
and community groups have had serious concerns about parts of this proposal. Most of those concerns are not allayed by the government’s proposed amendments.

I would like to take this opportunity to place on record some of my concerns that Labor and the community groups share. As I said, on closer examination of the proposed amendments, further concerns may emerge. The most fundamental concern is one that we have had all along—that is, the government’s unwillingness to spend any money on protecting harbour foreshores. There is still no real funding for land acquisition in this package. The land that is to be included is by and large Defence Force land—naval land—which already belongs to the people of Australia. It is land that the Navy has finished with. They have already proposed moving many of their operations to ports further north and the bulk of the funding enables the Navy to do what it had already intended to do.

Of the $90 million, $50 million—more than half—was to be allocated to the Department of Defence to meet costs associated with relocation from the sites and to remove surplus buildings, with the remaining $40 million to be allocated to the trust to support the clean-up of contaminated areas on Cockatoo Island. The defence department was also to receive an additional $6 million to establish public access to parts of Garden Island. Indeed, Garden Island was open to the public last week for some time. I look forward to it being more publicly accessible. A Sydney Morning Herald article dated 30 March 2000 quotes Mr Michael Rolfe, Secretary of the Sydney Harbour and Foreshores Committee, as saying:

The Federal Government has not spent any money on this land, only made an advance of $700,000 to the interim trust which has to be repaid. As far as I can make out, they’ve not spent one cent of this in Sydney, let alone Sydney Harbour. So in terms of trust lands, zilch of that $96 million is being spent on Sydney Harbour—rather, it is going to activities that—

are essentially the responsibility of the Defence Department and would normally have been funded from the Defence budget allocation. It is dishonest, I believe, to dress up relocation payments and the remediation of land that the Commonwealth should be responsible for as new spending to protect the harbour. The government made much of the Federation Fund largesse, but the simple fact is the Department of Defence should be handing this land back to taxpayers and should be taking responsibility for the remediation work.

My friend and comrade Tom Uren, who was the federal minister responsible for the creation of the Australian Heritage Commission—among his other great achievements—became the patron of the newly formed Defenders of Sydney Harbour group in 1998. At the time he released a statement saying:

Mr Howard’s announcement of the creation of a Sydney Harbour Federation Trust to administer the defence land on Sydney Harbour foreshores is an inadequate decision and fails to secure the future of one of the great National Parks in an urban environment—not just for Australia but for the world.

In 1979, Prime Minister Fraser and Premier Wran made an agreement that ensured Commonwealth Defence lands were transferred to Sydney Harbour National Park. A part of the agreement was that, when the Commonwealth no longer needed the remaining harbour defence lands, they would be transferred to the New South Wales government. The Howard government decision is a result of petty politics. We deserve better. The creation of Sydney Harbour National Park should be above politics.

The report of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee released in April of this year was highly critical of the bill. Included among its 12 recommendations were that all land on the harbour foreshores vacated by the Department of Defence should be transferred to the Sydney Harbour National Park; that the Department of Defence should make a financial contribution towards the cost of decontamination and rehabilitation of the lands that it is currently vacating; and that an invitation to the public to comment on the management plans should be published in a newspaper in the Sydney metropolitan area, as well as in the Gazette and a local newspaper. It seems that only the government believes that the Navy did not already have the responsibility to return this land to the people of New South Wales and
the people of Australia when it was no longer needed, and only the government believes that the Navy was not already responsible for the remediation work.

The other issue in relation to funding the Sydney Harbour Federation Trust is that the trust is designed to be self-funding. There are two real options available to the trust: the sale or the lease of lands under its control. I am extremely concerned about both of these options and unconvinced that this legislation adequately protects the natural and heritage values of the land in question. The sale and redevelopment of these lands have been the main cause of the objection of Labor and community groups to this legislation. Plans have already been floated to sell parts of the sites. Some of these sites may be better leased, but leases would have to be entered into with the utmost caution. The New South Wales Premier, Bob Carr, expressed concern about the funding issue in a December 1998 letter, saying:

... the trust will have no alternative but to consider proposals that are totally unacceptable, such as selling off prime foreshore land for private residential development ...

In 1996 came the announcement of the proposed sale of naval land at Neutral Bay. Of course, that was very much criticised at the time. Now, the trust is faced with a decision about what to do with the 20 houses occupied by Defence personnel at Markham Close at Middle Head Road. It is obviously very tempting to sell these houses and grab the cash if the trust has to meet its requirement to be self-funding. This would be disastrous. I understand that the interim trust had the dwellings and the land valued to see whether they should be sold and how much they would sell for. I have been told that they could be sold for up to $15 million. Other sources suggest that leases over a period such as 15 years may net a similar return. In this instance, the houses should be leased rather than sold. If they are sold, not just the houses but the land that they stand on will be lost to the public forever.

To generate enough revenue to fund the operations of the trust, leases would have to be for long periods and would have to allow the lessees to make substantial profits from their sites. It is difficult to imagine what types of development might generate enough revenue to complete remediation work and continue the upkeep of the sites. The reality is that some of these sites have a substantial industrial component—as the member for Wentworth pointed out—and it may be appropriate to retain that in some form. We are very proud of the fact that Sydney Harbour is a working harbour and exhibits those characteristics. What I will not stand for, and what my constituents will not stand for, is the remaining parcels of bushland around Sydney Harbour being sold off or heritage buildings being overdeveloped to make them attractive for sale or lease.

Under the trust’s structure, it is likely that budgetary pressures will lead to inappropriate development, and the government’s insistence that these sites be exempt from state planning laws exacerbates this problem. In recent years, the NSW government has attempted to promote a more coordinated approach to the planning and management of Sydney Harbour foreshore. These initiatives include the establishment of the Sydney Harbour Foreshore Authority. Clearly, there is a degree of overlap between the Sydney Harbour Foreshore Authority and the responsibilities of the Sydney Harbour Federation Trust with regard to trust lands. In its submission on the exposure draft of the bill, the Sydney Harbour Foreshore Authority commented:

There are a number of government bodies responsible for Sydney Harbour foreshore land and the establishment of yet another entity, the Sydney Harbour Federation Trust seems to contradict the positive steps taken recently by the NSW State Government to provide greater coordination in the planning and management of Sydney’s harbour foreshores, including a decrease in the number of authorities.

Due to the Sydney Harbour Federation Trust’s standing as a Commonwealth body, State and local government will have no say over any of the planning and management of the land. This has the potential to create conflict where opposing management or community values may apply for adjoining areas. It may also create difficulties and inconsistencies due to the differing functions and roles of the various government bodies and the application of their relevant legislation.
The lack of compliance with NSW laws will have a major impact on the ability of the State to control future use and management, access, public alienation, built form and site development. There are inherent problems in setting up alternative planning systems to the NSW system and in excluding NSW laws from applying to the sites. The creation of the Trust at Commonwealth Government level does not assist in the integration of good urban design and planning decisions for the Harbour, but continues the ad-hoc management of neighbouring pieces of land. This is not in the best interests of the people of NSW.

It is hoped that the management of the land under Commonwealth legislation will not continue the segregation of the land from the rest of the Harbour foreshore. This currently occurs with Defence land, which is why it is raised in this instance.

The establishment of the trust undermines the coordinated approach adopted by the state government; however, the real harm is in the refusal of the federal government to acknowledge that the state government planning regulations should also have effect over these lands. This is especially the case if the eventual aim of the trust is to hand responsibility for the lands that are returned to public ownership to the state government or to the local authorities. We should be asking the Minister for the Environment and Heritage: what is the point of handing over land, after it has been inappropriately developed, to state or local authorities?

I am prepared to say, however, that there are some positive changes in this legislation. The government have agreed to a slightly more transparent process in the meetings of the trust. They have agreed to the meetings being held in public. The government have also agreed to an Aboriginal representative on the trust, which is a positive step. However, that representative is just someone nominated by the minister, not someone chosen by the Aboriginal community; nor do they have to be a representative of the relevant lands council, for example. It can be anyone appointed by the minister.

The open day at Garden Island recently was also a positive and, as I said, I am looking forward to that site becoming even more publicly accessible. Yet the government still has a long way to go before this legislation can actually be said to be protecting our precious harbour and its foreshore. Before the 1998 election, the Prime Minister said the Sydney Harbour foreshore is: ... one of Sydney’s prized assets indeed one of the nation’s prized assets ... a jewel in the Australian crown—the Harbour foreshores of Sydney—a real jewel in the crown.

Unfortunately, I think the government is prepared to flog off the crown jewels. By supporting Labor’s amendments, the government has the chance to ensure that the harbour stays one of the nation’s prized assets. If we get this legislation wrong at this stage, the damage may be irreversible. This is our one opportunity to get it right, and I implore the government to do the right thing. We have a responsibility to future generations. Just as we celebrate and thank the visionaries of the past, our descendants will evaluate us on whether we improved or destroyed the foreshores. Tom Uren wrote in his submission to the Senate inquiry on this bill: I have had a love affair with Sydney Harbour and its shores since I was a boy of 13. I commenced employment at that age and travelled daily from our home on the Manly ferry until I was 18. I then joined the Army at 18 and for approximately the next two years served in the Royal Australian Artillery of North Head. The deafness in my left ear is due to recording gun elevation of the Mark VII on Middle Heads. From North Head I saw the great troop ships of World War II—the Queen Mary, Queen Elizabeth and Aquitania—sail out through the Heads taking with them the cream of our nationhood to war. So, my friends, the seed of love was sown early in my life for our Harbour and its shores.

The visionary who inspired me most was Niel Nielsen, Minister for Lands in the McGowen Government from 1910-11. He was able to acquire, with a land acquisition fund of 150,000 pounds, the park that now carries his name, Strickland House and the Hermitage Reserve. His vision was that progressively we should try to create a green belt around the shores of Sydney Harbour.

This vision that Niel Nielsen had and Tom Uren shares is still possible as long as the Defence lands on the shores of Sydney Harbour remain in public hands and are treated with the respect, sensitivity and concern for future generations which they deserve. Tom has over the years made an enormous contri-
I want to finish by briefly talking about some of the comments that the member for Wentworth made. The member for Wentworth is absolutely correct about burden sharing. He is absolutely correct about the fact that Badgerys Creek airport must be built. I think it is incumbent on the member for Wentworth and other members of the coalition parties who believe, as he does, that Kingsford Smith airport is reaching its capacity—we know that it will reach its final capacity by the year 2010—to force the government to build Badgerys Creek airport. We have been talking about it for over 20 years. It is really time to put words into action and to build the airport.

This idea of having another runway at Kurnell is another furphy, just as Holsworthy was. It is a distraction to minimise the demands on the government to finally take the action that it needs to take, which is to build Badgerys Creek. The member for Wentworth mentioned that people are worried about building at Kurnell because of the national park and the mangroves. The mangroves at Kurnell are an incredibly valuable fish and bird breeding ground. Mangrove swamp may not be a very attractive environment, but it is a vital environment in terms of allowing fish and birds to breed and the ecosystem in that area is incredibly sensitive. The Kurnell Peninsula has already suffered greatly over the years from sandmining, and there are proposals now to build an inappropriate hotel in the sandhills at Kurnell. I certainly would not like to see a runway built there on top of all the other environmental degradation that has occurred. The member for Wentworth has once again raised the issue of Kings Cross. We are going to keep having this fight. Kings Cross does have its problems. (Time expired)

Debate (on motion by Ms Worth) adjourned.

MINISTERIAL STATEMENTS
Defence 2000—Our Future Defence Force
Mr HOWARD (Bennelong—Prime Minister) (10.59 a.m.)—by leave—I present to the House the government’s white paper on defence policy entitled Defence 2000—Our Future Defence Force and a copy of my statement.

This white paper represents the most comprehensive reappraisal of Australian defence capability for decades. It announces major increases over a long time scale in defence funding, and it complements the government’s strategic view of the circumstances in which Australia is now placed in our region and beyond.

At the outset, let me acknowledge the government’s debt to the Minister for Defence, the Hon. John Moore, for his tireless commitment to both policy and management reform within the defence area. Without that commitment, this white paper in this form would not have been possible.

As a people, Australians have never taken their freedom for granted. As an independent and self-reliant nation, we have accepted the unique demands placed upon us as the privileged occupants of an island continent.

We have accepted responsibility for defending ourselves, our homes and our way of life and, when called upon, to defend the rights of others.

Today’s white paper ensures we can continue to do so. The government’s purpose is to provide Australia with the defence capa-
probability it will need over the first few decades of this new century.

We are grateful for the role played by many Australians during the process of preparing the white paper. Under the leadership of Andrew Peacock, the former Minister for Foreign Affairs and Australian Ambassador to the United States, we undertook the most extensive public consultation on defence issues in Australia’s history.

His report, published a few weeks ago, shows that a strong national consensus on defence issues exists throughout the country. The views gathered were extremely useful in making our decisions on Australia’s future Defence Force needs, and I would like to personally thank him and all others for the work they put into this very important consultation process.

It must be said, we have not undertaken this defence review because Australia faces an urgent strategic crisis. There are of course some important challenges, yet Australia remains a secure country.

In peaceful times it is sometimes easy to forget how essential is a strong military capability. However, as we were all reminded last year, there are times when the whole country looks to our service men and women to do extraordinary things under exceptional circumstances.

That does not happen by itself. We recognise a responsibility to recruit and retain the best people possible, to equip and train them to world standards and to ensure that all is done so that they may successfully face whatever tasks lie ahead.

But all of that costs a great deal. Defence is one of our most expensive national undertakings. We have an equal responsibility to ensure that government funds are wisely spent.

Over the past few years, the government has given high priority to reforming the Defence organisation and we have regarded this as an essential precondition for serious consideration of our long-term defence and funding needs.

Important reforms have begun. Management practice has improved, waste and inefficiency cut, and responsibility and accountability tightened. Great credit is due to the Minister for Defence, and also to his predecessor, Ian McLachlan.

The government has ensured that the Defence Force was able to meet the demands placed upon it. Defence alone was exempted from the budget cuts necessary in our first years in government, and we have maintained defence spending in real terms ever since.

Early last year we took what proved to be a prudent and far-sighted decision to increase the readiness of our land forces, so that we were ready to meet the crisis in East Timor when it arose. And we have provided substantial additional funding to support our East Timor commitments.

But, at the same time, the government has been determined to step back from the day-to-day demands and review the basics of our strategic policy. For the past 12 years Australia’s defence funding has been flat in real terms, and indeed fell slightly in the early 1990s. Over the same period, costs have increased in real terms in many areas of the defence budget.

The result has been a long-term squeeze on our capabilities, and on the people in uniform. The government became concerned that our defence budget was no longer adequate to sustain the existing set of capabilities. Without action, defence spending as a percentage of GDP would have continued to fall. So we have undertaken a comprehensive review of all aspects of our strategic policy, force structure and funding needs.

Our basic objective was to provide a stable and sustainable basis for our defence policy by aligning our strategic objectives, our capability requirements and our defence spending. That is the essence of this white paper.

We have taken a long term view of all these issues. Our key defence decisions are not just about what we need this year or the next: the reality of a modern combat capability highly dependent on advanced technology is the need to plan for the next decade, and even the decade after that.

We started by acknowledging the many positive trends in our strategic environment.
Economic growth and regional integration augur well for the future security of the Asia-Pacific. But they cannot be taken for granted. The relationships between the region’s major powers will be critical for the stability of our entire region, and they pose challenges as well as providing opportunities in the years ahead. Continued US engagement in the Asia-Pacific will be the single most important factor in maintaining security in the region over that period.

Closer to home, several of our most important neighbours are confronting new and difficult circumstances. Indonesia’s political transition and economic situation obviously pose major challenges to its government. Australia’s commitment to supporting Indonesia’s stability and territorial integrity remains steadfast. Papua New Guinea and many of the island states of the south-west Pacific likewise face a range of domestic challenges.

The white paper reaffirms that we take a total view of security that goes beyond military and defence issues. It builds on the assessments of our environment and the broad direction of our international posture set out in the government’s foreign and trade policy white paper published in 1997.

The white paper reaffirms that Australia seeks to work with other countries to achieve our strategic objectives, and it recognises the strategic interests and objectives we share with our friends and neighbours in the region. It places strong emphasis on our international defence relationships, including our key alliance with the United States, our bilateral and multilateral regional linkages and the importance we place on cooperating with a strong New Zealand defence force. We emphasise particularly our long-term interest in good defence relations with Indonesia.

The government believes that Australia’s armed forces will continue to have a vital role in our overall strategic and foreign policy. We cannot easily predict when or where Australia might need to deploy her armed forces. We think it important to both clearly establish our enduring strategic interests and objectives, and ensure we have forces to protect them under a wide range of circumstances.

This has been the approach we have taken in this white paper. We have aimed to provide a clear and comprehensive statement of our strategic imperatives, and to spell out the principles that guide our force development decisions.

The government has reaffirmed the primacy in our defence planning of self-reliance in defending our own territory from direct attack. Such an attack is not at all likely under current circumstances, but Australia should, as a matter of enduring national policy, maintain the capacity to independently defend its sovereign territory against any threat that may emerge.

This means the maintenance of air and naval forces able to deny maritime approaches to any hostile forces and the capability to defeat any incursions onto our soil, without relying on help from the combat forces of other countries.

But while the self-reliant defence of Australia remains the basis of our defence policy, it is not the limit of that policy. Our security equally depends on developments in our neighbourhood and beyond.

Over recent years the demands on the ADF, especially for peacekeeping and other lower level operations, have increased sharply. Many of these operations have been far from home—in Africa and the Middle East, including the Gulf. But the most pressing demands have been for operations in our immediate neighbourhood.

Today the ADF is deployed on operations in East Timor, Bougainville and the Solomon Islands. These operations serve important Australian security interests, as well as urgent humanitarian needs. We may be called upon again to take a leading role in such operations. The government is determined to ensure that our defence forces are adequately prepared and equipped to work with our neighbours to protect shared interests and fulfil our responsibilities in the immediate region.

Beyond our immediate neighbourhood, Australia has important interests in helping to support the stability of South-East Asia, the wider Asia Pacific, and the global security framework. The government is realistic
about the scale of contribution Australia can make to the security of the wider region and beyond.

We will not develop capabilities specifically to undertake operations beyond our immediate region. But where our interests are engaged and circumstances warrant, Australia will be prepared to contemplate providing forces to coalitions supporting regional security. The forces we develop for the defence of Australia will give us a significant range of options to make such contributions.

To meet all these strategic objectives, the government has decided that Australia needs to maintain two key sets of capabilities.

First, we need high technology air and naval forces that can defend Australia by controlling our air and sea approaches. These forces can also contribute to regional coalitions in higher level conflicts, as well as support forces deployed in our immediate neighbourhood.

Second, we need highly deployable land forces that can operate both in the defence of Australia and undertake lower level operations in our immediate neighbourhood.

To do this, we need to maintain the full range of military capabilities we have today and significantly enhance many of them over the coming decade. We need to increase the readiness, deployability and combat weight of our land forces, and progressively upgrade our air and naval forces to keep pace with evolving technologies and capabilities. The government is determined to ensure that the ADF will have the capability to both fight and win.

This will require an increase in defence spending. The effective use of that increase, as well as the existing level of expenditure, also requires a new approach to defence planning to provide Defence with a clear long-term program of development to meet Australia’s strategic objectives.

The government has provided this in the Defence Capability Plan, which is set out in the white paper. The Defence Capability Plan sets goals for the development of each major group of capabilities, and provides detailed, costed programs for their development. It tells Defence exactly what the government expects, and provides a much clearer basis for financial management and programming within Defence itself.

The Defence Capability Plan covers the next 10 years, and takes account of the need to invest within that period in new capabilities which will only come into service in the decade commencing 2010. Within the disciplined framework of the plan, the government has made major decisions about the future of all our major capabilities.

The Army will be maintained at the increased levels of readiness that it has reached following the INTERFET deployment. Under this plan six battalion groups will be held at high readiness, including a parachute battalion, two light infantry air-mobile battalions, a motorised battalion and a mechanised battalion. The current SAS regiment will be maintained and the commando battalion will be fully developed. The logistics capacity for the support of these units will be greatly improved.

Their firepower and mobility will also be enhanced. Two squadrons of armed reconnaissance helicopters will enter service, providing the Army with a major new capability. An additional squadron of troop lift helicopters will also be deployed.

To better protect our forces, the armoured personnel carrier fleet will undergo a major upgrade; new air defence missile systems and highly mobile mortar systems will enter service in the coming years, and our battalions will receive advanced thermal surveillance systems.

Soldiers within our deployable land forces will receive improved body armour, weapons, night vision equipment and communication systems. In combination, these systems will ensure that the Australian soldier remains one of the world’s most effective combatants—in both peacekeeping and war.

The capabilities of our soldiers will be further improved by development of an enhanced combat training centre at which sophisticated computer systems will allow the most advanced simulated training possible. This will be a world-class facility.
The government has given particular attention to the reserves. They will be given a major new role in providing the follow-on troops to sustain long-term deployments. Legislative changes we have already announced will enable the government to call forward reserves in a much wider range of circumstances, to help meet the demands which may well be placed on the ADF over coming years. For those who join, the reserves will become a more demanding, but also a more rewarding, commitment.

The Defence Capability Plan commits the government to a sustained program of investment in the air and maritime capabilities so important to the defence of Australia. The plan includes upgrades and eventual replacement of the F18 and F111 aircraft, new air refuelling aircraft, a major upgrade to our surface fleet, including the construction of a new class of major warship later in the decade, and a program to bring the Collins submarines up to their full potential.

And, after careful consideration, the government has decided to proceed with the acquisition of four airborne early warning and control aircraft, or AEW&C, with an option of up to another three at a later date.

All of this will cost a great deal. To achieve the capability enhancements set out in the Defence Capability Plan, the government will increase defence spending by $500 million in the financial year 2001-02 and by a further $500 million in 2002-03, providing an additional $1 billion that year. Thereafter, and importantly, defence spending will continue to rise by three per cent in real terms in each year of the remainder of the decade.

The capability enhancements in this white paper will therefore result in a $23 billion increase in defence funding over the coming decade—a significant increase in defence funding by any standard.

This is a much more specific funding commitment than in any white paper over the past 25 years. It will provide the first significant real increases in defence spending in 15 years. And we have taken the unprecedented step of providing funding projections over the entire decade.

On the basis of current expectations that the economy will grow by about three per cent per annum over the decade, defence spending will therefore be maintained at its present percentage of around 1.9 per cent of GDP.

This firm commitment to realistic increases in defence funding will, I believe, be welcomed by the vast majority of Australians, who recognise the importance of our armed forces to Australia’s long-term future. It will, of course, be especially important to those men and women who accept the special challenge of a career in our Defence Force.

This white paper places special emphasis on the people of Defence. They are a tremendous national asset. The government intends that this white paper will make clear not just what the government expects of them, but also that the government understands what they need to do their job. They are immensely committed to the vital work they do—I hope the decisions and commitments we are announcing today will demonstrate how very strongly we value their contribution to our country.

The white paper also details a range of measures and initiatives to address some of the real issues which confront our service personnel. The men and women of the ADF do a job unlike any other, and they are in so many ways quite exceptional people. But they are also people like the rest of us, who wish to raise families, own homes and educate their children. We need to make sure that the special demands of service life do not make these things harder than they should be. Getting these things right, so that we can recruit and retain good people in the ADF, will be one of the keys to our future military strength.

The government has decided to increase support and funding for the Australian Services Cadets Scheme. It believes the scheme provides worthwhile and challenging experiences for many young Australians and can result in a lifetime interest in the Australian military.

The government believes that the white paper’s decisions and commitments will also
provide certainty to those in industry who make a vital contribution to our defence. The ADF needs to rely on a wide range of people and businesses to develop and deliver the capabilities needed, and the government places high priority on building effective partnerships between Defence and the private sector.

We also want to use our defence investment to help foster skills, innovation and technologies in Australia and, of course, provide jobs where possible. The programs announced in this white paper will have important consequences for many sectors of Australian industry. For example, our shipbuilding industry should benefit from plans to undertake major upgrades and new construction work.

Of course, there are many more important elements to the white paper. They are detailed in the document itself and will be spelled out in more detail by the Minister for Defence and his colleagues the minister assisting him and Senator Abetz. I would like to thank them and their team in Defence for the work that has gone into this white paper. I would also like to thank my colleagues on the National Security Committee of Cabinet: the Deputy Prime Minister, the Treasurer, the Minister for Foreign Affairs and Trade, and the Attorney-General. Collectively, it has been very much a team effort. I also thank the officials from the departments of Prime Minister and Cabinet, Foreign Affairs and Trade, Treasury, Finance and the Office of National Assessments—all of whom have made a major contribution.

In particular, and in addition, I thank the Chief of the Defence Force and the three service chiefs for their valuable input in the course of preparing the white paper.

The government has every reason to be proud of this white paper. It is one of its major achievements.

It sets new standards in the clarity with which the fundamentals of our strategic policy are explained.

It sets new standards in the detailed program we have set down for the development of our defence forces.

It sets new standards by providing specific and unambiguous long-term funding guidance for Defence.

And it sets new standards in the way in which the people of Australia have been drawn into the policy process.

I believe the result should maintain the healthy level of bipartisanship on the basics of Australia’s strategic policy that we have seen in this place for many years. In that context, I particularly acknowledge the contribution of a former President of the New South Wales ALP, Stephen Loosley, a former senator who participated—along with a former Liberal senator, David MacGibbon—as a member of the public consultation group.

The decisions set out in this white paper ensure Australia will gain and maintain well into this new century the capabilities needed to defend this nation and make a responsible contribution to the security of our region.

I present the following papers:


Motion (by Ms Worth) proposed:
That the House take note of the papers.

Motion (by Ms Worth)—agreed to:
That so much of the standing and sessional orders be suspended as would prevent Mr Beazley, Leader of the Opposition speaking for a period not exceeding 28 minutes.

Mr BEAZLEY (Brand—Leader of the Opposition) (11.27 a.m.)—I am delighted to be able to follow the Prime Minister’s statement on the Defence white paper. In this chamber it is good to be debating an issue of such fundamental national importance. I am grateful to the government for the opportunity I had to be briefed this morning. I and my shadow minister for defence, the member for Cunningham, are particularly grateful to the Minister for Defence, Mr Moore, and defence department official Hugh White, who conducted that briefing.

In the short time since the opposition has had the document and the briefing from the government this morning, we have had some opportunity to examine the defence policy framework and the proposals contained in the white paper. The opposition finds the
broad policy framework enunciated in the white paper to be an appropriate basis for defence policy and military strategy in Australia. For a number of years we have been concerned about the drift in our defence policy, which has been evidenced by ambiguous statements and less than clear articulation of defence policy fundamentals.

This white paper shows the value of transferring the responsibility for defence policy articulation from the realm of politicians’ musings and news journals to the realm of professional defence planning and the commonsense of the Australian people. The basis for those concerns has now been diminished, subject of course to an examination of the fine print, as would be expected. Given I have had only a few hours to ponder what is being announced today, we are supportive of the material within it.

I must say a few words, however, about the concerns that we have had over the last few years. After 1996 a new language of defence emerged in official Australian strategic thinking. There was a steady drift away from a national consensus on the primacy of defending Australia and the maritime approaches to our nation. The shift was initially done in code, starting in 1997 with the release of the strategic review. References appeared to a more outward looking defence posture, to more proactive operations, to a rejection of fortress Australia—whatever that means. Former Minister for Defence Ian McLachlan openly talked about the ADF being involved in operations on the Korean Peninsula and in defence of Taiwan. Internal defence documents reportedly began to focus on engagements further forward than the sea-air gap north of Australia. The Army began to declare the need for expeditionary forces—and, yes, in recent months reports have been doing the rounds of the Navy’s unquenchable desire for aircraft carriers.

Of course, the most egregious example of this new language of defence was the articulation of the so-called Howard doctrine that appeared in an interview with the Prime Minister by the Bulletin magazine last year. The story announced that the Howard doctrine meant Australia would act ‘in a sort of deputy peacekeeping capacity in our region to the global policeman role of the US’. Within a week, the Prime Minister was forced to hand in the badge after howls of criticism. Unfortunately, the damage was done, as copies of the article were faxed and emailed around the world. The Prime Minister did not effectively at the time spell out the other impressions that his words left: that Australia would intervene in regional trouble spots to protect Australian values, and that Australia stood separate from the Asia-Pacific, with strength and military capability as a platform for Australia achieving and exerting regional influence. The Howard doctrine was born, as Gerard Henderson noted at the time, of ‘verbal imprecision out of no script.’

These views sustained for any length of time would have the capacity to undermine over 30 years of good work on both sides of this House, done by Australia in trying to build positive relationships within the region. They deny the reality of our large Asian-Australian communities and the many cultural, educational, historical and other links we have had with our neighbours for a couple of centuries. One of the worst effects of the government’s loose talk would have been the ill discipline it could have engendered in our defence planning framework. If we took the Howard doctrine and the other language that emerged after 1996 literally, each of the armed services would have had a legitimate case for just about any high-tech military capability you cared to name. And, in the confusion that would have resulted, they would have got none.

The Hawke and Keating governments managed to establish a generally agreed strategy of defence self-reliance within the framework of alliances and translated it into a concrete approach to defence force planning. The theory finally became the all-embracing reality underpinning our nation’s defence programs. By the time Labor left office in 1996, Australia’s national security was founded on three interlocking policies—a defence strategy of self-reliance and a policy of developing the armed forces required to carry this out; an alliance strategy of security links with the US, which did not require the previously sought but unrealistic, and
therefore non-credible, levels of military commitment to our direct defence by the United States; and a diplomatic strategy of engagement with Asia as a means of, among other things, ensuring our security with our regional neighbours. By 1996, Australia’s defence strategy was no longer predicated on being a dependant. Our alliance with the US was no longer a proxy imperial defence arrangement and no longer the subject of vigorous dispute between the right and left of Australian politics, and our proximity to the region around us was seen for the first time as a beneficial contributor to our security, not a source of threat.

As I indicated in August in a major speech on defence policy, and reaffirmed this morning in an article in several major newspapers, Labor is firmly of the view that Australia’s national defence strategy must be one of self-reliance. That is the prism through which we assess the detail of this white paper. I was heartened recently by the most important message arising from the report of the defence community consultation team, led by Andrew Peacock and including my former colleague Stephen Loosely—and I thank the Prime Minister for his kind references to him. That message was that the Australian people understand instinctively what their Defence Force is for— that the first and foremost task of the ADF is the defence of Australia, that within this framework the ability to undertake operations further afield is important and that Australia should strive for as much defence self-reliance as possible within the context of our security alliance with the US.

Australia’s military strategy must be based on the defence of Australia and its maritime approaches through a layered defence in depth. This strategy must form the core of our force structure planning, and it must determine with an iron discipline priorities for ADF capability development. Australia cannot and should not structure its Defence Force directly in relation to our alliance or potential diplomatic needs. Force planning must be conscious of these needs but not driven by them. We certainly should not structure the ADF on the basis of forward defence contingencies, such as conflict on the Korean Peninsula, conflict across the Taiwan Strait and conflict in the South China Sea. Australia will always have an interest in preventing regional security crises emerging in areas such as these. We need to contribute to diplomatic strategies aimed at preventing such regional tensions ever becoming real shooting wars. However, such scenarios should never be allowed to form the basis of our defence strategy or force planning considerations.

Of course, our Defence Force provides us with other national capabilities beyond the immediate defence of Australia. The ADF adds to our international relationships through bilateral and multilateral military activities. It provides a capacity to contribute militarily to international peace operations and humanitarian efforts. It supports emergency services. It supplements capabilities in the areas of coastal surveillance, rescue and counterterrorism. Through its equipment demands and activities, it adds to national industrial development and Australia’s science and technology base. These are all significant defence priorities, but they should not determine in any decisive way the shape of our defence strategy or the ADF’s force structure.

Against this background, what consideration should guide our defence planning and force structure decisions? The key tool that our defence planners must use and that governments must support is to analyse the abiding nature of Australia’s military geography—the vast expanse of Northern Australia, our extensive maritime surrounds and the arch stretching from the Indonesian archipelago through to the South Pacific. In any approach to our nation’s defence planning, Australia has long relied on the ability to apply advanced technology effectively as providing the principal way of defending ourselves. This means favouring advanced technology when it confers a cost-effective operational advantage. In future, the revolution in knowledge based military technology will become even more decisive. With these geography and technology considerations in mind, the key priorities for the layered defence of Australia emerge.
The first priority is knowing what is going on around us, meaning a premium on intelligence, surveillance and reconnaissance systems and highly responsive and flexible command arrangements and command support systems. Here, in many ways, lies the principal contribution to our defence of Australia’s relationship with the United States. It is of major and material value to us to be able to sign up to a nation with the most comprehensive surveillance capabilities of any on earth—and to do so on a continuing basis of access to the most intimate details of those capabilities because we are a trusted partner. At least since the 1960s this has given Australia a strong advantage in defence planning and has been a major cost saver for Australian defence budgets.

When we talk about defence self-reliance within the context of alliances, we must always remember that it is not primarily the thought that troops will rush to our defence that is the key aspect of that alliance but the day-to-day value of access to high technology in terms of the weapons systems that we acquire, access to the codes that make that high technology work effectively—that is, the best practice elements, not necessarily the basis on which it is sold elsewhere—and, finally, access to the intelligence capability that would cost us simply billions if we were to attempt to emulate it.

Secondly, we must be able to counter threats in the maritime approaches to Australia, meaning a premium on defeating seaborne threats and achieving air superiority over the maritime approaches. Our Navy and Air Force must have the capacity to deny any aggressor the unfettered use of sea and air space in the approaches to Australia. The defence of Australia will be primarily a maritime defence, and maritime capabilities are important in that regard. Therefore, we welcome the government’s announcements about airborne early warning and control and its announcements in relation to upgrading activities associated with in-flight support of our air strike and defence capabilities.

One of the benefits of establishing a coastguard—a policy that I announced in January—to deal with the increasingly serious transnational security threat being posed at our borders, particularly in terms of crime, quarantine and illegal people movement, would be the supplementary capability that it would bring to our maritime defence task in times of war or national emergency. It is time for a coastguard. When we considered this issue in the early 1980s our circumstances were very different. We have seen a surge in illicit drug imports into Australia in the course of the last five or six years and we have seen a resumption of the threat of substantial illegal migration, which had largely petered out during the 1980s. Quarantine and health problems are developing exponentially in the regions around us. We can no longer afford to have multidivided responses to these activities. We need a coherent constabulary effort that, in wartime, would be ancillary to the defence forces and, in peacetime, would provide opportunities for young naval officers, in particular, to receive excellent command training.

Thirdly, we need to be able to strike at the focal points of threats to Australia, meaning a premium on aerial strike, submarines and special forces. While our strategy must be essentially defensive in nature, it cannot simply be reactive and must allow for the use of tactical strike capabilities. Fourthly, we must be able to defend Northern Australia, meaning a premium on mobile land forces to operate at the Top End and in Northern Queensland and northern WA.

From these four priorities, it is clear that the Navy and the Air Force have the principal forward role in the sea-air gap, supported by mobile land forces on the mainland. I said earlier that fashioning the ADF in this way to deal with the defence of Australia is not a straitjacket on our ability to act further afield in pursuit of our national interests. The four defence priorities that I have outlined ensure the spread of capabilities for both. As I said at the outset, it is absolutely crucial that all our thinking about defence policy takes place within the context of the character of our relationship with the region around us. No more important foreign policy issue faces us than advancing our engagement with Asia. Building positive engagement with Asia is, amongst other things, a critical element in the task of securing Australia. The govern-
ment has conspicuously failed to carry forward the formerly bipartisan objective of expanding and deepening Australia’s engagement with our East Asian neighbours. As Paul Kelly notes in today’s Australian newspaper:

Australia is now facing an unfolding strategic crisis—strategic in the broadest sense of the term. He says that Australia is:

… on the verge of being excluded by East Asia from the plans and dialogue for the region’s own economic future.

This government has deliberately and repeatedly stressed our separateness from Asia and put a heavy emphasis on the importance of military capability as a foundation for regional influence. This is particularly clear in the government’s dealings with Indonesia. The Prime Minister has squandered a historic opportunity to build a new relationship with the new Indonesia under democratically elected Abdurrahman Wahid. We do not know what the future holds for Indonesia, but President Wahid’s election offered Australia and Indonesia a great opportunity to start afresh. The opportunity and challenge presented to us was not about rebuilding the old relationship but about a new beginning.

As I put it in May, we were given the opportunity to put our bilateral relationship on a new level—to reframe it in terms of neighbourliness, of nations living side by side, of neighbours in geography and neighbours in democracy. The government has not seized this opportunity, and the price comes not just in terms of our bilateral relationship; it comes in terms of our Asian relations generally. Australia is being excluded from important regional fora. We are in real danger of being marginalised in Asia, to the considerable detriment of our national interests and prosperity. If we can get our defence policy approach broadly right, we should now be able to get our foreign policy approach broadly right. The opposition will not hold its breath, though: this will probably be a task for the next government. Turning to the question of defence resources—

_Government members interjecting—_

Mr BEAZLEY—Don’t take a bet on that! One resource Australia is short of is people. Defending around 10 per cent of the earth’s surface with 50,000 full-time personnel is a tough assignment. But remember that ours is an ageing population, so the task will get tougher with a declining population base fit for military service. The opposition understands that the only basis on which we can have a credible and sustainable defence force is by recruiting and retaining sufficient numbers of skilled and motivated personnel, be they full-time or reservists. We see personnel as the key defence asset, whereas the coalition sees them as a cost to the budget. We are worried by the current shortfalls in such key personnel areas as doctors, fast jet pilots and seagoing personnel.

The government inherited 58,000 full-time personnel and consciously cut this back to 50,000 in the name of efficiency. Today it says it wants to reverse direction and go back to 54,000—without being able to specify a recruitment and retention strategy that makes this feasible. I must say that, when I was defence minister, the numbers of full-time personnel were 72,000. As was bluntly acknowledged in the Peacock report, these personnel problems have been very much exacerbated by the impact of excessive outsourcing by the government. This has reduced our capacity to provide logistics support to deployments and has adversely impacted on morale, skills development opportunities, career structures and posting stability for personnel. More than any other single issue, the imposition of the FBT reporting system on ADF personnel symbolised the coalition’s disregard for the special position of serving personnel and has had a serious impact on morale.

The white paper talks of a greater role for the reserves in providing the follow-on troops to sustain long-term deployments, yet the coalition has actually reduced the functional capacity of the reserves by the ill-considered decision to abolish Labor’s Ready Reserves, the removal of defence leave as an allowable award matter and the introduction of common induction training for the Army. In all other respects, it completely ignored the reserves until the East
Timor deployment was imminent and the true position could not be ignored any longer. In the meantime, recruitment to the reserves is at its lowest level in living memory, and retention rates are poor. As a result, the number of active reservists continues to fall, while the government talks about growing the reserves and giving them an increased role. To achieve the more demanding but more rewarding role for the reserves that the government talks about will require it to pay greater attention to the real position of the Army Reserve than we have seen to date from current ministers.

The other problematic defence resource is, of course, funding. We need to start planning for the obsolescence that will impact most in the second decade of this century. But it is no good just throwing money at defence purchases. It demands more innovative solutions than simple new-for-old replacement. Above all, it requires the re-establishment of a correct national strategy of self-reliance. Let me say this about the government’s funding announcement this morning: one of the things I fear from it is a triumphalist argument around the place about massive new injections of resources into defence. That will, over time, start to raise queries in the public mind, unless it is properly understood and placed against a proper background of whether this is an appropriate expenditure as against education needs, science needs and health needs—because all sectors of public investment in this country now are dramatically run down.

I know how defence debates go. There is great enthusiasm when white papers are produced, great enthusiasm when the team turns up in Timor and great enthusiasm when there is the odd exercise. But that constitutes about half a paper’s worth of newsprint in the course of an entire year. For the rest of the time, the focus goes elsewhere. So, if there is claimed to be a massive cornucopia where none exists, the chance is that it will be substantially threatened in subsequent budget debates. So let me put this amount of money in perspective. Ten years ago, this nation spent 2.4 per cent of its GDP on defence, and 9.4 per cent of all Commonwealth outlays. When Labor left office in 1995-96, the comparative figures were two per cent and 7.9 per cent. In this current year, defence spending has declined to 1.8 per cent, although it remains 8.1 per cent of Commonwealth outlays.

According to the government, today’s announcement means that, on the basis of current expectations about economic growth over the decade, the nation in 2010 will be spending 1.9 per cent of GDP on defence and probably devoting around seven per cent of Commonwealth outlays to the task. I do not believe this is excessive, but it is important to get it in proper perspective. It is considerably less than we were spending in the course of the 1980s in terms of total national effort. Therefore, those who would argue that this is somehow or other a misplacement of priorities do need to bear that in mind. In 2000-01, the Commonwealth budget outlays on defence are $10.6 billion; on health, $25 billion. I became defence minister in 1984. In my first full budget, 1985-86, we budgeted expenditure of $6.6 billion; health was $6.9 billion. Reflect on that: $6.6 billion, defence; $6.9 billion, health. Now, in this budget, we have $10.6 billion on defence, and $25 billion on health. These things need to be contemplated to get these statistics into proper focus.

I have no essential quarrel with the funding approach that has just been announced; it appears about right. But, as I said, let us not have the government’s spin doctors talking up this boost. The government is barely filling the hole in defence spending it has allowed to open up. Defence spending is as much about quality as it is about quantity. It is widely acknowledged that there are serious problems in defence and they need fixing. While the government released its revised budget figures only two weeks ago, it chose to hide the defence money, so we have been waiting to see the detail, the costs and the programs. Australia must ensure that it gets the best bang for its bucks. We also need to understand what those bucks are.

One of the reasons why I say that we are broadly committed to this is that we need to look at the underpinning of the financial arrangements associated with it. We may be wrong on this, but we believe that, in the
calculations of annual growth, the defence deflator for the first time in 20 years has not been used; what is being used is the government’s normal GDP deflator. The point about the defence deflator is that it takes into account movements in the Australian currency which, when it comes to equipment purchases, are extremely important. There are some sets of movements in Australian currency which can occur—and I think we have seen them over the recent period—which would wipe out the entire impact of that three per cent, plus some. So we need to know the fine detail of this before we can actually comprehensively tick off on what these funding arrangements are. As I said, in certain sets of circumstances, it can produce much less than three. I recollect that, when I was Minister for Defence, I defended that defence deflator as the basis on which we did our calculations with almost as much rigour as I defended the global budget framework that applied to defence. So we need to see more of the fine detail on this before we know what the actual reality of it is. But, as I have said, basically the government has got it about right.

The white paper indicates, however—and I am disappointed in this—that the government will continue with its Defence Reform Program. The government must recognise that the DRP is not the panacea for all inefficiencies in the defence organisation. In fact, the DRP has hollowed out many crucial areas in defence, and the savings it has achieved may be far outweighed by the long-term ramifications for our military capability. It is probably about time that the DRP was reviewed in terms of its impact upon ADF conditions and morale.

I am sorry that the Prime Minister did not devote more in his speech to Australian industry. Australian industry is absolutely critical to the effectiveness of Australian defence forces. One of the reasons why we do support a long-term approach to defence planning is that it gives industry the sort of certainty it has been deprived of over the course of the last few years. Many capable companies are considering now—and hopefully the result of this will be that they will undertake a change of mind—shifting away from Australia because they do not know what we intend with our equipment programs. Hopefully, that will now change. Hopefully, they will get certainty from this. That is an important aspect and an important attribute of the way in which a proper forward looking defence plan is worked out.

I want to indicate that this white paper has re-established a broadly appropriate framework for defence policy in Australia—one fashioned by this side of the House and one which will always guide us. We will reserve the right to reflect further on these issues following, of course, detailed examination. Finally, I would just like to say that I hope today’s statements are an indication of a return of discipline and rigour to the national expression of our strategic aims. Good policy must be accompanied by sensible and careful articulation of policy for audiences both at home and abroad. This is how we create real security for our nation.

Debate (on motion by Mr Nairn) adjourned.

SYDNEY HARBOUR FEDERATION TRUST BILL 2000
Second Reading
Debate resumed from 5 December, on motion by Mrs Bronwyn Bishop:

Mr Leo McLeay (Watson) (11.56 a.m.)—It is very appropriate that we should be discussing the Sydney Harbour Federation Trust Bill 2000 just after having heard a defence statement, because the fortuitous saving of a lot of the land around Sydney Harbour has been because it has been Defence land. But I will speak about that as I get on into my contribution.

I am rather concerned about this bill, and anybody who has any concern for Sydney Harbour and its foreshores should be concerned about the limitations in this legislation. What is it that everyone in the world associates with Australia? Usually the two icons that people see as being quintessentially Australian are the Sydney Harbour Bridge and the Sydney Opera House. But what makes them what they are is the Sydney Harbour. If you put the Sydney Harbour Bridge somewhere else, it would not look as
good, and certainly if the Sydney Opera House were not built on Bennelong Point it would just be another building in the landscape—albeit an interesting and beautiful building. The thing that adds lustre to and complements the Opera House is the fact that it appears to be a ship asail on the harbour.

To my mind, there is nowhere else in the world quite like Sydney Harbour. It is truly magnificent, and we are privileged to have it in Australia’s largest city. Those of us who live in Sydney—and most of the people who have contributed to this debate are from Sydney—are, indeed, doubly fortunate. I am sure that the Prime Minister would agree with me. He seems to love living on the harbour so much that he cannot drag himself away from it, from Kirribilli House, to come and live in his official residence, the Prime Minister’s Lodge. So all Sydneysiders, if they get a chance to live on the harbour, even at the taxpayers’ expense, will try and do it.

A lot of very good memories from my own youth are associated with the harbour because the harbour was one of the great recreational facilities for working-class families in Sydney when I was growing up. As a child, I recall going on trips to Manly with my parents, going fishing at Drummoyne with my father, picnicking at Clifton Gardens when my father was a council worker—the Municipal Employees Union used to have its annual picnic at Clifton Gardens—and going on family picnics to Parsley Bay. I also remember taking my own children and my wife on those types of excursions as my children grew up. So the harbour was very much a part of the life of people who grew up in Sydney in the 1950s and 1960s.

Among the joys of the harbour are its sheer size and its picturesque setting. But, as all people who love the harbour know, many of its strategic headlands and other scenic parts were once used by our defence forces or for other official purposes, for example the quarantine station. It is hardly surprising that the strategic points of the harbour attracted military and naval use in the past. But times have changed, and for some time now many of the areas that were owned by the military have been disused and left as derelict sites. The site at Clifton Gardens that we used to go to for the council picnic was next to a naval station. One of the interesting things that you used to see sometimes was the calibration of torpedoes by firing them out into the harbour. When you went there, you would often see a submarine off the base. For young kids, that certainly added something to the experience of going there in those days. So it is timely that we now take action to assume responsibility for the remediation and management of the former Defence sites, but it must be the right sort of action, not some half-baked legislation that fails to reassure people that the harbour will be looked after and preserved in a state that everyone can access and enjoy.

During the 1998 election campaign, the current government said that it was committed to preserving the harbour foreshore for future generations. The government announced that the Department of Defence would be relocated from certain sites around the harbour and that, when that happened, the government would establish a trust to assume management and planning responsibilities for those sites. Defence has either moved or is in the process of moving from North Head, Middle Head, Georges Heights, Woolwich and Cockatoo Island. The plan is to vest these lands in the trust that is to be established by this bill. That sounds fine until you look at the detail of the bill, particularly as it was first proposed before being amended in the Senate. Despite the rhetoric of the government’s second reading speech and the assurances it contained about the trust, we on the opposition side of the House are not convinced that what is being proposed is adequate. The last thing we need is some inappropriate arrangement for the future care of our harbour—and I emphasise ‘our harbour’. It is not just the government’s harbour; it is everyone’s. It is not just the trust’s harbour; it is everyone’s. It is not just the harbour of the relevant councils and of the people who live on the foreshores; the harbour belongs to all of Sydney and to all of Australia. Any decisions made about it should be in the interest of future generations as well as the current generation. The harbour should, as far as possible, be preserved
in its natural state for future generations to enjoy.

In preparing this speech, I read the evidence given by Tom Uren, a former colleague of mine and a former minister with responsibility for heritage matters, to the Senate committee looking at this legislation in March. He has a great love for the harbour and a keen interest in the history of the current legislation. As he told the committee, the harbour is ‘the cradle of our nation’. He went on to tell the committee:

... by accident we have the opportunity of retaining land which is precious to the people.

He said that the legislation in its draft form—that is, back in March before the opposition made a number of amendments to the legislation in the Senate—appeared to be:

... a devious and deceptive document. The purpose of the trust established is not stated. It does not specifically nominate the trust lands. The trust can sell land. It can exempt the trust, trust lands, any sale or leases, or anything undertaken by the trust from state laws. There is no provision to preserve Sydney Harbour foreshore lands. It also gives excessive power to the existing federal minister.

Those are the words of former minister Uren. The criticisms go on. Tom Uren made an impassioned plea for true bipartisanship on this issue. He said that it should not be a political issue; it should be a matter on which decision makers can sit down together and, to use Tom’s words:

... work together in the spirit of cooperation and in the interests of the Australian people, in a visionary way, as set down by the 1979 Fraser-Wran agreement.

For the benefit of the House, I should explain that in 1979 Prime Minister Fraser and Premier Wran in partnership reached an agreement whereby they made available all the land on Dobroyd Point, all the land around the foreshores of North Head—with the exception of the artillery site—all the land around the foreshores of South Head and all the land around Middle Head from HMAS Penguin to Chowder Bay. Make no doubt about it: the legislation desired by this government will not stop pockets of this land being sold off at some time. It will not ensure that the land will be kept as a national park. Bit by bit, it will be sold off if that is what the government decides it wants to do. Indeed, there is land at Georges Heights which seems to be earmarked for sale at present. One might say, ‘Why not sell some of that land? It does not really add much to the park.’ However, as is the wont of people who buy land, they might build single storey houses on it but are more likely to build two-storey houses. The one thing that seems to be the religion of Sydneysiders is real estate value, and the one thing that adds massive value to real estate in Sydney is harbour views. With the Georges Heights land at present, if you build a single storey house, you do not have harbour views; but if you build a two-storey house or a second-storey extension you do. That will be great for the people who live in them, but the people who then look at the Georges Heights headland will not see the foreshore, the eucalypts and the bushland; rather, they will see a crowd of houses. Surely that would be a desecration of what we want to do and what we want to see happen to the harbour. The government seems to be keeping its options open on the former Defence sites around Sydney Harbour. It seems to be making it hard for the trust, because it is not giving the trust any money and the trust has to generate its own income. For some people, the easiest way to generate that income will be to sell off the land.

The bill pays lip-service to the 1998 election commitment made by the Prime Minister, but it is vague on a lot of the detail. The trust is to take on planning and management responsibilities for approximately 10 years over a number of former Defence properties on the harbour and over the foreshore and islands within the harbour. But what is to happen after 10 years? Why approximately 10 years? While the trust is initially to be funded from the Federation Fund, as I said earlier, it is not clear how it will be funded into the future.

I note there is provision in the bill for the trust to have the capacity to sell land and thereby raise funds. That is disturbing, for the reasons I outlined before. It is all very well for the minister in the Senate and for other members of the government to try to
reassure people that the areas in question will be maintained as community assets. But so long as there are unresolved questions about funding requirements and references to a need for a sustainable financial base for the trust, we are all going to be suspicious about the trust and the role that the Commonwealth government, through the minister, is going to play. As the Bills Digest which was circulated to members says:

One of the Trust’s more challenging tasks will be to reconcile possible perceptions of competition between ‘preserving the amenity’ and ‘maximising public access objectives’ on the one hand and establishing a ‘sustainable financial base’ on the other.

It seems like an impossible juggling exercise to me, but there is a clue as to how this might be handled. The explanatory memorandum, in relation to the power to dispose of trust land, contains what the Bills Digest describes as a ‘rather cryptic statement’. The explanatory memorandum is the government’s view on how this legislation should operate. It says:

While much of the land will ultimately be transferred to New South Wales, some land may be identified in the management planning process as unsuitable for park or community use, and sold.

There’s the rub: ‘and sold’. That is what makes those of us who really care about Sydney Harbour worried. As I said earlier, I think the first piece of land that will be identified to be sold is the land at the back of Georges Heights. How is this management planning process going to work? Who is going to make the decisions and what is going to determine the circumstances in which they have to make these decisions? Already there has been some discussion about some residential sites—the Georges Heights site—which abut the foreshore areas and were once used to accommodate defence personnel. It is prime real estate, but what will happen when the land is sold? Should it go on the market for the rich and privileged who will jostle to pay exorbitant amounts of money to acquire that real estate and lock it away from people who might want to enjoy it? Each time more funds are required to maintain the ‘sustainable financial base’ of the trust, a little bit more will be sold. Who or what will draw the line between what is stated in the explanatory memorandum as land which is unsuitable for park or community use and land which is suitable for park or community use. I fear that it will come down to political expediency and to what is considered able to be gotten away with at the time. Every time land is sold, it will become easier to sell more the next time that funds are required. Soon there may be nothing left.

Already in this proposal to hand over a lot of this defence land, we have seen other areas sold off which could have become part of the Sydney Harbour foreshore and available for people. Some of the more desirable residential sites in the eastern suburbs have been sold off. Some magnificent houses that were owned by Defence have been sold. In my opinion, there is great uncertainty about the trust and its activities as proposed in this legislation. It just does not seem right. It lacks something and that is why I am concerned. I am afraid that we may lose some of the amenity of our harbour when we actually have a great opportunity to extend its amenity. The Sydney Harbour National Park should include all the former defence sites. Transfer of these sites to the New South Wales government for inclusion in the Sydney Harbour National Park should be undertaken as soon as any contamination on the sites has been remediated and disused buildings removed. There should not be any shillyshallying or dithering and there should be clarity of intention, not this half-baked legislation which leaves more questions open than answered. People want reassurance that this land will ultimately be turned over to the New South Wales government national parks so that it will be safe and kept forever in public hands.

There are a lot of amendments which have been proposed by the opposition and there are some by the government. A number of those proposals have not as yet been resolved. I would think that, when this House passes this legislation—today or tomorrow—and sends it back to the Senate, the government should not look to push it through the Senate in the next couple of days before the Senate gets up on Thursday or Friday. There should be time to reconsider these issues over the break and the Prime Minister and
the government should consider what is best for the amenity of future generations of people who live around Sydney and for people who use the harbour. I do not think another few months delay will make any difference. After all, we have all been waiting 50 years to have access to these sites. As I said at the beginning of my speech, I remember as a young boy playing in harbour foreshore parks adjacent to military sites. We have since seen parts of them handed over and parts of Commonwealth land handed over. I used to go fishing with my father at Drummoyn and sometimes we used to go to Abbotsford and have a great fish off the rocks at the Quarantine Park in the electorate of my colleague the member for Lowe. I was down there last weekend. That park has been handed over and it is a great community asset.

The rest of the defence and government land around the harbour should be handed over for preservation for the people, not to some trust which will have the capacity to grant long leases and to sell land. Nearly as worrying is the suggestion by some people that the trust should grant leases for 20 years and things like that. If you start granting leases, sometimes people have a capacity to get them extended more and more. If you give people that sort of money, they will build buildings rather than what might be temporary cafes. There is no doubt that some of the sites like Cockatoo Island need refurbishment and more significant infrastructure and you would have to give people financial certainty. Indeed, if the government ever handed over Garden Island to the foreshore parks, there would be a need for financial certainty for the clean-up of that island.

It should be in the forefront of people’s minds that, through an accident of history, the Department of Defence and Commonwealth bodies got control of vast tracts of land on the harbour foreshores. We should not lose the opportunity we have to maintain that now and to keep the harbour the beautiful jewel that it is in the crown of Sydney. If we allow this trust to be set up in its current state, we put some of that in jeopardy. If you sell just a quarter of a hectare of land, you never get it back, and every time you sell one piece it makes it easier to sell another piece. Sooner or later, there is very little of it left and you despoil the view, and then people say, ‘Oh well, it doesn’t look all that terrific anyway.’ So there are more questions to be answered about this. We should send it back to the Senate and have it set aside over there for a few months for further discussions. Hopefully, the government will see the sense of the things that Tom Uren has said in the submission he made to the Senate committee. Over the summer, the Prime Minister might have the chance to look out on the harbour from the veranda at Kirribilli and realise that he should stick to what he said in his last election campaign. (Time expired)

Mr MURPHY (Lowe) (12.16 p.m.)—I rise today to join my colleagues the member for Watson and the member for Sydney—and I notice that the member for Blaxland is waiting in the wings—to speak on the Sydney Harbour Federation Trust Bill 2000. I must congratulate the member for Watson and the member for Sydney on their very erudite contributions to this debate. I have grave concerns about the Sydney Harbour Federation Trust Bill. I seek to expose the Prime Minister’s opportunistic promise and the end result: a bill which is contrary to the public interest and misleading to the Australian community—in particular, to my constituents in Lowe, which the member for Watson just referred to.

I would note that, in the other chamber, the opposition has moved 99 amendments to this bill because, as far as planning and managing for the future of these heritage sites in Sydney goes, the bill is badly botched. I would further note that, just yesterday, at 11 a.m., the government gave the opposition a copy of its amendments to the bill—23 pages of them and, additionally, a nine-page explanatory memorandum. This has given the opposition no time at all to consult properly or widely with the stakeholders or to consider each amendment in full. In short, we have been ambushed, and this a disgrace.

Some of the government’s amendments pick up on what we have been saying over the past year, but some clearly do not go far enough. However, I will reserve judgment on these amendments until such time as I have
had the opportunity to study them fully, particularly on behalf of my constituents in Lowe, where there is significant foreshore land, some of it Defence land. Before I voice my concerns, I would like to mention the bill’s main purpose. According to the Bills Digest, that purpose is to establish a trust which has responsibility for planning and management over a number of former Defence properties on the Sydney Harbour foreshore and islands for the next 10 years. The purpose of the bill should be to establish a trust which oversees the transfer of ownership of several foreshore sites and islands to the Sydney Harbour National Park and, therefore, to all Australians. That is clearly in the public interest.

This bill is extremely relevant for my electorate of Lowe, which has its northern border along the foreshore of Dobroyd Point, Haberfield, Rodd Point, Birkenhead Point, Drummoyne, Chiswick, Russell Lea, Abbotsford—where Quarantine Park is, which the member for Watson just referred to—and Wareemba, Five Dock, Hen and Chicken Bay, Canada Bay, Cabarita, Mortlake, Concord West and Rhodes. This is all foreshore land. Further, Lowe boasts one of the longest foreshores in Sydney. My electorate also includes the main island that is directly affected by this bill, Cockatoo Island, which was a former naval base and industrial centre and which is neighboured by Spectacle Island and Snapper Island, among others.

In the 1998 federal election, the government committed itself to returning Sydney Harbour foreshore Defence sites to Australians and to protect the national and heritage values by providing $90 million from the Federation Fund to assist the Department of Defence in relocating from those sites, removing remaining buildings and cleaning up contaminated areas, particularly on Cockatoo Island in my electorate of Lowe. Under the bill, the trust has the power to do all the things necessary or convenient to be done for or in connection with the performance of its functions, and the trust’s powers include—but are not limited to—negotiating with Commonwealth, state and local government bodies; acquiring, holding and selling real and personal property; making agreements with New South Wales; accepting gifts, grants and bequests made to the trust; entering into contracts and agreements; forming or participating in the formation of companies; and raising money by borrowing or otherwise.

One of my main concerns is that, under this bill, the trust has the capacity to sell the land. I was contacted last year by the Friends of Cockatoo Island, who were extremely upset about the prospect of the land being flogged off to developers to fund the trust in future years. The Minister for the Environment and Heritage has the exclusive discretion on the sale of land and is also able to make commercial leasing arrangements beyond the 10-year existence of the trust. This is disgraceful. It is also the view of many of my constituents that the future of Cockatoo Island and other parts of the foreshore should not be decided by a stroke of the pen of the minister, with no opportunity for appeal. The land should be sold for non-commercial use only and the sale should be subject to parliamentary disallowance. I am even more concerned by the fact that, according to the Bills Digest, it is only parts of Woolwich and Cockatoo Island that are subject to sale, the government saying:

... it is our intention that the ultimate ownership of these sites will be determined on the basis of the best outcome in maintaining these sites as community assets ...

Surely this is code for the unscrupulous to manipulate circumstances so the developers win the day at the expense of the citizens of Sydney, especially my constituents in Lowe. I fully support opposition amendment No. 17, which says:

(3) The Trust has no power to sell or transfer an interest in Trust land otherwise than to New South Wales in accordance with the objects, functions and powers of the Trust.

(4) The Trust has no power to enter into leases or licence agreements ...

But it can enter them in relation to ‘Commonwealth, New South Wales, local government bodies and other bodies’. This is a sensible amendment. I think anything that ensures that these lands remain in public hands or are transferred to the Sydney Harbour National Park as promised should be
supported by all members of this House in the interests of all Australians.

Further, the bill indicates that the land is exempted from New South Wales state planning and environmental protection legislation—laws which should be mandatory to ensure that the sites covered by this bill are cared for in an appropriate manner. It is not by careful management that these sites have survived but through sheer good luck. Let us make no mistake about that. This is an important issue given that, in recent years, the New South Wales government has changed its approach to planning and management of the Sydney Harbour foreshore to a more coordinated approach with the establishment of the Sydney Harbour Foreshore Authority, which concentrates on land management and state environmental planning policy No. 56, Sydney Harbour Foreshores and Tributaries, which is a planning instrument and provides that the New South Wales Minister for Urban Affairs and Planning is the sole consent authority for 14 sites of 'state significance', which include Cockatoo Island, Garden Island and other sites covered by this bill. With transfers to the Sydney Harbour National Park supposed to take place over the next 10 years, it would be prudent to allow these sites to be covered under state legislation to ensure adequate environmental protection.

I would like to now turn to another issue of concern, and that is trust membership. At present, the minister will be able to appoint four of six members. I call for two positions to be nominated by the Commonwealth government, one local government representative and one community representative, as well as two representatives from the New South Wales government. This will ensure broader representation from the community and increased accountability to all Australians, because there will be no political appointments. Under the amendments the opposition received, the government further plans to water down any effective representation from the New South Wales government by increasing the trust membership to seven members. This should not be allowed to happen. I certainly think that the opposition amendments concerning the membership of the trust are extremely important to ensure accountability of the membership to parliament. As set down in the opposition amendment, the terms ensure that members of the trust do not engage in paid employment which may conflict with the performance of the member's duties. The amendments also allow proper remuneration and a leave of absence if required.

The legislation we are debating this afternoon allows the minister to ignore due process. The financial management of the trust is not accountable through parliament. The bill allows for sole ministerial discretion in the sale of these lands and makes no guarantees that the land will remain in public ownership. Quite frankly, the bill is a joke. The government has absolutely no grounds on which to tell the citizens of Lowe, the citizens of Sydney and the citizens of Australia that it has kept its promises in relation to protecting Sydney's foreshore. In this bill, the government has failed to keep its commitment to protect the foreshore and return it to the Sydney Harbour National Park as it promised it would do in 1998. I strongly support the opposition amendments, which work to ensure that these foreshores and islands are treated in the proper manner—that is, preserved and conserved for the generations of future Australians who will come after us—and work to ensure that this land is a gift to all Australians and that these foreshores and islands become widely accessible to the public.

When the member for Watson made reference to Tom Uren and to Quarantine Park, I was thinking of a wonderful experience that I had in 1995 when Tom Uren made a visit to the Drummoyne local government area and we had a public meeting in Quarantine Park on this very subject. It was during my campaign when I was a team leader for the ALP in the Drummoyne local government elections, and Tom impressed on everyone the importance of preserving foreshore and public land. Quite plainly, Tom Uren is one of the great heroes in Australia. He is a man who commands enormous respect because he has served his country in many ways. During the Second World War, as a prisoner of war of the Japanese in Changi and on the Burma railway, he served this country with distinc-
tion. He served this country with distinction in this parliament, always defending the public interest and always defending ordinary Australians—the very people whom we on this side of the House endeavour to represent. Tom Uren came out to Quarantine Park in August 1995 and he joined me; the former member for Lowe, Michael Maher; the member for Drummoyne, John Murray, who was later the Speaker of the New South Wales parliament; and Councillor Angelo Tsirekas, who was a candidate in those days. Tom was very well received. I am very proud to have one of the longest lengths of foreshore in my electorate of Lowe, covering all those areas that I referred to earlier in my speech.

When I was on Drummoyne Council, we promoted the foreshores to the public. One thing that I initiated was the introduction of concerts in the park in the summer, which have become a great success in the Drummoyne local government area. I dare say that, with the recent amalgamation of the Drummoyne and Concord councils, we will now, without a doubt, have the most beautiful parks and foreshores west of the Gladesville Bridge. Quite plainly, not only for the benefit of the citizens and families of Lowe, those foreshores should be held in public ownership for ever and a day.

Members of the trust should not be contemplating flogging off that land in the interests of some small, short-term financial gain. Those foreshores have to be protected for ever and a day for our children, our children’s children and our children’s children’s children. We cannot allow that foreshore to be flogged off or to be put into the hands of developers—under no circumstances. The member for Watson posed the question, in effect, as to whether this Defence land should go to the market for the benefit of the rich and powerful. Quite obviously no-one in this House can possibly defend an answer other than no, because obviously the rich and powerful, the privileged in this country, can buy foreshore and have exclusive access to foreshore and thus deny ordinary families—not only from my electorate, not only from Sydney but from anywhere in Australia—access to the beautiful foreshores around Sydney to enjoy a picnic and the wonderful environment that those foreshores provide.

As I said earlier, I believe that we have been ambushed by the government with this extraordinary number of amendments. We were only given notice of these amendments yesterday at about 11 o’clock. The amendments represent substantial changes to the legislation. As I said, there are something like 23 pages of amendments and I think nine pages of explanatory memorandum. We will be reserving our position on the amendments until we have had the opportunity to consider fully the implications of the amendments and until we have had the opportunity to properly consult with all those who have an interest in our foreshores. In concluding, as I said before, I will continue to reserve judgment on the government amendments until the opposition has had a chance to examine them carefully. I ask the government to reconsider their position in relation to what they are proposing, in the public interest, in the interests of the citizens of Sydney and in the interests of all Australian citizens.

Mr HATTON (Blaxland) (12.32 p.m.)—This is the Sydney Harbour Federation Trust Bill 2000. The bill has three different elements: firstly, Sydney Harbour and its future and its place relative to the lands that are expected to become part of the Sydney Harbour National Park; secondly, the Federation aspect in terms of the funding of this proposal; and, thirdly, there is the question of trust in terms of setting up an entity to manage the process of converting Commonwealth lands, particularly Defence lands, to state government ownership as part of the Sydney Harbour National Park or otherwise. There is also an element regarding the trust to be put in this bill, and in that regard we find this bill enormously wanting. The second element I mentioned refers to this being part of the Centenary of Federation process. Next year we will be celebrating 100 years of Australian Federation. Next year we will enter the 21st century and the third millennium. Those three conjoint things to be found in this bill are part of the process of making Sydney Harbour National Park
something greater than it has been in the 20th century and something for all future generations.

When this bill first came before us a key question was the fact that the moneys would have to come from the Federation Trust. In fact, a total of $96 million has been allocated. Fifty million dollars is for the Department of Defence to refurbish and renew this land through rehabilitation and remediation to bring it back to a state that is acceptable for a national park. That $50 million goes to outlying areas—North Head, part of South Head and the Middle Harbour areas—so an allocation has been made in that regard. A further $6 million has been made available to remediate the very front part of Garden Island and to allow public access. I note that the first part of this process has already been achieved with the opening up of the land at Garden Island. The third aspect is the provision of $40 million for the remediation of Cockatoo Island. I note there is no provision for Snapper Island included in this. As to the question of how that money should be allocated, Labor argued when this bill first came before the House that the $50 million should not be coming from the Federation Trust, that that money should be directed to other major, long-term projects. Why? Because centrally this is Department of Defence land, so the remediation is really the responsibility of the Department of Defence. Instead of Federation funds going towards this, the funds should come from the Defence portfolio. In terms of responsibility, at present no Commonwealth department or agency is bound to pay for remediation work. There is no whole of government policy in this regard. But, in the government’s proposed National Commission of Audit, they have worked through and accepted most of the proposals given that the bottom line is that the Commonwealth should provide no direct services to any single person in Australia. Certainly that has been carried through in most of their legislation since the report. In fact, the report said that there should be a whole of government approach regarding remediation of Commonwealth lands. If we take that key assumption and argument, then the Department of Defence should take the responsibility for the remediation work and the $50 million allocated should go to other Federation Fund projects. However, that is not to be the case.

The first element of this bill deals with Sydney Harbour, and here we are faced with a giant disjunction. Those of us who are privileged to live in Sydney are privileged to live close to what is, without doubt, the greatest harbour on the planet. It is not only those of us who live near the harbour who are privileged; the whole nation is privileged that the harbour is the birthplace of the country. What we have done, what we currently are doing and what we will do with that harbour is of enormous significance. Given the first defoliation of the harbour after our ancestors arrived here and the changed use of the harbour since, we have to deal with the impact of human use on the harbour. Despite the fact that Sydney Harbour is the greatest harbour in the world, we see extremely poorly designed, man-made constructions, cobbled together, which detract from the sheer shining magnificence of the natural harbour itself.

_Reflections on a Maritime City: An Appreciation of the Trust Lands on Sydney Harbour_ is the first publication of the Interim Sydney Harbour Federation trust. It points out that it is not only the defence lands that will become available under this bill and not only the estuarine lands—Cockatoo Island, Snapper Island and the dockyard at Woolwich which has facilities for work on ships—that one needs to take note of. It points out that one is not dealing with only those two elements; one needs to take note of all the waterways of Sydney Harbour because they are centrally important. The state government have realised that because of the work that they have done on state foreshores and because they have linked together what they have previously done in a management plan for all Sydney’s foreshores. This bill should be providing us with the confidence to trust that, when the Department of Defence lands situated on the greatest natural feature of Sydney eventually are handed over to the state government to become part of the Sydney Harbour National Park, it will be done in an appropriate way. It should be done in such a way as to ensure not just an
amenity for the community of Sydney and
access for the people of Sydney, but so that
Sydney Harbour National Park becomes a
greater thing than it already is. It should be
done in a way which does not compromise
the value of the Sydney Harbour National
Park.

I do not think, though, that we can trust
that that will be the case, given the manner in
which the bill was put before the parliament
in the first place, given the manner in which
the government attempted to rush the bill
through this chamber and the Senate and
given the government’s determination to take
very little account of the views of the pub-
lic—the public being the people who made
representations through the state govern-
ment, local councils or interest groups con-
cerned about Sydney Harbour and the devel-
opment of the national park. At every step of
the way the government have been deter-
mined to do two things: (1) take as little no-
tice as possible of the input from those peo-
ple who had criticisms, including the oppo-
sition and the Democrats; and (2) keep a
tight rein on what is a fundamentally flawed
bill. The contents of this bill negate what the
Prime Minister announced as being the in-
tentions of the bill: to add to the amenity for
Sydney’s people and to create a greater Syd-
ney Harbour National Park by transferring
ownership of these lands to the state gov-
ernment over an 18-year period.

This bill is a travesty of what the Prime
Minister promised. This is not unusual. Time
and time again, particularly in environmental
areas, promises have changed to core prom-
ises or non-core promises to window-dress
what the government propose to do to hide
the underlying reality. Many comments made
to the Senate committee dealt with these
matters. If you look at the government’s ex-
planatory memorandum and the legislative
brief from the Department of the Parliamen-
tary Library, you will see that there is a giant
disjunction between the possibilities, the
promises and the probable realities if this bill
either passes unamended or passes with gov-
ernment amendments that the opposition
have not yet had time to look at. This bill has
come back to us from the Senate with an
enormous list of amendments made by the
Labor Party and the Democrats. I will go to
some of those in a little while. The bill had to
be heavily amended when the government
put it before us because it is a bill which
simply does not come up to the mark. We
believe that was part of the government’s
design. Our concerns go to two key areas. In
his final comments the member for Watson
dealt with the question of the conjunction of
the explanatory memorandum and what this
government really are up to. The member for
Watson referred to the Bills Digest from the
Department of the Parliamentary Library and
its concluding comments on commercial ac-
tivities and public access to trust land.
Firstly, I want to reinforce the quote that the
member for Watson used about the intentions
outlined in the explanatory memorandum.
The Bills Digest says:
... in relation to the power to dispose of trust land,
the explanatory memorandum contains the rather
cryptic statement that
[while much of the land will [ultimately] be
transferred to NSW, the same land may be identi-
fied in the management planning process as un-
suitable for park or community use, and sold.
The member for Watson went on to make the
point that the agenda is to sell off land bit by
bit. He said that, because of the need for the
trust to take in money, over time we will lose
an increasingly greater part of lands which
should go to the Sydney Harbour National
Park.

The second point that the legislative brief
makes is on borrowings. The shadow minis-
ter for finance, who is in the chamber, under-
stands how borrowings impact on Common-
wealth departments, trusts, corporations or
agencies. The legislative brief makes this
very clear. It states:
The Bill also provides that the Trust may borrow
money from either the Commonwealth or other
sources and, in doing so, it may put Trust land up
for collateral.

What trust land? The trust land that is at the
core of this legislation. The trust land that
covers Georges Heights, the trust land that
covers the Middle Harbour properties, the
trust land that covers North Head, the trust
land that covers part of South Head, the trust
land that covers Cockatoo Island, the trust
land that covers Snapper Island and the trust
land that covers the Woolwich dockyard.
The trust can seek to raise money from either
the Commonwealth or someone else. If you
put up for collateral the land that this bill
proposes to transfer from the Commonwealth
to the state government to form the Sydney
Harbour National Park, it is to be expected
that people will want something for it, and
the brief, as usual, is excellent in this regard.
It states:
Presumably this is to provide the Trust with
greater flexibility in managing its financial af-
fairs.
This bill demands that the trust raise its own
money, that it be self-funding and that it find
ways to go beyond the $96 million, which is
basically for remediation, to fund the whole
process, because the bill provides no long-
term funding whatsoever for the real costs of
the transfer of these lands. The brief says:
... presumably Trust land would only be attractive
as collateral to a private sector financier if the
land could be built upon or otherwise redeveloped
to provide a commercial return.
Once that is done, the legal process inevita-
bly follows. Once the land that is to be
handed over to the Sydney Harbour National
Park is tied up in a 10-year lease or a 20-year
lease and the trust is dependent on income
from those leases, then those people will
have a right to take the trust, as a Common-
wealth entity, to court and argue that their
use of the land should continue, that those
leases should be maintained or extended and
that the lands should not be transferred.
Another part of that agenda is that the
only way the government thinks you can pay
for all of this in reality is to flog off a good
part of the land. In the bill and the explana-
tory memorandum, it is evident that there is
very little intention to maintain most of
Cockatoo Island, Snapper Island and the
Woolwich dockyard—those estuarine parts
of this—for public use. If the remediation
work is done at Cockatoo Island, Snapper
Island and Woolwich, then, because of their
lower value as estuarine environments and
because of the massive problem of what is
already there, it is best to sell off parts of
them in order to pay for the rest.

The trust has produced Reflections on a
Maritime City and I want to look at one bit
of that entitled ‘An appreciation’. This was
the first appreciation produced by the trust of
what is supposed to be achieved; it is their
thoughts of what should happen and what
might happen and its language is as stun-
ningly beautiful as the harbour itself. There
is an entire disjunction between this appre-
ciation and what is proposed in this rotten,
fettered bill, which is fundamentally flawed
because it does not do what the appreciation
says. This appreciation has a sense of North
Head and South Head, and of the harbour, as
a great refuge for the people of Sydney, as a
gateway to the city and as an area which
needs to be expanded and protected at a cost.

But what becomes clear from the rest of
the appreciation is this: they have two fund-
damental bases upon which to assess how the
land should be developed. The first is the
basic foreshore lands, those in contact with
the water where commercial activities have
traditionally taken place. That is the case all
around the harbour. They then go to another
level, where they say that the heights of
those Defence lands, because they have ap-
parently not had habitation there, obviously
should be protected, but one way in which
the trust may be forced to do that is to flog
off or commercialise those areas closer to the
foreshore. So despite the brilliance, clarity,
precision and beauty of the language, the
steel dagger in the spine of the trust is pro-
vided by this government bill. This govern-
ment bill is fundamentally flawed because
the government intends for it to be funda-
mentally flawed. The government does not
want to cough up the amount of money it
would take to fully remediate those lands and
to pass them back to the state government of
New South Wales for their full incorporation,
if it happens prior to 10 years, as part of the
Sydney Harbour National Park.

The Labor Party produced a minority re-
port to the Senate Environment, Communi-
cations, Information Technology and the Arts
Committee report, which went to a vast se-
ries of inadequacies. The most important is
that the bill does not identify that the key
object of the act is to establish a trust to fa-
cilitate the transfer of ownership and man-
agement of the land to the Sydney Harbour
National Park. If this bill were supposed to
be about anything, you would think it would be about that, but it is only about that because of Labor amendments in the Senate. The report also said that the land to which the bill applies is not clearly defined and nor is its tenure status. The government intends that to be the case because this is a window-dressing exercise and because the real intent is to pay for it by flogging off key parts of the lands to be handed over. A whole series of other Labor amendments have been put, and the government has had plenty of time to consider them. The bill has come back renewed and reinvigorated and actually made reasonably worthy because of those amendments. I say to the government: agree to those today or lay on the table those amendments that you put forward so hastily and provide time to deal with them later.

Mr HORNE (Paterson) (12.52 p.m.)—I rise to speak on the Sydney Harbour Federation Trust Bill 2000 and to support my colleagues on this side of the House and to fully support the attitude that they have expressed today. We are talking about a variety of parcels of land that have certainly maintained the unique nature of Sydney Harbour. That land makes it one of the most beautiful harbours in the world, and that land should be inviolate. This legislation has to ensure that that land essentially maintains the status and the scenic beauty that it has now. If there is a flaw in the legislation that may not guarantee that, then it needs to be rectified.

Not being a Sydneysider, I did not seek to participate in this debate today simply to debate the beauty of Sydney. I draw to the attention of the House the fact that this government has double standards about the way it deals with former Defence land. I talk about Defence land in my own electorate of Paterson, and there is a considerable amount of Defence land in that area. There is land at Maitland that the Maitland City Council were not only forced to buy but then had to spend in excess of $20,000 to rehabilitate because it was used during the Second World War as a munitions range and since an adjacent weapons testing range. Defence’s attitude and the government’s attitude to that particular parcel of land, which is also a significant parcel of land between the Hunter River and the Stockton Bight, is that if the local government authority wants it, if Port Stephens Council wants it, not only will they have to buy it but they will also have to pay for the rehabilitation.

These are parcels of land that have been used for training Australia’s Defence personnel. I do not believe that they should be seen as a means for this government or any other government of Australia to capitalise on now it is perceived that their usefulness for defence purposes is nonexistent. I simply ask the minister at the table, Minister Abbott, and the Minister for Defence that when they go to cabinet they say, ‘Let’s deal with all redundant Defence land in the same way.’ I have no doubt that Australia will benefit from the Defence land on Sydney Harbour being made part of a national park and being preserved for all future generations of Australians. I have no doubt that there are other parcels of Defence land throughout Australia where Australia would also benefit if that land were treated similarly. Unfortunately, under this government, that is not happening and once that land is sold, once it is redeveloped, it is lost to the people of Australia forever.

Mr ABBOTT (Warringah—Minister for Employment Services) (12.56 p.m.)—Before I sum up the second reading debate, I present a revised explanatory memorandum. I thank my colleague the Parliamentary Secretary to the Minister for the Environment and Heritage for permitting me to substitute for her in this very important debate on this very important bill, the Sydney Harbour Federation Trust Bill 2000, not just for the people of Sydney, not just for the people of Australia but particularly for the people of my electorate, which contains some of the most significant sites dealt with in this bill.

As members on both sides of this House have pointed out, Sydney Harbour is one of our most magnificent natural treasures. It is literally the gateway to Australia. The first sight that so many people over so many
years have had of Australia is Sydney Heads. The last sight that some people sadly have had of Australia in two world wars is Sydney Heads. If you look at North Head, Middle Head, Bradley’s Head and Dobroyd Point, you will see that even today they are much the same as they were when Governor Phillip first entered Sydney Harbour more than 200 years ago thanks, perhaps, to inadvertently escaping developers, to the ruggedness of the terrain and also, most fundamentally, to the stewardship over the years of the Department of Defence. If you believe, as I do, that what makes Sydney special is the bush and the water, these sites dealt with in this bill combine both: they are gems of natural bush situated on the shining sea of Sydney Harbour. They are almost the sacred sites of the people of Sydney, and it is very important that we protect them and hand them on unblemished to our successors.

Five years ago, in answer to a question on notice from me, the then Minister for Defence, Senator Robert Ray, said that when these sites were no longer necessary for the defence of Sydney they would, in the ordinary course of government policy, be sold on the open market for the best possible price. That began a great campaign to save these sites, a campaign which is now coming to fruition. I am very proud to be part of a government which wants to leave a legacy which will be greater than Centennial Park and greater than Bicentennial Park, which will ultimately be one of the greatest national parks in the world. It will be a permanent legacy to the nation. It will be this generation’s permanent gift to future generations of Australians.

The bill, as amended, now before this House is a splendid bill. I want to thank the councils and the community groups which have helped us to get to this position. I want particularly to thank Mosman and Manly councils in my electorate. I should give special praise and mention to the Headland Preservation Group based in Mosman in my electorate, whose current president, Don Goodsir, is also an active member of the Balmoral branch of the Liberal Party. I should also thank the opposition parties in this place and in the Senate, whose constructive suggestions have largely been incorporated into the bill, as amended. We are all conservationists today. There is not one party or one person in this House in any party who does not want to leave our part of God’s earth in a better state than we found it for our successors to enjoy.

If I could briefly address some of the specific issues which have been raised by members opposite in the course of this debate, the first quibble—I need describe it as no more than that—which has been raised is that this land will not be subject to state planning laws. I have considerable respect for the New South Wales Premier’s environmental record, but there are still some blemishes which I am sure Premier Carr is not too proud of. I cannot help but recall that, on the very day the East Circular Quay planning shemozzle was announced to the public, the Premier chose to take his representatives off the former plan of management steering committee for Middle Head.

I do not believe that it is necessary for state planning laws to cover this land. I think that we have enough law as it is. I think that the provisions of this act will provide more than enough law for the trust to do its job. Applying yet another level of law to this land would not be a recipe for creativity but a recipe for confusion and indecision, and it should not happen.

I do not believe that all of the land dealt with in this bill should ultimately be destined for the Sydney Harbour National Park. Of course, that should be the destination for most of the land, but there may well be some sites dealt with in this bill that are more appropriately dealt with in other ways. I do not believe that the hands of the trust should be shackled in any such way. Finally, let me point out on this matter that there will be two state representatives on the trust. They will be there to ensure that the general objectives of state planning regulation are maintained in the conduct of the trust.

The next point that has been made by members opposite is that land can still be sold under the amended bill. I point out that that is only if it is included in schedule 2 to the amended act. The only land which is currently in schedule 2 of the amended act—the
only land that can ever be in schedule 2 of the amended act without a further act of this parliament—is Markham Close on Georges Heights. It is a small street of unremarkable and undistinguished homes, which is putting it mildly, although obviously some very distinguished members of the Defence Forces have lived in them. I want to make the point that that is the only portion of the trust lands which is in schedule 2. I should also point out to the House that no long leases can be granted over any of the land or sites dealt with in the bill without the matter being a disallowable instrument before this parliament.

The third basic point made by members opposite was that not enough money has been set aside for the purposes of the trust. The trust has already been given some $7 million to plan and begin remediation work. This is a significant amount of money. Certainly, it is all that the trust has so far asked for. I am pleased to see that the trust is making such good use of the resources which the federal government has so far given it. There has also been some quibbling from members opposite and others over the last couple of years that funding for this project should not come from the Federation funds but should come from the Department of Defence. This is nitpicking. It is the sort of shallow point scoring which too often demeans debates in this House. The fact is that the money will be found.

We did not set up this trust to fail. We have not set aside this land as the inheritance of the Australian people to be its vandals. We as a government did not appoint people such as Kevin McCann, a distinguished resident of my electorate, and Justice Barry O’Keefe, who is not only another distinguished resident of my electorate but the President of the National Trust, to this trust if we wanted the trust to fail. The trust did not appoint a team headed by one of Australia’s most distinguished conservation architects, Ric Leplastrier, to preside over anything other than the best possible outcome for the people of Sydney and the people of Australia. You can trust the government to do the right thing by this land. You can trust the trust to do the right thing by this land. I commend the bill to the House.

Question resolved in the affirmative.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr ABBOTT (Warringah—Minister for Employment Services) (1.06 p.m.)—by leave—I present a supplementary explanatory memorandum to the bill. I move government amendments Nos 1 to 17:

1. Page 1 (after line 10), after the title, insert:

Preamble

The Parliament intends to conserve and preserve land in the Sydney Harbour region for the benefit of present and future generations of Australians. The land is being vacated by the Department of Defence and includes land at North Head, Middle Head, Georges Heights, Woolwich and Cockatoo Island. Suitable land with significant environmental and heritage values will be returned to the people of Australia.

The Parliament intends to establish the Sydney Harbour Federation Trust as a transitional body to manage the land and facilitate its return in good order. The Trust will transfer suitable land to New South Wales for inclusion in the national parks and reserves system.

2. Clause 2A, page 2 (lines 5 to 19), to be opposed.

3. Clause 3, page 2 (line 20) to page 4 (line 19), omit the clause, substitute:

3 Definitions

In this Act, unless the contrary intention appears:

affected council means a council, established under the Local Government Act 1993 of New South Wales, of the area in which:

(a) land mentioned in Schedule 1 or 2;

(b) any other Trust land;

is situated.

Chair means the Chair of the Trust.

Commonwealth body includes a Department of State, or authority, of the Commonwealth.
**Commonwealth member** means a member who was appointed by the Minister under section 12, other than on the recommendation of New South Wales.

**Commonwealth place** means a place referred to in paragraph 52(i) of the Constitution, other than the seat of government.

**Executive Director** means the Executive Director of the Trust.

**Harbour land** means land in the Sydney Harbour region and includes Sydney Harbour’s river systems, catchment area and North and South Head.

**interest**, in relation to land, means:
(a) a legal or equitable estate or interest in the land; or
(b) a right, power or privilege over, or in relation to, the land.

**interim Trust** means the advisory body known as the interim Trust and established by the Commonwealth to commence planning and public consultation in respect of certain Harbour land.

**land** includes buildings and improvements on the land.

**member** includes the Chair.

**plan** means a plan prepared under Part 5 of this Act.

**plan area** means the land covered by a plan under section 27.

**public employee** means a person who is a full-time member, officer or employee of:
(a) the Australian Public Service; or
(b) the Public Service of a State or a Territory; or
(c) an authority of the Commonwealth or a State or a Territory; or
(d) local government.

**public notice** means a notice published:
(a) in the Gazette; and
(b) in a daily newspaper circulating in the Sydney region; and
(c) in a local newspaper circulating in the area concerned.

**repeal time** means the time at which this Act is repealed under section 66.

**suitable person**, in respect of a member, means a person with qualifications or experience relevant to one or more of the following fields:
(a) environmental and heritage conservation;
(b) indigenous culture;
(c) land planning and management;
(d) business management;
and any other field relevant to the Trust’s functions.

**Trust** means the Sydney Harbour Federation Trust established by section 5.

**Trust land** means any land that:
(a) vests in the Trust; and
(b) is held by the Trust from time to time for and on behalf of the Commonwealth; under section 22.

**Trust land site** means:
(a) the sites mentioned in Schedules 1 and 2; or
(b) land specified in a notice published in the Gazette under subsection 21(2).

(4) Part 2, clauses 5 to 9, page 5 (line 2) to page 8 (line 9), omit the Part, substitute:

PART 2—ESTABLISHMENT OF THE TRUST

5 Establishment

(1) The Sydney Harbour Federation Trust is established by this section.

(2) The Trust:
(a) is a body corporate with perpetual succession; and
(b) may have a common seal; and
(c) may sue and be sued in its corporate name.

Note: The Commonwealth Authorities and Companies Act 1997 applies to the Trust. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

(3) All courts, judges and persons acting judicially must:
(a) take notice of the imprint of the common seal of the Trust appearing on a document; and
(b) presume that the document was duly sealed.

6 Objects
The objects of the Trust are the following:
(a) to ensure that management of Trust land contributes to preserving the amenity of the Sydney Harbour region;
(b) to protect, conserve and interpret the environmental and heritage values of Trust land;
(c) to maximise public access to Trust land;
(d) to establish and manage suitable Trust land as a park on behalf of the Commonwealth as the national government;
(e) to co-operate with other Commonwealth bodies that have a connection with any Harbour land in managing that land;
(f) to co-operate with New South Wales and affected councils in furthering the above objects.

7 Functions
The functions of the Trust are the following:
(a) to hold Trust land for and on behalf of the Commonwealth;
(b) to undertake community consultation on the management and conservation of Trust land;
(c) to do the things referred to in section 38A before plans take effect for an area of Trust land;
(d) to develop draft plans in respect of Trust land and any other Harbour land in furthering the objects, and performing other functions, of the Trust;
(e) to rehabilitate, remediate, develop, enhance and manage Trust land, by itself or in co-operation with other institutions or persons, in accordance with the plans;
(f) to make recommendations to the Minister on:
   (i) plans; and
   (ii) the proposed transfer of any Trust land;
(g) to promote appreciation of Trust land, in particular its environmental and heritage values;
(h) to provide services and funding to other Commonwealth bodies in furthering the objects, and performing other functions, of the Trust;
(i) anything incidental to or conducive to the performance of its other functions.

8 Powers
(1) The Trust has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
(2) The Trust’s powers include, but are not limited to, the following powers:
   (a) negotiate with other Commonwealth bodies and with New South Wales and affected councils;
   (b) acquire, hold and dispose of real and personal property;
   (c) enter into agreements with New South Wales and affected councils;
   (d) accept gifts, grants, bequests and devises made to it;
   (e) enter into contracts and agreements;
   (f) form, or participate in the formation of, companies;
   (g) enter into partnerships;
   (h) participate in joint ventures;
   (i) raise money, by borrowing or otherwise, in accordance with section 63.

9 Minister may give directions
(1) The Minister may give written directions to the Trust in relation to the performance of its functions and the exercise of its powers.
(2) The Minister must give the Trust written reasons for the directions.
(3) The Trust must perform its functions and exercise its powers in a manner consistent with any directions given by the Minister under subsection (1).

10 Membership of the Trust
The Trust consists of:
(a) the Chair; and
(b) 6 other members.

11 Invitations to NSW to recommend members
(1) Before initially appointing members to the Trust, the Minister must invite New South Wales to recommend persons to be appointed to 2 membership positions.
(2) If New South Wales does so, then one of the persons recommended must be an elected member of an affected council.
(3) If:
(a) a vacancy arises in the membership of the Trust; and
(b) there are not 2 other membership positions held by persons recommended by New South Wales; then the Minister must invite New South Wales to recommend persons to be appointed to the vacant membership position.
(4) Within 2 months of receiving the invitation, New South Wales may recommend suitable persons. If New South Wales does so, at least one of its 2 membership positions must be held by a person who is an elected member of an affected council.
(5) If New South Wales fails to recommend a person under this section, then the Minister must instead ensure that one of the members he or she appoints is an elected member of an affected council.

12 Appointment of members
(1) The members of the Trust are to be appointed by the Minister by written instrument.
(2) The Minister must not appoint a person as a member unless the Minister is satisfied that the person is a suitable person.
(3) One of the members must, in the Minister’s opinion, represent the interests of indigenous people.
(4) The Minister must not appoint a person as a member if, immediately after the appointment of the person, more than one-half of the members of the Trust would be public employees.
(5) The appointment of a member is not invalid because of a defect or irregularity in connection with the member’s appointment.

13 Terms of office of members
(1) A member is to be appointed on a part-time basis.
(2) A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

14 Acting appointments
(1) The Minister may appoint a member to act as the Chair:
(a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
(b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
(2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
(a) the occasion for the appointment had not arisen; or
(b) there was a defect or irregularity in connection with the appointment; or
(c) the appointment had ceased to have effect; or
(d) the occasion to act had not arisen or had ceased.

15 Additional terms and conditions of appointment of members
A member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

16 Outside employment of members
A member must not engage in any paid employment that, in the Minister’s opinion, conflicts or may conflict with the proper performance of the member’s duties.

17 Remuneration and allowances of members
(1) A member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is
in operation, the member is to be paid the remuneration that is prescribed.

(2) A member is to be paid the allowances that are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

18 Leave of absence

The Chair may grant leave of absence to any other member on the terms and conditions that the Chair determines.

19 Resignation

A member may resign his or her appointment by giving the Minister a written resignation.

20 Termination of appointment of members

(1) The Minister may terminate a member’s appointment for misbehaviour or physical or mental incapacity.

(2) The Minister may terminate a member’s appointment if:
   (a) the member:
      (i) becomes bankrupt; or
      (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
      (iii) compounds with his or her creditors; or
      (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
   (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Trust; or
   (c) the member engages in paid employment that, in the Minister’s opinion, conflicts or could conflict with the proper performance of the duties of his or her office; or
   (d) the member fails, without reasonable excuse, to comply with Subdivision B of Division 4 of Part 3 of the Commonwealth Authorities and Companies Act 1997.

Note: That Subdivision has rules about “directors” disclosing material personal interests.

(3) The Minister must not terminate the appointment of a member appointed on the recommendation of New South Wales without first consulting New South Wales.

(6) Part 4, clauses 22 to 25, page 12 (line 2) to page 13 (line 3), omit the Part, substitute:

PART 4—TRUST LAND

21 Vesting by Minister of land in the Trust

(1) The Minister administering the Naval Defence Act 1910 must, within 4 years of this Act commencing, by notice or notices published in the Gazette, specify that each Trust land site mentioned in Schedules 1 and 2 that is a Commonwealth place is to vest in the Trust in accordance with section 22. A notice may deal with a part only of a Trust land site.

(2) The Minister may, by notice published in the Gazette, specify that a part of any other Harbour land that is a Commonwealth place is to vest in the Trust in accordance with section 22.

(3) The notice must specify the day from which the land is to vest.

22 Vesting of Trust land

(1) From the beginning of the day specified in the notice, all right, title and interest that the Commonwealth holds in the land vests in the Trust without any conveyance, transfer or assignment.

(2) The Trust holds the land for and on behalf of the Commonwealth.

23 Minister may make arrangements

(1) If:
   (a) the Minister specifies land under section 21; and
   (b) immediately before the land vests in the Trust under section 22, the Commonwealth is a party to an agreement or instrument that relates to the land;

then the Minister may specify, in writing, the agreement or instrument for the purposes of this section.

(2) An agreement or instrument specified under this section has effect, after the land vests in the Trust, as if:
   (a) the Trust were substituted for the Commonwealth as a party to the agreement or instrument; and
   (b) any reference in the agreement or instrument to the Commonwealth were (except in relation to matters
that occurred before the land vested) a reference to the Trust.

24 Transfer of Trust land
(1) The Trust must not sell or otherwise transfer the freehold interest of:
   (a) any land mentioned in Schedule 1; or
   (b) land identified in a plan as having significant environmental and heritage values;
   other than to the Commonwealth, New South Wales or an affected council.
(2) If the Trust agrees to sell or otherwise transfer the freehold interest of any Trust land, then the Trust must seek the Minister’s approval, in writing, of:
   (a) the terms and conditions of the agreement; and
   (b) the transferee.

25 Lands Acquisition Act not to apply
Part X of the Lands Acquisition Act 1989 does not apply to the disposal by the Trust of Trust land or an interest in Trust land.

26 Trust to prepare plans
(1) Within 2 years of this Act commencing, the Trust must prepare a draft plan in respect of each Trust land site mentioned in Schedules 1 and 2.
(2) Within 2 years of any other land vesting in the Trust under section 22, the Trust must prepare a draft plan in respect of that land.
(3) The Minister may extend the period mentioned in subsections (1) and (2) on application, in writing, by the Trust.

27 Plan areas
(1) A plan must cover at least one Trust land site and must not cover only a part of a site.
(2) A plan may cover any Harbour land that has not vested in the Trust under section 22. However, the plan takes effect in respect of that land only when:
   (a) the plan is approved and notified under this Part; and
   (b) the land vests in the Trust.

Note: If the plan has been approved and notified under this Part before the land vests in the Trust, then the plan does not require further notification under section 34 when the land eventually vests in the Trust.

28 Content of plans
(1) A plan must accord with the objects of the Trust.
(2) The plan must accord with principles of ecologically sustainable development.
(3) The plan must contain the following:
   (a) a history and description of the plan area, including an identification of current land uses of the area or parts of the area;
   (b) an assessment of the environmental and heritage values of the area;
   (c) an assessment of the interrelationship between the plan area and the surrounding region, including other public land in the Sydney Harbour region and other Trust land;
   (d) objectives for the conservation and management of the area;
   (e) policies in respect of the conservation and management of the area;
   (f) an identification of proposed land uses in the area or parts of the area;
   (g) an identification of the nature of possible future owners of the area or parts of the area;
   (h) guidelines, options (if necessary) and recommendations for the implementation of the plan;
   (i) detailed estimates of costs that may be incurred in respect of the area, including costs for remediation, rehabilitation and conservation of the area;
   (j) anything else required by the regulations.

29 Consultation on proposal to prepare draft plan
(1) Before preparing a draft plan, the Trust must, by public notice:
   (a) state that it proposes to prepare a draft plan in respect of a specified plan area; and
(b) invite interested persons to make representations in connection with the proposal by a specified date that is at least one month after the date of publication of the notice; and
(c) specify an address to which representations may be sent.

(2) A person may make written submissions to the Trust in connection with the proposal not later than the date stated in the notice.

(3) The Trust:
(a) must take into account any submissions made to it in accordance with subsection (2); and
(b) must take into account any advice or recommendations received from an advisory committee established under Part 8; and
(c) may take into account any other submissions.

30 Consultation on draft plan

(1) The Trust must make a draft plan, that it has prepared, publicly available by electronic or other means.
Note: The Trust can also charge a reasonable fee for copies of draft plans: see section 70A.

(2) The Trust must also, by public notice:
(a) state that the draft plan has been prepared in respect of a specified plan area; and
(b) state where the draft plan is made available to the public; and
(c) invite interested persons to make representations in connection with the draft plan by a specified date that is at least one month after the date of publication of the notice; and
(d) specify an address to which representations may be sent.

(3) A person may make written submissions to the Trust in connection with the draft plan not later than the date stated in the notice.

(4) The Trust:
(a) must take into account any submissions made to it in accordance with subsection (3); and
(b) must take into account any advice or recommendations received from an advisory committee established under Part 8; and
(c) may take into account any other submissions.

31 Minister to approve plans

(1) The Trust must submit a draft plan, together with a written report on:
(a) its consultations under sections 29 and 30; and
(b) consultations (if any) with advisory committees established under Part 8; to the Minister (the Commonwealth Minister).

(2) Before considering the draft plan, the Commonwealth Minister must:
(a) provide a copy of it, together with any relevant material, to a relevant Minister (the State Minister) of New South Wales; and
(b) invite the State Minister to provide comments on the draft plan within 2 months.

(3) In considering the draft plan, the Minister must take into account any comments or alterations suggested, within the 2 months, by the State Minister.

(4) The Commonwealth Minister may:
(a) approve the draft plan without alteration; or
(b) refer the draft plan to the Trust with either or both of the following:
(i) directions to conduct a public hearing or any other consultations;
(ii) suggested alterations; or
(c) reject the draft plan, giving reasons.

32 Action on referral by Minister

(1) If the Minister refers a draft plan to the Trust, then the Trust must do the following:
(a) reconsider the draft plan;
(b) undertake the consultations directed by the Minister;
(c) undertake any other consultations as the Trust thinks necessary;
(d) consider any suggestions made by the Minister;
(e) if it thinks fit, alter the draft plan.

(2) The Trust must then submit:
(a) the draft plan; and
(b) a written report on additional consultations (if any) undertaken under this section;
to the Minister for approval.

(3) This Part (other than section 26) applies to a draft plan submitted under this section in the same way as it applies to a draft plan submitted under section 31.

33 Rejection of draft plan
(1) If the Minister rejects the draft plan, then the Trust must:
(a) consider the Minister’s reasons; and
(b) prepare a new draft plan.
(2) This Part (other than section 26) applies to a new draft plan in the same way as it applies to a draft plan submitted under section 31.

34 Notification of plan
If a plan is approved by the Minister, then the Trust must, by notice published in the Gazette:
(a) state that a plan, in respect of a specified plan area or a part of a plan area, has been prepared; and
(b) specify the day on which the plan takes effect for the area or the part of the area; and
(c) state where the plan is made available to the public.

Note: The Trust can also charge a reasonable fee for copies of plans: see section 70A.

35 Commencement and implementation of plans
(1) A plan takes effect for the plan area, or the part of the plan area, specified in a notice under section 34, from the beginning of the day specified in the notice.

Note: Section 27 contains an exception to this rule for land that has not vested in the Trust.
(2) The Trust must begin to implement a plan as soon as practicable after it has taken effect for the plan area or the part of the plan area.

36 Amendment to plans
(1) The Trust may, in writing, prepare an amendment to a plan.
(2) Sections 28 to 35 apply in relation to the preparation of an amendment to a plan in the same way as they apply in relation to the preparation of a draft plan.

36A Submissions to be publicly available
The Trust must make publicly available, by electronic or other means, submissions made under Part 5 on:
(a) proposals to prepare draft plans; and
(b) draft plans; and
(c) amendments to draft plans.

Note: The Trust can also charge a reasonable fee for copies of submissions: see section 70A.

37 Commonwealth etc. to act in accordance with plans
(1) If a plan has been approved and notified for a plan area (even if the plan or a part of the plan has not taken effect in respect of that area), then the Commonwealth, the Trust and other Commonwealth bodies must act in accordance with the plan in carrying out activities in that area.
(2) However, this section does not authorise or require the Commonwealth, the Trust or the Commonwealth body to carry out an activity that it is not otherwise legally able to carry out.

38 Transitional—interim Trust actions
Anything done, before this Act commences, by the Commonwealth on behalf of the interim Trust in relation to a plan is taken, for the purposes of this Act, to have been done by the Trust.

38A Transitional—activities before plans take effect
(1) Before a plan takes effect for an area of Trust land, the Trust may:
(a) determine the way in which the area may be used before the relevant plan takes effect; and
(b) use the area in that way; and
(c) grant leases and licences over the area in accordance with section 38B; and
(d) carry out maintenance and repair work in the area; and
(e) carry out other work in the area to protect the health and safety of persons present there.
(2) The Trust must not carry out, or allow to be carried out, any work other than the work mentioned in paragraphs (1)(d) and (e).
(3) The Trust must not cause significant damage, or allow significant damage to be caused, by doing things under subsection (1).

(4) The Trust must not take into account things done under subsection (1) when determining the content of draft plans.

38B Transitional—leases and licences granted before plans take effect
(1) This section applies to leases and licences granted under section 38A before a plan takes effect for an area.

(2) A lease or licence for a fixed term over an area of Trust land:
   (a) must not be for a term of more than 12 months; and
   (b) must expire within 18 months after the vesting of the land in the Trust.

(3) A period under a lease for a periodic tenancy:
   (a) must not extend for more than one month; and
   (b) must not begin after a plan takes effect for any of the area over which the lease is granted.

(4) A licence that is not for a fixed term must be revoked before a plan takes effect for any of the area over which the licence is granted.

(5) If a lease or fixed-term licence is in force for an area when a plan takes effect, then the plan takes effect except to the extent that it interferes with the operation of the lease or licence in that area.

(6) A lease or licence that contravenes this section or subsection 38A(2) or (3) is void.

(8) Part 7, clauses 50 to 56A, page 25 (line 2) to page 27 (line 19), omit the Part, substitute:

PART 7—MEETINGS OF THE TRUST

50 Times and places of meetings
(1) The Trust is to hold such meetings as are necessary for the efficient performance of its functions.

(2) Meetings are to be held at such times and places as the Trust determines.

(3) The Chair may call a meeting at any time if, in his or her opinion, it is in the public interest for the Trust to consider matters urgently.

(4) The Chair must ensure that at least 4 meetings are held each year.

50A Meetings to be public
Meetings of the Trust must be open to the public unless the Trust determines that it is in the public interest to meet in private.

51 Notice of meetings
(1) Each member is entitled to receive at least:
   (a) 24 hours’ notice of an urgent meeting called by the Chair under subsection 50(3); and
   (b) 7 days’ written notice of any other meeting of the Trust.

(2) The Trust must also give at least 7 days’ notice to the public of a meeting of the Trust, unless the meeting is an urgent meeting or a private meeting.

52 Presiding at meetings
(1) The Chair presides at all meetings at which he or she is present.

(2) If the Chair is not present at a meeting, the members present are to appoint a Commonwealth member to preside.

53 Quorum
A majority of the members for the time being holding office constitutes a quorum.

54 Voting at meetings
(1) A question is decided by a majority of the votes of the members present and voting.

(2) The person presiding at a meeting has a deliberative vote and, if necessary, also a casting vote.

Note: Subdivision B of Division 4 of Part 3 of the Commonwealth Authorities and Companies Act 1997 has rules for “directors” about disclosing, and voting on matters involving, material personal interests.

54A Minutes of meetings
(1) The Trust must keep minutes of its meetings.

(2) The reasons why the Chair called an urgent meeting under subsection 50(3) must be recorded in the minutes.

(3) The name of each person who moves or seconds a motion must be recorded in the minutes.
(4) The minutes must be made publicly available:
(a) by electronic means; and
(b) for inspection at an office of the Trust.

55 Conduct of meetings
The Trust may, subject to this Part, conduct proceedings at its meetings in accordance with a written code of meeting practice.

56 Resolutions without meetings
If the Trust so determines, a resolution is taken to have been passed at a meeting of the Trust if:
(a) without meeting, a majority of the members indicate agreement with the resolution in accordance with the method determined by the Trust; and
(b) that majority would have constituted a quorum at a meeting of the Trust.

(9) Clause 57, page 28 (lines 4 to 32), omit the clause, substitute:

57 Community advisory committees
(1) The Trust must, by writing, establish a community advisory committee in respect of each plan area.
(2) The function of each committee is to provide advice or recommendations to the Trust on issues relating to the relevant plan area.
(3) In providing that advice or making those recommendations, each committee must consider:
(a) the relevant plan area in the context of the Sydney Harbour region; and
(b) the objects of the Trust and the other provisions of this Act.
(4) Each committee consists of:
(a) one or more representatives, appointed by the Trust, of the local community and of affected councils; and
(b) any other person appointed by the Trust.
(5) A member holds office for the period specified by the Trust. The period must not exceed 3 years.
(6) The Trust must, after consulting a committee, give written directions to the committee on:
(a) procedures to be followed in relation to the meetings of the committee; and
(b) the way in which the committee is to carry out its functions.

57A The Trust’s obligations to community advisory committees
(1) The Trust must provide relevant documents and information to community advisory committees.
(2) In making decisions or taking action in respect of a plan area, the Trust must consider any advice or recommendation of the relevant committee.

(10) Clause 58, page 29 (lines 2 to 10), omit subclauses (1) and (2), substitute:
(1) The Trust must establish one or more technical advisory committees.
(2) The function of a committee is to provide advice and recommendations on any or all of the following matters:
(a) environmental and heritage matters relating to plan areas;
(b) rehabilitation and decontamination of plan areas;
(c) planning and management of plan areas;
(d) financial arrangements for plan areas.

(11) Clause 58, page 29 (line 16), omit “paragraphs (2)(a), (b) or (c)”, substitute “subsection (2)”.

(12) Clause 58, page 29 (line 17), omit “reasonable”.

(13) Part 9, clauses 59 to 65, page 30 (line 2) to page 31 (line 18), omit the Part, substitute:

PART 9—FINANCE

59 Appropriation of money
(1) There is payable to the Trust such money as is appropriated by the Parliament.
(2) The Minister for Finance and Administration may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Trust.

60 Application of money
(1) The Trust’s money is to be applied only:
(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Trust in the performance of its functions and the exercise of its powers; and

(b) in payment or discharge of the liability imposed under section 61; and

(c) in payment of remuneration and allowances payable under this Act.

(2) Subsection (1) does not prevent investment of surplus money of the Trust under section 18 of the Commonwealth Authorities and Companies Act 1997.

61 Interim Trust costs etc.

(1) If, whether before or after the commencement of this Act, the Commonwealth incurs costs or liabilities in respect of the interim Trust, then the Sydney Harbour Federation Trust must pay to the Commonwealth an amount equal to those costs or liabilities.

(2) The amount may be recovered by the Commonwealth as a debt due to the Commonwealth in a court of competent jurisdiction.

62 Borrowing

The Trust may, with the approval of the Minister for Finance and Administration, borrow money from the Commonwealth or persons other than the Commonwealth on terms and conditions that are specified in, or are consistent with, the approval.

63 Trust may give security

(1) The Trust must not give security over any land mentioned in Schedule 1.

(2) However, the Trust may give security over:

(a) the whole or any part of any other Trust land that is identified as suitable for sale in a plan approved under Part 5; or

(b) any other assets;

for:

(c) the repayment by the Trust of money borrowed by the Trust under section 62 and the payment by the Trust of interest (including any compound interest) on that money; or

(d) the payment by the Trust of amounts (including any interest) that the Trust is liable to pay with respect to money raised by the Trust under paragraph 8(2)(i).

64 Contracts

(1) The Trust must not, except with the Minister’s written approval:

(a) enter into a contract involving the payment or receipt by the Trust of an amount exceeding $1,000,000; or

(b) enter into a lease or licence of Trust land for a period that ends after the end of 10 years from the commencement of this Act.

(2) Paragraph (1)(a) does not apply to the investment of money by the Trust in accordance with section 18 of the Commonwealth Authorities and Companies Act 1997.

64A Leases over 25 years

(1) Before entering into a lease or licence over Trust land for a period of longer than 25 years, the Trust must determine, in writing, the proposed terms and conditions of the lease or licence.

(2) The determination is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(3) The terms and conditions of the lease or licence must accord with the determination.

65 Liability to taxation

The Trust is not subject to taxation under a law of the Commonwealth or of a State or a Territory.

(14) Part 10, clauses 66 to 68, page 32 (line 2) to page 33 (line 10), omit the Part, substitute:

PART 10—REPEAL OF THIS ACT

66 Repeal of this Act

(1) As soon as practicable after the end of 10 years from the commencement of this Act, the Minister must, by notice published in the Gazette, specify a day on which this Act is to be repealed.

(2) This Act is repealed at the beginning of that day.

67 Transfer of assets

(1) The Minister may, by writing, make any or all of the following declarations:
(a) a declaration that a specified asset vests in a specified person immediately before the repeal time without any conveyance, transfer or assignment;

(b) a declaration that a specified instrument relating to a specified asset continues to have effect after the asset vests in the specified person as if a reference in the instrument to the Trust were a reference to the person;

(c) a declaration that the specified person becomes the Trust’s successor in law in relation to a specified asset immediately after the asset vests in the person.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

(2) A declaration under subsection (1) has effect accordingly.

(3) A copy of a declaration under subsection (1) is to be published in the *Gazette* within 14 days after the making of the declaration.

(4) Subsection (1) does not prevent the Trust from transferring an asset to a person otherwise than under that subsection.

68 Transfer of liabilities

(1) The Minister may, by writing, make any or all of the following declarations:

(a) a declaration that a specified liability ceases to be a liability of the Trust and becomes a liability of the specified person immediately before the repeal time;

(b) a declaration that a specified instrument relating to a specified liability continues to have effect after the liability becomes a liability of the specified person as if a reference in the instrument to the Trust were a reference to the person;

(c) a declaration that the specified person becomes the Trust’s successor in law in relation to a specified liability immediately after the liability becomes a liability of the person.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

(2) A declaration under subsection (1) has effect accordingly.

(3) A copy of a declaration under subsection (1) is to be published in the *Gazette* within 14 days after the making of the declaration.

(4) Subsection (1) does not prevent the Trust from transferring a liability to a person otherwise than under that subsection.

69 Residual assets and liabilities

(1) Immediately before the repeal time, any residual assets and liabilities that have not been covered by a declaration under section 67 or 68 vest in the Commonwealth.

(2) Any instrument relating to such an asset or liability continues to have effect after the asset or liability vests in the Commonwealth as if a reference in the instrument to the Trust were a reference to the Commonwealth.

(15) Part 11, clauses 70 to 73, page 34 (line 2) to page 36 (line 13), omit the Part, substitute:

**PART 11—MISCELLANEOUS**

**70 Annual report**

The annual report on the Trust under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:

(a) a description of the condition of plan areas at the end of the period to which the report relates; and

(b) the text of all directions, and reasons for directions, given by the Minister to the Trust under section 9 during the period to which the report relates.

**70A Fees for documents**

The Trust may charge a reasonable fee for copies of the following documents:

(a) draft plans and plans approved under Part 5;

(b) submissions made under Part 5 on:

(i) proposals to prepare draft plans; and

(ii) draft plans; and

(iii) amendments to draft plans;

(c) any other documents made available by the Trust.
71 Exemption from certain State laws

(1) An excluded State law does not apply, and is taken never to have applied, in relation to:
   (a) the Trust; or
   (b) the property (including Trust land) or transactions of the Trust; or
   (c) anything done by or on behalf of the Trust.

(2) In this section:
   excluded State law means a law of a State, including a law of a State that is applied to a Commonwealth place by virtue of the Commonwealth Places (Application of Laws) Act 1970, that relates to any of the following matters:
   (a) town planning;
   (b) the use of land;
   (c) tenancy;
   (d) powers and functions of local councils;
   (e) standards applicable to the design, or manner of construction, of a building, structure or facility;
   (f) approval of the construction, occupancy, use of or provision of services to, a building, structure or facility;
   (g) alteration or demolition of a building, structure or facility;
   (h) the protection of the environment or of the natural and cultural heritage;
   (i) dangerous goods;
   (j) licensing in relation to:
      (i) carrying on a particular kind of business or undertaking; or
      (ii) conducting a particular kind of operation.

law means a written law, and includes:
   (a) subordinate legislation; and
   (b) a provision of a law.

72 Delegation

(1) The Trust may, by writing, delegate to:
   (a) the Executive Director; or
   (b) an SES employee of the Department; or
   (c) a person employed under section 48; all or any of the functions and powers conferred on the Trust by this Act.

(2) The Executive Director must report at least once every 6 months on the exercise of delegated functions and powers.

73 Regulations

(1) The Governor-General may make regulations prescribing matters:
   (a) required or permitted by this Act to be prescribed; or
   (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision relating to any of the following:
   (a) conferring functions on the Trust for the purposes of the regulations;
   (b) the content of plans;
   (c) giving effect to, and enforcing the observance of, plans;
   (d) the way in which proposed land uses are identified in draft plans;
   (e) services and facilities in, or in connection with, Trust land;
   (f) charging of fees by the Trust in respect of services or facilities provided by the Trust in or in connection with Trust land;
   (g) protecting and conserving the environmental and heritage values of Trust land;
   (h) removing persons unlawfully on Trust land or committing offences against regulations on Trust land;
   (i) regulating conduct of persons on Trust land;
   (j) regulating or prohibiting carrying on any trade or commerce on Trust land;
   (k) removing unauthorised structures from Trust land;
   (l) granting or issuing licences, permissions, permits and authorities in respect of Trust land;
   (m) the conditions subject to which licences, permissions, permits and authorities are granted or issued;
   (n) charging of fees by the Trust in respect of such licences, permissions, permits and authorities;
   (o) penalties for offences against the regulations by way of fines of no more than 10 penalty units;
(p) functions and powers of wardens and rangers for Trust land; of functions and the exercise of powers of wardens and rangers;
(q) the appointment of wardens and rangers; (s) any matter incidental to or connected with any of the above.
(r) arrangements with the Commonwealth, New South Wales and affected councils for the performance

SCHEDULE 1—DEFENCE LAND TO BE VESTED IN THE TRUST AND REMAIN IN PUBLIC OWNERSHIP

<table>
<thead>
<tr>
<th>Item</th>
<th>Title of Trust land site</th>
<th>Site description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland</td>
<td>Lot 1 in Deposited Plan 831153; Lots 202 and 203 in Lot 2 in Deposited Plan 831153; Lot 2 in Deposited Plan 541799; Lot 1 in Deposited Plan 233157</td>
</tr>
<tr>
<td>2</td>
<td>Woolwich in the Parish of Hunters Hill, County of Cumberland</td>
<td>Lot 4 in Deposited Plan 573213 (“Horse Paddock”) and Lot 1 in Deposited Plan 223852 (“Goat Paddock”)</td>
</tr>
<tr>
<td>3</td>
<td>Cockatoo Island</td>
<td>The island situated in the Harbour of Port Jackson in the State of New South Wales and known as Cockatoo Island, vested in the Commonwealth under section 5 of the Cockatoo and Schnapper Islands Act 1949</td>
</tr>
</tbody>
</table>

Note: See subsections 21(1) and 24(1) and section 63.

[Schedule 1—Defence land to be vested in the Trust and remain in public ownership]

(17) Page 37 (after line 9), at the end of the Bill, add:

SCHEDULE 2—OTHER LAND TO BE VESTED IN THE TRUST

<table>
<thead>
<tr>
<th>Item</th>
<th>Title of Trust land site</th>
<th>Site description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland</td>
<td>Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 in Deposited Plan 233157</td>
</tr>
</tbody>
</table>

These are extremely minor drafting amendments. I believe they do nothing except give fuller effect to the government’s intention with the bill as earlier amended. I commend them to the House.

Amendments agreed to.

Third Reading

Bill (on motion by Mr Abbott)—by leave—read a third time.
ADMINISTRATIVE REVIEW TRIBUNAL BILL 2000
Cognate bill:
ADMINISTRATIVE REVIEW TRIBUNAL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

Second Reading
Debate resumed from 28 June, on motion by Mr Williams:
That the bill be now read a second time.

Mr McCLELLAND (Barton) (1.09 p.m.)—The position of the Australian Labor Party is to oppose the second reading motion and indeed these two bills, not in terms of opposing the concept of bringing together the separate administrative review bodies in Australia but from the point of view of what this will achieve in terms of the model put forward by the government, in particular in the important areas of independence of the tribunal, quality of the tribunal members, which of course determines the quality of the tribunal itself, and also in terms of procedural aspects, including appeals. Just to give some background to the importance of administrative review in Australia, let me quote one very prominent Australian. On 14 May 1975, when speaking to the Administrative Appeals Tribunal Bill 1975 which established the Administrative Appeals Tribunal, the prominent Australian said:

This legislation and the companion legislation to establish the office of an Australian Ombudsman are both extremely significant phases in the development within Australia not only of our administrative law, they are also momentous events in the evolution of our system of government.

The creation of the Administrative Appeals Tribunal and review system was indeed a momentous event in terms of the system of our democratic government. The prominent Australian who made that remark is the current Prime Minister, and he made that comment in respect of the importance of administrative review to the effective functioning of our democracy. This is particularly important in Australia today for Australian citizens because Australia is the only Western common law country that does not have a bill of rights. The ability for citizens to take their grievances with government decisions that have affected them to a review tribunal that is fair, impartial and competent is fundamentally important to the ability of Australians to keep public servants or, if you like, the bureaucracy in check and to ensure that its decision making policies are made according to sound principles which are also rational and fair.

The original bill, the Administrative Review Tribunal Bill, was introduced in June this year, but it was not until October that we saw the full picture with the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000. That, I think the Attorney-General indicated, is probably the thickest bill that has ever been introduced into this House in terms of the width and the number of statutory provisions in various acts that will be amended. So I make that point in terms of the difficulty that the opposition has in reinventing or restructuring the model that the government has placed before us.

I have given some background, noting that the Administrative Appeals Tribunal was established by legislation brought into the House of Representatives in May 1975, and since that year it is fair to say that there has been the development of systems of review in a number of areas, primarily by way of specialist jurisdictions such as social security, migration and refugees' and veterans' appeals. It is fair to say that those specialist jurisdictions have developed on somewhat of an ad hoc basis.

It is appropriate to review how they operate, and that was done by the Administrative Review Council in its Better decisions report which was handed down in 1995. That council recommended, and we say with justification, bringing the specialist tribunals under the one umbrella, but the recommendations of the ARC were particularly cautious, careful and indeed thorough to ensure that the quality of the administrative decision making process and the independence of that process was not limited or reduced as a result of creating this umbrella body. We are concerned that the recommendations of the ARC have not been implemented, hence the basis upon
which the current model is founded is flawed.

Just to put administrative review in its context, it is a vitally important matter to Australians. It is inevitable at some stage that Australians will be affected by an administrative decision. It is just a way of life. For instance, there are 50 million decisions that affect Australians each year in terms of benefits, entitlements and the rights of persons inside and outside Australia. More than 36 million of those are made in the social security jurisdiction. To give some figures on review, in 1997-98 there were 43,000 internal reviews of decisions by Centrelink officers, 9,214 applications for external review by the Social Security Appeals Tribunal and 1,735 applications concerning social welfare decisions to the AAT. There were also 33 applications to the Federal Court. In terms of applications to review decisions by the Australian Taxation Office, over 10 million decisions are made each year. Of these, 76,229 objections were made to assessments in 1997-98, 1,604 matters were lodged for review with the AAT and 19 taxation appeals were filed in the Federal Court of Australia. So you can see by those figures alone that access to administrative review affects a great number of Australians.

But there is also a wide variety of other areas where Australians regularly seek to review the decisions of administrators, public servants and the executive arm of government. They include workers compensation; the important area of war veterans and war widows; residence, business and temporary entry visas; customs matters; and, also importantly in the functioning of our economy, business licensing. So any move to modify the structure of administrative review must be treated with caution. Why? As I indicated in my opening, it is because an important and fundamental bundle of rights exists that has a direct bearing on the quality of life of ordinary Australians.

These rights may not be generally known or discussed in local hotels, RSL clubs or football clubs, but they are important at particularly crucial times of people’s lives, and indeed often at times in their lives when they are at their most vulnerable: for instance, a family affected by one of its children suffering a disability, a worker in Commonwealth employment suffering a work related injury; and even decisions regarding how their business is structured. These are all very important to Australians and, ultimately, to the functioning of our democracy and, in business decisions, our economy itself.

As I have indicated, these laws provide a vital check on the power of government officials. It is perhaps a cliche, but it is absolutely right that these rights of review of government decisions are hard won but so easily eroded. That is what the opposition are defending in our opposition to the model proposed by the government. I think it is fair to say that in tampering with the system—indeed, restructuring it fundamentally—this government is seeking to restructure a system of administrative review that is regarded as one of the best models in the world. Why is that the case? It is regarded as one of the best models in the world because it provides genuine merits review—that is, the review body stands in the shoes of the original decision maker and makes the decision on the merits of the case presented rather than the situation that existed just a quarter of a century ago when the only avenue was according to the principles of judicial review, which is far more technical, legalistic and, indeed, expensive where there is a requirement to set aside an administrator’s decision on very technical grounds.

So our system of merits review in this country is an excellent one, but we concede there is always room for improvement and we have indicated that we are prepared to look at a constructive proposal, but not any proposal that reduces the quality and the independence of that review. They are two crucial features. Indeed, in the context of Australians not having a bill of rights, to which I referred earlier, Justice Deirdre O’Connor pointed out that fact in terms of the importance of the original Administrative Appeals Tribunal. As Her Honour indicated, the original tribunal review system was intended really to play a role that perhaps in other countries is played by rights which arise under constitutional guarantees. We do not have a bill of rights in this country but we do
have under the current system the capacity to have individuals assert their right to question the behaviour of the executive government. So that is a neat encapsulation of the important right that Australians have to challenge the actions of executive officers that impinge so dramatically on their lives—again, in the context where we do not have and where the current government opposes the creation of either a statutory or a constitutional bill of rights.

So we say in the context where we have a system which is one of the best in the world and where we do not have any fundamental rights protections, the onus is on the government seeking to introduce change to prove that the situation will be improved. We are concerned that the government’s action is not motivated by a desire to improve the quality of access to justice but is purely and simply a cost cutting exercise. The government maintains that this legislation, if passed, will produce a net saving of about $3.5 million over four years. Any saving is not to be sneezed at, but any saving cannot be at the expense of the fundamentally important right of review that Australians currently have in relation to decisions of the executive arm of government.

The flaws or the cracks in the glass of the government’s model were seen, I suppose, with its exemption of the Veterans’ Review Board. In 1997, when the government first floated its proposed creation of the Administrative Review Tribunal, veterans review was going to be subsumed under that umbrella. But as a result of pressure—and we submit justified pressure—by the veterans community, on the part of both veterans and war widows, the government decided to quarantine the Veterans’ Review Board from this new body. That says something. If this new body is not good enough for veterans and war widows—and we say that it is not; we fully understand and agree with the representations that have been made by the veterans community—why should other Australians cop a model which is less than adequate? I will go on to establish why the model is less than adequate.

The main reason that the model is less than adequate and indeed flawed is the intrusion it will have on the independence of this important body in reviewing government decisions. It is also important, as I will indicate, that the quality of tribunal members be maintained, because the quality of a tribunal is obviously dependent on the calibre and qualities of those tribunal members who make up the tribunal.

Firstly, I will deal with the issue of quality. In terms of the structure of the tribunal, it is proposed that it will exist in six divisions. There will be a president, six executive members—one appointed to head each division—senior members and other members. But the legislation will provide that senior members will be restricted to not more than 10 per cent of the total number of members and not more than 15 per cent of any division. That restriction is going to significantly impede the capacity of the tribunal to deal with matters which are complex or which require greater expertise in resolving matters. Clearly the restriction on the number of senior members is intended to reduce the running costs of the tribunal. Currently approximately 30 per cent of members of the Administrative Appeals Tribunal are senior members. Clearly that portion is going to be reduced. Senior tribunal members are important not only in their role of adjudicating but also in terms of their role in training other members and the professional development of the less experienced tribunal members.

We also say that the lack of tenure for senior tribunal members is of concern. Under the legislation there will be a maximum term of seven years but no minimum term. In that Better decisions report, the Administrative Review Council indicated that there should not be any term less than three years. Clearly, as the executive member of the Social Security Appeals Tribunal, Ms Margaret Carstairs, has pointed out, if you have a system of rolling short-term appointments it makes it very, very hard to persuade someone to leave their existing career, and it is very hard to obtain and keep good members of the tribunal if their insecurity is perpetuated by short-term appointments.

We are also very concerned about the funding model of the Administrative Review
Tribunal. The situation will be that each division will be funded directly by the portfolio agency whose decisions it will be responsible for reviewing. So the president and executive members of that division will be responsible for sitting down with their minister and heads of those departments whose decisions they will be reviewing—going cap in hand, if you like, for their funding to sustain them through the budget period. That in itself compromises not only actual independence but, importantly, also the perceived independence. Again you return to the cliche—but again it is true—and the perception that he who pays the piper calls the tune. That is going to be the perception that ordinary members of the public have when they realise that the body that is reviewing the decision that has affected them is funded by the very department whose decision is being reviewed. That clearly is—and I have to say all sensible commentators say this—a fundamental flaw in the system.

For instance, the President of the Law Council of Australia, Anne Trimmer, has pointed out that the funding of the ART by the same department whose decision is under challenge could legitimately give rise to a reasonable apprehension of bias. Clearly that will be the case. We recognise that currently the Social Security Appeals Tribunal, the Refugee Review Tribunal and the Migration Review Tribunal are each funded by their respective portfolio departments. But our situation is that, in respect of the creation of this new Administrative Review Tribunal, the Refugee Review Tribunal and the Migration Review Tribunal are each funded by the very department whose decision is being reviewed. That clearly is—and I have to say all sensible commentators say this—a fundamental flaw in the system.

The other very significant area where the independence of the tribunal is going to be compromised is in respect of the appointment and qualification of tribunal members. It would concern any fair-minded Australian to appreciate that again the minister whose department’s decisions will be reviewed by the tribunal will be responsible for recommending the appointments of the executive members and tribunal members to that particular division. So the minister for immigration will move the appointment of members in the Immigration Refugee Review Division, the minister for social security in respect of that area; and the Attorney-General, I have to say, will have no role, whereas the Attorney-General, who has no particular portfolio responsibility for social security, migration or refugee areas, currently is responsible for recommending the appointment of members of the Administrative Appeals Tribunal.

This bill presented an opportunity to have a situation as recommended by the Administrative Review Council where the Attorney-General’s department, the Special Minister of State or indeed Prime Minister and Cabinet recommended the appointment of tribunal members rather than the minister whose department’s decisions are going to be reviewed by the body.

The other significant issue which is related to the quality of tribunal membership is that there will be no minimum qualifications prescribed for the president of the Administrative Review Tribunal. There will be no requirement that they be a judge or legal practitioner of any standing or have any expertise in the area of administration, nor is there any requirement that members of the ART generally, whether they be senior members or members per se, are required to have core skills which the Administrative Review Council recognised as such fundamental and commonsense criteria as understanding the merits review system, knowledge of administrative review principles, analytical skills, personal skills and attributes, and communication skills. These qualities are absent from the bill.

Members of the Administrative Review Tribunal will have very significant powers, not only in terms of the impact they will have on Australians. If you look at the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill, you will see that in schedule 3 these tribunal members will be given the power to issue warrants for the use of listening devices. They will have the power to issue these very intrusive devices without any particular qualifications,
concepts of the administration of justice or administrative review principles. Giving such important functions to a tribunal where there is no appropriate guide as to the minimum qualifications required of tribunal members demonstrates how this model is flawed.

The other area relating to the quality of members is the ease with which the government will be able to remove tribunal members. Currently, a member of the Administrative Appeals Tribunal who is a judge can only be removed on resolution of both houses of parliament. However, that will not be the case in respect of the Administrative Review Tribunal, although the presidential member will have that protection. Other tribunal members will be able to be removed on a variety of grounds, including their inability to achieve the requirements of a performance agreement or a code of conduct. That raises concerns as to whether they would be prepared to compromise the amount of time they spent in adjudicating a particular matter because they had an eye on their performance target rather than actually administering justice. So that is also of great concern to the opposition.

In terms of the rights of Australians, what is important in any administrative review is the right of second-tier review, because any initial review, particularly if it is before a single individual, can always be flawed. This bill will provide a very narrow scope for second-tier review which, in most cases, will rule out the possibility of second-tier review. To achieve a second-tier review, you have to prove that the matter either raises a matter of principle of general significance or the parties agree that there was a manifest error in the original decision maker’s decision. I have to say that with 15 years of experience as a legal practitioner there would be no way that a successful party at first instance would ever conceive that there was a manifest error in the decision maker’s decision. So I think you can effectively rule out the second criterion, and I believe that scope of matter of general significance will rule out most matters where the rights affected are only the rights of an individual as opposed to a collective situation. If the government saw fit to preserve second-tier review for the veterans and war windows community, which we think is appropriate, why wasn’t that good enough for ordinary Australians?

The other flaw—and there are many areas of this bill that are flawed but I am, in this contribution, outlining some of the more significant areas—is that there will no longer be any right of legal representation before the Administrative Review Tribunal. It will be a matter entirely for the discretion of the tribunal, it being noted that ministers will be able to make practice and procedure directions which will provide directions which are mandatory to the tribunal members as to the circumstances in which they will allow or will not allow legal representation.

We say that this is very short-sighted. Clearly, the government believes that in some way removing lawyers is going to improve efficiency. That is not proven by research. All available research suggests that having the involvement of competent and objective professional advisers will, if anything, facilitate the resolution of matters. Indeed, more recently the Australian Law Reform Commission in its Managing justice report said:

The Commission’s research indicates that restrictions on the participation of representatives may actually increase the number of cases resolved by hearing and in turn increasing tribunal costs and case durations.

That is clearly borne out from my experience, which is that one of the best things that a competent legal practitioner can do is give their client honest advice and, if necessary, shake them up a bit until they listen to the advice rather than conduct frivolous or vexatious cases. So they will have a role to play. Experienced legal practitioners, or indeed experienced representatives, have the ability to tell their clients—and indeed have an obligation to tell their clients—how it is and weed out unreasonable cases that should never go before the tribunal in the first place. When they appear before the tribunal legal practitioners know what is or is not relevant material to be considered by the tribunal, significantly decreasing the length of cases and hence the cost to the system generally. Again, this is borne out by all research and it
is short-sighted in the extreme to remove that right from citizens. It is particularly important in a context where inevitably the departmental representative would, at the very least, be a trained advocate if not a legally qualified advocate.

The final area of concern is in respect of this ability of ministers to provide practice and procedure directions. Again, that has to have an effect on not only the perceived independence but also the actual independence of the tribunal if it is ministers rather than the tribunal itself determining its procedures.

To conclude, we note that in 1998 Justice Jane Matthews expressed her concerns about the foreshadowed proposals, that the proposed amalgamation constitutes such a downgrading of the merits review system as to fundamentally threaten the quality and independence of external merits review. Regrettably, now that we have seen the actual legislation, the words and cautions of Justice Jane Matthews are sound and this bill is fundamentally flawed. (Time expired)

Ms JULIE BISHOP (Curtin) (1.39 p.m.)—I believe that, once the debate in this House has allowed the concerns of Labor to be aired and has included the government’s responses and explanations, the dust will settle and the myths and the uncertainties with which the member for Barton seeks to surround this fundamental reform to administrative law system will be cleared away. It is evident that these measures are a vast improvement on the current system, yet we can be assured that the proposed Administrative Review Tribunal will be no less independent and no less effective than the existing tribunals. In fact, we are safeguarding independence and effectiveness. There will be no diminution in the accountability of the government to the public. Our objective is to increase accessibility of merits review, thus enhancing government accountability.

The Administrative Review Tribunal Bill 2000 and the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000 do represent yet another significant step in the reform agenda of the coalition government on matters of law and justice. Since coming to office, our overall priorities on law and justice can be summarised quite neatly and quite simply: to achieve equality and fairness in access to justice for all Australians; to ensure that the rights of all Australians are protected and promoted; to ensure that all Australians have equal access to courts, legal assistance and services to help them resolve disputes; and to keep people out of the courts by solving legal disputes more cheaply and efficiently with an emphasis on resolution taking place without the need to resort to litigation. The Attorney-General has introduced a number of key initiatives which fulfil our objectives and address our priorities. I refer to the establishment of the Federal Magistrates Service, which is in fact the first lower level Commonwealth court and the first new Australian court since the Federal Court was established in 1977. It was necessary to help ease the pressure on the Family Court.

As to administrative review, it is now some 32 years since the Kerr committee on administrative review undertook its detailed examination of the methods of review available in relation to government decisions. It is some 27 years since the Bland committee on administrative decisions made further recommendations in the field of judicial review of administrative decisions and discretions. The system of federal administrative review was thereafter established, just over one-quarter of a century ago, with the creation in 1975 of a Commonwealth Administrative Appeals Tribunal. This was to be the centrepiece of the reforms to Australian administrative law. Thereafter, a rather ad hoc system has developed.

In 1995, when the opposition party was in government, the Administrative Review Council published a report entitled Better decisions: Review of Commonwealth merits review tribunals. This report recommended that the several merits review tribunals that had flourished haphazardly under the federal administrative law system be amalgamated into one tribunal. Notwithstanding the recommendation that such a restructuring of the major Commonwealth merits review tribunals would be better able to advance the objectives of a merits review system and would be better able to improve the quality and consistency of government decision making,
the Labor Party failed to introduce any reforms and failed to address any of the recommendations in the *Better decisions* report. After hearing the member for Barton criticise the substantive aspects of these bills, I have to ask: where was the member for Barton when the Administrative Review Council published its report in 1995 recommending the very changes that are now contained in this very comprehensive overhaul of the administrative law system?

It was this government—in fact the Attorney-General—that in March 1997 announced a response to the *Better decisions* report and indicated our intention to amalgamate into a single tribunal the various merits review tribunals to streamline these processes. Thereafter, the Attorney and his department consulted widely, given that his announcements signalled a fundamental change to the tribunal arm of public administration. The extensive consultation process involved the tribunals themselves, departments and agencies with significant review jurisdictions and a range of entities with a relevant interest, including the Administrative Review Council itself, the Law Council of Australia, the Australian Council of Social Service, the National Association of Community Legal Centres, the National Welfare Rights Network, National Legal Aid, the Australian Law Reform Commission and other organisations representing the specific interests of tribunal users. We have consulted with all the key players, stakeholders, practitioners, administrators, users and the tribunals and their portfolio departments in order to ensure that the reforms embodied in this legislation meet our objectives and the recommendations of the *Better decisions* report.

It is worth considering the current system of administrative review and its sphere of operation before turning to the essential reforms encapsulated in these bills, for the bill before the House does establish an Administrative Review Tribunal which will replace four existing tribunals. It will replace the Administrative Appeals Tribunal, which currently hears general appeals from a broad range of administrative decisions, and the Social Security Appeals Tribunal, which was established in 1997 by executive action and was subsequently given legislative basis in 1988. This tribunal can currently review a wide range of decisions relating to eligibility for, and the rate of, social security payments and income support decisions, and this can include decisions made under the Social Security Act, the Farm Household Support Act, the Child Support Assessment Act and the Aged Care Act. It will also replace the Migration Review Tribunal. The administrative review of migration decisions has been available for the past 20 years and this tribunal currently hears applications for review of decisions to refuse to grant visas to, or cancel visas held by, prospective immigrants and others who are not refugees. Finally, it also replaces the Refugee Review Tribunal, which hears applications for review of decisions relating to applications for refugee status and refugee protection visas.

The appeal process is complex. Appeals lie from decisions of the SSAT to the AAAT, and from the MRT and RRT direct to the Federal Court of Australia. There is also a second-tier merits review by the AAAT from decisions of the Veterans’ Review Board, to which I will later refer. The member for Barton referred to some statistics. According to the Parliamentary Library research, the five main federal tribunals, including the Veterans’ Review Board, currently receive more than 40,000 applications each year for review of Commonwealth government decisions. Given this statistic alone, it is apparent that the effectiveness and efficiency of such a system must be given serious and careful thought. Together with the inconsistent appeal rights, the alternative specialist tribunals exercising jurisdiction that might otherwise be exercised by the AAAT, and the resulting fragmentation of the whole process, it has been necessary to review the operations and deliver what clearly ought to be an integrated, simple and efficient system of administrative review.

The bills before the House deliver that system, with structure, practices and procedures that will ensure review on the merits that is fair, just, economical, informal and quick. The essential features of the bills include the establishment of the first tier of an administrative review tribunal comprising
six divisions; the immigration and refugee division; an income support division; a taxation division, which will include the Small Taxation Claims Tribunal; workers compensation; a commercial and general division; and, a veterans appeals division which will handle appeals from the Veterans’ Review Board. So while the Veterans’ Review Board will not be integrated into the Administrative Review Tribunal, the first division, the first tier of the ART, will provide a full right of appeal on veteran matters.

The member for Barton, while acknowledging that there is indeed considerable merit in what the government proposes in these bills—that is, to bring all these tribunals that have grown up in a somewhat ad hoc fashion under the one umbrella—does quibble with quite a number of the details of the bills, so I will turn to his concerns in the order he raised them. The government intends that the ART be a flexible, user-friendly tribunal which will retain the best features of the existing tribunals yet increase efficiency by sharing management, corporate support and registries. Informality yet independence is an essential element. On that point of independence, I do point out that, yes, members of the ART will be appointed for a term of up to seven years and they will be eligible for reappointment. The government does not consider that fixed term appointments bring any loss of independence. If you take the current situation, existing tribunals have more than 400 members, and more than 90 per cent are appointed for fixed terms. The only one existing tribunal with some 10-year members is the AAT itself, and only the presidential members and some full-time senior members have tenure. The rest of the senior members and members have been appointed for fixed terms, yet this has not been seen as jeopardising their independence. Tenure is clearly not a prerequisite for independence. Independent statutory officers such as the ombudsman also have fixed term appointments and this is not perceived as interfering with their independence.

I also point out that the independence of the ART members will be protected by strict removal provisions. Except in the case of bankruptcy, the president is subject to the same grounds and procedure for removal that apply to judges of the High Court and other federal courts under section 72 of the Constitution. That is, the president can only be removed when both houses of parliament resolve in the same session that the president should be removed because of his behaviour or incapacity. Other members can be removed only by the Governor-General on the recommendation of the president on very restricted grounds set out in the bill—essentially misconduct or an unacceptable level of personal indebtedness. So it is evident that the provisions of this bill relating to the removal of members are designed to protect their independence and preclude any political interference in decision making.

Secondly, the member for Barton raised the issue of funding. Labor is jumping at shadows when it sees problems with the model for funding the tribunal. With the greatest of respect to Ms Anne Trimmer, President of the Law Council, I point out that the Social Security Appeals Tribunal and the Veterans’ Review Board are currently funded in the manner proposed for the ART: that is, they are funded from their respective department’s appropriations. The Administrative Review Tribunal will develop a transparent model for calculating the costs of review by the tribunal of decisions made by a portfolio agency, and this funding model will require the departments to pay for merits review by a particular division of the Administrative Review Tribunal of decisions made by that department and any portfolio agencies. The cost of review conducted by the Commercial and General Division of the tribunal will be met through the Attorney-General’s Department’s appropriations, although that division will of course review decisions made by other departments and agencies. These funding arrangements, I believe, will heighten awareness of the cost of review and will encourage better quality decision making by government departments.

Thirdly, the member for Barton made the spurious suggestion that the manner of appointment of tribunal members will under-
mine the independence of the tribunal. The process of appointment for ART members will be no different from the process of appointment for all the members of the existing tribunals that are to be replaced by the ART. Currently, the members of the four existing tribunals are appointed by the Governor-General on the recommendation of the minister who has portfolio responsibility for the tribunal. It is the minister who is in a position to understand the needs of the particular tribunal and the suitability of persons for appointment to the tribunal, and the relevant minister will only put forward candidates found suitable by the ART’s independent selection process. Ministerial involvement in this regard is a long established and accepted arrangement, and it will not change. Obviously, because the ART will perform its functions in six divisions, six ministers instead of four will have responsibility for recommending appointments and, once appointed, members will be independent of ministerial influence as they are at present.

The Labor Party conveniently ignores the fact that the imposition of restrictions on the availability of second-tier review was recommended by the Better decisions report. It is self-evident that an automatic right to second-tier review adds significantly, and I would submit unnecessarily, to the costs of merits review. It is in the interests of all involved in the process of review that matters be dealt with and concluded as quickly as possible and with certainty. The two grounds for second-tier review are that the participants to first-tier review agree that a mistake was made in the first-tier review or the tribunal considers that the application raises a principle or issue of general significance and the decision was made by a single member of the ART. There is no ground just because the applicant would like a decision reconsidered, and I regret to say that that is the position currently.

I also point out to the member for Barton and the opposition that the Commonwealth is bound by the obligation to act as a model litigant. I point out that, if there is a manifest error of law or fact which materially affects the first-tier decision, the decision maker in relation to the original decision will be obliged to agree with the applicant that the first-tier decision involved a manifest error so the applicant can then seek to make a second-tier review application. The government and its agencies are expected to act along the standards of a model litigant, and I would expect agencies to agree where a manifest error has occurred. Applicants for first-tier review to the Administrative Review Tribunal will be given access to merits review that is independent of the decision making agency and is conducted according to procedures that are tailored to their particular needs. The government is keen not only to maximise the use of alternative dispute resolution but also to focus on promoting and encouraging the right decision at the earliest possible stage. In relation to immigration and refugee matters, yes, they will not have a right to second-tier review in the ART. But this continues in place the present situation where decisions of the Migration Review Tribunal and the Refugee Review Tribunal are not reviewable by the ART as a second-tier review.

Finally, as to Labor’s feigned concern over the practice and procedure considerations, one of the objectives of the Administrative Review Tribunal reforms is to ensure consistency of approach to merits review across all Commonwealth decision making. We do not intend that the ART will depart from this objective through the use of practice and procedure directions and, to the extent that there are differences in procedures between divisions, these will be directed at facilitating the fair and efficient review of the particular kind of decision dealt with by particular divisions. Practice and procedure directions can be made by the president, the responsible minister for a division or the executive member for a division, and there must be consultation between executive members and the president before they issue practice and procedure directions. The power to make practice and procedure directions is intended to give the tribunal flexibility in how it conducts reviews and associated activities such as conferences and inquiries, and they can be tailored to suit individual cases.
One aspect of the bill that has attracted a lot of attention is the role of legal advisers or advocates. Currently, the role of legal advisers differs across the four tribunals. The tribunal will have the power to permit a participant to be legally or otherwise represented. It is not a lawyer-free zone, I am happy to add. The only exception is where the practice and procedure directions or a Commonwealth law prohibits representation.

One of the objects of the ART Bill is to enable the tribunal to review decisions in a non-adversarial manner and in such a way that applicants will not need legal representation in order to present their cases properly. For example, decision makers will not necessarily be participants in a review and, where a decision maker is a participant, he or she has a positive obligation to assist the tribunal in reaching its decision. The tribunal is also required to take measures to ensure that participants understand the nature and implications of any assertions made and, if requested, to explain to participants aspects of Administrative Review Tribunal procedures or the implications of a decision and the reasons for such a decision. I caution that, if there were a trend towards legal representation in the new tribunal, that might make it difficult for people who cannot afford to be represented and they might be less likely to utilise the tribunal. The intention under the Administrative Review Tribunal Bill is not to discourage representation but rather to encourage and empower people to conduct their own matters where this is appropriate. I commend this bill to the House.

Ms JANN McFARLANE (Stirling) (1.58 p.m.)—I rise to speak on the Administrative Review Tribunal Bill 2000 and the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000 because of my long involvement and interest in community work with people who have sought merits review but particularly because for 6½ years I did work for a welfare rights service in Western Australia. Labor does support the long awaited shake-up of a Commonwealth administrative review system in line with the recommendations laid out in the Administrative Review Council report Better decisions. However, Labor does not support these two bills. Labor opposes the models laid out in the bills as they are a step backwards, not a step forward, for ordinary people having access to a fair merits review system and process. Australia has a wonderful democratic tradition of merit review. However, these bills are an assault on the rights of ordinary citizens to have their cases heard in a fair way within a structural model which is considered to be fair, accessible and democratic. Labor’s main concern is that these bills will lead to a cost cutting exercise that will save money for the Commonwealth, as laid out in the explanatory memorandum, but will not in any way improve the processes for the people who will appear before it. I would like to read one section from the explanatory memorandum, tabled in this House.

Mr SPEAKER—There are only 10 seconds left and I thought it may not suit the member for Stirling to interrupt her extraction from the explanatory memorandum. She may care to incorporate that into her later speech. It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour and, as I have indicated to the member for Stirling, the member will have leave to continue speaking when the debate is resumed.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.00 p.m.)—I inform the House that the Minister for Trade will be absent from question time today and tomorrow. He is travelling to Malaysia to co-chair the annual joint trade committee meeting between Australia and Malaysia. The Minister for Foreign Affairs will answer questions on his behalf. I indicated yesterday that the Attorney-General would not be present today because he was appearing in the High Court. I am pleased to say that so succinct was his appearance that he is with us today.

QUESTIONS WITHOUT NOTICE

Australian Broadcasting Corporation: Funding

Mr BEAZLEY (2.01 p.m.)—My question is to the Prime Minister. Prime Minister, will you acknowledge that your government’s
deprivation of funds and the continued political pressure on the ABC, in express breach of your 1996 election commitments, has caused a complete collapse of morale at the national public broadcaster? When will you restore adequate resources and the independence demanded by the Australian people for the ABC?

Mr HOWARD—I thank the Leader of the Opposition for the question. I do not accept that the ABC has been unfairly treated by this government. The ABC is a very important Australian institution, which provides competition with commercial media outlets in the dissemination of news, current affairs and other programs. It remains the firm policy of this government to continue to provide adequate financial support to the Australian Broadcasting Corporation.

The 1997-98 budget imposed a 10 per cent funding reduction on the ABC. It is fair to say that, when we came to office, we found not only an $80 billion to $90 billion national debt, that had been largely run up when the Leader of the Opposition was finance minister, but also a deficit in the budget on an annual basis of $10½ billion. We had to do something about that. If we had not done something about it, the living standards of all Australians would now be lower than they are. We took the view that just about every section of the government’s operations had to accept some kind of funding reduction, and the ABC was no exception to that. The only area exempted, as the Leader of the Opposition well knows, was Defence. Defence was the one area, I am proud to say, that was totally quarantined from the spending reductions that your irresponsibility—I address that remark through you, Mr Speaker, to the Leader of the Opposition—forced upon the new government.

I remind the Leader of the Opposition that ABC funding has been maintained in real terms by the government since 1997 for the 2001-03 triennium. In the current budget the ABC received $642.4 million for operating and non-digital capital expenses. In addition to this, the ABC received $20 million this year for the upgrading of studios and equipment to allow the ABC to broadcast in digital. The ABC will receive a further $16.8 million over the next two years to ensure these upgrades are complete. There have always been complaints from sections of the ABC and from ABC management about the inadequacy of funds. When Labor was in power there were complaints, and those complaints have continued.

The government has a great regard—even a warm regard—for the contribution that the ABC makes. It is no secret that on occasions I have been critical of particular ABC programs. I have always been perfectly up-front about that, as I have in my criticism of other news media. But the ABC is an important Australian institution. The government has complete confidence in the board of the ABC, but that does not mean that we will always share the board’s view of the funding priorities that we have to meet in relation to different government responsibilities. Any funding submission that the ABC makes will be considered by the government carefully and courteously in the budget context, as has been the case in the past. I reject totally the rather puny attempt by the Leader of the Opposition to suggest that we have left the ABC in penury. The figures that I have read out completely repudiate that proposition.

Defense: Funding

Mrs GASH (2.06 p.m.)—My question is addressed to the Prime Minister. How is the government continuing to ensure that Australia is capable of defending itself, as well as making a contribution to regional defence? And what further measures is the government contemplating that would further strengthen our defence capability at home and abroad?

Mr HOWARD—I thank the member for Gilmore for her question. It is not surprising that a member who represents a very important defence area of Australia—as does the
member for Gilmore, who represents Nowra and surrounding areas—should display, as she has ever since she was elected in 1996, a great interest in defence. This is only matched of course by the interest displayed by the member for Herbert, and the member for Lindsay also displays a great interest in defence. Their interest is equalled by that shown by the member for Hughes, and of course the member for Riverina displays a great interest in defence, as well. So does the member for Macquarie and not leaving out my very good friend and colleague the member for McEwen, who represents that great Puckapunyal establishment in Victoria.

I simply make the point that the announcement that I made this morning is of enormous benefit to people all over Australia and I note and thank the Leader of the Opposition for the necessarily conditional support that he has given to the government’s white paper. I also appreciate the attitude that has thus far been displayed by the member for Cunningham, who I think has taken a very constructive approach on behalf of the opposition. I will end it at that. I will embarrass him, I know, and I certainly do not wish to do that.

This is a very important white paper. It is a white paper that gives a blueprint for defence expenditure and readiness, not only over the next 10 years, but potentially into the decade beyond that. It contains a major commitment to a funding increase. It lays out in very clear terms the government’s strategic view of the world and what is required of the Department of Defence. Very importantly, it spells out in unprecedented detail what we want Defence to do, the money that is being made available for each particular defence activity and the way in which Defence should manage the additional funds that have been made available. It is a white paper that will be seen years ahead as probably the best put together, the most detailed, the most far-sighted Defence white paper produced in the last 20 or 30 years. I thank very warmly all those who have made a contribution to it.

Distinguished Visitors

Mr Speaker—I want to use this opportunity to inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from the Cook Islands. On behalf of all members of our parliament, I extend to our near neighbours and friends in the Pacific islands a very warm welcome.

Honourable members—Hear, hear!

Questions Without Notice

Tax Avoidance Schemes

Mr Crean (2.11 p.m.)—My question is to the Treasurer. Are you aware that the Australian Taxation Office has been issuing public rulings saying that executive share ownership schemes are taxable but has also been issuing private binding rulings—like
this one by the Deputy Commissioner of Taxation—saying that they are not taxable? Treasurer, why won’t you legislate against these schemes, which threaten the integrity of the tax base and allow high wealth executives to avoid tax whilst struggling Australian families pay full price? Aren’t these the same schemes that you have been protecting since 1994 when you opposed root and branch Labor’s planned crackdown on these schemes? Treasurer, why are you protecting wealthy tax cheats?

Mr COSTELLO—We have not had a question on this subject since the last time the Labor Party raised it—

Opposition members interjecting—

Mr COSTELLO—He gets so excited, Mr Speaker. We have not had a question on this subject since the last time the Labor Party raised it and said that the government had done something improper in meeting with the Remuneration Planning Corporation, as I recall. I tabled in the House the Labor Party-ACTU report, which was not produced out of consultation with the RPC but written by the RPC with a foreword from the then ACTU president, Mr Martin Ferguson! This rather quietened down the Labor Party’s attack on the matter. Then of course we had the Sherman report on private binding rulings, which got a great deal of excitement going on the Labor Party frontbench again about the criticisms of the private binding ruling systems. There was a press release put out by one of the members of the Labor Party—Sherman report tax shock—the discredited practice of issuing secret private binding rulings’ I think it was. I referred that to the Australian Taxation Office. I said, ‘When was the system of private binding rulings introduced?’ The tax office said, ‘It was introduced in 1992.’ I said, ‘Good heavens! Was that when the Labor Party was in office?’ ‘Yes.’ Private binding rulings were introduced as an initiative under the Labor government in 1992. It is now apparently a great scandal that the coalition is responsible for.

Then we come to employee share ownership schemes. Labor has made befuddled attempts to make something out of those schemes. I think we would do well to rely on what the Commissioner of Taxation has said in relation to employee share ownership schemes. When asked why the tax office had not asked the government to enact specific legislation to deal with those schemes—which I think is the honourable member’s question—the tax commissioner said on 15 November 2000 in a public speech given in a public forum:

Our advice to the government has been—

Mr Beazley—In a public forum!

Opposition members interjecting—

Mr COSTELLO—There is great hilarity that the Commissioner of Taxation would give a public speech—there would be even greater hilarity if Labor Party members had read a public speech. The tax commissioner said:

Our advice to the government has been and remains that the tax benefits sought under these arrangements are not available, including because of the general anti-avoidance provisions.

That is the advice the tax commissioner has—and always has had. I think I am right in saying that the general anti-avoidance provisions were inserted into the tax office by the coalition government.

Mr Emerson—You are embarrassed.

Mr SPEAKER—Order! The member for Rankin!

Mr COSTELLO—The coalition government introduced the general anti-avoidance provisions—not the Labor Party. As the tax commissioner says, armed with the general anti-avoidance provisions, he now has legislation to deal with these matters.

Mr Emerson interjecting—

Mr SPEAKER—Order! The member for Rankin for the third time! The Treasurer has the call.

Mr McMullan—What is he doing?

Mr COSTELLO—The member for Rankin? As I recall, he is part of the AWU faction—a man with a track record of upholding high standards as part of the AWU faction.

Mr SPEAKER—The Treasurer is not assisting the chair. He will come to the question.
Mr COSTELLO—As the commissioner said, armed with those provisions, he has the capacity to deal with these matters—which is what he intends to do.

Defence: White Paper

Mr LINDSAY (2.17 p.m.)—My question is addressed to the Minister for Defence. Will the minister outline to the House how the government’s new Defence white paper will shape Australia’s defence both now and in the future? How does this white paper differ from its predecessors?

Mr MOORE—I am very pleased indeed to receive this question from the member for Herbert who, as the Prime Minister pointed out, has a big representation of Australian defence personnel in his constituency whom he serves particularly well. Whenever I visit his electorate, I note that his contribution is of a high order.

The white paper that was released this morning has a number of unique features. It was not drawn up completely by Defence officials in Canberra. The government set out to seek the views of the Australian public—something which had not been done before. By doing that, the team led by Andrew Peacock returned with a very rounded view of community expectations and what Australians thought they should get for their defence dollar.

The white paper was put together through consultations with the National Security Committee of Cabinet, to which the Prime Minister referred. That committee was an innovation of the Howard government and has worked particularly well. It gives the heads of the respective departments an opportunity to meet with the ministers concerned and hold across-the-table discussions about important matters. This enables ministers to come to an understanding and an agreement regarding all the issues that are important to national security. I add that the committee played a very important role during the Timor deployment. It met on a daily basis with defence heads to determine policy and outcomes for each day. I commend the Prime Minister for establishing the National Security Committee of Cabinet as a matter of process within Defence, Foreign Affairs and other areas.

The white paper was sanctioned by the national security committee, and ultimately by cabinet, so it is very much a whole of government paper—the product of discussion with the people and discussion within both the department and the parliament. Particularly important was the chance to ask Defence what it wanted in terms of capability. We did not go to Defence and say, ‘Look, here is this amount of money, what are you going to do about it?’ We said, ‘What do you want to meet the expectations of government in the strategic review?’ Defence answered that question and, in doing so, did a very unusual thing: it fully costed all capability recommended in terms of personnel as well as the capital equipment. As a result, we were able to put a price on all items. The government took that up and made a very considerable commitment.

Opposition members interjecting—

Mr MOORE—The Labor Party did not know too much about the pricing of defence matters. That is one thing we found. We know all about pricing, which is something those opposite could not do.

Another very important aspect is the question of industry policy within Defence. In this Defence paper we have set out the requirements of capability purchases over 10 years. Those capabilities have been priced and there is a rough timetable for purchases over 10 years. This enables industry within Australia to take a properly planned approach to contracting. It enables industry to space out its orders and to handle international subcontracting. That has not been done in the past, and it will be of enormous help to industry. I am not aware of any past white papers that set out capability details and costings in the way that this paper does. That will be particularly helpful to industry across Australia. That is but a small sample of the differences in this white paper compared with previous white papers.

Tax Avoidance Schemes

Mr CREAN (2.22 p.m.)—My question again is to the Treasurer, and I refer to his claim that there is no need for changes to the
legislation to crack down on executive share tax rorts because the Taxation Office is pursuing them through the courts. Are you aware that the Taxation Office has not brought a single case on this matter before the courts in the entire period that you have been Treasurer?

Mr COSTELLO—I want to correct the question, because it is not my claim that legislation is not required; it is the tax commissioner’s claim. The Commissioner of Taxation has not only claimed that but advised—

Mr Crean—Blame the tax commissioner!

Mr COSTELLO—No, I am not blaming the tax commissioner; I am relying on the tax commissioner.

Mr SPEAKER—The Deputy Leader of the Opposition has asked his question.

Mr COSTELLO—I actually happen to think that the Commissioner of Taxation may know more about the law than the member for Hotham does. That may be a big claim, and I am sure the member for Hotham does not agree with it. But I think I am entitled to take the view that the Commissioner of Taxation may know more than the member for Hotham. Every ounce of my fibre, every dealing with him in question time, has led to a confirmation of that view. So it is actually what the Commissioner of Taxation says. It is not my claim; it is what the Commissioner of Taxation says publicly and it is what he advises the government both publicly and privately. I read it out to you:

Our advice to government has been and remains that the tax benefits sought under these arrangements are not available, including because of the general anti-avoidance provisions.

That is the advice that the Commissioner of Taxation has given the government. I think the Commissioner of Taxation ought to be relied on. I know that a tendency has grown up amongst the Labor Party now to launch personal and vicious attacks on the Commissioner of Taxation. I know that the Leader of the Opposition has stood by whilst the member for Wills has engaged in the most vicious, vituperative, personal attacks on the Commissioner of Taxation. So I point out again to the House and to the Labor Party that the Commissioner of Taxation was actually appointed by a Labor government. He was actually appointed by a Labor government. He has advised this government that it is his view that the general anti-avoidance provisions enacted by this government are sufficient to deal with any avoidance schemes which are improper; and we intend to rely upon his advice.

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

Mr SPEAKER—I believe that the Treasurer has concluded his answer.

Mr Crean—Without answering the question!

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

Defence: White Paper

Mrs MAY (2.25 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House of the substantial contribution the government’s Defence white paper will make to strengthening Australia’s engagement in the region?

Mr DOWNER—Firstly, I thank the member for McPherson for her question. She is one of so many members of the coalition who are great supporters of the men and women who make up the Australian Defence Force and of our Defence Force—

Opposition members interjecting—

Mr DOWNER—Yes, you interject, but you have not asked a single question about the defence white paper, which is an interesting reflection of how important defence is to the Australian Labor Party.

Mr SPEAKER—The Minister for Foreign Affairs will come to the question.

Mr DOWNER—It is of no interest to you at all, obviously. The Defence white paper is a historic—

Opposition members interjecting—

Mr DOWNER—Mr Speaker, they interject but they do not ask questions about the Defence white paper. It is a sad day when our main opposition party has no interest in defence. Since this government took office in March 1996—

Mr Edwards—You were in the Girl Guides!
Mr SPEAKER—The member for Cowan!

Mr Edwards—What would you know about—

Mr SPEAKER—The member for Cowan for the second time!

Honourable members interjecting—

Mr SPEAKER—When the House has come to order, the Minister for Foreign Affairs may continue.

Mr DOWNER—Since taking office in March 1996, the government has achieved unprecedented expansion in our mechanisms of dialogue and consultation with regional countries and other major powers, on defence and security matters.

Mr Beazley—That is a unique interpretation!

Mr DOWNER—The Leader of the Opposition interjects, as he always does, but of course, if you never ask questions, you will never know about it. The government has established regional security dialogues with China, Thailand, the Philippines and Vietnam, and this government has also set up political military talks on an annual basis with Japan and the Republic of Korea, as well as Russia, France—which of course is an important country in terms of the Pacific—and Germany, outside of the region. In 1996 at the Ausmin talks in Sydney, the government, with the United States, strengthened and enhanced through the Sydney Declaration the alliance framework with the United States in the context of Asia-Pacific security.

The fact is that this Defence white paper builds on the achievements of the government to provide a framework further to enhance our cooperation with regional countries to achieve common interests and ensure regional security and stability. It lays down objectives we seek to achieve in our relationships with the other defence forces of our region, as well as in multilateral security forums—and in particular I refer to the ASEAN Regional Forum. Crucially, it ensures that the Australian Defence Force will have the resources necessary to play a greater role in cooperation with our neighbours, both in Asia and in the Pacific, in protecting regional stability.

Finally, the publication of the white paper is, in itself, an important measure to build greater confidence and trust in the region. We have argued, as have others through the ASEAN Regional Forum, that transparency in defence policy and defence planning in the region is a very important confidence building measure. By producing a white paper, by being transparent about our Defence Force, by ensuring that there are proper consultations with our friends and neighbours within the region, we are able to contribute very significantly to building up broader regional confidence in our security.

Tax Avoidance Schemes

Mr CREAN (2.30 p.m.)—My question again is addressed to the Treasurer. I refer to his claim that there is no need for legislation to crack down on high wealth tax rorts because they will always be picked up by part IVA of the tax act. If part IVA is so effective, why have you decided to legislate against superannuation scams used by company executives? Why do these scams need new legislation but executive share schemes—the new generation bottom-of-the-harbour schemes—do not? Why do you continue to protect those high wealth individuals and executives who are rorting the tax system?

Mr COSTELLO—The only group that I am aware of that has given support to new generation employee share schemes is the ACTU. I have already tabled the report that was written by Remuneration Planning Corporation for the ACTU, with a foreword from Mr Martin Ferguson endorsing new generation employee share schemes.

Mr Crean—You’ve opposed it root and branch all along.

Mr COSTELLO—No.

Mr SPEAKER—The Treasurer has the call.

Mr COSTELLO—For our part—

Mr Crean—Make him answer.

Mr SPEAKER—Deputy Leader of the Opposition.

Mr Crean—Oh precious!
Mr Speaker—The Deputy Leader of the Opposition has already been dealt with generously by the chair.

Mr Costello—And he has been dealt with generously by me too, Mr Speaker.

Mr Speaker—The Treasurer will come to the question.

Mr Costello—You have asked me about new generation employee share schemes. The government has not supported those.

Mr Emerson interjecting—

Mr Speaker is warned.

Mr Costello—The only group that has supported new generation employee share schemes is the ACTU—which, as we know, controls the Labor Party.

Mr Cox—They do not run a tax policy, though.

Mr Costello—The member for Kingston says that the ACTU does not run tax policy. They do not under a coalition government, my friend, but they do under a Labor Party government. All of us know that the trade union movement have a majority of an ALP conference, and they can bind each and every one of you on every issue. They do not run it under a coalition government—which is why, on a new generation scheme, the only group that has supported it is the ACTU, which has control of the Australian Labor Party. The coalition has never supported it. I am then asked about my claim about the adequacy of the law. I repeat: it is not my claim. I act on legal advice from the commissioner—

Mr Crean—You endorsed the claim, you fool!

Mr Speaker—The Treasurer will resume his seat. The Deputy Leader of the Opposition is warned.

Mr Costello—The deputy leader says I endorse the claim. No. What I do is I accept advice from the Commissioner of Taxation—which, as I have already explained to the House, I consider to be much better advice than legal advice from the member for Hotham. This is not just what the Commissioner of Taxation said to us in formal advice; he said it publicly. I do not know if you have actually read his speech of 15 November, because if you had you would not have needed to ask the question.

Mr Crean—I wonder who wrote it for him.

Mr Costello—The member for Hotham now wonders who wrote it for him, he says. The Commissioner of Taxation can actually write, you know. He actually writes his speeches—

Mr Speaker—The Treasurer will respond to the question, not to an interjection from the member for Hotham.

Mr Costello—and he can actually deliver them. So we now move on to an attack on the Commissioner of Taxation, who was appointed by the Australian Labor Party and endorsed by this government. The Commissioner of Taxation says this:

Our advice to the government has been and remains that the tax benefits sought under these arrangements are not available, including because of the general anti-avoidance provisions. Our advice to the government to confirm the law relating to controlling interest superannuation arrangements was at least in part motivated by our desire to protect people to whom these arrangements continue to be aggressively marketed, notwithstanding our clear position on them. The resulting proposed legislation is not a new anti-avoidance measure; it is a confirmation of our view of the existing law, supported by counsel, that an employer and an employee cannot be the same person for the purposes of obtaining a deduction for superannuation purposes.

That advice from senior counsel sounds pretty right to me. But, notwithstanding the fact that it sounds pretty right to me, it sounds pretty right to the Commissioner of Taxation. The Commissioner of Taxation advises us to that effect. He makes a public statement—because I suspect he too is aware of the attempt by the Labor Party to undermine his integrity. But I must say that, in all of my dealings with the Commissioner of Taxation, I have found him to be somebody who has dealt with integrity, if I may say so. His integrity measures up quite well alongside that of the member for Hotham.
Defence: White Paper

Mr FORREST (2.36 p.m.)—My question is addressed to the Minister for Veterans’ Affairs and goes to the welfare of Defence personnel. Would the minister advise the House of the Defence personnel initiatives contained in the Defence white paper?

Mr BRUCE SCOTT—I thank the member for Mallee for his question and acknowledge the wide support on this side of the House for the white paper, which was released by the Prime Minister this morning. The white paper emphasises the critical importance of people as a key element of defence capability. The government recognises that a key requirement for addressing all contingencies is a substantial pool of highly competent military professionals. The Australian Defence Force’s weapons, equipment and systems cannot be of world-class capability without first-class people to operate them.

Over the last 100 years, Australia’s armed forces have earned an enviable reputation for toughness, resilience and also resourcefulness. We have seen that in East Timor and we see it operating today in the Solomon Islands, in Bougainville and in other posts overseas. When the government came to office in 1996, only 42 per cent of the then full-time ADF were in combat or combat related roles. Under the government’s Defence Reform Program, the target of that force was set at 65 per cent of the total force of the Australian Defence Force. That was an increase of 8,000 personnel at the sharp end, the business end, of the Australian Defence Force. The white paper initiative announced today will see this increased by another 4,000, to see the full-time strength of the Australian Defence Force rise to 54,000.

Issues such as good leadership and policies that recognise the very special nature of service in the Australian Defence Force are high on the government’s agenda. Job satisfaction, remuneration packages and health and safety, as well as career and lifestyle aspects, need to be addressed in terms of the Australian Defence Force’s evolving role. Let me make this quite clear: the government demand unique service from members of the Australian Defence Force. The white paper outlines how this government will support them in the task that we ask of the men and women of the Australian Defence Force. The government also recognise that high levels of education and training are fundamental to a modern Australian defence force, and improvements on this front will help Defence attract and retain the people it needs in the future.

In addition to addressing the requirements of the full-time ADF, the white paper foresees a significant enhancement of reserve capability. The white paper recognises that the reserves are becoming an increasingly important element of the total force and a unique source of additional, particularly specialist, skills. Under legislation that is currently being considered by the parliament, reservists, their families and their employers will benefit from protection measures for civilian jobs and a financial support package to employers and also to reservists.

Finally, the white paper details a $30 million initiative to strengthen and expand the Australian Services Cadet Scheme, and I know that that is strongly supported by members on this side of the House. In tandem with this extra funding and support to the cadets, the government is also pursuing a national training framework for cadet scheme participation.

These three elements that I have spoken of today reflect the government’s absolute commitment to one of the most worthwhile youth organisations and youth development programs in our country and stand in stark contrast to the policy silence that is coming from the other side of the House. The white paper continues a range of initiatives that reflect this government’s total commitment to the people as a key element of our defence capability both now and in the future.

Exports: Beef

Mr O’CONNOR (2.41 p.m.)—My question is to the Minister for Agriculture, Fisheries and Forestry. Are you aware that a Senate committee has unanimously described the process you use to issue quotas for the export of high quality beef to Europe as ‘fundamentally flawed’ and ‘open to manipulation’? Are you also aware that the chair of
the committee, Liberal Senator Crane, has said:

... I guess you had to be, at the very least, suspicious that there had been some prior knowledge and that what would be termed in the corporate world as insider trading could have occurred ...

Senator Crane also said:

I have no doubt at all that there was commercial retrospectivity and it was unfair to some of the people involved in the process.

Minister, will you now admit that you have presided over a process that leaked like a sieve to the advantage of a few players and the disadvantage of most other processors? How do you propose to fix up the meat mess that you have created?

Mr TRUSS—I am naturally aware of the Senate committee report. However, I do not believe that the report has produced any evidence to support suggestions that there was any inside knowledge available to people who had an interest in this issue. Indeed, if you look at the record of trading associated with EU quotas, you will note that there was substantial trading particularly in the month of November, because the rules in relation to EU deliveries changed on 1 December. Naturally, everybody who was interested in exporting to Europe was very keen to make sure that their deliveries were in place by 1 December. In fact, if you look further at the deliveries, you will notice that in the subsequent three months there is a total of only three trades in the whole three-month period. Obviously, there was considerable interest in delivering quota early to take advantage of the old rules before the new and much tougher rules came into place. The fact that there were going to be changes in the way in which the EU quota was allocated was telegraphed by my two predecessors. Something like a year’s notice or more had been given. The decision I made was made on 23 December 1999, or thereabouts, for quota deliveries to begin on 1 July 2000. So substantial notice was given about the changes that were to be made.

The most important point to emphasise is that the changes were designed so that those people who delivered beef to the Europeans—the farmers and the processors—actually received the benefits of the premiums associated with that trade. There are substantial costs associated with delivering to that market because of the rules that exist to supply to that market. As those costs are substantial, it is vital that the benefits from that trade go to the producers who have to wear those costs and to the processors who have to meet the standards. This decision was about delivering, to those who performed in the market, the benefits from that market, rather than having them shared among traders. The decision has been overwhelmingly supported by the Cattle Council, the Australian Beef Association and by all of the processors who are involved in the trade—the entire industry—and it has been warmly welcomed throughout agriculture. Yet, once again, we have the opposition taking the side of the middlemen, the people who take the cream off this quota without contributing anything to the effort. I believe the decision I made at the time was correct. It has already substantially benefited farmers and those involved in the industry, and the industry is very much the better for the changes that were made.

Roads: Funding

Mr BILLSON (2.46 p.m.)—My question is to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister outline to the House the government’s proposal to provide an additional $400 million for the national highway and roads of national importance? Will the Scoresby transport corridor be considered in these projects?

Mr ANDERSON—I thank the honourable member for the question. Indeed, in government ranks the member for Dunkley has been rechristened as ‘Bruce Billson-Scoresby’—hyphenated, of course. As part of the Roads to Recovery package, the Prime Minister and I have announced an additional $400 million for the National Highway and Roads of National Importance programs to develop key arterial links in outer metropolitan areas in Australian capital cities. The additional $400 million will be allocated over four years, commencing in 2001-02. This funding represents a very substantial 12 per cent increase in the level of Commonwealth funding for the National Highway and RONI programs. Details of the new
project will be unveiled next year, once the potential projects have been assessed and prioritised.

To come to the second part of the honourable member’s question, I have to say that I have been made aware of the support that exists in the community for the Scoresby Freeway. Indeed, the members for Dunkley, Deakin and Aston in particular have been unceasing in their lobbying and recommendations for consideration of this road. I have come to the conclusion that, in the long term, it might be cheaper for the taxpayer if we build the road instead of wearing out the carpet in the office. Yesterday, at their request, I met with a large number of council representatives from south-east Melbourne who provided me with quite a bit of detail on the benefits of the project as they see it and a lot of evidence in support of the project. Those councillors informed me that the Scoresby transport corridor has great strategic importance. They tell me that manufacturing and production activity in the corridor is a major source of exports for Australia and could increase gross domestic product by around $150 million. Those were the essential points made to me.

I was very interested to note yesterday that, valuable as the overview was, and given that the member for Dunkley in particular often points to the value of this project for Frankston, the Mayor of Frankston did not contribute to the debate. That was reflected, too, by the Bracks government. Despite their recent rhetoric, they have not shown the commitment to this project that has been forthcoming from federal members and the councils that I met with yesterday, I can only conclude that we would have to look seriously at it.

Exports: Beef

Ms GERICK (2.51 p.m.)—My question is to the Minister for Agriculture, Fisheries and Forestry. Minister, are you aware of concerns that your process for issuing European high quality beef quotas has resulted in the entire quota ending up in the hands of operators in eastern Australia? Why have you set up a scheme which effectively denies Western Australian beef producers access to this high value market? How do you propose to fix your scheme, which discriminates against cattle producers and meat processors in Western Australia?

Mr TRUSS—It is complete nonsense to suggest that the scheme discriminates against producers in Western Australia. It does deliver the quota to those producers who actually deliver to the European Union, and only registered meatworks that have a European ticket are able to deliver to that particular market. The reality is that there have been no properties in Western Australia with EU registration. I understand that some may seek to apply for it—and, from time to time, there have been registered meatworks. Unless you have a registered meatworks in Western Australia for the EU quota, you cannot send any beef.

This new system also includes a reserve quota—this year, 600 tonnes and, in other years, 400 tonnes—that will be available for new players, and it is available free of charge, to be allocated on merit. So, if there are producers or processors in Western Australia who want to deliver to the European
One of the things that have changed for capital investment for the business sector as a result of the new taxation system is that now business can claim full input tax credit for all embedded taxes in plant and equipment. That was not the case under the Labor Party’s tax system. Businesses paid embedded costs, through the Labor Party’s tax system, when they were investing in plant and equipment. As a consequence, for the same amount of investment, it becomes cheaper for business because they get an input tax credit. One of the reasons why the new taxation system is helping business is that it is making investment goods cheaper for business so that they can invest.

The outlook for solid investment reflects favourable fundamentals in the Australian economy, healthy corporate profitability and balance sheets, relatively high levels of capacity utilisation, strong world growth and a boost to Australia’s competitiveness flowing from a stronger world economy and exchange rate effects.

Education: TAFE Funding

Mr LEE (2.57 p.m.)—My question is addressed to the Minister for Education, Training and Youth Affairs. Can the minister confirm that, at the most recent ANTA ministerial council, every state TAFE minister—including his Liberal colleagues in South Australia and Western Australia—rejected his new TAFE funding agreement because it contained no growth funding? Does the minister recall yesterday accusing the opposition of ‘showing complete contempt for the needs of schools to plan for the future’ because we are trying to amend his unfair schools funding legislation? Minister, isn’t it the truth that you showed complete contempt for the more than one million VET students in Australia when you threatened that you would withhold all Commonwealth TAFE funding if the states did not sign your unfair deal? Minister, why are you refusing to properly fund TAFE? Why are you holding VET students to ransom in the face of the unanimous rejection of your unfair TAFE funding plan?

Dr KEMP—The government’s policies for the funding of TAFE in Australia have produced an increase of some 270,000 places...
in TAFE over the last three years. Our policies have been designed to ensure that there is a growing number of opportunities in the TAFE sector, in the university sector and in the schooling sector for those Australians—young Australians and mature age Australians—who want to increase their level of skills. The coalition has done this by guaranteeing to the states funding increases in real terms and by requiring the states to grow their systems through efficiencies.

Over the last three years, the states—with one exception, the state of New South Wales—have responded extremely well to the funding guarantees that the Commonwealth has put in place. The Commonwealth has made a similar offer of guaranteed funding in real terms over the next three years, challenging the states again to continue to make their state systems more efficient. I have also made an offer to the states to give them greater flexibility in relation to capital funding so that some of the money which is no longer required to build up facilities which are now in place can be used for recurrent purposes. In fact, this will provide the states with an additional $52 million over the coming three years for their TAFE funding.

So the Commonwealth are making no threats to the states. The fact is that we have a National Training Authority agreement which expires at the end of December. The Commonwealth have made an offer to the states. We are still engaged in discussions with the states on the terms of that agreement, but I can assure you that there are absolutely no threats to cut off funding. On the contrary, the Commonwealth aim to continue to expand opportunities for Australians in the 21st century to increase their level of skills and their job opportunities to support the rapidly growing economy that we have.

Manufacturing Sector: Industrial Action

Mr CHARLES (3.00 p.m.)—My question without notice is to the Minister for Employment, Workplace Relations and Small Business: Could the minister inform the House of the status of union campaigns of threatened industrial action against the manufacturing industry in Victoria and elsewhere? Minister, what steps has the federal government taken to counteract such threats? Are there any alternative policies that would impact on the wellbeing of the manufacturing sector?

Mr REITH—I thank the member for La Trobe. There have certainly been a number of industrial campaigns in the last 12 months but of particular importance has been a campaign run by the AMWU, the CEPU and the AWU—three of the owners of the parliamentary party here sitting opposite—under the title Campaign 2000. They basically set out to abolish, to repudiate and to override the whole system of enterprise bargaining in this country and to go back to a 1970s style industry approach, which would have been an absolute disaster for the manufacturing sector, which even the Labor Party must themselves know, because they used to be in favour of enterprise bargaining. I am pleased to say that, whilst there have been quite a lot of costs incurred on business, jobs lost and reputations tarnished in this campaign, the campaign ultimately has been repelled by the employers in the state of Victoria. Enterprise bargaining will remain, it has not been broken and we will not be having industry bargaining in the manufacturing sector. The attempts to bring the manufacturing sector in Victoria to a standstill have likewise been unsuccessful.

The achievements have really been due to two essential factors. The first is the absolute determination of the industry not to do deals which would destroy the future prospects of the industry, and I pay tribute to the Australian Industry Group, which have been very firm in the best interests of their members, including of course the employees in manufacturing. The second factor is the strength of the coalition’s Workplace Relations Act, our commitment to enterprise bargaining, and our laws and proposed laws against unlawful behaviour. When I refer to proposed laws, I refer particularly to the pattern bargaining bill, which, whilst it did not go through the Senate, did hang like a sword of Damocles over the parties, their knowing that the Democrats would have had a lot of pressure on them to pass that piece of legislation if the industrial action had got out of hand.
I can report that, of all the agreements reached in Victoria, only 10 have slavishly followed the union’s pattern demand. Every other agreement, I am advised, has had variations against the proposal. But also of interest is that a lot of businesses have seen the employer and the employees get together, do their own deal and tell the union what they think of them. Thereby we have seen an increase in ‘direct with employee’ agreements, the 170LKS, which of course the Labor Party are basically opposed to. A number of union officials have admitted their own failure. One of them said the other day that they admit that the campaign to date has been a fairly hard slog, which is a bit of an understatement.

I am asked about future policies. The fact is that the Victorian Labor government supported the unions as they set out to wreck manufacturing in Victoria, and the weak Leader of the Opposition here never at any time stood up against Campaign 2000. When it came to a choice between the jobs of workers in Victoria in the manufacturing sector and doing what he was told to by the AMWU, on every occasion he chose to support the line being imposed on him by the AMWU and to put aside the interests of the workers. If you had had the same situation replicated, Labor’s policy would allow industry-wide strikes to take Australia back to the 1970s. They would allow union sanctioned pattern bargaining to take us back to the 1970s. They would allow secondary boycotts, which would mean more strikes undermining Australia’s reputation, and they would force employers to do deals with unions where the unions did not represent workers in a particular workplace. The government have stood firm. We have stood firm on enterprise bargaining and, finally, we have stood firm on the rights of workers to have jobs and not be pushed around by union leaders interested in a political agenda rather than the interests of their real membership in the union movement.

**Liberal Party of Australia: Electoral Practices**

**Mr BEAZLEY** (3.05 p.m.)—My question is to the Prime Minister. Do you recall advising the House on 31 October that One Nation should be placed last on all Liberal Party how-to-vote cards in Australia? Are you aware that Western Australian Premier, Richard Court, advised the Western Australian state parliament on 16 November: We will make decisions on whom we will put last when we know who the parties are and what they stand for.

Are you aware that, on Saturday, 2 December, the Premier said that Labor should be put last on Western Australian Liberal how-to-vote cards and refused to rule out individual Liberal Party candidates swapping preferences with One Nation? Prime Minister, what action will you take to ensure that the Liberal Party puts One Nation last on all its how-to-vote cards at the next Western Australian state election?

**Mr SPEAKER**—Before I recognise the Prime Minister, I have some difficulty linking the Prime Minister’s responsibilities as Prime Minister to the question asked.

**Mr Beazley interjecting**—

**Mr SPEAKER**—The Leader of the Opposition has made a constructive intervention, for which I thank him. I recognise the Prime Minister.

**Mr HOWARD**—I am quite happy to answer it. I do remember saying that. I am not, frankly, aware of the other comments that the Leader of the Opposition has referred to. Can I say that you asked me what I will do. I will repeat my view to the Western Australian branch. As you know, in relation to these matters, you frequently yourself—through you, Mr Speaker, I address the Leader of the Opposition—have said that there are some matters where you have a view which is different from the view of the state parliamentary leader. I happen to hold the view that it would be—

**Opposition members interjecting**—

**Mr HOWARD**—Mr Speaker, it does not pain me at all to say that I do not have the constitutional power within the councils of the—

**Mrs Crosio interjecting**—

**Mr SPEAKER**—The member for Prospect! I have given the Prime Minister the call.
Mr HOWARD—I do not have the constitutional power within the councils of the Liberal Party organisation to enforce a personal view in relation to preferences. As the Leader of the Opposition will know, the organisational structures of the Liberal Party and the Australian Labor Party are very different. Let me say, through you, Mr Speaker, to the Leader of the Opposition, that there are some things about the Labor Party organisation that I would not wish on the Liberal Party of Australia, but there is one thing about the Labor Party organisation that I would wish on the Liberal Party of Australia, and that is that our federal executive had more direct power to intervene in relation to state branches concerning matters affecting the federal party. But we have a tradition within our branches where the state divisions strenuously resist that authority being handed over to the federal executive. That is a matter of record. I am not running away from that, but I will have the opportunity tomorrow when our federal executive meets to express my view on this. It is quite well-known what our constitution is. I think One Nation ought to go last. I think One Nation ought to go behind the Australian Labor Party all around the country. That is my view, and that is a view I will continue to repeat in any Liberal Party forum around the country. It is my view and I will use whatever authority I have to bring that about. I cannot guarantee that I can require state branches to do it, because that is not part of our constitution, but I have stated a clear position and I will continue to state it.

Goods and Services Tax: Implementation

Mrs DE-ANNE KELLY (3.10 p.m.)—My question is addressed to the Treasurer. Would the Treasurer provide the House with an update on the implementation of the new tax system, and can the Treasurer comment on any alternative tax policies?

Mr COSTELLO—I thank the honourable member for Dawson. I can update the House on the new tax system. The Australian Taxation Office has now had total lodgments of over 1.6 million business activity statements. It thought that there would be 1.6 million to 1.7 million, and it has now achieved that target. One thing that the House will notice as the year draws to a close is the absence of questions from the Labor Party on the goods and services tax. It is remarkable how this House is finishing compared with how it began. I remember reading in the Weekend Australian on 19 February 2000 a position piece by Paul Kelly setting out where he thought politics would go this year. He said this:

The entire country knows what Labor plans for the historic 2000 year—a relentless negative campaign against the GST, a tax it intends to keep. This is political fraud on a grand scale. We had packets of salad, we had Hockey Bear pyjamas, we had questions day after day—and I remember coming to this dispatch box—about the way in which the GST would destroy Australia as we knew it. We had prognostications from the Leader of the Opposition on how it would be a nightmare; we had prognostications on how it would destroy the Australian way of life, how it would boost inflation, how people would be put out of work. This was the intensely negative campaign of the Australian Labor Party which they thought was going to surf them into office over the course of the year. As the year ends, do we hear anything about the GST?

Government members—No!

Mr COSTELLO—We have had one question today about GST. Do we have one mention of the roll-back policy? On 8 July 1999, Mr Beazley said:

Labor’s commitment will be to roll back GST.

On 20 February:
We will roll it back as far as we can.

On 21 February:
We are going to roll it back. We are not going to leave it static; ...

On 9 May:
I have said before and I say again there is no doubt about our commitment to roll-back.

On 2 June:
People should not be in any shape or form confused about whether or not we will. We will roll it back.

On 19 June:
There will be roll-back of the GST under a Labor government. It is not an if or but, but there will be roll back.

The last, most famous comment is from the speech to the AMWU conference in Newcastle on 19 July:
I can tell you today we won’t be moving a millimetre from our stance of roll back.

No, you will not be moving a millimetre. Fifty-five kilometres—that is the only way in which you are moving from it.

Yesterday, apparently, a document was distributed at the caucus meeting. This is a four-page document of the caucus of 5 December 2000 which sets out all the great achievements of the Labor Party over the year. It is in double spacing. I would like to thank whoever sent it to me for sending it.

Mr Costello interjecting—
No, it was not yours. No, it came in a brown paper bag. I think it might have come from the AWU faction. Anyway, I looked through it to see the great achievements as reported to the caucus, and the great achievement in relation to roll-back, which is—

Mr O’Keefe—Mr Speaker, I raise a point of order. We ask that the Treasurer table the document so we can test the veracity of it.

Mr Speaker—it is not common to ask for a tabling in the middle of a question. I will put the question to the Treasurer at the end of question time.

Mr Costello—Actually, I ask the Labor Party to table the document—it is their document. I think the Leader of the Opposition knows what it is.

Mr Speaker—I have dealt with that.

Mr Costello—Anyway, the great achievements do not include roll-back, except that, on roll-back, it says:

Labor is committed to rolling back the GST on mobile homes and boarding houses.

That was it—that was the roll-back policy: ‘Labor is committed to rolling back the GST on mobile homes and on private boarding houses’. This is what we have been fighting about with tax reform all these years—mobile homes and boarding houses. There is not even a GST on private residential rents on mobile homes and boarding houses, so I do not know what they are going to roll back.

We have gone through the most amazing tax reform that Australia has seen and the Labor Party has not been part of it. The great restructuring of the Australian economy has been completely opposed by the Labor Party—as Paul Kelly said—as ‘a matter of fraud’. You never had any intention to repeal the GST. I feel sorry for the backbench of the Labor Party who were primed up to oppose a tax which their leadership always wanted to keep and now intends to keep. And when they are asked how they are going to roll it back they come up with what? Mobile homes and private boarding houses. We come to the end of this year with one of the great tax reforms of Australian history. The people on the coalition side can proudly say that the coalition led and that the Labor Party opposed and that in all its efforts to frustrate needed economic reform it failed Australia.

Illegal Immigration: Australasian Correctional Management

Mr Sciaccia (3.17 p.m.)—My question is addressed to the Minister for Immigration and Multicultural Affairs. Minister, are you aware of allegations in today’s Australian that reports detailing incidents of sexual molestation of female detainees by an ACM officer were ‘discarded by the company without investigation’? Minister, given your spokesman’s comment that ‘unacceptable behaviour is unacceptable’, will you now call a full judicial inquiry into the growing number of allegations emerging from Australia’s detention centres, the management practices of ACM and the conduct of the company’s officers? If not, why not?

Mr Ruddock—The reason for this question is a report in today’s Australian newspaper. That is the only new information that the member has put before the parliament on what he alleged very early in the piece would be a ‘drip, drip, drip’ approach to dealing with this issue. So let me deal with that issue first. Yes, I am aware of the allegation—I read the Australian newspaper today, I am advised that ACM did receive a report from its staff following the removal
operation. My department has requested a full report on this matter from ACM senior management so that the facts can be established; in particular, what action was taken following the receipt of that report. If the alleged incident did occur, I would, as my adviser indicated, regard it as being completely unacceptable. If it did occur and ACM took no disciplinary action as a result, I would regard that as being equally unacceptable. However, until such time as I have this additional information I do not think it is appropriate that I should have a concluded view in relation to the matter. But let me say that there is an allegation, which has not been substantiated in the newspaper report, which gives no name as to the person who suggests—

Mr Beazley interjecting—

Mr RUDDOCK—No, it did not, but there were particular reasons for that, which I have elucidated before, where there was factual information upon which we could proceed. This event, if it occurred, occurred in September 1999. I have a statement from Peter Vardos, the Assistant Secretary to the Department of Immigration and Multicultural Affairs, who was the senior DIMA officer on board the removal flight, codenamed Operation Joseph, that occurred on that day. He was accompanied by a fellow DIMA officer who performed interpreting duties. We believe that is the incident which is referred to. The statement reads:

The removees, who had arrived in Australia unlawfully on two separate boats, comprised 75 males and 10 females. Thirty ACM officers provided the security escort services for that flight. The removal was undertaken by Malaysian Airlines Boeing 737. The flight departed Port Hedland at approximately 11.00pm on the night of Wednesday 1 September, and arrived in Fuzhou at approximately 8.00am on Thursday 2 September. There was one refuelling stop enroute, at Kota Kinabalu in Malaysia.

The important part of this statement is to this effect:

There was a heightened level of security for that flight. A group of male removees had been involved in an incident at Port Hedland detention centre prior to the removal and were assessed as potentially non-compliant during the flight. Given the security concerns and, as the aircraft was full, there was no unnecessary movement through the aircraft during the flight by removees or DIMA officers. My DIMA colleague and I were seated at the front of the aircraft.

I did not witness any of the incidents alleged in the article in the ‘Australian’ to have occurred on that flight. I was not made aware of any of these matters by any ACM officer during that flight, upon completion of the flight or since that time.

I first became aware of the allegations during the evening of 5 December 2000 when I was informed by the Minister’s Media Adviser that the ‘Australian’ intended to publish the allegations in an article today.

The only point I make is this: without any name of a person making an allegation, without anything of substance, with a statement of that sort, I do not know why there should be any different approach taken in relation to this matter. I suggest that if the standards that have been asked to be applied in this case were applied in relation to allegations against any of you, you would be taking a very different view of the matter.

Mr Beazley—Mr Speaker, I ask that the minister table the document he was quoting from.

Mr SPEAKER—Was the minister quoting from a confidential document?

Mr RUDDOCK—Mr Speaker, I have read the document almost in its entirety, and I do not think there is anything that I would regard as being inappropriate to be on the public record.

Mr SPEAKER—that does raise, too, the matter that I had overlooked—that is, I had indicated to the member for Burke that I would ask the Treasurer whether he was prepared to table the document which he—

Mr Costello—No, Mr Speaker.

Mr McClelland—Mr Speaker, it may be as a result of my lack of hearing, but did the Treasurer refuse because he said it was confidential, or was it on some other basis?

Mr SPEAKER—the member for Barton is raising a matter that I had not addressed and that I had not overlooked either. The Treasurer, under the standing orders, is
obliged to indicate that either the document was confidential or he was using it as notes—

Mr Costello—and not reading from it, Mr Speaker.

Mr SPEAKER—but he cannot simply refuse.

Mr Costello—I ask that the Labor Party table the document. I would like to get the Labor Party’s copy.

Mr McMullan—Mr Speaker—

Mr SPEAKER—I will deal with it. The Treasurer is aware that the chair has no way of knowing and no way of presuming that there is a document such as he has quoted from in the possession—

Mrs Crosio—He said it was ours.

Mr SPEAKER—The member for Prospect! The chair has no way of presuming or knowing that there is a document in the hands of members on my left that is able to be tabled. No-one has quoted from it and no-one has cited the document, and a request to table it cannot therefore stand. The Treasurer has, however, been asked to indicate whether the document from which he was quoting was confidential or whether he was using notes, and that is why the request to table it was made.

Mr Costello—Mr Speaker, I did not read from that document. As I understand the standing orders, it is where somebody reads from a document.

Mr Crean—You did. You quoted it.

Mr Costello—Mr Speaker, I think the Hansard will show that I did not read from that document at all, nor did I quote from that document. So in those circumstances, you cannot be asked to table it. It is a confidential document because I want to protect the identity of the person who sent it to me; that undoubtedly is the reason why the Labor Party frontbench wants it—to find that person.

Mr SPEAKER—The Treasurer will resume his seat.

Mr Costello—But I would like to say to that person—

Mr SPEAKER—The Treasurer will resume his seat!

Mr McMullan—Mr Speaker, I rise under standing order 321, to which you have been referring. It says:

A document relating to public affairs quoted from by a Minister ... unless stated to be of a confidential nature ... shall ... be laid on the Table.

That is the sense of 321.

Mr Slipper—He said he didn’t quote.

Mr SPEAKER—The member for Fisher!

Mr McMullan—The Treasurer clearly purported to be quoting it during the course of his answer. If he is now saying it was not an accurate quote, we will accept that he was not telling the truth about it. If he claims that it was true, we welcome it being tabled. If it is an accurate copy of the document he purports it to be, it is so confidential we distributed it to the press yesterday.

Mr Costello—Oh! So it is real, is it? You said it was forgery.

Mr McMullan—If it was distributed to the press yesterday—

Mr SPEAKER—The Manager of Opposition Business and the Treasurer will cease their cross-table intervention and both resume their seats.

Mr Costello interjecting—

Mr McMullan interjecting—

Mr SPEAKER—They will both resume their seats!

Mr Costello interjecting—

Mr McMullan interjecting—

Mr SPEAKER—The Manager of Opposition Business and the Treasurer will cease their cross-chamber exchange.

Mr Costello interjecting—

Mr McMullan interjecting—

Mr SPEAKER—I have asked the Manager of Opposition Business and the Treasurer to cease their cross-table exchange. I have asked the Treasurer whether he was prepared to table the document. He indicated to me in his statement, as the Hansard will show, that the document was confidential. I have never, and as far as I am aware no predecessor of mine has either, done other
than accept the minister’s word on that matter. So long as I occupy the chair, I intend to maintain that rule.

**Goods and Services Tax: Benefits**

Mr CAMERON THOMPSON (3.29 p.m.)—My question is to the Minister for Financial Services and Regulation. Will the minister inform the House of any recent research which shows how Australian shoppers have benefited from the introduction of the new tax system? How does this research compare with other similar research?

Mr HOCKEY—I would like to thank the member for Blair for his interest in this matter. That question follows on from the Treasurer’s earlier answer to a question in relation to facts and figures and the GST. I just happen to have a copy of *Choice* magazine, published by the Australian Consumers Association. The Australian Consumers Association has never been prepared to be the mouthpiece of any government, but it undertook a survey of prices. I thought this could be very interesting. The first paragraph of the survey says:

They said your weekly grocery bill will drop after the GST—and they were right.

In July the Australian Consumers Association conducted a survey of 138 supermarkets in 24 cities covering a range of goods. It sent its surveyors out—

Mr Horne interjecting—

Mr HOCKEY—I will come to the member for Paterson in a minute. It covered everything: Nescafe, Vegemite, Lipton teabags, Sorbent tissues, bacon, butter and Cold Power laundry detergent. Coca-Cola—I remember that incident—went down nine per cent. Where is Michelle Grattan? Go Cat biscuits, down nine per cent; Just Juice, down nine per cent; Pamolive soap, down nine per cent. And the ACCC said prices would go down only one to two per cent.

Overall, prices fell on average by four per cent after the introduction of the GST. If the Labor Party believe in roll-back, what does that mean? That means higher prices under the Labor Party. It is quite informative to look at some of the places where the survey was conducted. The member for Ballarat will be pleased, because prices went down three per cent in the supermarkets in Ballarat. The member for Herbert will be pleased, because in Townsville they went down six per cent. In the electorate of the member for Richmond, who has always been a strong defender of the GST, prices at the supermarket went down three per cent. In the electorate of Bass—and we remember the *Examiner* incident; but the member for Bass is not here—prices went down six per cent. If the member for Bass thought she had a problem with the GST, she now looks like the member for Lowe, which is even worse than the GST impact.

Mr SPEAKER—Minister!

Mr HOCKEY—In the electorate of the member for the Northern Territory, who sits behind the member for Bass, prices went down four per cent in the supermarkets—

Mr Snowdon interjecting—

Mr SPEAKER—The member for the Northern Territory!

Mr HOCKEY—In Wollongong, they went down five per cent—

Mr Snowdon interjecting—

Mr SPEAKER—The member for the Northern Territory! The member for the Northern Territory is warned!

Mr HOCKEY—The member for Fraser has made numerous comments in the House about prices going up, particularly car prices, from memory. At the supermarkets in Canberra, prices went down five per cent after the introduction of the GST. We well remember the survey by the member for Melbourne. It came out at roughly the same time as that survey undertaken by the Australian Consumers Association. If you remember the member for Melbourne’s survey, he only published prices that went up. He forgot all the other prices.
Mr Tanner—I rise on a point of order, Mr Speaker. You have previously ruled that a false accusation that has been refuted by way of personal explanation cannot be repeated, and the accusation is totally false.

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

Mr HOCKEY—Prices went down in Melbourne by two per cent at the supermarkets after the introduction of the GST. This is not just our information; it is also the information from the member for Lilley. The member for Lilley now looks like the member for Hunter; he is completely gone; he just kept going!

Mr SPEAKER—Minister!

Mr HOCKEY—The member for Lilley’s own survey—the Labor Party’s own survey—indicated, and we will not forget this, that, after the introduction of the GST, prices fell in 26 out of 27 supermarkets. If our own survey through the ACCC indicates that prices fell after the introduction of the GST and if the Labor Party believes in roll-back, what does that mean for consumers? If under the Australian Consumers Association survey prices went down after the introduction of the GST, what does the Labor Party’s policy of roll-back mean for consumers? Up prices go. And if the member for Lilley’s own information indicates that prices fell—the Labor Party’s own figures say that prices fell after the introduction of GST—what does roll-back mean for consumers? Roll-back means higher prices. Roll-back means the bad old days of high supermarket prices. Roll-back is a bad policy. The Labor Party is now distancing itself from roll-back. We are going to remind it that in every electorate roll-back means higher prices.

Illegal Immigration: Australasian Correctional Management

Mr KERR (3.35 p.m.)—My question is to the Minister for Immigration and Multicultural Affairs. Minister, will you confirm that ACM, which has the contract to run Commonwealth detention centres, is a wholly owned subsidiary of the American Wackenhut Corrections Corporation? Are you aware that, in the last 18 months, Wackenhut corrections was sued by the US justice department because its officers sexually abused minors in a Louisiana prison and subjected them to corporal punishment, excessive force, gas grenades and chemical restraints? Are you aware that Wackenhut corrections surrendered the contract to run a prison in Texas following investigations of sex between guards and inmates? Are you aware that it settled out of court with the family of a 14-year-old girl, who was raped repeatedly by a guard in a Wackenhut prison, and who subsequently committed suicide?

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

Mr KERR—Are you aware that in 1995 Wackenhut was found guilty of illegally retaliating against a whistleblower?

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

Mr KERR—Are you also aware that George Wackenhut—

Mr SPEAKER—Minister!

Mr KERR—founder and chairman, has said, ‘Australian operations are very important to us ... They’re really starting to punish people the way they should have done all along’? Minister, are you going to renew ACM’s contract?

Mr RUDDOCK—I thank the member for the question. It gives me an opportunity to put a number of factual matters before the parliament and to indicate clearly why the response I give is deliberate and detailed. I have read, as the member has, some of the
reports in newspapers to the effect of the assertions that he has made today. I cannot vouch for the truth or otherwise of them. But what I can tell the parliament is that in 1996 the government undertook a tender process—

Mrs Crosio interjecting—

Mr SPEAKER—The member for Prospect is warned.

Mr RUDDOCK—in order to test value for money and to improve service delivery in detention facilities. The Australian Protective Service, who were at the time the detention service providers to the government, did not tender. It is important that people know that. Following an exhaustive tender process, Australian Correctional Services Pty Ltd was selected from a number of tenderers. The actual service delivery has been subcontracted to Australasian Correctional Management Pty Ltd, ACM, which is the operational arm of ACS. As part of the contract negotiations, both company and senior personnel were subject to independent probity checks, which revealed no problems. The tender process and the contract negotiations enabled the department to articulate a clear statement of requirements and standards to be met, and reporting requirements in the area of delivery of detention services. Such arrangements had not existed before.

ACM’s service delivery in detention centres must meet the quality levels established in the immigration detention standards. These standards set out the service provider’s obligations to meet individual care needs of detainees in a culturally appropriate way while at the same time providing safe and secure detention. They were formulated in consultation with the Commonwealth Ombudsman’s office and to ensure consistency with our international treaty obligations. The contract sets out a reporting and contract management regime. A performance monitoring procedure has been built into the detention contract to ensure compliance with the immigration detention standards. It includes—as I have said before—a range of incentives and sanctions as a means of ensuring high quality service provision, which clearly link payment to performance standards. The fact is that the contract, by its very terms, deals with the issues of further contract negotiations. It is important, in the context of those negotiations, that they be undertaken with probity and that nothing I say in any way compromises the officers who have to undertake decisions under those contracts. So I think it is quite inappropriate for me to be invited to comment on a matter which might jeopardise the Commonwealth’s position in relation to dealing with those issues.

The detention service contract entered into under a general agreement covers the delivery of detention services at immigration detention centres at Villawood, Port Hedland, Maribyrnong and Perth. The delivery of these services has been subcontracted from ACS to ACM. The general agreement requires us to negotiate with ACS in good faith on an offer it has submitted for the provision of detention services under the detention services contract for a further three years from 22 December 2000. There is a period of exclusive negotiation with ACS which extends until 21 December 2000. At the end of that period the department can decide whether to go to the market for the provision of detention services, if it is not satisfied that the contractor has performed all requirements of its contract to a satisfactory standard, the service standards provided by the contract represent the best industry practice and the offer of a further term represents value for money. In order to allow adequate negotiations for an approach to the market if the ACS offer is not accepted, the department has agreed to extend the period of the current contract to 21 December 2001 on existing terms and conditions. As I said, those negotiations are afoot. They have to be carried out with probity; otherwise, one might well prejudice those matters and leave them open for litigation.

The only other point I would make is that I do not have a predetermined view in relation to these matters. I know the opposition does. It has a view that detention matters ought to be handled only by the government. I make the point that, with detention standards outlined in a contract and settled in the way it was, the Human Rights and Equal Opportunity Commission said—and I in no
way mean this to reflect upon APS officers—that the quality of service that we were receiving was of a higher order than we had before when such standards were not prescribed.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Liberal Party of Australia: Electoral Practices

Mr Howard (Bennelong—Prime Minister) (3.43 a.m.)—The Leader of the Opposition asked me a question about One Nation preferences, and I indicated my position in relation to Liberal Party preferences. I thought the House might be interested to know, in that context of One Nation preferring, of submission No. 50 to the Joint Committee on Electoral Matters inquiry into the 1998 federal election. Attached to that submission was a copy of a how-to-vote card distributed in the electorate of Parramatta in the 1998 election, and I have no reason to doubt it. It says, ‘Thinking of voting One Nation? Don’t vote for a GST by mistake. Give your preference 2 to Paul Elliott.’ Paul Elliott of course was the Labor candidate. His campaign director was the brother of the member for Dobell. I thought the House might find it interesting that such an exhortation was authorised by John Della Bosca—377 Sussex Street, Sydney. That is an interesting observation about the preference practices of the Labor Party. I table the document.

Mr Beazley—Mr Speaker—

Honourable members interjecting—

Mr Speaker—The House will come to order. The Leader of the Opposition has not been recognised because of the level of interjections.

Mr Beazley—I seek leave to table the caucus document that we referred to, which puts a very different proposition in relation to roll-back from that which has been put before us—I might add that it is also the one we distributed to the media. I challenge the Treasurer to table the document that he has because I think we are being verballed.

Mr Speaker—We have dealt with that matter. The Leader of the Opposition has sought leave to table a document. Is leave granted?

Leave granted.

Mr McMullan—Mr Speaker, I rise under standing order No. 321. Given that that document has now been tabled, it is impossible to claim that it is confidential. Therefore, I ask that the Treasurer table his document.

Mr Speaker—The Treasurer has already indicated that the document from which he was quoting was confidential and the matter is dealt with under the standing orders.

Mr Emerson interjecting—

Mr Speaker—The member for Rankin will excuse himself from the House under the provisions of 304A. He was subject to a warning some time ago and he has continued to interject.

The member for Rankin then left the chamber.

PERSONAL EXPLANATIONS

Mr Beazley (Brand—Leader of the Opposition) (3.46 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr Beazley—He refers those points constantly to me. In his remarks during question time today, and repeatedly on previous occasions, the Treasurer has said that the Labor Party never discusses roll-back in public and that we do not put forward propositions associated with it.

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

Mr Beazley—Thank you, Mr Speaker. In his remarks during question time today, and repeatedly on previous occasions, the Treasurer has said that the Labor Party never discusses roll-back in public and that we do not put forward propositions associated with it.

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

Mr Beazley—He refers those points constantly to me. In the document that we released yesterday—which was nothing particularly new because we refer to them constantly—I said:

Remember also that we have already announced a number of initiatives that will help stop the slide
in living standards being experienced by Australian families under the Howard government. We will roll back the GST to make it fairer and simpler. In this we have already committed to removing the GST on boarding houses and mobile homes. On petrol, we will free petrol stations to purchase fuel from any supplier and we have been pressuring the government to ease the price burden of petrol by removing the impact of the GST from the February indexation.

Do you not think that affects a few people?

Mr SPEAKER—I call the Manager of Opposition Business.

Honourable members interjecting—

Mr SPEAKER—The Treasurer and the Minister for Foreign Affairs!

Opposition members—Warn them!

Mr SPEAKER—The member for Melbourne, the member for Brisbane and the member for Griffith! Some members clearly believe having their electorate’s attention drawn to the fact that they are persistent interjectors is not disgrace enough. In that case, I will have no trouble simply naming them—from either side.

DEFENCE: WHITE PAPER

Mr McMULLAN (Fraser—Manager of Opposition Business) (3.50 p.m.)—On behalf of a number of interested members on both sides of the House, I ask the Leader of the House what arrangements the government proposes to make for a debate about the Defence white paper. A number of Labor members are interested in speaking about it, as I am sure several government members would be.

Mr REITH (Flinders—Leader of the House) (3.50 p.m.)—I will be happy to speak to the Manager of Opposition Business about that.

PERSONAL EXPLANATIONS

Mr NEHL (Cowper) (3.50 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr NEHL—I do.

Mr SPEAKER—Please proceed.

Mr NEHL—I refer to a scurrilous joint statement by the member for Hotham and the member for Batman put in the form of a circular press release sent to coalition electorates, including mine, in which they have just changed the names. They said:

The member for Cowper, Garry Nehl, has yet again betrayed the voters of Cowper.

They also said:

At home, Mr Nehl has been speaking out against the Howard Government’s GST effect on the price of petrol.

I have been totally consistent in my support of the government’s petrol pricing policy. I have never said one thing in the electorate and a different thing in this place. I have never betrayed the voters of Cowper.

Mr O’CONNOR (Corio) (3.51 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr O’CONNOR—Yes, I do.

Mr SPEAKER—Please proceed.

Mr O’CONNOR—Thank you, Mr Speaker. In question time today the Minister for Agriculture, Fisheries and Forestry stated that I supported traders and middle men above processors in the EU beef quota issue. In my public pronouncements on the EU beef quota issue, I have supported the Red Meat Advisory Council’s recommendation to the government and the industry position that quota should be allocated to processors genuinely involved in the trade. I have never supported access to the quota by traders above that of processors, as claimed by the minister.

QUESTIONS TO MR SPEAKER

Treasurer: Tabling of Document

Mr COX (3.52 p.m.)—Mr Speaker, a few weeks ago the Treasurer quoted me, during question time on the matter of the price effects of the GST on cars, from a transcript, and I asked him to table the full transcript from which he had quoted me, which was an Adelaide radio interview. He did not table it. The Manager of Opposition Business took the matter of it up with you after question time, because the document could not be said to be confidential, and you said you would take it up with the Treasurer. I wondered
whether you have had an opportunity to do that and what the result was.

Mr SPEAKER—I have not taken the matter up with the Treasurer and I was not aware that it had been overlooked. I will take a look at it. As I indicated to the House earlier, I intend, consistent with all previous occupiers of the chair, to accept whatever a minister or anyone else indicates is the status of a document. I am not aware of the issue raised by the member for Kingston. I will check the Hansard and come back to him before the House rises for the summer recess.

Treasurer: Tabling of Document

Mr ALLAN MORRIS (3.54 p.m.)—Mr Speaker, I have a question for you on your comment just then, which was also stated earlier in the House. There was a previous Speaker who required a document to have ‘Confidential’ marked on it, and did not simply accept a statement. That was the practice of Speaker Halverson, from recollection, for quite a substantial period: unless the document was marked confidential, it could not be seen as being confidential.

Mr SPEAKER—As the member for Newcastle may be aware, what I am doing is reinforcing the practice of my predecessor, Speaker Sinclair. I will check the record, but my understanding is that Speaker Sinclair had consistently ruled as I have ruled.

Mr Beazley—Mr Speaker, a point for your consideration: what the member for Newcastle says is correct. In this particular instance, the Treasurer sought no cover for the confidentiality of that document of any description. He merely said that at the end of the day he was worried that it might be revealed who gave it to him. That is not a reason for confidence—none whatsoever. It is the content of the document that counts as to whether or not the matter is confidential. What is going on here is that he has a record of forgery and, in regard to that, we are concerned to find out what is going on.

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

Mr Reith—Mr Speaker, on a point of order: I ask for that to be withdrawn, to say that ‘he has a record of forgery’.

Ms Kornot interjecting—

Mr Reith—Well, Cheryl, you should be telling him to raise standards.

Opposition members interjecting—

Mr SPEAKER—The Leader of the Opposition is well aware that he would not be required to withdraw anything other than the implication, and I understand he has done so.

Mr Beazley—Yes, that is right.

Mr SPEAKER—The Clerk has indicated to me that I had in fact checked out the matter of confidentiality and that I may have had it the wrong way around. I will check that with the Clerk and come back to the Leader of the Opposition, but I did recall a change in ruling under Speaker Sinclair, and it was in that context that I had drawn on my memory.

Mr ALLAN MORRIS—Mr Speaker, a further question to you on the same matter. In the past it has been the case that, where the document has been a known document, a minister has written on the document and pleaded confidentiality on the grounds of personal notes that had been put on to the document, which has always been accepted. But the further question becomes one of misleading the House. If a minister has a document which has been untouched by personal comments and which he claims to be a public document readily available but then claims it is confidential, the question comes up as to whether or not the minister has actually misled the House in making that claim. I would ask you to perhaps consider that, because it is actually a very serious matter.

Mr SPEAKER—I draw the attention of the member for Newcastle to House of Representatives Practice at page 559, in which this statement appears:

The Chair will ask first the question ‘Has the Minister read from the document?’ If the answer is ‘no’, the Chair accepts the Minister’s word. If the answer is ‘yes’, then the Chair will ask the further question ‘Is it a confidential document?’ If the Minister replies that it is confidential, then it is not required to be tabled.

Mr Reith—On a point of order, Mr Speaker: this is simply a series of questions aimed at reopening the debate which occurred at question time. On a further point of order, the Treasurer said that he did not quote
from it anyway. So this is just a complete nonsense.

Opposition members interjecting—

Mr SPEAKER—The intervention of the Leader of the House was perhaps a little premature, in that I had made a presumption that the member for Newcastle would have recognised that I had quoted from *House of Representatives Practice* and the issue was closed. The member for Newcastle, for all I knew, may have had an entirely unrelated matter. That is why I recognised him.

Mr ALLAN MORRIS—Mr Speaker, I seek clarification, and I am aware of that statement in the *House of Representatives Practice*. The question I have is that normally a document is unknown but, if a minister were, for example, to read from a newspaper column or a page from Laurie Oakes in the *Bulletin*, which was a known document, and then to plead confidentiality, that would be obviously a misleading of the House. The document that would normally be sought to be tabled by either side is one where the other person, the listener, does not know what the document is and therefore there is no way of being aware. In the cases that we have now, where the document is a public document or a claimed public document, to plead confidentiality is actually quite a difficult thing for the chair to deal with. The *House of Representatives Practice* implies a document that we know nothing of.

Mr SPEAKER—The matter has been dealt with and, in fact, as I indicated, under 558 it is not solely a matter of confidentiality that determines the status of the document. The matter is therefore closed.

PAPERS

Mr REITH (Flinders—Leader of the House)—Papers are tabled in accordance with the list circulated to honourable members earlier today. 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 papers:


Debate (on motion by Mr McMullan) adjourned.

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

That the House take note of the following paper:


MATTERS OF PUBLIC IMPORTANCE

Australian Broadcasting Corporation

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

The adverse consequences for the Australian community of the government’s sustained financial and political attacks on the ABC.

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 STEPHEN SMITH (Perth) (4.00 p.m.)—At the heart of the crisis at the ABC today is a sustained political and financial attack upon it by the government. At the heart of the crisis at the ABC today is a five-year sustained political and financial attack upon it by the government. What is this crisis? It is a crisis in confidence in the independence of the ABC, it is a crisis in the morale of the staff and it is a crisis of funding provided to the ABC by the government. This is a crisis that has been brewing for five years.

We know just how disingenuous the Prime Minister was at question time when he stood at the dispatch box and said how important
the ABC as an institution is to Australia. The problem for the Prime Minister is that no-one in this House or outside in the community believed him. The Prime Minister’s political paranoia about the ABC has known no bounds, and the political attack on the ABC has been driven by the Prime Minister’s paranoia from day one. His letter writer, Mr Crosby, the director of the Liberal Party—the regular correspondent to and about the ABC—is the best public exposition of the Prime Minister’s paranoia in this matter.

But the financial attack upon the ABC started in 1996 and was in express breach of coalition election commitments. Many of us will recall the election commitment that the coalition gave in 1996: the coalition will maintain existing funding to the ABC. And very many of us will remember Senator Alston, soon to become the minister for communications, saying in the ABC tally room itself on election night 1996:

I think John Howard’s made it very plain that we want to maintain, honour all our commitments, and the ABC is a very important part of that.

It took them about a month to tear up the ABC commitment and other commitments made in the course of that election.

What has that financial pressure been? We saw in 1997 the ABC funds gutted by $66 million—and that has never been replaced. So since 1996 the ABC, in breach of an express election commitment, has been subject to its funds being denuded in the order of $66 million. Since that time, we have seen in the determination of the most recent triennial funding arrangement for the ABC the most outrageous letter written by the Minister for Communications, Information Technology and the Arts, Senator Alston, to the chairman of the board of the ABC—and this was prior to the government’s decision on the ABC’s last triennial funding—which effectively was in the nature of a section 96 tied grant: ‘You do the things that we would like you to do, and we will favourably consider your triennial funding.’ Since then, we have seen the government fail and refuse to fund the ABC for conversion to digital, to ensure that the ABC can put digital content on air. Also, we have seen in passing the government’s flagrant opposition to the notion of the ABC being able to multichannel throughout Australia, particularly to rural and regional Australia.

So, when the Prime Minister stands at the dispatch box today saying how important the ABC as an institution is to him, he will not tell you that he has gutted it by $66 million. He does not even refer to the decision of the ABC board made today to request urgently of the government an additional ballpark $40 million. That is a decision made by the board today, which is described as ‘national interest initiatives’. But the first paragraph of the press release issued by the chairman gives it away. The chairman refers to:

The ABC board today approved the first phase of a plan to strengthen the capacity and effectiveness of the national broadcaster in its core role.

So, while the ABC board makes its approach to the government for extra funds of $40 million on the basis of national initiatives, it is essentially an approach to the government to refund the ABC for the purposes of exercising and discharging its core functions and its core roles, as a direct result of the financial attack that this government has placed upon the ABC over the last five years.

I refer to a crisis in the ABC. How do we see that crisis evidenced today? On the one hand, I have referred to the crisis so far as the financial circumstances are concerned, the board meeting and the request of the board today—and the Prime Minister ignored that at question time; and Senator Alston, the minister in the other place, at question time, said that he would consider it when it came through, even though he is previously on the record as saying that no further funding request by the ABC would be considered in advance of the next May budget. So the government on the financial crisis has essentially stared the ABC board down today.

But what we have also seen, reflecting the crisis in confidence of the independence of the ABC and reflecting the crisis so far as the morale of the ABC is concerned, is that at midday today there was the conclusion of a 24-hour strike. What was at the heart of that strike by ABC staff? This was not a strike where people were concerned individually
about their entitlements, their conditions or their wages. This was a strike that had at its very core the notion of the long-term future viability and independence of the ABC. So we saw all of the ABC out and, for the first time in living memory, the ABC news not going to air last night at 7 o’clock across the nation. What caused that? A crisis in confidence and a longstanding long-term commitment by ABC staff to ensure the viability, the independence and the adequate future resourcing of our great national broadcaster.

What has tipped the staff over the edge? These concerns have been brewing for some time, for the course of this year. They have been raised by us in this place and in estimates committee hearings; they have been raised publicly. What has tipped the ABC staff over the edge? What has caused the ABC board to make an exceptional request, midstream, to the government for additional funds? We know the detail of the financial crisis, but what are some of the things that not just the ABC staff but the community are now massively consternated about? What has caused the crisis of confidence so far as the independence of the ABC is concerned and the crisis in morale?

First, as a direct result of the funding cuts made by this government we now see a prospective crisis in the news and current affairs division of the ABC—one of the hallmarks of an independent national public broadcaster is a fearless and independent news and current affairs service—driven by the funding cuts made by the government. Driven by the Prime Minister’s paranoia, we now see this division of the ABC at substantial risk. The matter of public importance refers to the adverse consequences for the community from this sustained attack by the government. Nowhere in Australia will the adverse consequences and the adverse implications for news and current affairs be felt more than in rural and regional Australia, in our remote communities and in the outlying states. That is where, disproportionately, adverse implications of the cuts to news and current affairs will occur. Yes, they will be felt in the metropolitan fringes and in the capital cities, but they will be felt most and they will apply hardest and most severely in rural and re-
gional Australia, in the outlying states and in remote Australia, where ABC Radio and TV are often about the only form of modern communication, information and news and current affairs that they have.

Second in the litany of their sins, we have seen the continual undermining by the government, by Senator Alston, of the standing, independence and robustness of the ABC. Senator Alston has refused to rule out entirely inappropriate and unacceptable commercialisation ventures suggested by the ABC or to the ABC. For example, we have seen Senator Alston being silent on the proposed ABC-Telstra online arrangement, which was finally scuppered as a result of a Senate committee inquiry initiated by the ALP. We have seen Senator Alston silent on the so-called Bales report, which contains a whole range of inappropriate commercialisation proposals which would run counter to the act and charter of the ABC. In the two weeks of parliamentary sittings before we resumed this time, on at least four occasions Senator Alston refused to rule out the partial privatisation of the ABC or privatisation of key parts of the ABC. We know that he was up to his armpits with Mr Kroger, the board member, trying to get up a proposal to flog off ABC Online, but we did not expect, even of Senator Alston, that he, Senator Alston, would refuse to rule out in the parliament during the last fortnight the privatisation of Triple J or the privatisation or outsourcing of the very successful ABC Enterprises shops.

Finally, we have seen Senator Alston being absolutely silent on a suggestion that emerged from the Bales report for a two-tiered ABC in which some Australians would have general access to ABC content free of charge but other people could pay for it. These things are at the forefront of the crisis of confidence that we now see. Such has been the sustained financial and political attack on the ABC by the government that, regrettably, a perception is now afoot in the community that the Managing Director of the ABC, Mr Shier, and, to a lesser extent, the board, are now nothing but the advertent or inadvertent agents of the government. This is a fatal perception to be afoot, and this
perception has arisen as a direct result of the conduct and the actions of the government.

That is not to say that neither the board nor Mr Shier are without criticism, and I will outline why. The board has failed, despite being urged to do so, to fully and comprehensively outline either to the staff or to the community what it sees as its long-term detailed strategy for the future of the ABC. The board and the management have also, in my view, failed to fully take into their confidence the staff insofar as this strategy is concerned and whatever job cuts and program losses will occur as a result of the financial restraints imposed upon them by the government. I fear that this crisis of confidence in them has now spread to a crisis of confidence in the independence and objectivity of the ABC, our great national broadcaster. It is incumbent on the board today not just to make clear its approach to funding but also to articulate fully its detailed strategy for the ABC and its robust independence in the future; to consult much more comprehensively with the staff on that strategy and whatever job losses, program losses or other changed arrangements will be forced upon the ABC; to take into its confidence the staff and the community; and to work very hard to offset the perception which is afoot that Mr Shier and the board are now simply in the unenviable position of being nothing other than inadvertent or advertent agents of the government. Whether that is right or wrong, that is a perception that the board and Mr Shier must now hit over the fence for six.

In the entire litany of their sins—whether it is the attack on news and current affairs, whether it is knocking over Quantum and the science unit, whether it is changed arrangements to Media Watch, whether it is not ruling out advertising or commercialisation recommendations in the Bales report, whether it is the executive salary question, whether it is not ruling out the notion of ratings running the day, whether it is the attack upon specialised programming and Radio National—where has the government stood up for the notion of an independent national public broadcaster which is adequately resourced and where the board and the management of the day are left, consistent with the act and the charter, to discharge the obligations imposed upon them?

In all of this, where have the National Party been? If we know that the most adverse effects will fall on rural and regional Australia, where have the National Party been? When Mr Shier was up here a few weeks ago doing the rounds, we saw the National Party out there saying, ‘It’s shocking, it’s terrible.’ With crocodile tears in their eyes, they said, ‘It’s really terrible—don’t knock this off; don’t knock that off,’ and Mr Shier skewered them. When John Anderson said that the ABC should do more with less, what did Mr Shier say? ‘Where were you when the $66 million was taken away from us? Where were you when our funding application for digital was refused? Where were you when we were here asking the government for much needed funds?’ If the adverse consequences fall disproportionately on the people in rural and regional Australia, they will know who to blame: the National Party, for not standing up. They will stand up for family trusts but no-one can trust them on the ABC, just as they cannot trust them on Telstra or on Australia Post.

What are the hallmarks of an independent national public broadcaster that we on this side are committed to? A truly independent national broadcaster; a national broadcaster which is adequately resourced; a national broadcaster which is not commercial in character; a national broadcaster which is truly national to rural and regional Australia and the outlying states; and a national broadcaster which is managed in the public interest by a board which is in reality and is perceived to be robustly independent and discharging its obligations. There are clearly matters which are for the board and for management and, once they are adequately resourced by the government of the day, the board and management should be left to do those things consistent with the act and the charter and consistent with the national public interest.

Mr McGauran (Gippsland—Minister for the Arts and the Centenary of Federation) (4.16 p.m.)—What a damp squib this is! What a cop-out by the opposition. They list this as a matter of public importance. There
is one token question in question time, there is no sustained attack on the government, and we don’t hear from them again! You are so consumed with concern about this alleged crisis within the ABC that you make a token effort. A series of assertions only were made by the shadow minister this afternoon. Where is the substance to the allegation concerning the government’s political interference? You just stood at the dispatch box and asserted, and it is supposed to be taken as gospel. There was not one skerrick of proof, not one single instance of supposed political interference cited by the member for Perth. What gross irresponsibility. Nothing was put forward to the House to substantiate this crisis of independence. Is there one example? Is there a letter from the minister for communications or from the government? Is there some leaning on members of the ABC to compromise their statutory independence? Of course not. It does not exist.

I thought it ironic that the honourable member for Perth would criticise Senator Alston’s silence. He listed Senator Alston’s silence on the concept of privatisation of ABC Online and on the commercialisation aspects arising out of the Bales report. Senator Alston is silent because he leaves it, as he properly should under the ABC charter backed by legislation, to the board and to the management. So, on the one hand, Senator Alston interferes politically—we reject that claim outwardly and the honourable member knows there was no political interference; otherwise he would have cited some proof of the political interference—and then he criticises Senator Alston for not interfering, not making decisions and not directing the board as to how they should manage the financial affairs. It is an absolute nonsense.

I do not doubt for a moment that there are members of the ABC management and staff who believe there is a crisis; but it is self-induced. You have to question the motives of people who shut down the ABC for 24 hours or so, just as we question the motives of the opposition in putting up the matter of public importance. This is a phoney debate. The opposition do not believe it. Otherwise, we would have seen more than one question at question time. I wonder who runs their tactics. Why, on the day of the release of the defence white paper—the most significant forward planning statement, backed by significant new funding, the most significant in more than a decade—would you not put that white paper up for debate? It is because they do not have an opinion; they do not have alternative policies. It is just like private health insurance and the GST. The opposition will carp and criticise and invent opposition to the government, but in the end they agree with the government and accept the government’s position because they do not have policies.

Why do we not have a proper debate on defence today? I know the Manager of Opposition Business has asked for debate to be scheduled. Surely the opposition have some views on defence. Why did they not ask a question on it today? It is going to be the same when we release our innovation package and social security reforms—major reforms of government administration with huge injections, indeed, massive amounts, of new funding—in the next few weeks. We will not hear opposition from the Labor Party to any of the essential underpinnings of those policies because they have no original thoughts of their own.

There is no crisis of independence in the ABC and it is grossly irresponsible of the member for Perth to put it in those terms and I question the motivation of the ABC staff who are also criticising their management. The ABC is not some fossilised entity that must remain immune from change and adaptation to the rapidly developing telecommunications world. It seems to me that the present managing director and board are pursuing policies initiated by Brian Johns, the previous managing director, in that they want to invest significantly in online. The criticism which seems to come from the ABC is to keep the ABC exactly as it is: radio, television, and that is all. But Jonathan Shier is following the policy initiated by Brian Johns: radio and television online. Are these internal critics rejecting the online opportunities it offers to all Australians, particularly in regional and rural areas?

There are 48 regional radio stations. Many of them have been equipped with digital
cameras. In my own electorate of Gippsland, we have an outstanding radio station which is very community orientated and very popular—3GI. They have a digital camera. They want to be part of the online broadcast so that we can get Gippsland news, weather and events all online. The managing director is perfectly entitled, justified and correct to pursue his policy. And as for political interference, well, I stand to be corrected, but I do not ever remember seeing a media release by the managing director of the ABC about the Liberal-National Party opposition headed ‘Opposition intruding on ABC independence’. But there was one about the Labor Party opposition. This was not written by Mr Shier; it was issued by Mr Brian Johns, a Labor Party appointee to the position, on 15 February 2000 in which he accused the shadow minister for communications of attempting to interfere with the ABC’s editorial independence.

The political interference lies with Labor, as it always does. And who gave it away but Quentin Dempster in his recent book *The Death Struggle*. It is fascinating; this is required reading. Quentin Dempster’s book recounts a fascinating encounter between Paul Keating, when he was Treasurer, and David Hill, when he was managing director of the ABC in the late 1980s. David Hill had gone to the Treasurer and was doing the rounds of the then Labor government for increased funding—sound familiar? You could not, even at a bucks night, repeat the language that the then Treasurer used with David Hill, as recounted by Quentin Dempster. But let me do my best to quote from Quentin Dempster’s book Paul Keating’s abuse of the then managing director, David Hill:

We’ve had enough of you c—. We f— Fairfax. Now it’s your turn. Now it’s full f— frontal assault.

Apart from the charming language, this encounter clearly demonstrates Labor’s propensity to interfere politically with the ABC. That was a declaration of war and it is yet to be denied by either David Hill, the recipient of that gratuitous advice by the then Treasurer, or by Mr Keating himself. The coalition’s attitude is very different. We believe in public broadcasting and an ABC which delivers quality programming to the Australian people in an accountable and efficient way. We await proof, substance and any evidence whatsoever of government interference with the ABC. They erect a straw man.

The member for Perth ran around the world in 40 days. He threw everything in. He threw in the supposed government cuts which date back to 1996; the Prime Minister dealt with this in question time. We inherited the Beazley deficit of $10.5 billion and there were cuts to government programs, forced upon us, to put the budget back into balance—indeed, into surplus. We have seen the benefits of that across the economy and across society in that interest rates have been reduced to very low levels—the lowest for some 30 years—and it has allowed us to do a great deal in the areas of welfare, health and targeted programs where there is market failure, particularly in rural and regional areas. It was the Beazley black hole that brought this upon us.

It is interesting that the honourable member for Perth did not commit the Labor Party to increasing the budget of the ABC. He wimped out on a lot in his contribution in that he kept saying that there is a perception of board inadequacy and a perception that the managing director is not attuned to the ABC culture and he went on to say whether this is right or wrong, so he covered himself. He did not have the courage of his convictions to reach conclusions and that is evidenced by the opposition’s behaviour on this issue. There are motives to be examined here—the opposition’s and those of a number of the internal critics of the ABC, who seem to want to protect their own positions in a fossilised ABC. The management are perfectly correct to take on the opportunities and challenges to be found online. If they were not to, the ABC would be stuck in time.

I was amused to hear the member for Perth criticise the ABC for their supposed science cuts. He threw everything in; it was amazing. The ABC have issued a statement in which they say that they will not lessen their commitment to science, that they will not only maintain but possibly increase their science output next year, that *Quantum* will
continue until May next year and that the 8.30 p.m. Thursday television timeslot will continue to feature science programming thereafter. Their commitment to science will be driven by a special science unit, established as part of the new program and content development division within the ABC. This unit will develop science content for ABC television, radio and, importantly, web pages. Dr Karl Kruszelnicki’s page on the ABC web site recently won an award for best science and technology web site at the Australian Financial Review Internet awards.

So that accusation falls very flat.

The Labor Party cannot keep their hands off the ABC. They interfere with it internally and they interfere with it externally, because they are beholden to a number of the unions that have coverage of a proportion of ABC staff. The opposition’s attack on the government falls very flat. They have failed to make out the case on either budgetary matters or political interference. Where is the justification? It may be that he will want to reflect on his contribution and withdraw that generalised accusation. As it applies to Senator Alston, it should most certainly be withdrawn. Senator Alston is a strong supporter of the ABC. As the Prime Minister said in question time, we will consider—respectfully and courteously—in the budget context any request from the ABC for further funding.

Mr Shier and his senior management have identified the potential of new media, not just as a web site but for extending services, particularly for regional and remote communities. What is wrong with that? Where is the internal crisis that would lead to a shutdown of ABC services so that a great many people across rural Australia are left with little or no telecommunications? It is a major disappointment. There are some protected positions at the ABC for which people will fight tooth and nail, putting self-interest ahead of the public interest.

The ABC is presently reallocating resources internally to recognise the potential for new media and to make the ABC more relevant. There have been no government cuts since the $10 billion 1996 Beazley budget black hole. The ABC is provided with a significant amount of taxpayers’ funds. The government has secured the future of the ABC through the triennial funding agreement, which maintains the ABC’s funding in real terms for the next three years. In addition, the government has provided funding to the ABC for its transition to digital transmission. The ALP have dirty hands on the issue of the ABC. They regard it as their plaything to be moulded and manipulated for their own base political purposes, and yet they cannot realise that the Australian people are satisfied with the level of taxpayers’ funds invested in the ABC and that the ABC managing director, board and management team have the support of the public at large.

Mr MURPHY (Lowe) (4.31 p.m.)—What a lot of cant and humbug we have just witnessed from the Minister for the Arts and the Centenary of Federation, the member for Gippsland. If he had any interest in the ABC, he would have been at the demonstration this morning on Northbourne Avenue outside the ABC, or he would have sent a representative along to listen to the concerns of the staff and the Friends of the ABC. On our side, I was there, and the member for Canberra, Annette Ellis, was there. The member for Dickson, Cheryl Kernot, made a very erudite contribution to the people who were there expressing their concern, not to mention all the people who were travelling along Northbourne Avenue in their cars and tooting their horns in support of the ABC. If the member for Gippsland really wants to know the government’s agenda, he should look no further than page 16 of today’s Age. For the benefit of the member for Gippsland, I am going to read a letter from Andrew Stuart. It says:

I am responding to Maxine McKew’s call for the people who love the ABC to speak out. I am not a big celebrity. I am not a politician. I am not an ABC employee, nor are my family or any of my friends. I am simply an Australian who has grown up with the ABC and come to value it as an essential part of Australian culture.

I have watched Jonathan Shier’s performance from the sidelines, increasingly horrified. Shier’s vague or non-existent objectives, disrespectful treatment of ABC staff, closure of key ABC units,
sacking of staff, and apparent smug contempt for program content has left me frustrated and angry.

But not bewildered. No, it is patently obvious what is going on.

To understand why I am angry about the destruction of the ABC, it is necessary to understand the value of the ABC. I listen to ABC Radio National on a daily basis, and find myself constantly informed and entertained. ABC is my favourite TV channel.

The ABC is a true innovator—it can afford to innovate because it is not slavishly bound to ratings.

Further, I understand that there is much more ABC content on radio and on television than that I enjoy. This in no way diminishes my respect for that content, or for the audience that does find it valuable.

I find it hard to believe that the destruction of the ABC is sanctioned by and supported by the majority of Liberal Party voters. If the leaders of the Liberal Party felt that they had such support, then the destruction of the ABC would not be handled in such a covert, Machiavellian manner.

No, the destruction of the ABC is about politicians. It is about politicians angry at the scrutiny that the ABC has subjected them to. Politicians who, instead of feeling that they are the servants of the people, feel that they are the CEOs of the country and that the ABC staff, as government employees, should be as subservient to them as Channel Nine employees are to Packer, or News Corporation employees are to Murdoch.

The thing that I have found most frustrating about watching the destruction of the ABC is that the blame is being laid at the feet of Jonathan Shier. It isn’t Jonathan Shier destroying the ABC. Shier is a chainsaw wielded by John Howard and Richard Alston.

The appointment of Shier is the work of a master of Machiavellian politics, and is a clear sign that John Howard has matured well past the confrontational folly of Peter Reith’s head-on attack on the maritime unions.

ABC staff are not resistant to change—1,000 staff have been forced out of the door over the last five years and 2,000 over the last 10 years. In spite of this, the ABC has manipulated the quality and reach of its output from its radio networks: Triple J, Classic FM, News Radio, Radio National, the metropolitan radio stations, the regional radio networks and ABC television. As well, for a small internal budget of $3 million to $4 million a year, ABC staff have developed one of the most successful Internet web sites in the world—abc.net.au. It gets 6.5 million hits per week. It has 390,000 pages of information input from ABC program makers from around the country and around the world.

From the floor of this parliament, I want to send my thanks and congratulations to the ABC staff for holding their faith and their commitment to public broadcasting and the Australian people. I know it has been hard for them with diminishing career and professional opportunities. This parliament should note that the departure of 1,000 staff over the last five years since the Howard government cuts was facilitated without industrial disruption to any ABC programs. It occurred because the last management consulted the staff and there was agreement that downsizing should occur on transparent and equitable lines. Why, within 10 months of a new management, have the staff found it necessary to go on strike? Because, I am advised, there was no prior consultation on change. ABC staff are not resistant to change. But, if change is not negotiated through consultation about the human impacts involved and if people are traumatised by fear and uncertainty, it is not hard to see why the situation at the ABC has been inflamed by Mr Shier. This is not best practice management, and Mr Shier and the ABC board should be held to account for their destabilising of the ABC.

I say for the benefit of the Minister for the Arts and the Centenary of Federation that, when the Speaker fired the starting gun for question time this afternoon, the Leader of the Opposition was very quick off the starting block in asking a question about the ABC. The Prime Minister, with his hand on his heart, said:

I do not accept that the ABC has been unfairly treated by this government.

An opposition member—He has not got a heart.

Mr MURPHY—he has not got a heart—that is correct. He said that he believes the government is providing adequate support for the ABC. I ask this parliament: why is Jonathan Shier crying out for more funds?
In question time, the Prime Minister admitted that he had been critical of the ABC. There has been mention of bias against and interference with the ABC. I have spoken in the House before about claims of bias by Prime Minister Hawke, Prime Minister Keating and Premier Wran. They have all accused the ABC of bias, and so has the Prime Minister here today in his criticism of the ABC. That is the problem. Can I suggest that the fact that prime ministers and parliamentarians on both sides of this chamber have complained about the ABC is probably the best sign that the ABC are doing their job. The ABC have a very important job, and that is to be the public broadcaster. We the parliament should be supporting them, and that is why I am standing up here today supporting them. Unfortunately, the bulk of public opinion in this country is manipulated by Mr Packer and Mr Murdoch. This scandalous duopoly continues to exist while at the same time the government are trying to neuter the ABC by eroding the ABC's funding. I think this is scandalous. We have just heard the humbug and the cant of the minister, but we know that the Howard government have entered into an arrangement with Mr Packer or Mr Murdoch—and, to their credit, because they have an interest in this matter, they do not want to see the ABC competing with them. The ABC have a different charter. They are there to provide an alternative opinion so that we do not just have two principal opinions. As the member for Perth said, the ABC are having a crisis with staff, a crisis with funding and a crisis with morale. Little wonder Mr Lynton Crosby is writing letters of complaint at the moment. We all know that he wants to interfere with the ABC. He wants to stack the board and make sure that they get the decision that suits the interests of this government, and the government will just continue to look after Mr Packer's interests. I cannot understand why the government have done that.

The problem is that if we do not support the ABC we will be left with Mr Packer. Of course, Mr Packer wants to get his hands on the Fairfax group and Mr Murdoch wants to get control of the 7 network, not to mention all the manifestations of communications in the digital age. That is scandalous and something has to be done about it. Quite obviously, those of us who are concerned about our cross-media laws—and I know those proprietors have been concerned about them—suggest that we should change the laws to ensure that we get more players in the market so that we have greater diversity of public opinion, because the greatest threat to democracy in this country is to have very little opinion broadcast by very few broadcasters in the industry. The ABC cannot be allowed to raise revenue. I put a question on the Notice Paper on 28 November because I did not get a very satisfactory answer to my question. I asked the minister:

... will the Minister now recommend legislation to protect the ABC's non-commercial charter by proposing an amendment to the ABC Act to extend the Act's current prohibition on advertising to cover the ABC's online services and ABC linked or associated websites.

Quite plainly, the ABC will be compromised if it ever has to rely on advertising revenue from any source. In this country we never ever want to see the ABC in competition with Mr Packer or Mr Murdoch—and, to their credit, because they have an interest in this matter, they do not want to see the ABC competing with them. The ABC have a different charter. They are there to provide an alternative opinion so that we do not just have two principal opinions. As the member for Perth said, the ABC are having a crisis with staff, a crisis with funding and a crisis with morale. Little wonder Mr Lynton Crosby is writing letters of complaint at the moment. We all know that he wants to interfere with the ABC. He wants to stack the board and make sure that they get the decision that suits the interests of this government, and the government will just continue to look after the interests of the Packer camp which is tantamount to slaughtering the public interest. Little wonder there was a 24-hour strike held by staff of the ABC. They are concerned about their futures and they are concerned about the independence of the ABC. They are not concerned about their wages and their conditions. We stand up for the ABC. (Time expired)

Mr HARDGRAVE (Moreton) (4.41 p.m.)—Time can be merciful when you are set up, as the poor old member for Lowe has been, to speak on this particular matter of public importance today. This MPI is based on the most false of premises. Let us look at the wording:

The adverse consequences for the Australian community of the government's sustained financial and political attack on the ABC.

As the minister said very clearly, and very understandably, it does not stack up. The reality is that there is no sustained financial and political attack on the Australian Broad-
casting Corporation. Let me tell you, Mr Deputy Speaker, we on this side of the House have a commitment to public broadcasting. We on this side of the House believe strongly in the effective role of the public broadcasting system that we have in this country. We on this side of the House have in fact given money—more money, $640 million this year—to the ABC to ensure that, as the world and the technology involved in the world continue to change, the ABC are able to maintain their pace, maintain their involvement and maintain their service—which, after all, is what the ABC is all about—to the people of Australia. So it is important to understand that Labor is hypocritical in the extreme on this matter. The member for Lowe said that 1,000 staff have been cut in the last five years and 2,000 have been cut in the last 10 years, but I remind the member for Lowe that this particular government that he is so full of venom about has only been in power for 4 ½ years. So, by the member for Lowe’s own figures, the Australian Labor Party presided over more staff cuts at the ABC than this current government. So I thank the member for Lowe for his observations on that. When we came to office, in the August 1996 budget, the ABC, like all others—

Mr DEPUTY SPEAKER (Mr Jenkins)—Order! There is a point of order.

Mr HARDGRAVE—Look, don’t waste the time of the parliament.

Mr Murphy—I am being misrepresented because I accept that on both sides of this House there is bias, and you should declare a pecuniary interest because you have been on Channel 7—

Mr HARDGRAVE—Mr Deputy Speaker, can I ask that he withdraw that absolutely stupid comment and that he does it quickly.

Mr DEPUTY SPEAKER—Order! The honourable member for Lowe will withdraw.

Mr Murphy—I would like to know of you, Mr Deputy Speaker, what I have said that would warrant a withdrawal because all I said—

Mr DEPUTY SPEAKER—Order! The honourable member for Lowe will resume his seat. The chair did not hear what the honourable member for Lowe said because the chair was trying to get the honourable member for Lowe to resume his seat because he did not have a point of order. Therefore the chair is in a difficulty. The honourable member for Moreton has suggested that something has caused him offence, and the chair is asking the honourable member for Lowe to withdraw the remark.

Mr Murphy—if the member for Moreton has not been on the payroll of Channel 7 I will withdraw the remark.

Mr DEPUTY SPEAKER—Order! The honourable member for Lowe will withdraw unconditionally.

Mr Murphy—I withdraw.

Mr HARDGRAVE—the honourable member for Lowe has lowered himself to the absolute extreme in this particular debate, and it is a disgrace that he should try to chew up my time when I am correctly refuting some of the things he has had to say in this debate. It is an absolute outrage and I am stunned by his impropriety.

What he and others opposite have to understand is how a board works. When a board is appointed they appoint people like Jonathan Shier as the managing director. When a board is appointed they are charged with the responsibility of ensuring that an organisation’s stated outcomes are achieved, and that is what the board of the ABC does. But the day-to-day management matters are handled by those who are hired by the board to be responsible for those matters. The government has no day-to-day involvement with the ABC other than, once every three years, sitting down and planning in a responsible, economic way the budgetary allocation to enable the ABC to go on with their job. Time in and time out the ABC has always and will always submit for more money. But this government has not done what the Australian Labor Party did while they were in office; that is, reserve a spot on the ABC board for a member of the ACTU or for a broken-down ex-Labor Premier like John Bannon. That is the sort of stuff that the Labor Party did while they were in office.
All governments of all persuasions demand greater efficiencies from government instrumentalities. The member for Lowe in his contribution admitted that the Hawke and Keating Labor governments also presided over cutbacks to the ABC. All around the world as technology has intervened there have been greater demands on government utilities and private organisations for greater efficiency; in other words, more bang for the buck—something the member for Lilley would understand. It is important to understand that all media outlets right around the world have been going through exactly the same thing as has the Australian Broadcasting Corporation.


dated 23537
Wednesday, 6 December 2000  REPRESENTATIVES

Mr Murphy—Mr Deputy Speaker, I rise on a point of order. The reference to the member for Lilley has got absolutely nothing to do with the debate, and I ask that you ask him to withdraw that remark.

Mr DEPUTY SPEAKER—The honourable member will resume his seat. The honourable member for Moreton will be careful in forming words that might require a substantive motion in other forms of the House.

Mr HARDGRAVE—Mr Deputy Speaker, I am always very careful with my words. All media around the world have undertaken a variety of efficiency gains demanded by their shareholders, just as the ABC have undertaken efficiency gains demanded by their shareholders—the people who put in the 8c a day or whatever it might happen to be this week.

What we all want to know as Australian shareholders in the Australian Broadcasting Corporation is whether those who are on strike are being pushed around by those who seek to keep the featherbedding complete, those who do not want the down to be pulled out. What we are seeing in the ABC is a determination to maintain the bureaucracy—the heavy management: the general manager for this and the general manager for that—instead of program content. Every time pressure has been placed on the ABC the first thing those in management decide to do is to cut programs. Like the library—it is a great place to work if only people would not borrow books—the ABC would be a great place to work if only you did not have to produce radio and television programs. That is the mentality of quite a few of the people at the ABC. The ABC can no longer, in this highly competitive media market in which it is operating in this country, continue to allow that practice. So, quite rightly, there are some tremendous new opportunities being opened up to staff within the ABC under the regime that is now in place.

To say that the government is involved in cutting its financial support of the ABC—apart from in 1996—is an absolute nonsense. To say that the government is involved in some sort of political emasculation of the ABC is absolute arrant nonsense. But what we as members of parliament are challenging the ABC to do in the contributions we make in this place is to create programs that are wanted, programs that are relevant, programs that reflect the service that we expect for the money that we put into the ABC. I am delighted to see the press release that has come out today—it is not from the minister but rather from the chairman of the board, Donald McDonald—about the first phase of a plan to strengthen the capacity and effectiveness of the national broadcaster in its core role of informing and educating Australian audiences.

We are hearing a lot of nonsense about Quantum. Quantum has been around for 16 years, and by the ABC’s own admission—their assessment; not mine, not Minister Alston’s—was starting to get a bit tired. Are they saying, ‘We’re going to cut science programming?’ No, they are saying, ‘We’re going to produce more,’ which is what we would hope, hence my comment about more bang for the buck. If there were political interference in the ABC, I would like to venture a few things I would like to see done. If I were able to control the ABC as a member of parliament, I would certainly not want to see cuts to programs. I would like to see rural and regional Australians get the sort of service they used to get from the ABC instead of this pretend thing called ‘local ABC radio’. It is networked out of Sydney. They perpetuate this great fraud on listeners around the country by saying, ‘It’s your local ABC,’ when so much of the content, such as Tony Delroy’s Nightlife, comes out of Syd-
ney. What an absolute nonsense! Let us get the service provided.

The ABC staff were fascinated by my suggestion that their mentality is that they would much rather have one Kerry O’Brien on the books than 10 more journos in rural and regional Australia. They are fascinated by that. They misquoted me the other week on Radio National, a service that is listened to by half a per cent of Australians. This is an organisation that is losing touch fast and furiously. If the ABC had any sense or if I were able to influence it, I would put the Parliamentary and News Network on the Radio National stand all around Australia. The Parliamentary and News Network gives effective, broad news coverage right around the country on a wide range of issues in a very effective, efficient and — as the member for Wentworth said—unbiased fashion. I recommend PNN to anybody.

The motion before us is an absolute nonsense perpetuated by the Australian Labor Party because they are not interested in talking about major issues like the Defence white paper. They just want to waste the time of the parliament by taking pointless points of order. (Time expired)

Mr ANDREN (Calare) (4.51 p.m.)—Mr Deputy Speaker—

Motion (by Mr Ronaldson) put: That the business of the day be called on.

The House divided. [4.55 p.m.]

(AAYES)

Ayes……………… 76
Noes……………… 61
Majority………… 15

AYES

Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Barresi, P.A. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.J. Brough, M.T.
Cadman, A.G. Cameron, R.A.
Causley, I.R. Charles, R.E.
Downer, A.J.G. Draper, P.
Elsdon, K.S. Entsch, W.G.
Fahey, J.J. Fischer, T.A.
Forrest, J.A. * Gallus, C.A.
Gambaro, T. Gash, J.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hawker, D.P.M.
Hockey, J.B. Hull, K.E.
Jull, D.F. Katter, R.C.
Kelly, D.M. Kelly, J.M.
Kemp, D.A. Lawler, A.J.
Lieberman, L.S. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
May, M.A. McArthur, S *
McGauran, P.J. Moore, J.C.
Moylan, J. E. Nairn, G. R.
Nehl, G. B. Nelson, B.J.
Neville, P.C. Nugent, P.E.
Prosser, G.D. Pyne, C.
Reith, P.K. Ronaldson, M.J.C.
Ruddock, P.M. Schultz, A.
Scott, B.C. Secker, P.D.
Slipper, P.N. Somlyay, A.M.
Southcott, A.J. St Clair, S.R.
Stone, S.N. Sullivan, K.J.M.
Thomson, C.P. Thomson, A.P.
Truss, W.E. Tuckey, C.W.
Vale, D.S. Wakelin, B.H.
Washer, M.J. Williams, D.R.
Wooldridge, M.R.L. Worth, P.M.

NOES

Adams, D.G.H. Andren, P.J.
Bevis, A.R. Breerton, L.J.
Burke, A.E. Byrne, A.M.
Corcoran, A.K. Cox, D.A.
Crean, S.F. Crosio, J.A.
Danby, M. Edwards, G.J.
Ellis, A.L. Emerson, C.A.
Ferguson, L.D.T. Ferguson, M.J.
Fitzgibbon, J.A. Gerick, J.F.
Gibbons, S.W. Gillard, J.E.
Griffin, A.P. Hall, J.G.
Hatton, M.J. Hoare, K.J.
Horne, R. Irwin, J.
Kernot, C. Latham, M.W.
Lawrence, C.M. Lee, M.J.
Livermore, K.F. Macklin, J.L.
Martin, S.P. McClelland, R.B.
McFarlane, J.S. McLeay, L.B.
McMullan, R.F. Melham, D.
Morris, A.A. Mossfield, F.W.
Murphy, J. P. O’Connor, G.M.
O’Keefe, N.P. Pibersek, T.
Price, L.R.S. Quick, H.V.
Ripoll, B.F. Roxon, N.L.
Rudd, K.M. Sawford, R.W *
Sciacca, C.A. Sercombe, R.C.G *
Sidebottom, P.S. Smith, S.F.
Snowdon, W.E. Swan, W.M.
Tanner, L. Theophanous, A.C.
Thomson, K.J. Wilkie, K.
Zahra, C.J.

PAIRS

Howard, J.W. Beazley, K.C.
Vaile, M.A.J. O’Byrne, M.A.

* denotes teller

Question so resolved in the affirmative.
MATTERS REFERRED TO MAIN COMMITTEE

Motion (by Mr Ronaldson)—by leave—agreed to:
That the following bill be referred to the Main Committee for consideration:
Aboriginal and Torres Strait Islander Commission Amendment Bill 2000

BILLS RETURNED FROM THE SENATE

The following bill was returned from the Senate without amendment or request:
Wool Services Privatisation Bill 2000

BUSINESS

Standing and Sessional Orders

Mr REITH (Flinders—Leader of the House) (5.01 p.m.)—I move:
That the following changes to the standing orders be made with effect from the first sitting in 2001:

(1) That standing orders 112 to 120 be amended to read as follows:

CHAPTER IX

PETITIONS

Preparing a petition

What must be in a petition

112 A petition for presentation to the House must:
(a) be addressed to the House of Representatives.
(b) refer to a matter which is within the power of the House of Representatives to address, that is, a Commonwealth legislative or administrative matter.
(c) state the facts which the petitioners wish to bring to the notice of the House.
(d) contain a request for the House or the Parliament to take one or more specified actions.
(e) The text of the petition must not contain any alterations.
(f) It must not have any letters, affidavits or other documents attached to it.
(g) The language used must be respectful, courteous and moderate. The petition should not contain irrelevant statements.
(h) It must not contain any indication that it has been sponsored or distributed by a Member of the House of Representatives; except that, for the purpose of facilitating the lodgement of the petition, the name and address of a Member may be shown as an address to which the petition may be sent for presentation to the House.

How a petition should be prepared

113 A petition must conform to the following requirements:
(a) It must be on paper.
(b) It must be legible.
(c) It must be in the English language or be accompanied by a translation certified to be correct. The person certifying the translation must place his or her name and address on the translation.

Rules about signatures

114 Every petition must contain the signature and address of at least one person on the page on which the terms of the petition are written.

All the signatures on a petition must meet the following requirements:
(a) Every signature must be written on a page bearing the terms of the petition, or the action requested by the petition. Signatures must not be copied, pasted or transferred on to the petition nor should they be placed on a blank page on the reverse of a sheet containing the terms of the petition.
(b) Each signature must be made by the person signing in his or her own handwriting. A petitioner who is not able to sign must make a mark in the presence of a witness. The witness must sign the petition as witness and write his or her name and address.

Presentation to the House

115 A petition for presentation to the House may only be lodged by a Member. A Member cannot lodge a petition from herself or himself.

Responsibilities of Members

116 Before lodging a petition with the Clerk or presenting a petition to the House a Member must:
(a) write his or her name and electoral division at the beginning of the petition; and
(b) count the signatories and write the number of signatories at the beginning of the petition.

Presenting a petition

117 Petitions may be presented to the House in one of the following ways:

(a) In accordance with standing order 101, the Clerk must announce each sitting Monday petitions lodged for presentation. Members must lodge petitions with the Clerk by 12 noon on the Friday prior to the Monday on which it is proposed that they be presented.

(b) A Member may present a petition during the period of Members’ statements under standing order 106A or 275A.

(c) A petition which refers to a motion or order of the day may be presented by a Member when that motion or order of the day is moved or called on for the first time. Before presenting a petition under paragraph (b) or (c) the Member presenting it must insert the information required by standing order 116 and obtain a certification by the Clerk that it complies with the standing orders.

Responsibilities of Clerk

118 (a) The Clerk or the Deputy Clerk must check that each petition lodged for presentation complies with the standing orders. If it does he or she shall certify the fact on the petition.

(b) The Clerk must make an announcement to the House of the petitions lodged for presentation. The announcement must indicate, for each petition, the Member who lodged it, the identity and number of petitioners and the subject matter of the petition.

Action by the House

119 (a) No discussion on the subject matter of a petition is allowed at the time of presentation.

(b) Every petition presented is deemed to have been received by the House unless a motion that it not be received is moved immediately and agreed to.

(c) No other motion may be moved in connection with a petition except a motion that a particular petition be:

(i) referred to a particular committee; or

(ii) printed. This motion may only be moved by a Member who intends to take action on the petition and informs the House of the action he or she intends to take.

Other action

120 The following action shall be taken in respect of every petition received by the House:

(a) Its terms must be printed in Hansard.

(b) The Clerk must refer a copy of the petition to the Minister responsible for the administration of the matter which is the subject of the petition. A Minister may respond to a petition by lodging a written response with the Clerk. At the end of the petitions announcement the Clerk must report any response received and the response must be printed in Hansard.

(2) That standing order 346 be amended to read as follows:

Publication of evidence and proceedings

346 (a) A committee or subcommittee has power to authorise publication of any evidence given before it or any document presented to it.

(b) The evidence taken by a committee or subcommittee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, must not, unless authorised by the House or the committee or subcommittee, be disclosed or published to any person other than a member or officer of the committee.

Provided that a committee may resolve to:

(i) publish press releases, discussion or other papers or preliminary findings for the purpose of seeking further input to an inquiry;

(ii) divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry; or

(iii) authorise any member or members of the committee to provide such public briefings on matters related to an inquiry as the committee sees fit. The committee may impose restrictions on such authorisation and in any case a member so authorised must not disclose evidence or documents which have not been specifically authorised for publication.

(3) That standing order 339 be amended by inserting new paragraph (ab) as follows:
(ab) A committee may resolve to conduct proceedings using audio visual or audio links with members of the committee or witnesses not present in one place. If an audio visual or audio link is used committee members and witnesses must be able to speak to and hear each other at the same time regardless of location.

The proposed amendments to the standing orders are the result of recommendations made by the House of Representatives Standing Committee on Procedure in its report entitled *It’s your House: community involvement in the procedures and practices of the House of Representatives and its committees*. There are three parts to the proposed amendments. It is proposed that the amendments will come into effect on the first sitting day of next year.

The first of those three parts relates to petitions. Amendments to standing orders 112 to 120 represent a rewriting of the standing orders relating to petitions to make them clearer and simpler. The rules have been arranged into more logical groups and the language updated to make it easier for people preparing petitions to understand. The rules themselves are the same as before, with two exceptions. Firstly, provision has been made to allow members to present petitions themselves, if they wish, during 90-second statements or three-minute statements in the Main Committee. The current provision for petitions to be lodged with the Table Office and announced by the Clerk would continue to be the main mechanism for presenting petitions. If a member wishes to present a petition during a statement, it would be necessary to obtain prior certification from the Clerk that it is in order. Secondly, while the existing prohibition on any indication of sponsorship of a petition by a member has been retained, there is now a provision that allows a member’s name and address to appear on the petition as the place to send it for presentation to the House. This is a practical improvement to help people get their petitions to the right place.

The second part of the proposed amendments relates to the publication of information about the progress of committee inquiries. The amendment to standing order 346 allows committees to have more control over how much or how little information they wish to publish about the course of an inquiry. It inserts a provision to enable committees to authorise one or more members of the committee to provide briefings to the media or others on matters relating to an inquiry. The committee can define exactly what sort of information, if any, can be divulged in the case of each inquiry. This amendment is intended to give individual committees the flexibility to manage the provision of information to the public on the progress of an inquiry in accordance with the differing requirements of each inquiry. It is aimed at encouraging people to contribute, maximising feedback to those who have contributed and generally promoting understanding of the committee process.

The third part of the proposed amendments relates to the use of audiovisual or audio links to conduct meetings of committees. The amendment to standing order 339 puts into the standing orders the authorisation provided by the resolution of 1997, which allows committees to use electronic communication to conduct meetings and hear evidence. The proposed standing order gives committees the discretion to decide when it is appropriate to use whatever technology may be available. Restrictions on hearing in camera evidence and on voting by members not at the same location as the chair and the requirement for a quorum in one place have been removed. A set of guidelines will provide assistance to committees in deciding whether videoconferencing or similar technology might be suitable and suggests conditions to be met before deciding to take such a course. The Chair of the Standing Committee on Procedure will table the guidelines after the amendment to the standing order has been agreed to.
The committee in its report noted that, while committees should be able to make the best use possible of the technologies they have available to them at any time, they should weigh carefully the pros and cons of using them in any particular case. In particular, the benefits of speaking to people face to face and visiting regional and remote areas should not be discounted. I do not think it is necessary for me to say anything more than that in support of these proposed changes to the standing orders, except to say that the government appreciates the work done by all of the members of the committee. I think these are sensible reforms to the process, and we look forward to them being beneficial in the management and the work of the committees of the House of Representatives. I therefore commend the motion to the House.

Mr McMULLAN (Fraser—Manager of Opposition Business) (5.06 p.m.)—The opposition will not be opposing these amendments that are being moved by the government in response to the recommendations of the report of the House of Representatives Standing Committee on Procedure. These are small steps in the right direction. We would like to have seen the government adopt a more comprehensive response to the 31 recommendations of the committee, but the government has adopted four, and they are four with which we agree. As the House would be aware, especially in relation to some of the events that have occurred recently, we need to give attention to improving the standing orders. I do not think any of these amendments will go to the issues that caused the recent controversy, but I will have a little to say about that in a moment.

These recommendations, represented in the government’s amendments, relate to petitions and the way the standing orders address that matter, the publication of evidence and proceedings and the use of audiovisual or audio links by committee members and witnesses. I want to refer to petitions. I have spoken in this House before about the need for the parliament to review the way we deal with petitions. I do not think we give them the weight and substance in our processes that the people who collect them think they deserve. I think we have to have a look at that. But these amendments are not designed to and do not deal with it as comprehensively as that, but they are improvements. Members being able to present petitions themselves during 90-second statements or its equivalent in the Main Committee is positive, because it will enable people to make some contextual remarks in the presentation, which will be good for getting that information back to the people who collected the petitions. I think that is at least part of what people want and is a positive thing. We support that, as we support the provision that allows a member’s name and address to appear on the petition as the place to send it for presentation. It happens anyway, and everybody then has to go and cut the bit off the bottom that had their name on it before they present it to the House. I notice the member for Eden-Monaro nodding and I have seen someone in my office doing that in the last 24 hours. This is a practical improvement. It means that the way that modern petitions are organised by members of parliament—of course many are not organised by members of parliament—will be reflected in the standing orders. To make the standing orders conform with reality instead of myth is a plus and I think it is a principle that we should pursue in a few other areas.

The proposed amendment to standing order 346 to allow committees to have more control over how much or how little information they wish to publish should, in the way it is applied, encourage people to contribute and assist the committee process. Similarly, the amendment on audiovisual or audio links for the conduct of committee meetings is just confirming an authorisation provided by resolution more than three years ago but also gets us into the 21st century with electronic communications and gives committees the discretion in these matters which I believe they should have.

I would like to conclude in my general support for these amendments by addressing two other things. One is the more general
commitment that the government has made in response to the report to restructure and rewrite the standing orders to make them more readable—in the jargon of the moment, more ‘reader friendly’. It is not a phrase that I actually like very much but for the moment let us use it. I think it might make them more logical and comprehensible, and I look forward to seeing a draft from the Clerk for the committee’s consideration as soon as possible. I think that is a step in the right direction. My concern, though, is that the problem with the standing orders at the moment is not simply one of arcane drafting, although it is a bit of a problem. I was quoting a standing order today in question time and had started to read it to the Speaker. It was so darned incomprehensible that I had to paraphrase it. Maybe my paraphrasing was incomprehensible, too, but that was my fault—that is not a standing orders problem. You cannot read it and expect the person listening to actually understand the context. That just says that there is something wrong with the standing orders.

Similarly, the Speaker, in response to points of order—usually by government members, but that is simply because of the nature of question time; it is sometimes by people on our side—where there is a query about whether a question is in order, says, ‘Look, if I applied that standing order literally, I would have to rule out nearly all the questions.’ That is not a criticism of the Speaker, because the Speaker is correct about this. It just shows that there is something wrong with the standing orders. If you cannot apply the words of the standing order without making a nonsense of question time, you have to change either question time or the standing orders. I just think that shows that there is a fundamental weakness there and it puts the Speaker in a very difficult position, because what you have is a sort of accretion of practice around an unsatisfactory set of rules. Either we strip away that accretion and get back to the rules—I do not think that is the right way to go because I think the rules are flawed—or we change the rules, not simply to accommodate the practice but to accommodate how we think question time should work. That is what I think we need to move to. It is beyond the task that the government and the committee have given the Clerk and he should not be given de facto the right to change the substance. That should be a matter for the House. So I support the drafting proposal, but that is simply about tidying up what is. I am pleased that is happening; I support that. But I think we have to give serious thought to going a little further. So my response to this motion and to these amendments is that the opposition will support them. They are small steps in the right direction, but we think there is more which needs to be done.

Mr NAIRN (Eden-Monaro) (5.13 p.m.)—I rise to speak to this motion in my capacity as Chairman of the Standing Committee on Procedure. I hasten to say that I was not a member of the committee that produced the report It’s your House from which the recommendations came for the changes to the standing orders that we are speaking about now. The deputy chair of that committee, the member for Chifley, will follow me and I think can probably speak more broadly on the matters considered by the committee in that report that are now the subject of these changes to the standing orders. But I want to take the opportunity to say a few words about it and, in doing so, comment that the chairman of the standing committee at the time, the member for Sturt, and his committee did an excellent job with that report, with quite a broad range of recommendations, a number of which are now picked up in this particular motion.

The report also recommends that the standing committee hold a mini conference on committees for committee chairs and deputy chairs to try to enhance knowledge among the broader public of the workings of committees. That conference will now take place at 8 p.m. on Tuesday, 6 March next year—which is a sitting night—and I recently sent invitations to the chairs and deputy chairs of all standing committees and to various other people in the House. All members are invited to attend that conference as well.

I think these changes are very good, and I will comment on just a couple of them. Giving members an opportunity to present petitions during the three-minute members’
statements in the second chamber will allow a bit of flexibility in petition presentation. Members of parliament often become simply a postbox for many petitions. They may not have been involved in the petition process within their community but they are certainly doing their constituents a service by presenting it to parliament. However, in other cases when members of parliament have been actively involved in circulating a petition and have worked with community groups within their electorate, they would like to say something about it as they present that petition. That is not possible under current standing orders, and members must use probably an adjournment debate or some similar time to address that particular issue. I think lodging petitions as part of members’ statements makes a lot of sense.

Standing order 339 will allow committees to use audiovisual or audio links with committee members or witnesses who are not present in one place. I think that is an excellent change to standing orders. We must recognise that people are spread all over the country and a particular hearing could be completed a lot earlier if a witness were able to give evidence from another town or city. Furthermore, committee members often miss a hearing simply because it would take them a couple of days to fly to Canberra or wherever the hearing was held. Under the amended standing order, if members had a particular interest in that hearing, they could participate from where they were stationed. I think that is a great move for rural and regional Australia, as it will include in the process many more people who might otherwise find that they could not participate in those sorts of hearings because of their location.

As the Leader of the House said in speaking to the motion, I will table at the end of the debate guidelines for the use of audio and audiovisual links. They come from the report, that aspect of which states:

In addition the Procedure Committee proposes to prepare some guidelines to assist committees in coming to a decision in each case. The guidelines would not be mandatory but committees would be strongly advised to consider them. The guidelines would be presented to the House following adoption of the proposed amendment to standing order 339. The committee would review the guidelines from time to time and would welcome comments or suggestions from committees reflecting their experience at any time.

Guidelines are proposed in the report. The guidelines that I intend to table are the same as those in the committee’s report, with the addition of a specific reference to including regional, rural and remote areas in the work of committees. I am sure that all members will support that minor change. I commend these changes to the standing orders to the House.

Mr PRICE (Chifley) (5.20 p.m.)—As the Manager of Opposition Business has indicated, the opposition supports these changes. As has already been said, these changes arise from the Procedure Committee report, It’s your House—community involvement in the procedures and practices of the House of Representatives and its committees. I ask honourable members to note the last part of the title, as it refers to a proposition that I think everyone would support. I thank my colleagues who served on that committee for their hard work and for this unanimous report.

Madam Deputy Speaker, I feel that I should first thank the Speaker—and I would be grateful if you could pass on my thanks to him—who gave a very detailed response to the committee’s report. I thank him for the encouragement that he provided to the committee in wanting to change the practices of the House. Madam Deputy Speaker, I do not want to give you a lecture on the role of the Speaker, but I think it is true to say that it is the Speaker’s responsibility to protect the interests of all members traditionally against the Crown, and I suspect now against the executive.

I am particularly grateful that the Speaker has supported and implemented three of the recommendations rejected by the government. He supports many recommendations throughout his response and he does not support others only because there is a need for further consultation or to ensure their financial feasibility. He does not reject any one of the recommendations. I thank the Speaker for the very positive way in which he has addressed the recommendations of the committee insofar as they affect his operations.
It is really important that members of the House understand this motion. It is what has not been supported by the government that is critical rather than what has. I am not trying to take an oppositionist point of view, but as someone who wants to see greater community involvement in the House I find it really disappointing. Let me give some illustrations. We are talking about petitions. I support the remarks of the Manager of Opposition Business. At the moment, petitions are a farce. A petition is an ancient right that citizens have. But where do petitions go? They are read out by the Clerk and then they go and gather dust in the bowels of parliament.

We do have the opportunity for a ministerial response to petitions, but it is fair enough to say that for some time, and not just in the time of this government, there has not been the use of ministerial responses. But what did the committee recommend to try to change this around? The committee recommends that an annual report of the House be prepared, setting out petitions presented and ministerial responses. The Standing Committee on Procedure intends to implement this recommendation itself. Did the Leader of the House support this? No, but the Speaker did. Why not? We try to give this ancient citizens’ right some flesh? If it is going to be inconvenient for your ministers to respond, it will not be when there is a change of government—whenever that may occur. But we are really trying to empower citizens and say that we do take petitions seriously.

Recommendation No. 4 of the committee is that standing orders be amended to provide for petitions to stand referred to general purpose standing committees for any inquiry the committee may wish to take. We already do that with annual reports, and that has been a very worthwhile innovation for the development of a committee. It is true that committees are not going to be able to investigate each and every petition that is referred to them, but it is within the competence of a committee to say, ‘We think this is perhaps a serious issue,’ or, ‘We think we must make some response to the citizens petitioning the parliament.’ It is not a revolutionary thing. We are not saying that every committee must respond and hold an inquiry into a petition, just that it stands referred. This has been rejected by the government. I am disappointed. In the deliberations of the committee, it was not as though we had the Labor Party on one side and the government members on the other; we really thrashed it out as a committee, in the best traditions of committees.

Let me give you another example. We tried to empower citizens by allowing them to approach their local member so that they could have a question placed on the Notice Paper—very different from the practice that occurs now. Of course, it is true that a citizen may be able to approach a member and that member may place a question on the Notice Paper, but the difference is that we would acknowledge that that was being asked by Citizen Smith. Is this really radical? Was this not worth, as the committee proposed, a 12-month trial? I do not feel demeaned as a representative of my electorate that a citizen has approached me and asked me to put on their behalf something on the Notice Paper. I actually think it is doing a very important thing: it is opening up the parliament to the people—in a very small way but not a bad step. It is worth a try. It may not have worked, but I would rather see this House try and fail than not try at all.

Let me give you another example. The media strategy that was proposed was rejected by the government, but implemented by the Speaker. Thank you, Mr Speaker. We suggested that the tabling of committee reports be done at 11 o’clock. Why? As you know, Madam Deputy Speaker, members of committees invest a lot of time in the proceedings of the committees, often for little or no recognition. Generally speaking, it is the chairman of a committee who gets the glory—and that is fair enough—but this would allow every committee member to be able to speak on that report, if they had a mind to, to share their views about the outcomes of the committee.

As you know, the overwhelming majority of committee reports tabled are unanimous, with members of the National Party, the Labor Party, Independents and the Liberal Party working together in the national interest to improve things. Yet what happens? You get
five minutes if you are lucky and, of course, usually only two members on either side speak. That may have represented 18 months worth of effort. That was rejected—not supported by the government. And it would have meant that we were not eating into the government’s time.

Recommendation No. 22 was not supported. I thank the government for adopting recommendation No. 23. That is the recommendation that allows a committee, if it is of a mind, to keep the media informed of the progress of an inquiry—I think a very important thing to do. But what did they reject? In those cases where you have parliamentary reports that are generating a great deal of public interest, we were proposing liberating the committee from tabling the report in the House in this way. Let me give you an example. We actually did it with the inquiry into child support. We produced an abridged report. Recommendation No. 22 would have allowed a committee to release that to gain maximum time, with the House still preserving the right to get the full report, all the evidence and all the minutes of meetings, as is its right. In other words, we were allowing those committees with reports that the public were anxiously awaiting the outcome of the opportunity to spread the message of what they had to say—the outcome of their report—as widely as possible in a media friendly way, even if parliament was sitting. You could release the abridged report, say, on a Sunday. I know that Mr Lieberman, the member for Indi, who was in here earlier, had a very important report on Aboriginals. You could have released an abridged version of that in Darwin and got maximum publicity, maybe on a non-sitting day. The government have knocked that back.

There are a couple of other examples. We recommended that committee reports automatically stand referred to the Main Committee. Why? So that committee members or any other interested member would know that they have an opportunity to speak to that report. Take the Army report the Joint Standing Committee on Foreign Affairs, Defence and Trade committee has released. I think that is a watershed report. Only three members who worked on that report have had an opportunity to speak on it because it has not been referred to the Main Committee. If people do not put their names down for it, of course it would disappear, but we are saying to members who worked on the committee or to any other member who has an interest in that committee’s report that they get an opportunity to debate it, to say what they think about it. Was it good? Was it worth while? Did it meet your expectations? Are we doing things in the national interest? That was rejected.

I have to be frank with you, Madam Deputy Speaker, I am very disappointed. Recommendation No. 28 was that, where possible, the text of a government response should be posted on the committee’s Internet page. How radical is that? How revolutionary is that? But it is not supported by the government. In other words, a committee can have its report on the Internet but, when it wants to show what the government’s response is, it is not allowed to post it on its Internet site. That has been rejected by the Leader of the House. I do not understand why. I really have great difficulty.

Recommendation No. 29 is that committees should travel and meet people at the coalface without actually having an inquiry that they are pursuing. It has been rejected. This is something the Defence Subcommittee—which, I might say, operates under Senate standing orders, supported by the House of Representatives—has been doing for years, ever since I have been a member of it. We have the absurd situation where that recommendation of the Procedure Committee is rejected but where one of the committees that is supported by the House of Representatives is actually doing it. Perhaps that needs to be brought to the attention of Mr Speaker. I do not understand the logic of the government’s position in rejecting it. I have read the words.

Last but not least, I want to offer a comment about amending standing order 339—that is, allowing committees to use audiovisual or audio links for gathering evidence. As the Leader of the House said, it is still important for committees to go to the bush. This is not a substitute for that. But I also want to put this on the record: this is not a
substitute for declining committee budgets, nor is it designed for committees to avoid gathering face-to-face evidence from people who live in Perth or Sydney or Melbourne, or anywhere else for that matter. It is really designed for those witnesses who, for whatever variety of reasons, cannot go to wherever the hearing is. It is to make sure they are not excluded from the process. As I said, I really believe committees must travel right throughout Australia, particularly to the bush. This is not a budget saving measure that the Procedure Committee has recommended, and I want to emphasise that point.

Madam Deputy Speaker, in summing up I think it is a good report. We tried to break some ground. Honourable members generally have strong views about committees. I support this motion. I am disappointed that we did not have more. If only the Leader of the House had followed the lead of Mr Speaker.

Question resolved in the affirmative.

Mr NAIRN (Eden-Monaro)—by leave—I present guidelines for the use of audiovisual or audio links during the conduct of proceedings of committees of the House of Representatives.

COMMITTEES

Public Works Committee

Approval of Work

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.36 p.m.)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Construction of mixed residential dwellings at Block 87, Section 24, Stirling, ACT.

The Defence Housing Authority proposes the construction of 50 mixed residential dwellings in the Canberra suburb of Stirling. The role of the Defence Housing Authority is to provide suitable housing to meet the operational needs of the Australian Defence Force and the requirements of the Department of Defence. The Defence Housing Authority satisfies Defence accommodation require-
ments by a mixture of: construction with a view to retaining the properties or selling them with a lease attached; direct purchase with a view to retaining the properties or selling them with a lease attached; and direct leases from the private rental market.

At present, Canberra is home to some 1,800 Defence families. Around 1,300 of these families are housed in Defence Housing Authority managed houses, with the remainder of the requirement met by the use of short-term leases and payment of rental allowance at additional expense to the government. There are few suitable established residences available for spot purchase in conveniently located suburbs, and the rental market is very tight. The development and construction option is also somewhat constrained. Overall, land supply is limited, particularly in the established suburbs of Canberra.

In recognition of the importance to Canberra of the investment in housing by the Defence Housing Authority, the ACT government agreed in December last year to offer the Defence Housing Authority an undeveloped site in the suburb of Stirling. The land is well suited to this Defence need. The proposal is to develop housing for Defence families in a quality urban design environment. These residences will provide the level of amenity suitable for middle to senior ranking officers in a location that is ideally situated to support Defence facilities in the Australian Capital Territory. The development will take the form of the subdivision of a site that will create 50 dwellings comprising a mixture of detached housing, townhouses and courtyard housing. The mix will cater for a range of group rank entitlements and provide a reasonable choice for families with different preferences and lifestyle requirements.

The proposed project will have a positive effect on the local economy during the construction period, with up to 150 persons working directly on the site and many more off-site supplying material, plant and equipment. Construction of an additional 50 houses in Stirling will provide a boost for local businesses. This project will make a contribution to the commitment of the Aus-
Australian Capital Territory government to high quality urban renewal in the older areas of Canberra, where existing social and physical infrastructure would benefit from new families and quality housing. The estimated out-turn cost of the proposal is $11.5 million. Subject to parliamentary approval, construction is expected to commence in January 2001, with completion of the works by the end of December in the same year.

In its report, the committee has recommended that this project proceed subject to the implementation of its recommendations. The Defence Housing Authority agrees with the recommendations of the committee. On behalf of the government, I would like to thank the committee for its support, and I commend the motion to the House.

Question resolved in the affirmative.

Public Works Committee
Approval of Work

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.40 p.m.)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Reserve Bank of Australia head office building works, Sydney.

The Reserve Bank of Australia proposes to reconfigure and consolidate its functions at its head office building, located at 65 Martin Place, Sydney. This building forms an integral part of the Martin Place precinct, which is recognised as a significant component of the urban fabric of the Sydney central business district. It was constructed in 1965 and extended in 1980, undergoing a major refurbishment following examination by the Public Works Committee in 1990. To date the Reserve Bank has been the sole occupant.

This current proposal is not a further refurbishment but rather the response of the bank to organisational changes in the bank resulting in increasing vacant areas in the building. This proposal stems from two primary factors: changes within the Reserve Bank of Australia during the last decade, particularly in its head office, which have resulted in a need to consolidate functions to achieve greater space efficiency and a more efficient internal layout; and the need to use underutilised and surplus space more effectively. The proposed works will involve reconfiguring bank areas to permit the commercial leasing out of surplus space. The estimated out-turn cost of these works is $21.5 million. In planning for the work, the Reserve Bank of Australia is being advised by private sector building consultants.

In its report, the committee has recommended that the project proceed after features of heritage and historical value identified by the National Trust of Australia, New South Wales, and by the City of Sydney have been photographed and appropriately documented. The Reserve Bank of Australia agrees to the recommendation made by the committee. Subject to parliamentary approval, it is planned to commence detailed design in January next year and start work on the base building and tenancy works packages simultaneously in April the same year. Completion of the last of the tenancy consolidation works is scheduled for late 2002. On behalf of the government, I would like to thank the committee for its support. I commend the motion to the House.

Question resolved in the affirmative.

Public Works Committee
Approval of Work

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.44 p.m.)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: ABC Perth accommodation project, East Perth.

The Australian Broadcasting Corporation proposes to construct new office accommodation and studio facilities in East Perth. The ABC is seeking to consolidate and improve its Perth accommodation in a way that meets its organisational and strategic objectives. These objectives include generating revenue for the digital conversion program of the ABC; restructuring of the corporation into a
content-led organisation capable of meeting the challenges of a changing media environment; enhancing the corporation’s production capacity and output in centres outside Sydney and Melbourne; maximising the efficiency and effectiveness of the organisation; and addressing the particular problems and inefficiencies relating to its existing accommodation in Perth.

Mr Hockey—Hear, hear!

Mr SLIPPER—The minister is quite correct to applaud this motion being moved by the government. The proposed development will replace inadequate buildings and facilities at 191 Adelaide Terrace in Perth with accommodation at East Perth that is up to date, functional, safe, compliant and designed to maximise efficiency, output and creativity. Many of the buildings on the Adelaide Terrace site are inefficient and inappropriate for the functions they contain. Analysis has shown that it would not be cost effective or practical to rehabilitate and maintain this inefficient and unserviceable accommodation to modern standards and, in property terms, the current ABC occupation represents a gross underutilisation of the development potential of this prime near-CBD site.

This development proposal involves the purchase of a new site at East Perth from the East Perth Redevelopment Authority, the construction of new facilities and the sale of the existing ABC Adelaide Terrace site. The broadcasting industry is currently undergoing a major transformation with the advent of digital broadcasting. This project will provide the ABC with the facilities required for digital production and transmission, including facilities suitable for both wide screen standard definition television and high definition television production. This project will improve the efficiency and effectiveness of the ABC in a number of ways, such as: property rationalisation will generate revenue to support the digital conversion program of the ABC; production will become more efficient through appropriate building layout, physical proximity and custom design facilities; enhanced opportunities for cross-media content development and program research will support the generation and re-versioning of content for new services; and integrated technical support and archives facilities that are easily accessible by staff will improve efficiency and contribute to the range and depth of output.

In its report, the committee has recommended that the project proceed. It has also made recommendations in relation to the future presentation to the committee of information relating to financial savings, and in relation to the West Australian Symphony Orchestra. The Australian Broadcasting Corporation agrees with recommendations 1 and 3 of the committee. Recommendation 2 is about the funding options for the relocation of the West Australian Symphony Orchestra and these will be referred to the ABC board for further consideration. The cost of the project, as referred to the committee, is $27.5 million. The estimated total outturn cost of the proposal, including relocation costs, ABC project team costs and loose furniture, is $28.5 million. Subject to parliamentary approval, construction will commence in March next year with completion and occupancy by December 2002. On behalf of the government, I thank the committee for its support. I commend the motion to the House.

Question resolved in the affirmative.

BUSINESS

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

That so much of the standing and sessional orders be suspended as would prevent notices Nos 12 and 13, private members business, being called on forthwith.

PRIVATE MEMBERS BUSINESS

Migration Amendment Regulations

Dr THEOPHANOUS (Calwell) (5.50 p.m.)—I move:

That items [4201] [4204] [4206] [4306] and [4307] of Schedule 4 of the Migration Amendment Regulations 2000 (No. 5), as contained in Statutory Rules 2000 No. 259 and made under the Migration Act 1958 and the Migration Reform Act 1992, be disallowed.

I object to these regulation changes as they involve significant alterations of policy without parliamentary approval, without debate and without sufficient consultation. I will come back to this when I am discussing
the second set of regulations. The regulations that we are discussing now have the effect of abolishing the special assistance category in the special humanitarian program. The special assistance category was introduced by the previous Labor government essentially to deal with the problems of the influx of people from the former Yugoslavia. It was decided that, since there was no general humanitarian category, it would be better to create a special category for people coming from that world trouble spot.

Later, other trouble spots were added to create other special assistance categories. This category provided a very important entry point for people from these trouble spots who did not have the resources and/or criteria to gain classification under the strict criteria of the UNHCR as refugees. It was nevertheless recognised that they did have very special humanitarian claims and should be considered for entry into Australia. Thus, under the special assistance category, 18,096 citizens from the former Yugoslavia were admitted from 1991 until early 2000. Later, programs were introduced for a number of groups, including Burmese, Sudanese, Sri Lankans and Ahmadis. The total added up to 23,337 persons for those categories over that period. The minister maintains that demand for these categories is reduced. But is this in fact the case?

The total number approved under these categories was indeed reduced from 1,144 in 1998-99 to 650 for 1999-2000. However, if one looks at the applications lodged from July 1999 to only February 2000, as provided by the minister in answer to a question from the honourable member for Batman, we see that there were 56,279 applicants in refugee and humanitarian categories in a period of only eight months. The total number of persons applying from the former Yugoslavia was 17,453 in that period. Even if one-third of these were under the special humanitarian program, nearly 6,000 people would have applied. Yet only 391 people were approved under the special assistance category from the former Yugoslavia in the whole of 1999-2000. It is obvious that the government has substantially tightened the criteria for effectively approving people under this category as a prelude to getting rid of these categories.

In proposing to do away with these categories, the government will transform the situation completely because, by its own admission, it would deal only with those who are immediate family members. Essentially, however, this would be the end of the special program which gave preference to sponsorships of parents, brothers and sisters, nephews and nieces and other relatives of Australians related to persons from the former Yugoslavia and the other countries listed. Furthermore, it would be the end of the program which allowed other Australians and community groups to sponsor persons under the SAC program, which allowed these persons to be given priority.

The closure of this program will mean that the special humanitarian considerations which were previously present for people from these regions will be initially reduced and then wiped out altogether. The government has given no convincing reason for getting rid of these special categories; nor has it explained why it is replacing this category with the much narrower immediate family reunion category. This category is defined as for only husbands, wives or dependent children. I believe that the intention of the department is clearly to take these persons out of the humanitarian category altogether and to place them in the already overcrowded and packed family reunion program. While, previously, Australia’s overall humanitarian program included a large number of persons under the special assistance categories program, the intention is to wipe out this opportunity altogether.

Already this year, the minister has frozen the offshore refugee and humanitarian program in order to include in the total overall program the increased number of those who are admitted under the onshore program, such as the boat arrivals. This is an attempt to divide one group of refugees from another rather than to maintain Australia’s obligations to a comprehensive overseas humanitarian program. The worst thing about the minister’s rationalisation of this action is the fact that he pretends that the changes here are not significant, yet the opportunity for
people coming from these regions of the world over the next few years will be severely affected. He is not replacing the special assistance categories program with a reasonable humanitarian alternative; he is in fact abolishing it altogether.

One of the minister’s major justifications with regard to the mandatory detention of so-called illegal immigrants is his claim that we must impose punitive measures for those who are ‘queuejumpers’. The fact that these people did not utilise the proper official channels for gaining an entry visa should, according to the minister, require us to impose a variety of punishments on them. He further claims that this punishment will deter asylum seekers from choosing to enter Australia without a valid visa. Why then is the minister abolishing the special assistance category which, in effect, reduces the opportunities for those applying under a valid visa and effectively forces people into a situation of seeking access through so-called unauthorised entry?

In conclusion, because my time is running out, by abolishing the special assistance category the minister is discouraging applications through the so-called authorised channels. He will be doing away with one of these channels altogether. He is thereby exacerbating the levels of frustration asylum seekers will experience in attempting to obtain any kind of overseas visa from Australian authorities. This will have the obvious consequence of increasing their likelihood of choosing an illegal means of arrival. I urge the House to reject these changes and to continue with the special assistance category.

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

Mr Andren—I second the motion and reserve my right to speak.

Mr SCIACCA (Bowman) (5.56 p.m.)—Special assistance categories have in the past provided a very worthwhile tool for catering to emerging crises and for providing assistance to specific groups of people who, while perhaps not fulfilling all the strict criteria for refugee status, nevertheless require humanitarian assistance. Perfect examples of the assistance that SACs have provided to those in need around the world, especially displaced people from war torn countries, include citizens of the former Yugoslavia, persecuted Sudanese, and Burmese nationals residing in Thailand.

While the uptake of some of these categories may not be as great as when the emergency that warranted their establishment took place, today there are still a significant number of people that qualify for each SAC and that thus are considered to be desperate enough and frightened enough to qualify for Australia’s generous assistance. I acknowledge the minister’s argument that the SACs should now be closed, given the fact that their uptake is now very low and, arguably, those places could be reallocated to equally needy refugees from elsewhere. The opposition’s opinion, however, is that, given that the global allocation of these categories is currently 900 places and the global take-up rate was 184 for the past year, we are still saving 185 displaced human beings who feared for their lives.

I believe that the number of places being taken up is low enough not to upset the overall refugee and humanitarian program and yet high enough to make a difference to so many people in need. It may not be the apex of administrative efficiency to keep these categories open a while longer but, then again, I do not think we should put a value on human beings according to administrative efficiencies. In any case, the minister has the overriding discretion to alter the mix of the refugee and humanitarian program to suit the needs of emerging world events and to cater for crises as they arise. Leaving these categories open need not mean restricting access to refugees in other categories within the humanitarian program. There are often leftover places at the end of a program year that can be used for contingencies and, if they are not available, they can be borrowed from future programs. A flexible and compassionate approach should be taken at all times. The opposition supports the motion of disallowance.

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural Affairs and Minister Assisting the Prime Minister for Reconciliation) (5.59 p.m.)—Issues in rela-
tion to refugee places, special humanitarian places and the SAC program are never easy, but they are about ordering priorities. I would think that most members would agree that refugee places should be accorded the highest priority. Yet there are 22.5 million refugees in the world. The special humanitarian program and the SAC program were not restricted to refugees. They were for people who had other humanitarian claims. So we were elevating to programs where there is a not unlimited number of places people who had other humanitarian claims and who were not refugees. To bring matters forward and to do all the sorts of things mentioned by the member for Bowman would ignore the reality that the refugee program has had on average 12,000 places for as long as I can remember. There have been periods in which they have been brought forward, but essentially that is what we are dealing with.

I said it when I was in opposition—I always had doubts about the SAC programs. The SAC programs were not to deal with emerging crises. The SAC programs essentially were to deal with emerging political hot spots in Australia. Where you have enough people pressing for a particular concession for their group when there are other people—

Opposition member interjecting—

Mr RUDDOCK—That is the case. Why is it just the former Yugoslavia and Sudan? I could take you through them. I was at many of the meetings where these issues were raised, and I know the circumstances in which they were raised. There were specific interest groups pressing for specific concessions that got people into places that would not otherwise have been there. This year, we have had to forgo something in the order of 4,500 to 5,000 places for onshore asylum claims. If you have that number of places coming out, you are left with a refugee program, which the UNHCR does not want to see diminished, of 4,000 places and with the special humanitarian places. The special humanitarian places are not for refugees; it is a global program in which those who want to sponsor can sponsor. It has always seemed to me that, if you are going to administer a program which is non-discriminatory, the special humanitarian program provides the basis for it.

The fact is that some elements of the SAC programs were running down. Why were the Sudanese numbers running down? Because one of the criteria was that you had to have migrated to Australia at a particular point in time and, if you came after that date, you were not eligible. That meant none of the blacks from southern Sudan were eligible but a lot of people from the north of Sudan who were looking for migration outcomes were eligible. But the number of people potentially eligible was contracting, because they had just about all been met. The Burmese program was essentially wiped out because the Burmese government said, ‘We’re not going to give people visas to leave.’ We had a SAC program for the Soviet Union. The Jewish community said, ‘We no longer require a SAC program.’ You can go through most of them.

In relation to the former Yugoslavia, which is the area on which the member commented mostly, the fact is that the circumstances have significantly changed. For most Croatians, it is possible to live in Croatia. For most Serbians, it is possible to live in Serbia. For most Bosnians, it is possible to live in Bosnia. Yes, there are some groups who are going to have difficulties, but it is not dependent upon their relationship with an Australian; it is because they come from a mixed marriage or because they have suffered particular human rights abuses. The focus of our attention has been on those people who have the greatest need from that region, recognising that, for many people, the urgency of the situation has changed with the subsidence of the conflicts that we have seen. In terms of priorities, it is appropriate that the SAC programs, which are no longer required, be brought to an end. For that reason, the government do not accept the motion moved by the honourable member.

Question resolved in the negative.

Dr THEOPHANOUS (Calwell) (6.04 p.m.)—I move:

That items [4116] [4117] [4118] [4119] [4304] and [4305] of Schedule 4 of the Migration Amendment Regulations 2000 (No. 5), as con-
I made a comment in the debate on the last disallowance motion that one of the problems is that the Minister for Immigration and Multicultural Affairs and the government have a habit of changing immigration policy by altering regulations without legislation and without discussing the policy changes with this parliament. We simply wake up one morning and discover that significant changes have been made to immigration policy by regulation without consultation with the opposition, the Democrats, the Greens or the Independents in this parliament. For example, in relation to the special assistance categories, the minister has opposition in terms of his policy and his views. Why not refer that very important issue to the Joint Standing Committee on Migration for comment before making such important policy changes?

The fact of the matter is that the minister has been involved in a process where he continually changes regulations, regulations which are very important in terms of policy issues, and he does not refer these to the appropriate parties in this parliament. Therefore, parliamentary scrutiny becomes a secondary consideration and we have to move disallowance motions. I believe that the minister would have done well to discuss both of the issues which have been referred to here today, this set of regulations and the bridging e-visa. I would urge the minister that, if in the future he wants to introduce regulations that involve policy changes, he discusses these with the relevant parties of this parliament. Parliamentary scrutiny of these issues is absolutely important in ensuring that we have a valid outcome.

The introduction of these new regulations in relation to bridging e-visas has again not been seriously considered in terms of the possible outcomes and consequences of this decision. What is happening here is that the government will give the power to the Migration Review Tribunal to impose bonds, or so-called security deposits, on people who are seeking to have their cases reviewed by that tribunal. It should be remembered that recently bonds for refugee applicants applying to be released from detention, even when they have agreed to return home after the rejection of their claims, have increased from around $6,000-$10,000 to $40,000-$60,000. I have documented evidence in relation to the Villawood Detention Centre and have made a public statement in regard to increased bonds. In that statement I said:

In order to be released into the community for a temporary period, the DIMA authorities are demanding huge sums of money for bonds and also repayment of between $15,000 and $30,000 for the costs of their detention, even when these people have agreed to organise their affairs and leave Australia. These bonds are greater than that requested from Australian citizens for extremely serious crimes.

The minister has not denied that these increases have taken place, even in answer to a question from me.

The introduction of this new bridging e-visa requirement will mean that not only refugee claimants for a visa but now persons applying for a bridging e-visa in relation to the Migration Review Tribunal will be subject to a bond. How many people are likely to have the $40,000-$50,000 which these bonds are likely to involve? Will this mean that persons who are having their appeals considered and who do not have the huge amounts of money required for that bond will have to be dealt with? The most likely outcome will be that they will be kept in detention until the case is finalised. This, I believe, will lead to a significant increase in the number of people being held in detention. How many more people does the minister intend to hold in immigration detention?

This regulation will create a new category of detainees. We are here talking not of refugee applicants but of persons rejected after having applied for immigration visas and making an appeal to the Migration Review Tribunal. I do not believe the government has seriously considered the consequences of this new change in terms of the significant increase in the number of detainees and all the potential problems involved in that. The process which will emerge from these new regulations has not been made at all clear by the minister in any of the statements. There was nothing in the minister’s press state-
ment, and the legislative change update from DIMA gives no explanation as to what will happen, yet major questions remain. For example, if the Migration Review Tribunal insists on a security deposit and the applicant does not have the money for such a deposit, will the person be automatically placed in detention or will there be other options? Is it intended that the person be deported if they do not have the money to lodge a security deposit? How would such actions square off against the existing rights of a person under the law? Close scrutiny of this regulation shows that any answers to the above questions have been left up in the air. Such an indecisive method of implementing government policy is outrageous and should not be tolerated by this parliament or the Australian people. I urge the rejection of this regulation.

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

Mr ANDREN (Calare) (6.10 p.m.)—I rise in support of the member for Calwell’s motion; indeed I second it. The effect of these regulations is that since 1 November 2000 several aspects of the bridging e-visa have been amended. First, the amendments may require visa applicants to lodge a security deposit before a visa is granted to ensure they comply with any conditions. Second, the amendments now allow the Migration Review Tribunal to impose security deposits on review applicants. So not only refugee applicants but now persons who are being considered for a bridging visa by the tribunal may be subjected to a bond. A major reason for supporting this motion, apart from issues of fairness, is that I strongly believe that matters such as these need to be aired and debated in this place. I also support the sentiments expressed by the member for Calwell and the member for Bowman in debating the previous motion to disallow changes that have closed six categories of the special assistance category visa. The closure of this program only adds to the belief, both here and abroad, that we are not doing enough by way of humanitarian and refugee programs. I believe we run the risk of losing our fair-go reputation because of an unwillingness to deal with our long-term immigration goals.

I sponsored a private member’s motion in this place last year that called for a serious debate in this country on population policy. I notice the member for Bradfield is in the chamber, and he indeed seconded that motion. I said then that, without a population policy, Australia risks a continuation of divisive scapegoating of minority ethnic groups. This policy vacuum also adds to the hostility targeted at boat arrivals and those who would want to stay in this country—why wouldn’t they?—when granted temporary haven from war-torn Kosovo or any of the scores of terror spots around the world. Until we engage in that debate, until we set a population target based on science, economic and social standards, then governments will remain timid about our immigration policy in the face of those who would want a return to a White Australia Policy. As we built our post-war immigration on refugees from Europe so too we can tap the enormous motivation and commitment to this land of genuine refugees today and those from the special humanitarian program rather than have them twice persecuted.

As I said in that debate in June last year, we need crosspolitical consensus to counter the inevitable backlash if indeed it is decided after rational nonpolitical debate to increase the population significantly. That rational debate should start here with these regulations. All too often government now makes significant alterations to policy without debate and without sufficient consultation. The changes involved here should at the very least have been considered by the Joint Standing Committee on Migration. In my time in this place I have noted a growing tendency of the executive and indeed the government whip at times to push through the legislative agenda, increasingly through the use of subordinate legislation like that which the member for Calwell has moved to disallow today. While this increasing reliance on delegated legislation was no doubt a trait of the previous government, it has also been a feature of this one.

Immigration policy and law is a complex area, and I by no means profess to be an expert. This is largely due to the fact that, unlike many members of this place, my elec-
torate does not have a heavy immigration workload. But the member for Calwell, who is far better versed, has raised his concerns with me that these regulations, along with those closing the special assistance categories, are significant changes that will have a serious impact on those people affected. These concerns are legitimate and it is right that they are being addressed by the minister in this place—but only because of these motions.

These bridging visa changes and the security deposit requirement go to fundamental issues of procedural fairness—access to justice, the right to judicial review and the basic equity standards of this country. I am informed that bonds in the vicinity of $40,000 to $60,000 have been imposed on people applying to be released from detention in the Villawood Detention Centre. The question that has to be asked—and I hope the minister can explain this—is what the effect of these bonds will be on the ability of applicants to access judicial review. It would seem to me that bonds of that magnitude ensure that only applicants with means can access justice in the migration appeal process. It would appear that the purpose of the bonds is largely to deter applicants from seeking review of their decisions, even for those who have promised to return home if the decision is ultimately against them. They will have a choice: pay the bond if they can or remain in detention for many months. I support the motion and hope the minister, for whom I have great respect, can address these concerns.

Mr SCIACCA (Bowman) (6.15 p.m.)—The opposition understands the views put forward by the mover and the seconder of this motion. We are not satisfied that there is any ulterior motive in this at all. In fact, my understanding is that it will give appeal rights in the area of security bonds that were not there previously. Naturally we will be monitoring the situation to ensure that it is working the way the minister says that it is working. Accordingly, the opposition will not be supporting the disallowance motion.

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.16 p.m.)—This matter is proceeding on a fundamental misunderstanding. I make it clear that the amendments here were introduced to the bridging e-visa scheme because of two Federal Court cases—Tutugri and Takli—which found that the Migration Review Tribunal could not review requests for securities. Requests for securities were imposed by the department as part of an arrangement to release people from detention who had given an assurance that they would voluntarily leave. Essentially, what happens is that if people who are unlawfully located in the community agree that they are unlawful and that they are going to go home and they need a period of time to make the arrangements, they can get a bridging visa which enables them to sell up their car, work their way out of a lease—do the sorts of things they need to do—and there is a capacity to impose a security bond.

Dr Theophanous—It is $50,000.

Mr RUDDOCK—It is not $50,000. I make the point that there is a capacity to provide it. Let us assume that it is $50,000. At the moment, member for Calwell, the person has no entitlement to have that reviewed. This enables the question of the bridging visa, and the quantum of the security that is sought, to be reviewed by an independent merit review tribunal. That is the purpose of the regulation. It gives people additional rights. If you were to get this up it would deprive people of a right to have it reviewed. In the circumstances I would hope that you would re-read the regulations and simply graciously withdraw.

But let me deal with the system, because some points have been made about the system. When I first came into this place immigration policy was policy, and the government of the day determined policy. The minister would issue guidelines to the department, and that is the way in which it was done. The former government sought to codify the law, and they codified the law by way of a statute with regulations. The scheme under which we operate is that there is a statute, the parliament reviews it and there is delegated legislation which is reviewed by the procedures that we are utilising now. The government takes its decisions,
and the parliament now has an opportunity to review those decisions. The government has taken a view over a long period of time that it has a responsibility to make decisions in this area: decisions in relation to numbers specifically, and in relation to the sorts of balances that the program has. In a budgetary context it has an entitlement to take decisions on how many people it can bring into the country as refugees and support. There are budgetary consequences as a result of the number of people that you settle as refugees, and it is one of the issues on which, at the end of the day, you ultimately have to make decisions. You have to do so in the context of a wider range of issues.

I welcome the opportunity to talk about and debate the broader population issues. I think it is important that the community understands the impact of migration on population. I have delivered a number of speeches in which I have put that sort of information into the public arena. I know that there are some people who argue population issues in the context of a much larger program than we have today; others for a much smaller program. I think a lot of the debates calling for population policies are because people do not accept the inevitability of the demographic arguments that, if you have a reproductive rate of 1.7 or thereabouts, which is what we have now, and if you have immigration programs which deliver a net number of about 75,000 people, and that is what it has been doing over the last 10 or so years, we will have a stable population of from 24 million to 25 million in about 40 years time. I do not think there is anything particularly remarkable about that—that is where we will be unless we have a much larger program or a much smaller program. I am quite happy to hear people arguing for much bigger programs that deliver a bigger population outcome—they are welcome to do it. But that is not the government’s position. Our view is that, with the sorts of immigration programs we have today, with the fertility rates that we have today, there is a clear position. You can see where it is leading, and we think the Australian community is broadly comfortable with it. I am sorry to have gone beyond the resolution but I was invited to do so.

Question resolved in the negative.

COMMITTEES

Privileges Committee

Report

Mr SOMLYAY (Fairfax) (6.22 p.m.)—Mr Deputy Speaker, on behalf of the Committee of Privileges I present the Report of the inquiry into the status of the records and correspondence of members, together with the minutes of proceedings and evidence received by the committee.

Ordered that the report be printed.

Mr SOMLYAY—by leave—An issue that has been of concern to many members for some time has been the legal status of records and correspondence they hold as members of the House of Representatives. Members’ principal concern has been whether they are required to produce such documents when faced with orders, usually from a court, compelling the production of the documents. Underlying this concern is the wish to preserve the confidentiality of communications with their constituents. A further issue members have raised is whether there is protection against other legal action, such as defamation, in relation to the records and correspondence they hold.

On 31 March 1999, the House referred to the Committee of Privileges this inquiry into the status of records and correspondence held by members of the House of Representatives. The committee was asked to have particular reference to, firstly, the adequacy of the present position and, secondly, whether additional protection could and should be extended to members in respect of their records and correspondence and, if so, what the form and nature of such protection would be. In undertaking the inquiry and completing this report, the committee has: outlined the present position generally in relation to the legal status of records and correspondence held by members; considered the adequacy of the current position and whether additional protection could be extended; indicated what forms any additional protection might take and the advantages and disadvantages of providing additional protection; and canvassed other actions that are available to clarify and improve on the pres-
ent position but which do not involve any extension of the protection currently available.

Briefly, the current position is that, generally speaking, the records and correspondence held by members do not fall within ‘proceedings in parliament’, as defined in the Parliamentary Privileges Act, so they do not enjoy any special legal status. If they do fall within that definition, as some of them may, then it would also be necessary to establish whether the use that is proposed for the documents, such as disclosure to a court or third parties, amounts to ‘questioning’ or ‘impeaching’ those ‘proceedings in parliament’ before there was the protection of parliamentary privilege. It must be said that the current state of the law is such that what exactly might be covered by ‘proceedings in parliament’ or what might amount to ‘impeaching’ or ‘questioning’ proceedings in parliament is not clearly defined. This is something that the committee has addressed in its recommendations.

Having outlined the present position, the committee considered a number of options for possible additional protection to members’ records. These options included amending the privileges act to extend privilege to members with regard to their records and correspondence, amending evidence legislation to allow members specifically to seek to preserve the confidentiality of certain communications, and extending a privilege akin to legal professional privilege. Time does not permit me to canvass the advantages or disadvantages of these options. They are, however, set out clearly in the report.

In reaching its conclusions, the committee has sought to strike a balance between competing interests. It has been conscious of the significant concerns of members who seek the certainty and the protection that would come from an extension of parliamentary privilege. It recognises that members in some circumstances feel constrained in their representational duties. However, it was not clear that the possibility of disclosure of members’ records and correspondence was appreciably inhibiting the work of members. What was clear to the committee, as to all members, was that parliamentary privilege bestows significant rights and immunities on the parliament and must be called upon only to ensure the effective functioning of parliament. Any extension of the protection provided by parliamentary privilege would reduce the ability of courts to obtain all relevant material to help in their determination of matters. A closely related impact would be on the ability of parties to legal proceedings to obtain relevant or potentially relevant material for their case. The implications of any extension of privilege would be profound and it is not justified on the basis of the issues which face members in this area.

The committee concluded that there was no justification to extend privilege generally to cover all the records and correspondence of members, nor even specifically to cover the correspondence between members and ministers, and has recommended that there be no change to the current law. However, the committee considers there are practical measures that can be implemented within the current law to provide greater clarity and assurance to members in this very sensitive area. I will not detail these recommendations. However, they include the development of guidelines to cover the execution of search warrants on members and the development of guidance to members about the status of their records.

Mr SAWFORD (Port Adelaide) (6.28 p.m.)—by leave—My comments will be brief. I simply wish to indicate to the House bipartisan support for the Report of the inquiry into the status of the records and correspondence of members produced by the Committee of Privileges. I also wish to make clear my support for the comments of the chairman of the Committee of Privileges, the member for Fairfax. After all the evidence was examined, the views considered and an analysis completed, the committee was of the opinion that there existed no justification to extend privilege to cover all the records and correspondence of members.

However, I do wish to add to the chairman’s comments. In particular, I wish to make reference to the tripartite nature of recommendation 5. Recommendation 5 promotes, firstly, the development of a set of guidelines to be made available to members
to assist them to consider the status of their own records and correspondence and to provide guidance as to how their records and correspondence should be handled; secondly, the inclusion in seminars for new members advice concerning the status of members' records and their correspondence; and, thirdly, the briefing of existing members and their staff concerning the status of members' records and correspondence and advice on how to handle such records. In conclusion, I thank the chairperson, the member for Fairfax; committee members; the secretariat; all the participants in the inquiry; and the initiator of the inquiry, the member for Chifley, who will also make a short statement.

Mr PRICE (Chifley) (6.30 p.m.)—by leave—Firstly, I would like to thank the chair and all members of the Committee of Privileges for what has been a detailed and lengthy consideration of the issues that arose in my case. Obviously, I have not yet had the opportunity to go through the committee’s report in detail; I certainly intend to do so. I think this is a difficult issue. I thank the member for Port Adelaide for pointing out the development of a set of guidelines for members—old members, as well as new—which is going to be a very valuable contribution. This of course is also a matter of interest to the Senate Committee of Privileges. If I had one request of the Committee of Privileges, it would be this: having given its weighty consideration of the matters that I have raised and having brought down this report, I hope that it might consider these matters under advisement and, if appropriate, reconsider its position at a future date, if the need arose.

Mr SOMLYAY (Fairfax)—by leave—I move:
That the House take note of the report.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

MATTERS REFERRED TO MAIN COMMITTEE
Motion (by Mr Ronaldson) agreed to:

That the following order of the day, government business, be referred to the Main Committee for debate:

Defence 2000—Paper and ministerial statement—Motion to take note of papers: Resumption of debate.

ADMINISTRATIVE REVIEW TRIBUNAL BILL 2000
Cognate bill:

ADMINISTRATIVE REVIEW TRIBUNAL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000
Second Reading
Debate resumed.

Ms JANN McFARLANE (Stirling) (6.33 p.m.)—I would like to read a section of the explanatory memorandum of the Administrative Review Tribunal Bill 2000. The general outline says:

The Administrative Review Tribunal Bill will establish the Administrative Review Tribunal. Its function will be to review administrative decisions on the merits. The Tribunal will be readily accessible and provide review that is fair, just, economical, informal and quick.

Other laws of the Commonwealth will provide for applications to be made to the Tribunal for review.

The Tribunal will replace the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal.

The Administrative Review Council, in its 1995 Report Better Decisions: Review of Commonwealth Merits Review Tribunals, recommended that a single merits review tribunal be established through the amalgamation of the Administrative Appeals Tribunal and several specialist review tribunals. The Government announced in 1997 that it agreed with this recommendation. Accordingly, this Bill will set up the new Administrative Review Tribunal to replace the Administrative Appeals Tribunal and the three specialist tribunals referred to in the preceding paragraph.

As I said before, I worked for a welfare rights centre for 6½ years before I came into the parliament. I went to the consultations of
the Administrative Review Council when it went around Australia consulting with the community. I went to those consultations with two interests: one was to be the voice of the poor and disadvantaged people who came to the welfare rights centre that I worked for to ensure that the council heard about the need for a fair and accessible tribunal process; the other was my long-term interest in seeing that democratic processes in our society be fair. So I was there during the consultations. I was very pleased when the report came down in 1995 and I was very pleased with its recommendations, because they very much reflected the interests of the community workers and the clients who had attended these consultations. We were very happy with the outcome of the Better decisions report and the recommendations, which again stated that a fair merits review process needed to continue in Australia.

However, I am dismayed at these two bills because, to me—and I have consulted with some of my former clients and some welfare rights workers—they do not appear to be fair. The model in them is flawed, and the shadow Attorney-General spoke in depth about some of the flaws. I wish to raise in the House in relation to this the voice of poor and disadvantaged people—particularly people with a disability or a mental illness, or people who come from other cultures who may not have English as their first language. The main concern that I and others have about these bills is this: that ordinary people experiencing problems with social security payments will be especially disadvantaged under the new structure due to the lack of independence of the proposed ART from government agencies, the loss of a two-tier external review, the loss of multimember and multisilled panels, increased procedural complexity and reduced procedural fairness, and a restriction on consumer representation despite increased participation of government agencies.

I have taken many a client to the AAT. I want to talk to you about the work I did over 6½ years to ensure that the processes there were fair. Every year we would have a meeting with the Administrative Appeals Tribunal and talk to them about problems that had arisen in taking clients there during the year. The staff and the President of the AAT are to be commended. When Justice Jane Mathews was the President, she worked very hard to make sure that people with mental illnesses, people with physical disabilities, people who spoke other languages and people who were deaf could access the tribunal in a physical way and also in a representational way. The tribunal, under her leadership and vision, did a lot to develop strategies to help people with disabilities access the materials, particularly people who not only had disabilities but also had minimal levels of literacy.

When Deidre O’Connor was the President of the Administrative Appeals Tribunal, again the work continued on ensuring that the processes and procedures were fair and, from the moment clients came to lodge their application to when they came through their hearings, when they came to pick up their paperwork or to use the library, every practical help was given to assist them in their case.

Many a time the Administrative Appeals Tribunal gave people the list of the local community legal centres and welfare rights centres and strongly suggested that they contact us to come back to the tribunal with some representation, because they knew the people were not handling the process very well. Over the 6½ years I worked for a welfare rights centre, I saw the tribunal develop alternative materials, processes and practices that were not only fair but also understandable, and unrepresented people could appear before the tribunal with some representation, because they knew the people were not handling the process very well. During this time, the welfare rights centres developed kits and fact sheets to help people with their cases, and gave these people, as clients of their agency, access to case precedents. So I have helped many a person go before the tribunal unrepresented. But there were times when some people needed representation.

I assisted a woman who had tried to take herself through the Social Security Appeals
Tribunal and the Administrative Appeals Tribunal over the issue of getting child disability allowance for twins who had a severe form of asthma. She had gone through and lost at every stage because she left school at 15, her literacy was very limited and she had been on long term social security because of the health problems of her children. Out of her eight children, six had asthma, one was diabetic and she had only one child without a disability. She had had a very difficult and hard life, but she had tried to work and she was a very conscientious parent and conscientious member of the community. She was devastated when Social Security assessed her twins and then rejected her then current review for child disability allowance. We took up her case, we worked with this woman, we went to the AAT and we eventually won that child disability allowance for her twins.

That money helped that family get over the poverty line. Life was very minimal for them in the material sense, but very rich for them in the family sense. She was so grateful to us for her help. It also inspired her to go to TAFE and work on her literacy levels, so that one day she could access the work force in something more than the casual cleaning jobs she had been doing. Without a welfare rights centre to help her, that woman would have continued to lose. She would not have won at the AAT, and if she had taken it to the Federal Court she would not have won, because she did not understand what information she had to collect and what medical reports she had to get. I look at this model and think, ‘Where would that woman and other clients I dealt with be helped in this process?’ The model is flawed. I cannot see where they are going to be able to get much help.

If people are not going to be able to be represented in this new model, or if they get to the first tier or the conference registrar level—and I have found this on many occasions when I went there with Vietnam veterans, migrant people, social security recipients, people who had an appeal about an employment service or people who had an appeal about Austudy—then they will be up against a solicitor from the Australian Government Solicitor service and/or a well experienced legal advocate from the department. They had little chance of preparing their case. They often found it difficult to handle the very formal processes. This new model is basically a one-tier process. In terms of democracy, the model is saying that it is a two-tier process and on the second tier the person has to get the permission of the Administrative Review Tribunal to go—but, according to what I have read, even in the Attorney-General’s second reading speech, I do not see much capacity for people to get beyond the second tier.

My concern—and it is also the concern of other people I have spoken to in the community sector and the welfare rights sector—is that this is primarily a cost cutting exercise. The second reading report does say that there will be budget savings, and that is good. We are not into having processes just to be expensive. We do not see money as the benchmark for democracy or a merits review process. But we do see this as a change to a model that has worked very well—even though it has developed in an ad hoc way over 25 years—and is perceived as fair by community workers, clients, the legal profession, the AAT itself and the SSAT. This new model does not appear to be fair. It is badly flawed. I support what the shadow Attorney-General said. I would like to point out to the House some other views about what is the better model. To us, a better model must contain the following points: the appointment, composition and structure of the tribunal must not only appear to be democratic but also be democratic. The bill proposes no minimal qualifications for either the president or the members. We think this compromises the integrity and credibility of a tribunal.

The appointment of all members to a division by the minister for that division and the minister’s power to remove members clearly erodes the independence of the tribunal. Labor does not oppose this change just because it is a change: we have sought improvements to the review process. However, we think that the shake-up in this case leads to an extremely undemocratic process, and Labor will not support the two bills—in fact, we will oppose them strongly. We will encour-
The community to get their voice heard by government to ensure that the model is examined, and perhaps redeveloped, so that the merit process is fair.

The government needs to look at removing restrictions on the second tier review and at the need for multimember, multiskilled panels. They have worked very well at the Social Security Appeals Tribunal level and in the existing structure. There are perhaps ways of making the panels a bit smaller or organising them differently. There may even be a trade-off by having only one level of review, rather than two, within the process. That would streamline it, increase efficiency and move things along a bit, while keeping the two tiers within the ART structure.

We believe consumers should be permitted to be represented not just when the tribunal believes they have a legal point or they should be allowed to continue but when clients feel that their cases need to be heard fully within the tribunal process. Representation is a consumer right. In my experience and that of others, representation assists the tribunal as those who represent the least advantaged are able to provide evidence and arguments in an ordered way; thus making the process more efficient and cost effective.

I am sure that every member of parliament has met constituents who are vexatious litigants and who have been on the appeal path, or involved in some legal process, for two, three, five or 10 years. I am sure that if anyone sat back and calculated what just one of those vexatious litigants costs society—even in terms of the time they take up in offices such as ours or in the tribunal process—they would agree that, if a process is speedy, efficient and fair and people believe it to be fair, cost savings will be made somewhere.

Procedural fairness is extremely important. A number of the provisions in this model have produced inequities between the consumer and the decision maker and appear to favour the latter. This bill is procedurally complex and contains numerous provisions that provide procedural uncertainty. This is not conducive to an expedient and cost-effective review process. The government must look at the model again.

The bill contains a number of provisions that indicate that the new tribunal will be less independent than the present AAT and that its decisions may not have the same credibility. The independence of the AAT is maintained due to the fact that it is independent of the minister and headed by a Federal Court judge. The SSAT comprises multimember panels with a mix of full-time and part-time members who are less likely to become dependent upon the decision maker for continuing employment and thus be biased in favour of the decision maker.

A bill that allows the minister to decide the budget, or negotiate it with the tribunal, is problematic. There must be a one-step distancing mechanism, and surely the current organisation of the budget is such a mechanism. The bill produces a great number of matters that determine the very basic rights of consumers to practice directions. These include whether a consumer can appear, whether there is a right to representation, whether there is a right to an interpreter, which papers may be used and the time limits for lodging reviews. The practice directions are not subject to the scrutiny of the parliament and can be changed by the minister for the division at any time. These basic consumer rights should be set out in the act. Allowing the minister to decide that practice decisions have priority over the president's practice directions is also problematic. Access appears to be very limited for rural and remote consumers and there appears to be no provision for consumers with disabilities.

As to the funding model and support for it, welfare rights centres were funded formally in 1993 to provide support independent of the Department of Social Security for people going through a review process or for those who needed information or assistance from the department. The National Welfare Rights Network has put in a submission to government to have its funding increased by $2.3 million. That is not an enormous amount, but the call on that network for help with the current system and the many changes to the act—let alone the assistance that will be needed to understand the new process—is critical. That funding needs to happen now. I urge the government to con-
consider increasing funding for the National Welfare Rights Network so that it can provide support, assistance and representation—and even give advice and guidance to people about the new process, if this model is implemented.

In conclusion, I understand that these bills have been referred to the Senate Legal and Constitutional Legislation Committee. I hope that, during this process, the community, past clients and perhaps potential clients can raise their voices to government and to that committee—as the veteran community did—to ensure that the government rethinks the model outlined in these bills, goes back to the drawing board and creates a model that is democratic, fair, equitable and accessible.

Mr LIEBERMAN (Indi) (6.51 p.m.)—I am very pleased to speak today about the Administrative Review Tribunal reforms. It is interesting to note that it is almost 25 years since the AAT, as it is known throughout Australia, was established. Since then, there have been more than 360 acts of parliament conferring jurisdiction on the AAT, in addition to those proposed originally when the AAT was formed. The development of administrative law review in the Commonwealth has been quite interesting. I commend the Attorney-General for his work and for the consultation that he and the department have undertaken so far in respect of this legislation.

I also note that it is proposed that the legislation, if passed through the House of Representatives—which I am sure it will be—will then go to the Senate and be the subject of further extensive discussion and scrutiny through the appropriate Senate committee. I am quite sure that the Attorney-General will be very interested to see the result of that scrutiny and further consultation. As is typical of his excellent administration on behalf of the Howard government, he will make sure that any concerns that have validity and merit will be adequately addressed.

The Administrative Review Tribunal Bill 2000 and the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000 bring together four existing tribunals—the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal—into one single review body. That is obviously a very significant reform of the Commonwealth. The establishment—and it has my full support—of a single merits review tribunal for the Commonwealth and people of Australia will provide, in my view, ready access to review that will be fair, just, economical, informal and quick.

There is a sense of deja vu for me to talk on this bill because some years ago, when I was in the Victorian parliament, it was my duty, as a minister, to introduce into Victoria a bill to create a one-stop shop—which is how I colloquially referred to it then and it has become a fairly well-known phrase—bringing together the various review tribunals in Victoria related to planning law, local government reviews, building law and drainage law. Since then, that one-stop shop has been regarded by Victorians as a very efficient and useful means of determining issues in a user-friendly way. Today, seeing this legislation here, I can see that it has certainly got precedent on its side and I know how much the people of Victoria in those bygone days appreciated being able to have a single tribunal rather than the nonsense of going from place to place, often with respect to the same broad issue but dealing with different aspects of it. They had to go to several different tribunals in order for the matter to be dealt with. So the Commonwealth is following a model that has been proven to be popular with the people and one that is flexible and capable of being developed to serve the people better.

The legislation, it is fair to say, has the support of many people throughout the legal profession and throughout Australia. Perhaps the genesis for this legislation occurred in 1995 when the Administrative Review Council published a report which called for the unification of existing merits review tribunals into a single tribunal. So the foundation of this legislation is supported widely by many experienced people. The whole idea of the merits review system is to provide a quicker and more accessible review mechanism, particularly compared with the existing AAT. The new tribunal is not designed to
benefit only applicants; the amalgamation will provide considerable savings for the community—the taxpayers who have to bear the cost—as well as for people who have to access the review tribunal system. It will save them money to be able to access this new tribunal. Resources and infrastructure can now be brought together and shared rather than be spread across the separate tribunals, which inevitably created higher costs.

The new ART is to comprise six divisions. The jurisdiction of the Migration Review Tribunal and the Refugee Review Tribunal is to be exercised by the new Immigration and Refugee Division. The jurisdiction of the Social Security Appeals Tribunal is to be exercised by the new division known as the Income Support Division. The work of the AAT is to be divided among four divisions: the Taxation Division, the Veterans’ Appeals Division, the Workers Compensation Division and the General and Commercial Division. The new structure is intended to ensure that the ART will be able to retain the advantages of specialist tribunals, dealing quickly, efficiently and with good knowledge with the issue at hand.

Members of course will be appointed with the right expertise in their division, but it will be possible, I understand, for members of one division to be accessed and called upon to do work in other divisions when they have the necessary skill. It is fine to see a multidisciplinary type approach to the membership. The ART is to be headed by a president. There will be executive members, senior members and other members appointed for terms of up to seven years. The members will be appointed by the Governor-General to a particular division on the recommendation of the minister responsible for the division.

The minister, in making those recommendations, will have a duty to be satisfied that the person being recommended to His Excellency the Governor-General has appropriate qualifications and experience to do the work at hand in the division that he or she is appointed to. There is to be compliance and accountability of members in the division, and I know that anyone asked to serve in any of the divisions would want this to be the case anyway. It is not a sinecure; it is a very hardworking and demanding role for people, men or women, who take it on. But there will be, I understand, performance indicators, a system of performance appraisal and a code of conduct. All members will agree to that. But the independence of all members will be maintained at all times so that that process will not in any way be a political process. It will be done correctly, with the proper safeguards, and it will be one that will have the respect of the public, I am sure. Knowing the Attorney-General as I do, we can be certain that that will be done very well.

I have been interested to hear comments from members on the other side expressing some concern and trepidation about the proposals, and I think they are worth putting on the record and evaluating. But, frankly, I cannot see, on full analysis, that their concerns should prevail over this excellent reform legislation. Reference was made to the fact that the term ‘appointment’ does not ensure independence. But I think people are appointed for a fixed term and that, in itself, provides them with security of tenure for that period of time. Take the Ombudsman, for example. That is a fine example of someone who is appointed to serve the Commonwealth and the people of Australia for a fixed term. Since the establishment of the Commonwealth Ombudsman’s office in Australia, I do not think anyone has seriously criticised it to the point where they say that the Ombudsman is not truly independent. I think it is quite the opposite. I pay tribute to those people in that very difficult role, defending the people: the fearless warrior—which I think ‘ombudsman’ means; it has its origins in Sweden, I think—defending the rights of the people against bureaucracy.

Also, in the existing tribunal, the methods of appointment, as far as I can see, are substantially the same as the arrangements that are proposed. So, on balance and in fairness, it is a bit hard to wear the opposition saying that they think this bill should not go through on that basis. I think, with respect, previous Labor governments have actually spawned this principle and, in government and administration, maintained it. So, if they had
worries about the independence, why did they not do something when they were in government? I just want to put that at this level. I do not want to be too provocative. But, on balance, I think you have to take that into account. It is a relevant factor.

The idea of a commission in administrative law is that it is not intended to find a winner or a loser in the way it can be found in our courts system. It is to assist the citizen, and it is to assist the reviewing bodies to make the correct decision after considering all the facts. There is a different environment in the administrative tribunals and that is why they are good—because they can help resolve disappointments and conflict. This is particularly so when a decision is made, say, by a Centrelink officer, it is reviewed and the person is still disappointed and wants to go off for a review. I think the community, the citizen of Australia, even if they might not win that final leg of the review, feel that they have had justice, that they have not had to just take the decision of the bureaucrat.

I might say that there are some excellent public servants serving the Commonwealth of Australia in areas such as Centrelink—a very stressful job. I do admire them very much. They are not perfect, and we often see the same sorts of problems in our own electoral offices many, many times a week. I think the Centrelink officers, whilst they do get reviewed from time to time, generally speaking do a pretty good job, and I pay tribute to them. I happen to know that some of them do suffer from stress and burnout as a result of having to deal with some of the very difficult and tragic circumstances of some people in this country who are disadvantaged and going through hard times.

I like the idea that the tribunal is to be informal and friendly and not bound by strict rules of evidence—that it is to confine itself to questions of fact, the issues, the questions that are relevant and not go off in other areas. I think that is good. That is what we would all like to see. I notice there is controversy about legal representation not being the norm. As a lawyer myself, I guess you could expect me to express outrage that these bills provide that the question of legal representation is not as of right but at the discretion of the tribunal. I have to confess that, when I was a minister in Victoria introducing law along these lines, I did the same thing, and I did get chastised severely by members of the profession and the Law Institute for doing it. But I can tell you that the tribunal was left with the power—as the Attorney intends in this bill—to permit legal representation in its discretion.

In practice, whenever someone wants legal representation, it is agreed to. I think commonsense comes through. But having to have a lawyer in order to go to one of these tribunals actually creates problems for the citizen, if you think it through. Having a tribunal where they are not being automatically faced with lawyers on the other side encourages citizens to come in, sit down and go through the issues in an informal, friendly way with a skilled person in the review tribunal who is there to act in a friendly way. But the person in the tribunal also has a duty to make sure that things are fair and are done properly so would naturally intervene if they were concerned that something was happening that required the skills of a lawyer to help the citizen. That flexibility is there. Whilst the provision looks a bit stark, saying that legal representation is at the discretion of the tribunal, when you see it in application and practice—as has happened in Victoria, in my experience, and in the tribunals of other states—it works extremely well. Who, as a member of a tribunal, wants to preside over an injustice? It is commonsense. These people are appointed for their integrity and experience in the world and in their particular area of speciality. They are not going to sit by and see an injustice done when it is quite clear that that person needs the assistance of legal representation and asks for it. They are not going to sit by and say, ‘No, you can’t have it,’’ where it is apparent that it would assist the process to have it. I think it is a matter of giving it a fair go. I would encourage people to give it a fair go because it does work, with goodwill and sensitivity.

I could say a lot more about this bill. However, I would like to help it along to a speedy passage to our friends in the Senate. I ask that the Attorney-General take hope and vigour from the fact that I am sure that most
citizens of Australia would feel that this sort of approach is a very good one and a very sound one. The Attorney-General and his officers and advisers should be commended for their work to getting it to this stage.

Mr ALLAN MORRIS (Newcastle) (7.09 p.m.)—I rise to speak on the Administrative Review Tribunal Bill 2000. On the surface and looking at the words of the Attorney-General and the government members, it seems to be quite a laudable measure to simplify the process, to make it more efficient and to give people, in some cases, rights to appeal that are not currently there. So people who follow the debate may be puzzled as to why Labor would be opposing it. We oppose it for a number of reasons. I well recall when the government first started talking about changing the system it received some decisions, particularly from the SSA T, which it was unhappy with. It announced that it would be reviewing the system and the review process, with a view to requiring tribunals to take into account government policy. In other words, the review was not to examine how the law was being applied and to uphold the rights of the consumer but to see whether or not government policies were being followed and implemented by the tribunals.

Subsequently, a number of times in my electorate I have noticed instances where the Commonwealth has been reluctant to accept SSAT decisions and either has threatened to go to the AAT or has done so. One must therefore look to a motive. The measures behind this legislation are not to help the people who use these tribunals; they are to help the government achieve its own ends. I think that is a very different kettle of fish, because the objective of these tribunals should always be to have a third party external review. Government members will say, ‘You’re jumping to conclusions. Why would you think that?’ It is partly because of the words that the Attorney-General has used in some of his comments about the legislation. He said that the right to review needs to be simple. He stated:

From an individual’s point of view, efficiency is one thing but having a fair hearing is another. The fact that they may not be represented in what may be complex matters can prejudice the case. Why should it be the tribunal that decides whether or not they can have legal representation? The tribunal does not yet know what the case will be. It does not yet know what the case will involve. Going further, if the review is unsuccessful and the person wishes to appeal, the grounds on which a second-tier review—which is currently available to most people in this process—is available are very narrow. In fact, the minister says:

This reform—and note the word ‘reform’, which nowadays is so misused as to be almost a travesty but which, in theory, means ‘improvement’—will mean that second-tier review will be available in areas for which currently there is no second-tier review, such as taxation and workers compensation.

We know that that is a deficiency in the current system. There is no doubt about that at all. I have introduced a private member’s bill into this parliament seeking to change the system of workers compensation for Commonwealth workers to allow a first level of review at the Social Security Appeals Tribunal. The government will not accept that. A measure has been available to the government for quite some years now to solve that particular problem—which is to allow an SSAT appeal or review first before going to the Administrative Appeals Tribunal. I put that proposal forward in a draft amendment to parliament, and the government will not accept it. There is the notion that somehow the government is fixing a problem, but a solution has been available for a very long time and it has been refused.

The Attorney-General seems to imply that this is an improvement, a reform, but he goes on to say that the grounds for an appeal will be very, very tight—for example, that there has been a manifest error. In other words, someone is going to agree that the tribunal actually made an error! Most of the cases that we deal with as parliamentarians—SSAT cases—would not qualify for an appeal to what is now the AAT. The government will
be blocking off the right of access to a tribunal process for probably the majority of people who go to the Social Security Appeals Tribunal. They would go from the first level of review to the Federal Court. That is likely to mean that we end up with more people in the Federal Court instead. That is not efficient. That is not a reform. That is a step backwards for those people. It might be a reform for the government. It might make easier their task of managing people who do not agree with them, but it certainly will not make matters easier for the people that we deal with on a daily basis.

Mr Deputy Speaker Nehl, I do not doubt that you, like me, also have constituents coming to you who approach the Social Security Appeals Tribunal and the Administrative Appeals Tribunal. I have represented people at both tribunals. I want to go into that in detail because I found the AAT process fascinating. I represented a constituent against the Commonwealth and, not being a lawyer, I can assure you that that process was not straightforward. I have been to the Social Security Appeals Tribunal a number of times. In fact, my staff go there not on a regular basis but from time to time. We find that, even though the SSA T is a very user-friendly and non-legalistic process, it is still intimidating for a normal citizen. I have been with people in appeals who have been absolutely tongue-tied and could not express their case at all. Had I not been there, they would not have explained their circumstances. Even though the tribunal is extremely friendly and very easy to talk to, for most citizens it is a very daunting process given that, usually, what they are appealing about means a lot to them. So it is a very stressful situation. In some cases it involves a lot of money or other problems.

I find that first level process, the SSAT, very valuable at the moment. At the same time, if a person were to go to a first level tribunal with a workers compensation or taxation matter without a lawyer, they would have to be extremely brave or foolish because of the complex nature of that situation. To explain that, let me go through the case where I went to the AAT. I offered to support a constituent in their case simply because, if I had not, the person would have dropped out. They had had a judgment made against them which I felt was absolutely wrong. I was amazed that Comcare persisted with the case. I assumed that they would settle because the facts were so overwhelmingly against them. My offering to help was more for moral support. I never imagined we would end up in a hearing. If I had, I may well not have volunteered. My constituent was a young woman who had been injured at work seven or eight years before whose working career had been destroyed. Through its lawyers, Comcare insisted that her problem was congenital and nothing to do with them.

On the day, we were in the tribunal from 10 in the morning until five in the afternoon with a short break for lunch. The Commonwealth provided against this constituent—a single woman in her early 40s—a lawyer, a barrister, a doctor brought up from Sydney to Newcastle for the day and one or two previous managers with whom she had worked. My estimation is that it probably cost $20,000 on their part for the day’s exercise. The man who ran the process for the tribunal was very supportive and concerned to ensure that my constituent was not disadvantaged by not having a lawyer. There is no doubt that the taking of evidence and the way those functions work is and has to be legalistic because it may go from there to a court. It cannot be dealt with as a chat shop in the way that first level tribunals are.

It seems to me that what may be a simple case on the surface at the SSAT may turn complex through what happens. There is not a lawyer present and the person appealing could well prejudice themselves in a future court case by what they say or do at that tribunal stage. That is not fair or reasonable. At the moment, when a person takes a review to the SSAT, it is not recorded or legalistic. The material cannot be used in a court case because the next level of appeal is the AAT, which is a much more legalistic stage. If a person wants to go from the Social Security Appeals Tribunal, from the first level review, to a second level review, there is a decision to be made and a process to be observed which differentiates the two. Putting it into
the same tribunal in this way, particularly in the first stage, probably restricting access by lawyers, means that the second stage almost certainly will not occur because the person who is appealing will not know how to do that. They will not know whether or not there is an error or how to make sure that, if they fail at the first stage, they end up with a case that may end up in a court. The second stage, for many people, is going to be a test stage where you prepare a case knowing in advance that you will end up in court. They do not necessarily know that at the first stage, but they do by the second stage. The processes that are in train and how they are used are critical. If the first stage is non-prescriptive, it will not get a review. Therefore, the chance of it going from that first stage review to a court becomes greater, but if it has not been done properly, there has not been a chance to lay out the legal parameters that a court case will hang on.

I have worked with lawyers on behalf of constituents in a number of cases. One I dealt with myself. If it had not gone to court, you could see what the issues were going to be in testing legislation—not the government policy but the interpretation of legislation, because that is what the court of entry does via these processes. You start off with a low level review and you end up in a court because of the way the government may interpret a law or some parts of legislation. To go from a nonlegal representation review straight to a court is not an appropriate measure, because it does not allow the government a chance to review its processes and its interpretation. It will not get reviewed at the first level; it will only get reviewed if there is a lawyer there challenging or picking up that this issue may be one of those.

The government could well say that people know in advance about that, but the fact is that they do not. A layperson does not know in advance. We have all dealt with them over and over. A person goes to an appeal, they come to you after they have lost the appeal and they show you their material, and they should have won it; they just did not know what to do. They will not get a review. They have been dunned, unless they go to the Federal Court. This is not a help. This is not a reform. This is a really backward step for a lot of people who see these tribunals as their chance to at least have some redress and some review process. It sounds good to say, ‘No lawyers allowed,’ so the person says: ‘Stay away, lawyers. This is simply between me and the bureaucrats, and we’ll talk it out, we’ll sort it out’—except the person knows nothing. The bureaucrats know it all. So it is not an equal, balanced discussion. This process is a very dangerous one for those kinds of people—the ones that we deal with the most.

I expect most of us have ended up winning cases that have been lost at review, at SSAT level, because we have picked them up afterwards, we have said, ‘Hey, that was wrong,’ and we have sorted them out. Fortunately, those people came to us. They came to us because they were told at the time in a letter that they could go to the AAT. So many times they come to me, saying: ‘I want to go to the AAT because they’re wrong. I don’t know why they’re wrong, but I know they are. I can’t make them believe that they’re wrong, so you’ve got to help me do that.’ Because the SSAT decision has to say in the letter, ‘You may appeal to the AAT,’ a lot of them then actually try to lodge an appeal. If the decision says, ‘Your next stage is a court,’ they will not even think about it. So what is happening here in the guise of reform is a really dangerous and backward step.

I cannot emphasise this too strongly, because of that experience with the AAT where I went along in a way which was quite dangerous for me and my constituent. We ended up winning that appeal—against a barrister, another lawyer, a doctor and a couple of bank managers. That just shows you how strong the case was. It won despite me. It should never have gone there, and I wonder how many more people have not appealed. This woman could not afford a lawyer, and the lawyers were not interested. Comcare is too complicated; people in the smaller towns do not know enough about it. But, because of that one case, I wonder how many hundreds of others have gone the same way and how many thousands will go the same way if this legislation goes through the way it is now.
Other implications of this legislation that make one question the motive for bringing it forward and whether it is a reform are little things like, for example, the way the tribunals get paid, the role of the minister in appointing who works on tribunals and the experience of the tribunals. Let us look at those three things together. The departments will pay the tribunal. So the perception in the community will be that a particular division is paid for by social security. You are appealing against them, but they are not the department. Don’t get it wrong, they are nothing to do with it. But it is their money, the minister appoints who goes to it and, what is more, no more than 10 per cent of the people are going to be senior. So the people coming before them will probably be more experienced than the people conducting the hearing. And that is the other part. In these cases, the people appearing for the government will be the departmental officials, who are the absolute experts, and the person who is appealing will be a layperson. The tribunal is paid for by the department and the tribunal members are appointed by the minister. If that is a reform and if that is going to be about helping people get an external review of a departmental decision and be confident that is going to be objective and not controlled, government members are more optimistic than I am about the capacity to differentiate.

The removal of tribunal members is interesting. We see in the legislation that there is going to be a performance agreement: the tribunal members are going to have to perform. I wonder if this is going to be a bit like Centrelink and breaching and the Job Network where the government says: ‘Part of your performance agreement is that you’re going to have to breach a certain number of people. A certain percentage of those breached will have to be carried through. Forget the rights and the wrongs of it, forget the decisions and forget the ingredients, this is your percentage.’ Will part of the performance agreement here eventually be that, if a tribunal member does not support the government more than half the time, their membership will be terminated? That is quite possible. One gets the real feeling that part of this is an attempt by the government to avoid the tribunal process.

We are watching it happen at the moment. For example, the minister at the table, Minister Ruddock, has determined to deal with all cases involving possible deportation himself, because his decisions are not reviewable. In other words, in a whole stack of cases in Immigration, the minister is bypassing the tribunal process completely. This is one example of the government not being genuine about using tribunals but, rather, deliberately avoiding tribunal use. So the minister is actually dealing with decisions knowing that, because he is dealing with them, they cannot be reviewed and they cannot go to a tribunal. Rather than wait for the tribunal and not agree with it, bypass it in the first place—pre-empt the tribunal process.

This legislation is not what it appears to be. It is not the thing the government extols in its rhetoric about reform. It is a backward step for the bulk of my constituency and for the country. It is a dangerous step for the process of government. A good government needs good external review processes. It does not need tame cats sitting there doing the government’s bidding. That does not help anybody and, eventually, it does not help governments, because governments then lose credibility and lose the trust and respect of the community. The government should go away and rethink its position on this legislation. This is not the answer.

Debate interrupted.

ADJOURNMENT

Mr DEPUTY SPEAKER (Mr Nehl)—Order! It being approximately 7.30 p.m., I propose the question:

That the House do now adjourn.

Braddon Electorate: Reece High School

Mr SIDEBOTTOM (Braddon) (7.29 p.m.)—Early on Monday morning, a major secondary school in my electorate, Reece High School, was effectively burnt to the ground. I am told the damage bill is between $15 million and $20 million. In my state, that is a staggering loss and will have financial effects for years. What makes this fire even more tragic is that it was the result of cowardice—of arson. My community has suf-
fered from this serial cowardice since 1996. Unfortunately, immediately prior to the Reece High School inferno, arsonists set fire to the historic Catholic church of St Patrick’s in Latrobe, causing nearly half a million dollars worth of damage. Built in the early 1860s, St Patrick’s has been the centre of the Catholic faith in the Latrobe community. Father John Wall and his community have not let this disaster defeat their spirit, for as Dr Wall has said: It’s the mass that matters, not bricks and mortar or stained glass windows.

No amount of life experience can prepare people for the horror of arson. I know many people in my electorate are shocked by this fire. Reece High School has played a significant social and educational role in the Devonport region since the late 1950s. It is named after one of the most popular and long serving premiers of Tasmania, Sir Eric Reece. As a college teacher, I have had the pleasure of teaching many Reece High School students over the years. My wife taught there for a number of years, and many of my friends and teaching colleagues either are at the school today or have taught there. Indeed, I have directed and rehearsed a number of musicals in the school hall, and I remember the great emphasis placed on recognising effort, merit and service at the school, as reflected in the beautifully kept honour rolls and boards surrounding the hall. Sadly, these have been destroyed, but I understand that, in the true Reece High spirit, volunteers have already set out to make up new boards.

Mr Graeme Marshall of the Parents and Friends Association of Reece High School and its acting principal and my friend, Mr Phil McKenzie, have expressed similar sentiments about the impact of the fire—that it was what was contained within the buildings that counted, not the bricks and mortar. As Phil McKenzie put it in my local newspaper, The Advocate:

The school itself exists ... Reece High School exists. Obviously we don’t have much at the moment in the way of buildings but the school culture exists, the traditions exist.

I spoke to Phil McKenzie this morning, and he told me that he and his staff are working hard with District Superintendent Carey McIver, staff from Devonport High School and The Don College to ensure the health and wellbeing of students and staff, and they are already planning for next year. Both Phil and Carey told me that staff have been magnificent in the circumstances, although many have seen evidence of their teaching careers literally go up in flames—in some instances, these are careers of 30 years or more.

I wish to recognise the work of police and firefighting units stretched to the fullest by the simultaneous fires in Devonport and Latrobe. I believe over 40 officers were involved from some 10 fire units stretching from Penguin to Sheffield. When my wife rang me to tell me of the disaster, she mentioned that students, old and present, their parents and friends of Reece High School stood in vigil surrounded by the devastation. Grade 9 student Kayla Davey is reported as saying:

We are in Grade 10 next year and now there is no school to go to.

She went on to say:

Classmates think school is so bad and now that it is burnt down you realise it means so much.

I think Kayla’s sentiments demonstrate that a school is more than a space or a building. It is a culture, a spirit and a sense of identity which is being reinforced by the Reece High School community and the city of Devonport. State Minister for Education, Paula Wriedt, has announced that the school will be rebuilt in consultation with its community. This is good news. I have written to the Minister for Education, Training and Youth Affairs, David Kemp, informing him of the disaster and asking him whether he would consider a financial assistance package, given the massive amount of capital expenditure required to replace Reece High School.

I believe my friend, Reece High School icon and legendary English teacher Ivan Eade, who taught at Reece High from 1960 to the 1990s, personifies the situation today. No-one would lament and feel more devastated by this tragedy than Ivan, who described the ruin of almost a life’s work by saying:
It looked like a huge monster, top heavy, its back broken and collapsed.

Yet, in true Reece High School spirit, Ivan Eade likened the scene to the mythical bird the phoenix. His hope is that the school, like the bird, will soon rise from the ashes. I have no doubt that it will.

World Heritage Area: Blue Mountains

Mr BARTLETT (Macquarie) (7.34 p.m.)—Last week, the 21-member World Heritage Committee unanimously accepted the Australian government’s nomination to list the Blue Mountains as a world heritage site. Understandably, this decision has been greeted with widespread delight by the community of the Blue Mountains. Those of us living in the Blue Mountains have long been aware of the area’s unique natural assets and the fact that it is such a treasure. World heritage listing globally affirms what we all knew. The World Heritage Committee obviously agrees with the local assessment. The greater Blue Mountains becomes the 14th world heritage listed area in Australia. Australia has more world heritage properties listed for their natural features than any other country in the world. This is in itself an indication both of the uniqueness of many aspects of our vast continent and of the determination of Australian governments and people to maintain its outstanding environment. Australia was one of the first countries to sign the Convention for the Protection of the World Cultural and Natural Heritage and the first to enact domestic legislation to specifically implement the world heritage convention.

The coalition government has taken very seriously the need to improve the standard of management of world heritage areas. Over the last four years, it has provided more than $72 million to the states for over 300 management projects in world heritage properties. The listing of the Blue Mountains is another significant step. It encompasses an area of one million hectares, including seven outstanding national parks. These include the Blue Mountains National Park, Wollemi, Yengo, Nattai, Kanangra, Gardens of Stone and Thirlmere Lakes national parks. These are all areas containing extraordinary natural features and breathtaking natural beauty.

The listing itself is based on the unique biodiversity of the region’s plant and animal communities. The Blue Mountains area supports more than 90 eucalypt species, ranging from tall rainforests through to woodlands, shrub lands and stunted mallees. Perhaps the most famous of the vegetation species in the Blue Mountains is the recently discovered Wollemi Pine. This amazing living fossil, which had been thought extinct for millions of years, is one of the world’s rarest species. This region also contains 400 different kinds of animals, including a number of threatened and rare species.

The listing of the Blue Mountains will, as well as generating immense local pride, bring clear benefits to the region. Firstly, it will focus the attention of all levels of government on the region’s environmental credentials and on their responsibility to do their utmost to maintain these. Secondly, it will provide a further boost to local tourism. The Blue Mountains is already, understandably, one of Australia’s premier tourist destinations. World heritage listing will give people yet another reason to visit this outstanding area. The flow-on benefits for local tourism operators, small business and employment prospects are obvious. In short, world heritage listing is a great result all round.

Many people over the last decade or so have played their part in the campaign to achieve world heritage listing for the Blue Mountains. It would be impossible to mention them all; however, some do stand out and deserve special recognition. Mr Alex Colley, the honorary secretary for the Colong Foundation for Wilderness, started the campaign for listing in 1986. The foundation’s director, Keith Muir, has played a pivotal role since then. The Blue Mountains Conservation Society and Leura residents Joan and Serge Domicelji have also been outstanding in their contribution. It is a dream which has also united local, state and federal governments over the last decade. I would like to pay tribute to all those who played a part in this campaign. Your endeavours have been rewarded as the Blue Mountains rightly take their place in the world register of outstanding natural sites.
Brisbane Airport Corporation: Master Plan

Mr RUDD (Griffith) (7.39 p.m.)—The future expansion of the Brisbane airport is an issue of large concern to the residents of Brisbane, both north and south of the river. The issue came to a head in February 1999 when the federal Minister for Transport and Regional Services, Mr Anderson, approved the Brisbane Airport Corporation master plan. That master plan contained within it a recommendation for the construction of a parallel runway which would have, if constructed, huge consequences for the residents of Brisbane in terms of their quality of life and their property values. In response to that decision I called for the establishment of a Senate inquiry into the decision making process surrounding that master plan. That Senate inquiry finally got under way in August of 1999. It ran for almost a year through until the end of June this year. The Liberal Party consistently opposed the establishment of that inquiry. Once it had reported, though, there were a number of quite significant recommendations. It found that there were deficiencies in the consultation process which was undertaken when the master plan was put together and, furthermore, that the recommendation contained within the master plan for a parallel runway should not have proceeded until other alternative runway options were properly examined.

In July this year, as a consequence of the Senate inquiry’s findings, I initiated an action in the Administrative Appeals Tribunal seeking to overturn the minister’s decision to approve the Brisbane Airport Corporation master plan. That is available to any member of the public under the provisions of the Airports Act and the Administrative Appeals Tribunal Act. That action was heard on 10 August. The government, surprisingly, opposed that action, believing that there was no substantive case to argue. That was not the view taken by Deputy President Breen of the Administrative Appeals Tribunal, who supported my procedural right to proceed with this matter and in fact rejected the government’s opposition to the case proceeding.

The matter was then to proceed by September for a substantial hearing of the merits of the arguments—on whether or not the minister’s decision to approve the Brisbane Airport Corporation master plan had been well founded. However, rather than proceed to that, what then occurred was that the government again proceeded to engage in a range of procedural forays to try to prevent this matter from being properly heard and argued on its merits. The government appealed the decision made in my favour by the Administrative Appeals Tribunal to the Federal Court. Furthermore, not only did they seek to take me to the Federal Court on this matter but they also in their statement of claims to the Federal Court sought to extract from me personally all legal costs which the Commonwealth was going to incur as a result of its action against me. I sought specifically through correspondence with the federal minister for them to desist from that course of action, because it was patently unfair. Regrettably, the minister’s response to the letter was simply to reject that and say that, in the event that they won that action before the Federal Court, they would seek personally to extract from me legal costs.

That matter was then finally heard on 1 December in the Federal Court. I represented myself and I found myself up against a team of five lawyers—one Queen’s Counsel, one senior counsel and three instructing solicitors—from the Australian Government Solicitor. The argument advanced by the government was a curious one indeed. That resort to the Senate through an inquiry was in fact no substantive means by which to advance an argument that this airport master plan should be approved. The argument of the government was that any recourse to parliamentary procedures short of a direct appeal to the minister was plainly worthless. That was not the view taken by the judge who presided over that matter in the Federal Court. On 1 December, after some three to four hours of legal argument, the judge found in my favour and found against the Minister for Transport and Regional Services.

On the question of costs, the only costs which I had incurred and which I could possibly seek some compensation for from the government was three HB pencils and a notepad. The government’s costs I imagine at
this stage are in the order of $20,000. QCs do not come cheap, senior counsel do not come cheap, nor does the Australian Government Solicitor. My challenge is, as this action proceeds further, for the government to call off the cost dogs, remove the threat of personal financial injury for me in terms of future costs which the Commonwealth will incur in taking this action through the subsequent judicial bodies and let us have heard on the merits, not on who has the deepest pockets in terms of funding, a legal action which is at the end of the day an issue of community interest and concern. (Time expired) 

Health: Alzheimer’s Disease and Dementia

Mr BAIRD (Cook) (7.44 p.m.)—I rise tonight to address the House on an issue that confronts many Australians today, the incidence of which is set to grow significantly over the next couple of years. I am referring to one of the cruelest diseases I have ever learnt about—Alzheimer’s disease and the related disease, dementia. The visit to my electorate office in the last several weeks by sufferers of dementia and their partners to raise their concerns led me to rise tonight on this issue. This disease is not only devastating and demoralising to the individual; it causes immense damage to and strain on the family unit and friends who must cope with the constant task of watching their spouse’s, parent’s or friend’s mental capacity, memory and ability to concentrate diminish to a point where they can no longer act independently or remain in the family unit. This issue is of immense importance Australia wide and, with an ageing population, the number of sufferers will undoubtedly continue to rise. This is of great relevance in my own electorate of Cook. At the last census, 15.1 per cent of the residents in my electorate were aged 65 and over and, from all indications, that figure will continue to trend up. My electorate office has received numerous letters, faxes and telephone calls and I have also met with several of my constituents—both those who have been diagnosed with the disease and their families—who spoke of the strain and devastation that touches the family unit.

Dementing illnesses usually have an insidious onset with most people developing symptoms gradually over a period. The progression of these diseases is largely unpredictable for each individual. How and what symptoms develop depends on what parts of the brain are affected by each illness and the unique characteristics of each afflicted individual. Thus there is enormous variation between individuals even if they are affected by the same illness. This is where some of the complexities pertaining to treatment lie. Early symptoms of the disease that may start to make a person or their family wonder if a dementing illness is present can vary a great deal. Commonly, people first notice that there is a problem with memory, particularly recent memory, or there may be difficulty remembering the names of things or following the plot of stories. Other people may suffer from behavioural changes, forget what they are doing or start to wander aimlessly. As a result of their progressive loss of cognitive and self-care abilities, people with dementia are high users of aged care services. In 1999, around 59 per cent of all high-care residents and 38 per cent of all low-care residents had care needs related to cognitive impairment. This means that the simplest activities that most Australians take for granted become too difficult to perform. This includes making a cup of tea, walking to the shops or recognising friends and family.

Surprisingly, we still know very little about this disease. It is paramount that Australia and our international partners commit to research in advancing the treatment of those diagnosed, develop measures that will identify those at risk and seek methods of prevention. I applaud the Australian government for the funding initiatives already undertaken to address the issue. However, there is still much to be achieved in this area with respect to medication and access to support to enhance the quality of life of our older members of the community. It is in relation to medical treatment in particular that I rise tonight as representations have been made to me by a number of people in my electorate that there is a drug available but that it is very expensive to purchase—it costs individuals $200 a month. The drug retards the onset of dementia.

The drug has been referred to the office of the Minister for Health and Aged Care. It is
on the waiting list for consideration for appropriate federal funding but it has not reached the appropriate point on the waiting list at this point. However, given the seriousness of the disease, its impact on a large number of people in the community and its extreme impact on the individuals and their families, it is appropriate that we give priority to this issue. If such a disease can be retarded in its exponential growth I think we should support the inclusion of a drug that could have that effect in its inclusion in the national health program so that those who require it have access to it. I believe it is very sad for those who suffer from dementia that there is a drug available to retard its progress but that it is so expensive. This is something that we as a government should look to. I support the members of my electorate who brought this issue to me, expressed their concern and looked for support.

Steel Tank and Pipe: Employee Entitlements

Ms HALL (Shortland) (7.49 p.m.)—The Howard government is a government that constantly attacks the living standards of workers. It has created an environment where workers have little or no protection, an environment where workers can be transferred from an asset rich company to a resource-starved shelf company without knowing it. Employers can structure their companies in such a way that it is their employees who take the risk and pay the price when they make a bad decision or when there is an economic downturn. One of the most tragic things that can happen to a person these days is for them to lose their job, and this is made even worse if that worker finds out that the company that he or she has been working for—quite often for a very long period of time—has not made allowance for their entitlements. Imagine how devastating it would be to go to work one day and be advised by your employer that a receiver has been appointed because the company, your employer, is insolvent and that the long service leave, holiday pay and other entitlements that you have earned over the years have gone overnight. That is what happened to the workers at Steel, Tank and Pipe, STP. That is what they were faced with when they found out early last month that they would not be paid $3.3 million worth of entitlements.

Since then the workers have been locked in a bitter battle with the receiver and the owners of STP, the Weeks family, who have sought to abrogate their responsibility to their workers and avoid paying them their entitlements. The secured creditors—the National Bank and two other creditors—have got the first call on the money. Then there are the workers. You might ask who the people are who suffer when workers are not paid. It is not the union, it is not even only the workers; it is their families—families who are already fighting the negative impact of the GST and rising petrol prices, families who are fighting to survive on a daily basis.

Today, the workers—who have been on strike since mid-November—agreed to return to work after a deal was negotiated with the employers, the Weeks family. The employees will get up to 80 per cent of their entitlements but in four weeks time their jobs finish and that is that. If it were not for the union, the AMWU, they would get absolutely nothing. The family that owned the firm also own a lot of property throughout both Lake Macquarie and Newcastle. Their assets remain untouched while families have to go home and tell their children, ‘Sorry, Christmas is off this year.’ It is not good enough. There should be 100 per cent coverage. If the government had accepted the opposition’s amendments to the workers entitlement legislation I would not be making this speech today, because the employees of STP would have received 100 per cent of their entitlements.

In an article in the Newcastle Herald yesterday, Senator Tierney attacked the state government because they are not prepared to pay part of the workers entitlements. The people who should be paying that are the employers. The people of Australia should not have to pick up the bill for employers who shift their loyal employees from one company to another company. On paper they move their employees from an asset rich company to a very poor and impoverished company, and at the same time they maintain all their assets. Senator Tierney should direct
his attack where it belongs, not attack the state government.

Meanwhile, I share with the House some of the outrage that has been expressed by the community in the Hunter. People are demanding that the federal government step in and support the workers, not walk away from them, not abrogate their responsibility. The New South Wales government has a task force with all of the state government agencies and the union led by the minister for the Hunter. They are in there working with the workers and fighting for their conditions. I urge the federal government to revisit their failed workers entitlement legislation, introduce legislation that incorporates Labor’s amendments and offer the workers and their families real protection and financial security. (Time expired)

Australian Labor Party: Queensland

Mr LINDSAY (Herbert) (7.54 p.m.)—Representing Queensland in the parliament, and in particular Townsville, I can say that there have been some pretty dark things going on in the state of Queensland in the last several months, and they have had their origins in my home city of Townsville. I know chapter and verse what has been happening over so many years; I know all the players and I know all the stories. The Premier of Queensland has put forward an eight-point plan to try to solve these kinds of problems. (Quorum formed) Missing from the Premier’s eight-point plan was something that I believe is fundamental to clean up the problems we have seen.

Mr SPEAKER—Members conferencing will take their seats. They are not assisting the member for Herbert.

Mr LINDSAY—What we need to see is a requirement to provide some form of identification when you register for the electoral roll—

Mr SPEAKER—Member for Deakin, member for Hindmarsh, member for Wannon, member for Parramatta! This chair is being defied. Members will either take their seats or leave the chamber!

Mr LINDSAY—or, alternatively, when you are changing your electoral roll registration. I have seen people enrolled at the local council drain in Bent Street in my home city of Townsville.

Mr Cameron Thompson interjecting—

Mr LINDSAY—They were Labor people. That could not have happened if there was some form of requirement to provide identification for the electoral roll. It is very sad to see what has happened in Queensland. The Shepherdson inquiry in Queensland continues to roll along. The Beattie Labor government continues to prove that it is unworthy to govern in Queensland. Day after day, week after week, we have had a succession of high profile and very senior Labor Party figures front the inquiry. Only today, Joan Budd, the lady who up until very recently was the ALP’s returning officer and adviser to former Deputy Premier Jim Elder, admitted to witnessing several false electoral enrolments. (Time expired)

Second Sydney Airport: Kurnell

Mrs CROSIO (Prospect) (7.59 p.m.)—I come into the House tonight to talk with amazement over the fact that the Prime Minister of this nation is pushing an airport at Kurnell. I look at it with amazement, even though my people in Western Sydney would be much relieved to think that Badgerys Creek is not going to happen. But I pose this question to the House: are the Prime Minister and the cabinet of this nation prepared now to sacrifice the seat of Cook and the seat of Hume for the seat of Lindsay? When you read this article in today’s Daily Telegraph very closely what you really see is the fact that the government is flying a flag up the pole just so that the people in Western Sydney feel relieved leading up to an election. I can tell the people of Western Sydney that, when we actually see a decision made by this government where there is some honesty in the decision making—not this furphy going around about an airport at Kurnell—and when we see the member for Cook and the member for Hume being put on the block for the sake of Lindsay, we will then really know that these decisions are not made in contemplation of what is best for the public.

Mr SPEAKER—Order! It being 8 p.m., the debate is interrupted.

House adjourned at 8.00 p.m.
NOTICES

The following notices were given:

Mr Fahey to present a Bill for an Act to amend various Acts relating to superannuation, and for other purposes.

Mr Reith to present a Bill for an Act to amend the Occupational Health and Safety (Commonwealth Employment) Act 1991, and for related purposes.

Mr Reith to present a Bill for an Act to amend the Safety, Rehabilitation and Compensation Act 1988 and other legislation, and for other purposes.

Mr McGauran to present a Bill for an Act relating to the application of the Criminal Code to certain offences, and for related purposes.

Mr Reith to move:

That standing order 48A (adjournment and next meeting) and standing order 103 (new business) be suspended for this sitting.

Mr Reith to move:

That standing order 94 (closure of Member) be suspended for the remainder of this period of sittings, except when a motion is moved pursuant to the standing order by a Minister.

Mr Reith to move:

That, with effect from the first day of sitting in 2001, standing orders 133, 142, 148 and 211 be amended to read as follows:

Notice of motion—how given

133 Notice of motion shall be given by a Member by—

(a) delivering its terms in writing to the Clerk at the Table, or

(b) stating its terms to the House during the period of Members’ statements made under standing order 106A and delivering its terms in writing to the Clerk at the Table.

The notice must be signed by the Member and seconder and show the day proposed for moving the motion.

A notice of motion given by a Member in accordance with paragraph (a) which expresses a censure of, or want of confidence in the Government, or a censure of any Member, shall be reported to the House by the Clerk at the first convenient opportunity.

Questions to Ministers

142 Questions may be put to a Minister relating to public affairs with which the Minister is officially connected, to proceedings pending in the House, or to any matter of administration for which the Minister is responsible. Questions may be asked orally without notice for immediate reply or in writing on notice and placed on the Notice Paper for written reply.

Question on notice

148 A Member shall submit a question on notice to the Clerk in sufficient time, in the opinion of the Speaker, to enable it to be published in the next issue of the Notice Paper. The question shall be in writing and signed by the Member.

Initiation of bills

211 (a) A bill (unless received from the Senate) shall be initiated by a motion for leave to bring in a bill specifying its title, by an order of the House, on the calling on of a notice of presentation, or in accordance with the provisions of standing order 291.

Notice of presentation—how given

(b) Notice of intention to present a bill shall be given by a Member by either:

(i) delivering its terms in writing to the Clerk at the Table, or

(ii) stating its terms to the House during the period of Members’ statements made under standing order 106A and delivering its terms in writing to the Clerk at the Table.

Form of

(c) A notice of intention to present a bill shall specify its title and the day for presentation, and shall be signed by the Member and, at least, one other Member.

Application of standing orders

(d) The standing orders shall, to the necessary extent, be applied and read as
if a notice of presentation were a notice of motion.

**Mr Reith** to move:

That

(1) the House authorises:

(a) the publication of all evidence or documents taken in camera or submitted on a confidential or restricted basis to the Committee of Privileges and that have been in the custody of the Committee for at least 30 years; and

(b) the transfer of these records to the National Archives of Australia to enable public access to the records;

provided that, where the Speaker accepts advice that the release of a particular record would affect the national security interest, or represent an unreasonable intrusion upon the personal affairs of any person, alive or dead or would otherwise be an exempt record under s.33 of the Archives Act 1983, if that Act had applied to the record, the release and transfer of that record is not authorised by this resolution;

(2) this resolution has effect notwithstanding the provisions of any other resolution or standing order of the House; and

(3) this resolution has effect from 1 January 2001 and that it continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

**Mr Slipper** to move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Site filling, stabilisation and construction of infrastructure at the Defence site at Ermington, New South Wales.

**Mr Emerson** to move:

That this House:

(1) expresses its alarm at large-scale tax avoidance by unscrupulous company executives;

(2) expresses its disappointment that the Australian Taxation Office (ATO) has issued a series of favourable private binding rulings in support of schemes that the ATO itself has likened to the infamous bottom of the harbour schemes;

(3) condemns the Treasurer for refusing to legislate against the abuse of executive share schemes and for obfuscating on promised legislation to crack down on tax avoidance through the use of family trusts; and

(4) calls on the Government to act against tax avoidance schemes wherever they emerge, using both legislative and judicial means.

**Mr Beazley** to present a bill for an act to amend the law relating to school funding.
Wednesday, 6 December 2000

Mr DEPUTY SPEAKER (Mr Nehl) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Collins Class Submarines

Mr SAWFORD (Port Adelaide) (9.40 a.m.)—I would like to bring to the attention of members an article that appeared in the Sydney Morning Herald on Saturday, 25 November. The article—an excellent one—was written by David Lague and was titled ‘Out of the Deep’. It impressed me because it was not only well written but well researched. The article started off by saying, ‘They’re duds, they’re noisy—wrong.’ That is the key point, Mr Deputy Speaker: wrong, wrong, wrong. It continued:

In fact, almost everything you have read about Australia’s Collins class submarines is false. The writer talks about the top secret naval exercises in the Pacific, off Hawaii, earlier this year, when the Collins class submarine HMAS Waller, in his words, ‘proved to be a silent and deadly submarine stalker’. In actual fact, the first that the United States Navy Los Angeles class nuclear submarines knew about Waller was when they heard the torpedoes running. Not bad for the noisy duds that we have heard so much about!

David Lague compares the submarine contract with the Snowy Mountains Hydro-Electric Scheme, with observers saying it was like taking an engineering challenge that was much more difficult and complex than the Snowy Mountains scheme and packing it into six narrow steel tubes. The article also talks about the people who, since the project was announced, have deliberately and maliciously peddled lies; and, as far as misinformation about the progress of the submarines is concerned, there is none more so than the current defence minister. David Lague points out in his article that— and I quote:

Before the first high pressure hull was welded together it came under assault as part of a domestic engineering cringe. This evolved into nasty intra-navy rivalry—up above the water, the weekend yachties, going back and running the Navy nine to five in the middle of the week—

and was then ruthlessly exploited by Moore, one of the tougher political operators in Canberra, as a vehicle for political point-scoring and bureaucratic infighting. Spot on. I, along with others who have been closely watching the development of the project—and why wouldn’t I, since it is in my seat of Port Adelaide—have known this for a very long time. It is just a pity that I had to read about the truth in an interstate newspaper.

The Adelaide media and the ABC nationally have been happy, as usual, to print the scuttlebutt and the allegations without checking the real facts.

In a question that I placed on the Notice Paper to Minister Moore about how the submarines were performing in international exercises and about its combat system, his answer was, quite simply, limp. It is about time that the minister ceased canning Australian workers, who, after many teething problems, have produced a world-class submarine. The major failing of the submarine has been the combat system. As one sailor said in the article, if the Collins combat system was a PC, it would be a 286. What was not said in the article was that the defence department got its own way against the wishes of the Australian Submarine Corporation in regard to the combat system. The minister confirmed that fact in an answer he provided to me. If the minister were dinkum about building an Australian submarine for the 21st century, he would stop bagging the project and start marketing its positives to the media, the public, and beyond our shores. (Time expired)
Parliament House: Staff

Mrs GASH (Gilmore) (9.43 a.m.)—This morning I rise to pay homage to the hundreds of people in and around this building who make our lives so much easier than they could be. If I take it chronologically in a normal day, they would include the fellow from the transport desk in the Sergeant’s office who says a cheery hello every morning. Then there are the security people who let me into my office when I forget my key and reset my duress alarm every time I set it off. The office is shiny and clean because Vera has cleaned our rooms early in the morning, so as not to disturb us in the evening. Danica comes through during question time and empties the bins once again. She, too, always has a smile on her face. The newsagent who delivers the papers whistles and jokes a lot and also adds to the joy of a new day at work.

The mail arrives promptly, delivered by the people who our office calls the nameless, faceless, green and grey people. Carol has been our most regular attendant. She has been ever so patient and polite while directing us when we are lost, or rushing that last bit of mail off to catch the truck. Nothing has been insurmountable. Often we marvel at the corporate willingness to please. I, for one, know that this attitude has grown over time. If it could be bottled, it would sell like hot cakes in private enterprise. Every piece of equipment in our office seems to have a team of helpful professionals to back it up. If I have trouble relating to the electronic media in the office, the people who answer the phone when I dial extension 2020 never laugh at me and always get me through the process. Almost anything else I want to know is available from the many helpful people who answer when I dial 9.

That magnificent library is truly heaven on a stick! They give me information in the form that best suits me and do not grumble when I have to cancel everything at the last minute for the second time in a row. On the way to and from other offices we walk past really interesting and provocative art, stunning and peaceful gardens and beautifully manicured lawns. The canteen and other eateries provide sustenance to us for long hours each day and the staff are dedicated to our satisfaction. To Kath, Nelly, Monica, Tanya, Linda and Bill the chef, thank you for your cheery help.

Then, of course, there are the people from hospitality and the PEO and the tour guides who show our constituents and our schools through the House, answer thousands of questions and keep us all informed. Even the people at the gym do not laugh when you turn up for some gentle exercise and they really give you a positive push. Here in the Main Committee chamber, ring the bell and an attendant is beside you, glass of water in hand. I thank the attendants who ring the office because I forget my glasses and safely pass reams of paperwork in both directions.

On occasions I occupy the Speaker’s chair and it is only through the valiant efforts of the clerks of the House that I preside in any kind of professional manner. They keep me on track and in order. The nursing sisters, the fellows who look after the indoor plants, Lizzie the hairdresser, Jetset, the Hansard people, the Sound and Vision people, Laurie from stores, the staff in the parliamentary shop, the florist Audrey and the people from Ministerial and Parliamentary Services are all here to serve our needs, and they do their jobs so well. If I have left out anyone, I apologise. Through your efforts, I can do my job a whole lot better each day. Although we may not tell you, I and my staff bless your little cotton socks!

Lee, Mr Kevin: Miscarriage of Justice

Mr SERCOMBE (Maribyrnong) (9.46 a.m.)—I want to use this opportunity today to start the process of raising a matter of a serious miscarriage of naval justice some 45 years ago affecting a constituent of mine, Mr Kevin Lee. I raised some of these matters with then Minister Bishop back in 1998 without satisfaction, but there have been a number of new developments.
In a letter to the Chief of Navy Admiral Shackleton on 9 February 2000, Retired Rear Admiral Kennedy indicated that he was ‘not happy with this one’, that is, the circumstances surrounding the miscarriage of justice affecting my constituent, Mr Lee. Admiral Kennedy has provided some detailed documents. In part he says:

... I believe his [Lee’s] story to be the truth. I believe I detect in the documents some pre-disposition and haste to ‘hang someone’ on the part of HMAS COMMONWEALTH officers so as to make an example and placate the Japanese.

He goes on:

I wish I knew or could recall how the identification of Lee ... was made but I do not. I am clear in my mind that the two ‘Red Caps’ could not have. If this is the case, then the judicial process which followed was seriously flawed in that:-

The accused did not have a defending counsel and
did not understand the charge or proceedings properly
[and had] no first-hand witness who was present to identify [him].

He says that he believes that there was not a fair and proper trial concerning the assault matters which were the substance of the charges.

This material was sent by Admiral Kennedy to Admiral Shackleton. A reply to Admiral Kennedy came from the research officer to the Chief of Navy on 23 March in which he indicated:

The circumstances surrounding the incident and actual trial appear to be unmerited in the light of your information—

and that matters concerning Kevin Lee ‘certainly require closer scrutiny’. Therefore you can understand my disappointment, and particularly that of my constituent, when on 27 October Admiral Shackleton wrote to Mr Lee saying:

Unfortunately as the matter is now some 45 years old, and despite the evidence you have provided, it has been impossible to garner the type of information required to rebut the charges. As a result ... I have been unable to conclude that your trial was improperly conducted and therefore cannot justify the overturning of your conviction.

This is a slur which my constituent feels very deeply about. He is a gentleman of considerable stature in my local community. He believes he served this country with honour some 45 years ago. He has the support of an admiral of the distinction of Admiral Kennedy yet Navy is not prepared to reopen this matter and clear his name. This is a disgrace that I intend to pursue in this House as time permits.

Dawson Electorate: Burdekin Bypass Project

Mrs DE-ANNE KELLY (Dawson) (9.49 a.m.)—I rise today to speak about the Burdekin bypass in my electorate of Dawson. This proposed project was announced in 1996. The consultation since that date has been undertaken by the Department of Main Roads and overseen, of course, by the federal department of transport and the federal minister, the Hon. John Anderson. Only last month we finally had recommendations from the Department of Main Roads on which of the alignments that have been placed on the map is their preferred alignment. Let me say that some 11 alignments have been put forward—11 lines on the map through some of the most valuable cane land in Australia. This has caused a great deal of grief in our community because obviously people cannot develop, sell or make business decisions when there is the possibility of a bypass going through their farm.

Mr Bredhauer unfortunately has ignored the community. He has not listened to the various meetings that have been conducted and the submissions put forward. Those community groups cover cane growers, the representatives of the largest business organisations in the
Burdekin, the Burdekin Chamber of Commerce and, of course, the council. I would like to read out a letter from Mrs Pirrone from the Save Our Homes and Farms Action Group. The letter reads:

Dear Deanne,

The Save Our Homes and Farms Action Group wishes to thank you for your article in the Advocate 2/11/00 where you were stated ‘The community does not approve of any of the proposals put forward by Main Roads ... they want the whole project shelved with lines on maps and notations on land titles removed,’ ‘And I agree with them’ and again on the 24th of November.

We realise that you have a difficult task in trying to represent all of your constituents. Would you please bring this matter before Federal Parliament this week as we have heard via radio that road funding will be discussed.

Please find enclosed a copy of a letter that we have released to the press and we hope that by giving you the opportunity to peruse this information you will realise our concerns, and we implore you to pass this on to our Federal Minister for Transport Mr John Anderson and could you please discuss it in the chamber.

Of course, I am very happy to do that. Let me assure the residents of the Burdekin and community associations that we will listen to their concerns and that John Anderson places great note on community interest.

Roads: Funding

Mr ANDREN (Calare) (9.51 a.m.)—The government’s Roads to Recovery Program should be applauded. It would be churlish to devalue this much-needed injection of funding, but the spending needs to be put in its correct context. Evans shire mayor, Norm Mann, welcomed the $464,000 annual boost to his council’s road budget over the next four years but said it would take a lot more than an extra $1.8 million to bring the shire road network up to acceptable standards. He cites the enormous impact of forestry trucks breaking up local roads while earning export dollars and shareholder dividends for people well outside the shire, yet the council bears the cost.

Bathurst, with $333,000 extra for four years, welcomes the chance to bring several projects forward. Likewise, Cabonne is grateful for $3.3 million over four years, as are the councils of Lithgow, Blayney, Orange, Cowra and Oberon. But the editorial in the Central Western Daily got it right when it stated:

The funding is to be welcomed as is the way the money is to be distributed, according to a funding formula that ensures it is not driven by political considerations ...

All very welcome, but what needs to be remembered is that the Government, while playing Santa Claus, is also playing catch-up.

Public investment in roads has declined from two per cent of gross domestic product in 1960 to around half of one per cent now. This is on top of the demise of rail and the huge increase in large truck movements—many of them on local council roads. This is a vast country of great distances and few people. Our income tax collection just cannot meet the needs of our road network. It is economically irrational to not spend much more on bringing our rail network up to the sort of standard needed to not only compete with but replace much of our road transport. Both should work in tandem, but to achieve this the rail infrastructure and the charges applied to it by government should be realistic. We are spending three times more on roads in one year than we budget for rail over four years. Unless we tie petrol tax into road funding, we will continue to rely on a very ad hoc method of funding our rural and regional transport infrastructure.

The New South Wales state 3x3 cents program worked very well and was easily understood. A 10x2 cents program from existing excise might be the way to go for federal road infrastructure funding—quite likely taking much of the heat off the anger over rising fuel
prices. Why not make it 10x3 cents, with a cent of the fuel tax dedicated to rail? That way the electorate could see some real and continuing results from its petrol tax.

Unless we get serious about rail, until we take the burden of timber, wheat, coal and other products off local council roads, then a once in a blue moon $850 million will achieve very little. Welcome and belated though this money is, let us not get carried away with rhetoric that this money will provide enormous export boosts from paddock to wharf. The member for Ballarat described in his speech on the second reading of the bill that the national shame is our local road network. It will still be shameful, even after this injection of funds.

Yabulu Nickel Refinery

Mr LINDSAY (Herbert) (9.55 a.m.)—I would like to report to the parliament this morning on the Yabulu extension project. Yabulu is a nickel refinery in Thuringowa-Townsville which has been operating for about 20 years. It is facing some very significant problems at the moment and, to the credit of its management, they have been doing a lot of work in trying to ensure the future viability and, in fact, the expansion of that plant. They have come up with an innovative program of expansion to build a new mine in Western Australia to partially process the lateritic nickel ore over there, ship it around to Townsville and double the size of the existing nickel plant in Townsville. It is very exciting because it confirms the existing jobs in Townsville and ensures their long-term future. But more than that, it creates new jobs both in Western Australia and in North Queensland.

There are a number of issues before the federal government on which I have certainly been doing a lot of work. I am very pleased to support this important project in Townsville-Thuringowa. First of all, we are looking for major project facilitation status for this project. It is a billion dollar project, so it certainly well qualifies. I have been doing a lot of work with the government on this and I am expecting a positive outcome in the not too distant future. That will certainly be welcomed by the company and by the people of Townsville.

Also, we need environmental approval under the EPBC Act. This is a minefield; it is very difficult to work through with Queensland EPA laws and so on. I have seen some very positive results in that regard and I am certain that that process will be okay. In relation to help with tariff by-law imports, I think we have been able to get that signed off, which will help the project. But the matter that I am concerned about is the greenhouse gas abatement program. It is very important, in my view, that the plant take this once in a lifetime opportunity to convert from coal to gas. Also, it provides a 26-petajoule demand for the proposed new gas pipeline going down the Queensland coast. If we cannot get the plant changed to gas, that will cause some significant worries in relation to the viability of the pipeline. I am certainly doing everything that I can to get the government to support the greenhouse gas abatement program application that the company has made. We have to get that up because it also means that cogeneration will happen on site with the power station. We will get rid of the terribly dirty coal station that is there. Of course, it is good for our environment in relation to the use of gas.

Rail: Infrastructure

Mr SAWFORD (Port Adelaide) (9.58 a.m.)—I would like to support the member for Calare in his comments on the need for rail infrastructure in Australia. The job dividend provided by the Roads to Recovery Program would be 16,000 to 22,000 jobs. With rail, the figure would be 35,200 to 40,000 jobs—basically double the dividend. In terms of employment in this country, I am not suggesting that no money be spent on roads, but the expenditure balance between shipping, rail and roads in this country is an absolute disgrace. It is time that the competitive parts of rail were supported.

Mr DEPUTY SPEAKER (Mr Nehl)—Order! In accordance with standing order 275A, the time for members’ statements has concluded.
Main Committee adjourned at 9.59 a.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Tax Avoidance Schemes
(Question No. 1880)

Mr Kelvin Thomson asked the Treasurer, upon notice, on 29 August 2000:

(1) Has the minister received advice from the Treasury or the Australian Taxation Office since March 1996 on the risk to revenue from employee benefit tax avoidance schemes.

(2) If so, (a) when was each piece of advice received, (b) what course of action was recommended in each case and (c) what action did the Government take in response to each of these recommendations.

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

(1) and (2) No estimates have been provided to the current Government of the revenue at risk from the abuse of employee benefit arrangements because as the ATO has stated, abusive employee benefit arrangements are not effective under the existing law. The ATO is in the process of pursuing those arrangements which are ineffective under the law. In this regard I refer the honourable Member to the relevant pages in the ATO’s 1999/2000 annual report.

On 30 June 2000 the Assistant Treasurer announced amendments to address aggressively marketed employee benefit arrangements following advice from the ATO that these arrangements were still being actively promoted. These legislative amendments were introduced into the Parliament in September 2000.

Customs: Airport Services
(Question No. 1997)

Mr Martin Ferguson asked the Minister representing the Minister for Justice and Customs, upon notice, on 3 October 2000:

What has been the cost each year since 1995, including 2000, of providing customs services and processing at each airport where those services are provided.

Mr Williams—The Minister for Justice and Customs has provided the following answer to the honourable member’s question:

Customs is unable to provide a breakdown of costs at each individual airport. However, the costs have been provided at a regional level. The costs each year since 1995, including 2000 of providing customs services and processing at airports in each region are as follows:

<table>
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<th>Financial Year Ended</th>
<th>ACT</th>
<th>NSW</th>
<th>VIC</th>
<th>QLD</th>
<th>SA</th>
<th>WA</th>
<th>TAS</th>
<th>NT</th>
<th>Grand Total</th>
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<td>1994/95</td>
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</table>

*The costs in this table are full costs (i.e. they include both direct and indirect costs).

**(i) 1994/95 – the costs shown here are half year as the PMC did not apply till 1 January 1995.

(ii) Indirect costs for these years have been estimated using audited costing figures produced in 1997, 1998, 1999 and 2000.
A sudden increase in total costs for 1997/1998 is attributable to a change in costing methodology at Customs, specifically the allocation of administrative costs.

**Tax Avoidance Schemes**
*(Question No. 2011)*

**Mr Crean** asked the Treasurer, upon notice, on Wednesday, 4 October 2000:

1. With regard to the Government’s claims that tax avoidance through employee benefit schemes can be dealt with through the courts under existing law, how many court cases has the Government instituted in (a) 1996, (b) 1997, (c) 1998, (d) 1999 and (e) 2000.

2. How many of these court cases have been determined.

3. How much revenue has the Government returned as a result of these cases.

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

1. and 3 The ATO is taking the necessary action against abusive employee benefit arrangements. This action is ongoing.

**Tax Avoidance Schemes**
*(Question No. 2012)*

**Mr Crean** asked the Treasurer, upon notice, on Wednesday 4 October 2000:

In light of the Treasurer’s statement that the Government has received advice on tax avoidance through employee benefit schemes (*Hansard*, 6 September 2000, page 18273), has any of that advice proposed the option of amending legislation.

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

The ATO has always been of the view that abusive employee benefit arrangements are ineffective under the current law.

On 30 June 2000 the Assistant Treasurer announced amendments to address aggressively marketed employee benefit arrangements following advice from the ATO that these arrangements were still being actively promoted. These legislative amendments were introduced into the Parliament in September 2000.

**Tax Avoidance Schemes**
*(Question No. 2014)*

**Mr Crean** asked the Treasurer, upon notice, on Wednesday, 4 October 2000:

Did the Australian Taxation Office place an embargo on private binding rulings in respect of employee benefit tax schemes; if so, is that embargo still in place; if not, on what date was it lifted.

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

The Commissioner of Taxation placed an embargo on private binding rulings in respect of employee benefit arrangements on 26 March 1999. This embargo was lifted on 19 May 1999 with the release of the Commissioner’s media release 99/16 and taxation ruling TR 1999/5.

**Members of Parliament: Postage Meters**
*(Question No. 2029)*

**Mr Danby** asked the Minister for Finance and Administration, upon notice, on 5 October 2000.

1. What were the criteria for introducing the SM26 Postage Meters and who made the decision to introduce this particular model of postage meter, above other models.

2. Did any Member or Senator request the replacement of the existing franking machines.

3. What has been the total cost to date of installing and maintaining the SM26 Postage Meters in Members and Senators electorate offices Australia wide.

4. How many problems regarding the functioning of the machines have so far been reported to his Department and how many machines have broken down completely.
(5) Can he say whether the 2.5% saving that Australia Post will re-fund on postage accounts for those who use the machines is out weighed by the cost and inconvenience of the malfunctions and breakdowns of these machines.

(6) How many years will it take the Commonwealth to recover the capital cost of replacing the existing franking machines at the estimated 2.5% per annum saving with the SM26.

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

(1) An ‘open’ tender was let for the supply, on a lease basis, of postage meters and the provision of associated services to Federal Electorate Offices in all Australian States and Territories. The criteria used to evaluate tenders were:
(a) Compliance with the contractual Terms and Conditions of the Request for Tender;
(b) Understanding of Ministerial and Parliamentary Services (M&PS) and its needs;
(c) Financial capacity and viability;
(d) Proven performance including expertise in machine purchase/leasing/contract management;
(e) Professional standing and reputation within the industry (through referee reports);
(f) Outline of proposed strategy (including capacity to carry out tasks required);
(g) Key personnel;
(h) Competitive pricing.

The assessment of the postage meter tender was undertaken by departmental staff. Ernst & Young (external auditors) conducted a probity review of the tender evaluation and concluded, “We report that the evaluation was conducted in accordance with the Tender evaluation plan. We are of the opinion that this evaluation demonstrates probity”.

(2) Yes.

(3) The supplier installed the machines at no cost to the Commonwealth. Information regarding maintenance costs are Commercial-in-Confidence. The release of costing details has the potential to damage the Commonwealth’s position in future negotiations with suppliers.

(4) The following information has been provided by the contractor GBC-Fordigraph, “For the period 1 July to 10 October 2000 GBC have responded to 63 service calls. Within the same period 3 machines have required replacement”.

(5) The 2.5% rebate has no bearing on the funding of Postage Meters. The rebate is received by Senators and Members, not the Commonwealth.

(6) As previously stated the 2.5% rebate has no bearing on the funding of Postage Meter.

Sydney (Kingsford Smith) Airport: Aircraft Movements
(Question No. 2102)

Mr Albanese asked the Minister for Transport and Regional Services, upon notice, on 1 November 2000:

(1) For the year 1999-2000, how many aircraft movements were there at Sydney (Kingsford Smith) Airport.

(2) How many of those movements were from or to regional areas.

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

(1) I am advised that for the year 1999-2000, there were 280,196 fixed wing aircraft movements at Sydney (Kingsford Smith) Airport.

(2) I am also advised that there were approximately 80,000 intrastate movements by regional airlines at Sydney (Kingsford Smith) Airport during the year.
Community Business Partnership
(Question No. 2113)

Mr Latham asked the Prime Minister, upon notice, on 2 November 2000:
Has the Community Business Partnership been placed under review; if so, what is the purpose of the review.

Mr Howard—The answer to the honourable member’s question is as follows:
The Community Business Partnership has not been placed under review. Members of the Community Business Partnership held a strategic planning workshop in October to analyse what has been accomplished by the Partnership in its first year and to refine the work plan for the year ahead.

In its first twelve months the Partnership made significant progress towards its challenge statement to foster and facilitate a tradition of Australian business, individuals and community organisations working together in partnership for mutual benefit and the benefit of the Australian community. The Community Business Partnership had an important role in the development of taxation amendments relating to philanthropy, which received Royal Assent in May 2000. It also produced a variety of publications and communications tools promoting corporate social responsibility - including the commissioning of Corporate Community Involvement – a Business Case; organised and participated in a number of conferences around Australia; and managed the successful 2000 Prime Minister’s Awards for Excellence in Community Business Partnerships.

The Honourable Member can be assured that in its second year the Community Business Partnership will continue to promote and develop a culture of community business collaboration, which, I am pleased to acknowledge, is a fast growing practice in Australia.

Members of Parliament: Entitlements
(Question No. 2115)

Mr Latham asked the Minister for Finance and Administration, upon notice, on 2 November 2000:
(1) What changes does the Government propose to make to the system of Members and Ministerial entitlements.
(2) Will these changes involve the aggregation and capping of entitlements under a global budgeting system.

Mr Fahey—The answer to the honourable member’s question is as follows:
(1) Members’ and Ministerial entitlements are determined by the Remuneration Tribunal, as specified in clause 7 of the Remuneration Tribunal Act 1973. Any proposed change to the system of entitlements is a matter for the Tribunal.
(2) See response to question 1.

Commonwealth Bank: Australian Workplace Agreements
(Question No. 2148)

Mr Martin Ferguson asked the Minister for Employment, Workplace Relations and Small Business, upon notice, on 9 November 2000:
(1) Further to his answer to question No. 2032 concerning discussions between himself, his staff and his Department, with the Office of the Employment Advocate about the Commonwealth Bank’s decision to offer Australian Workplace Agreements to employees, (a) who attended the meetings on 28 August 2000, 12 September 2000, and 26 September 2000 for the bank and (b) who is the bank’s consultant.
(2) What assistance did his staff, his Department or the Office of the Employment Advocate offer the Commonwealth Bank in its campaign to offer Australian Workplace Agreements to bank employees.
(3) Did the bank and its consultant initiate the discussions with the Office of the Employment Advocate; if so, (a) when was the initial contact made, (b) by whom was it made and (c) who was contacted.

(4) Following the interlocutory Federal Court decision of 29 August 2000, (a) who initiated discussions between his Department and the bank and (b) what assistance did his Department offer to the bank at this meeting.

(5) Has his Department prepared or had prepared any legal advice on the Federal Court decision of 29 September 2000; if so, (a) who prepared the opinion and (b) has it been given to the bank and its consultants.

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

I am advised that:

(1)(a) The Commonwealth Bank was represented at meetings with the Office of the Employment Advocate (OEA) as follows:

(i) 28 August 2000 – Mr Peter Hill of the bank and Mr Greg John of The Chessmen Group
(ii) 12 September 2000 - Mr Greg John, and
(iii) 26 September 2000 – three staff from the bank’s human resources department and Mr Greg John.

(b) The bank’s consultant is Mr Greg John of The Chessmen Group.

(2) My staff and my Department did not offer the bank any assistance in its campaign to offer Australian workplace agreements (AWAs) to its employees. The assistance provided by the OEA comprised advice to the bank on the logistical arrangements for the lodgement and processing of the AWAs. The OEA’s A How-to Guide encourages employers planning to make large numbers of AWAs to contact the Office to expedite processing of the agreements. The OEA also made arrangements for 20,000 Employee Information Statements to be sent to the bank for distribution to employees, as required by the Workplace Relations Act 1996.

(3) The bank initiated contact with the OEA.

(a) The initial contact was made on 23 August 2000.
(b) The contact was initiated by Mr Peter Hill of the bank.
(c) The OEA officer contacted was Mr Andrew Dungan, Deputy Employment Advocate.

(4) (a) Officers of my Department initiated contact with the bank regarding its matter being heard before the Federal Court and the interlocutory decision of 29 September 2000.
(b) At the meeting with the bank on 4 October 2000, officers of my Department offered no assistance to the bank.

(5) (a) My Department prepared a legal and policy analysis of the Federal Court’s decision.
(b) This legal and policy analysis was not provided to the bank or its consultant.

Education: Funding for Non-government Schools

(Question No. 2184)

Mr Tanner asked the Minister for Education, Training and Youth Affairs, upon notice, on 28 November 2000.

(1) What mechanisms are in place to ensure that students at non-government schools who are not Australian citizens or permanent residents and are not eligible to attend Australian government schools on a fee-free basis are not counted in the calculation which determines the level of government funding for such non-government schools.

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

(1) Non-government schools submitted their students’ residential addresses through a purpose-built Internet application. Alternative arrangements were made for about 40 schools without Internet access.
(2) Schools were advised in writing prior to the data collection and via the SES Internet site that only the residential addresses of students who were eligible for Commonwealth General Recurrent funding should be submitted for the purposes of calculating a funding level for the school.

(3) Schools were also required to declare by Statutory Declaration, signed by an authorised signatory of the Approved Authority for the School, that the addresses submitted to the Department excluded “overseas students who are not eligible for Commonwealth General Recurrent funding”.

(4) As part of the Department’s validation and audit processes, the number of addresses submitted by each school was also verified against enrolment data collected through the annual School Census which separately identifies fee-paying overseas students.