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

INNOVATION AND EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2001

First Reading

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

Second Reading

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

That the bill be now read a second time.

In January this year, the Prime Minister made the most significant set of policy and funding announcements in support of innovation that has ever been made in Australia. The government’s innovation action plan, Backing Australia’s Ability, is not some vague set of high-minded pronouncements or an unfunded wish list. It is a well thought out, comprehensive and, most importantly, fully costed and funded package of initiatives that will deliver demonstrable benefits to Australia. It commits an additional $2.9 billion over five years for science, research and innovation, including an additional $1.47 billion to be provided through the university sector. The pay-off from this commitment will be seen for many years to come in Australia’s R&D and overall economic performance.

A key principle of Backing Australia’s Ability is improving access to postgraduate course work opportunities in our universities in order to further develop Australia’s skills base. The resulting initiative, the Postgraduate Education Loans Scheme (PELS), is the primary focus of this bill.

The loan scheme is designed to encourage lifelong learning and to help Australians upgrade and acquire new skills to keep at the forefront of their professions. It will improve access to postgraduate course work study by providing interest-free, income contingent loans similar to HECS. The loans will mean that students will no longer be prevented from participating in postgraduate studies because they are unable to pay the tuition fee up front.

It is expected that the loans provided under this scheme will amount to some $995 million over the next five years and will assist around 240,000 students in their aspirations to undertake further advanced education.

It is the government’s intention that this scheme commence at the beginning of the 2002 academic year. The announcement of the scheme in January generated significant interest in the university community and amongst potential students. The hotlines in my department have received many inquiries from students and universities about postgraduate loans. Even the government’s most vociferous critics admit that PELS will significantly improve access to postgraduate course work education.

Unfortunately these plans have been jeopardised in this parliament by the action of the opposition and the Democrats in the Senate and their efforts to frustrate the government’s legislative program. These actions have created confusion and uncertainty in the higher education community.

Unless this measure proceeds smoothly through parliament this time, there is a real possibility that many thousands of students expecting to have access to interest-free loans in semester I of 2002 will be disappointed. I call on both houses of parliament to understand the damage that might be done if there is further unnecessary delay in the passage of this measure and to give it the most expeditious consideration.

The government will commence a formal review of the impact of the postgraduate education loan scheme two years from its date of implementation. Terms of reference will be detailed closer to the time of that review. In the interim, statistical data will be collected on the scheme and will be published annually through the triennium report and the higher education statistics collection, and will include data on the take-up of the scheme—for example, by institution, age, gender, equity group, courses undertaken and fee levels.
The bill will give the minister the discretion to impose a cap on the maximum amount of debt students can accumulate under HECS and PELS. This measure is an important protection that may be necessary to discourage a minority of students building up an imprudent level of indebtedness and to provide a damper on potential fee increases within the sector.

I have made it clear, however, that this provision is simply to provide for a contingency and one the government believes is unlikely to arise. For that reason there is no immediate intention to exercise the discretion provided by the bill. Further, any exercise of the discretion would be through an instrument disallowable in the parliament.

The opposition has signalled that it opposes a single cap that applies to both schemes and may propose an amendment that would restrict the cap to PELS debt only. This means that a student who proceeds to postgraduate course work and takes out a PELS loan would have two debts to manage. This proposal would impose an unreasonable burden on the taxpayer in the form of significantly higher implementation costs for the Australian Taxation Office. It also ignores the objective of addressing students’ total indebtedness, not just indebtedness deriving from PELS. Such an amendment would therefore not be acceptable to the government.

Other provisions in the bill will make it easier for universities to operate in an electronic environment consistent with the requirements of the Electronic Transactions Act 1999.

The bill contains two further measures that will add some $40 million to university operating grants over 2001, 2002 and 2003.

The bill increases the Commonwealth’s contribution to university superannuation schemes by around $6 million in both 2002 and 2003 so that beneficiaries in the state-Commonwealth jointly funded university super scheme in Victoria can convert the benefit to a lump sum on retirement.

The bill also increases university operating grants by a total of $27.6 million in 2001 to account for the higher than anticipated success rate of universities applying for funding under the Higher Education Workplace Reform Program. I have been particularly pleased with the response of universities to this offer, which shows that the majority have committed to making reforms to their workplace and management practices.

Finally, I would like again to request that all parties act to expedite consideration of this bill. If we are truly concerned with innovation in this country and with ensuring that we have highly skilled people for our industries, then we should give potential postgraduate students certainty about the availability of PELS from the beginning of next year. I am prepared to commit to this objective and I urge members and senators to do likewise.

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

Debate (on motion by Mr Horne) adjourned.

COMMITTEES
Public Accounts and Audit Committee Report

Mr CHARLES (La Trobe) (9.39 a.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the committee’s report, incorporating a dissenting report, entitled Report 384: Review of Coastwatch.

Ordered that the report be printed.

Mr CHARLES—by leave—This report arose from the committee’s statutory obligation to review reports of the Auditor-General—in this case, Audit Report No. 38 of 1999-2000. The headlines for the committee’s report are these:

• the present Coastwatch organisation is working well;
• the challenges faced by Coastwatch are wide ranging and demanding, but they are being met effectively; and
• there is no need for an Australian coastguard.

Coastwatch is working well

During the inquiry the committee visited Coastwatch’s National Surveillance Centre and inspected facilities across Northern
Australia. During this time the committee participated in two offshore patrols and saw at first hand how Coastwatch conducts patrols, detects and investigates surface contacts, and coordinates the interception of vessels carrying suspected illegal immigrants.

The committee saw a well integrated organisation, effectively using the resources at its disposal, and staffed by personnel dedicated to protecting Australia’s borders. However, the committee considers that Coastwatch’s role could be better defined and has recommended that there be a clear statement from the government, in the form of a publicly released charter, setting out what the government regards as its expectations for Coastwatch. Such a charter would serve to inform the public of Coastwatch’s intended role.

We are all aware of the recent upsurge of boat people arriving off the north-west of Australia and at Christmas Island. It is important to state what Coastwatch’s role is in this regard. Its role is to detect and coordinate the interception of those boat people and, if they choose to enter Australia’s territorial waters—that is, cross the 12-mile line—bring them safely to land. Its role is not, as some would have us believe, stopping those people, intercepting them, refuelling their boats, and telling them to go away! Coastwatch also plays an essential role in detecting illegal activities such as illegal fishing and is integral to antidrug operations, undertaking surveillance on behalf of its clients, Customs and the Australian Federal Police.

The committee feels that Coastwatch’s role is poorly understood by the public and has recommended that there should be a comprehensive campaign to inform the public of Coastwatch’s role in protecting Australia’s borders. The committee has looked at Coastwatch’s performance measures and agrees with the Auditor-General that these could be improved. The committee has developed this further and the report contains performance measures which could be used as a basis for a balanced scorecard by which Coastwatch’s performance could be measured.

The committee is also critical of the information about Coastwatch provided to parliament by Customs at budget time, for additional estimates and in the Customs annual report. The output price information provided is unclear and appears in part to result from a misalignment of the Customs output structure with its program structure. While such a mismatch may improve flexibility for Customs, a consequence is poor pre- and post-expenditure accountability to parliament.

There has been speculation that Coastwatch, as a program within Customs, may be too close to Customs, to the detriment of services provided to other Coastwatch clients. The evidence provided by Coastwatch’s clients, however, has not supported this view. From this and other evidence, the committee concludes that the relationship between Coastwatch and its clients is sound. This is no doubt assisted by the recent practice of seconding a serving uniformed Australian Defence Force officer to be the Director General of Coastwatch. The committee has recommended that this practice continue.

**The challenges faced by Coastwatch are being met effectively**

The challenges faced by Coastwatch are wide ranging and demanding. The committee has discussed the challenges of the unauthorised arrival of suspected illegal immigrants, illegal fishing, the movement of people across Torres Strait, and the issue of unauthorised air movements in Northern Australia.

In discussing the arrival of boat people, the committee draws a distinction between those arriving to the north and north-west who arrive openly and those who have attempted to enter covertly along the east coast. The committee believes that Coastwatch is performing well in detecting and coordinating the interception of illegal entry vessels in northern and north-western waters. Simply providing additional resources to Coastwatch or creating a coastguard will not stem the tide. The solution is to prevent people from illegally setting out for Australia.

To this end, the committee is satisfied that the Department of Immigration and Multicultural Affairs is making every effort to en-
ter into agreements with Australia’s neighbours to thwart the people smugglers.

Regarding illegal fishing, the committee considers that in northern and north-western waters Coastwatch’s performance is limited by its ability to intercept the vessels it has detected. In contrast, in the Southern Ocean, the limiting factor is one of actually detecting the illegal fishers. The committee has recommended that:

• there should be a review of options for increasing Australia’s ability to respond to illegal fishing in northern waters, with consideration of increasing response capability if warranted; and

• Defence should investigate the cost of acquiring and outfitting a Southern Ocean patrol vessel, and investigate the feasibility of mounting joint patrols of the Southern Ocean with other countries with an interest in the region.

In his audit the Auditor General raised the issue of unauthorised air movements, UAMs. The committee believes that UAMs do not currently pose a threat; nevertheless, Australia must plan to meet this threat should it eventuate. The committee’s recommendations include:

• the continued analysis of potential threats and the development of response strategies;

• there should be contingency plans for siting sensors in the Torres Strait and Cape York to meet any identified threat;

• links and protocols should be developed with Australia’s northern neighbours to enable investigation of suspicious aircraft leaving Australian airspace; and

• a contingency plan should be prepared for recommending to Government the mandatory use of transponders on non-commercial aircraft if there is a demonstrated problem of unauthorised air movements.

A concern of the Auditor-General was that it was unclear which agency should take primary responsibility for the UAM issue. The committee has reviewed the matter and concludes it is Customs which should be responsible. However, because UAMs potentially pose a threat of national significance, Defence should be intimately involved in the contingency planning recommended by the committee. Allowing Customs to assume responsibility and Defence to respond to UAM incursions may require amendments to legislation.

There is no need for an Australian coastguard

There is no need for an Australian coastguard. The committee has received evidence proposing several models for a new coastwatch organisation. The models range from: merging Coastwatch with Australian Search and Rescue; Defence to assume the coastwatch role; to the creation of a separate paramilitary coastguard.

The committee has taken considerable evidence on this issue and has analysed the issues by asking:

• does the proposal provide for better use of scarce resources; and

• will the proposal result in improved performance?

The committee included the current Coastwatch in its consideration—to see how it matches up against these criteria.

There appears little overlap between AusSAR and Coastwatch. As it happens, Coastwatch aircraft fly very few hours on behalf of AusSAR because their operations are largely in different areas. It is highly unlikely that savings could be achieved by combining their flying operations or even their operational centres. This is because a single centre would be unable to simultaneously undertake a search and rescue operation and a surveillance and tactical response operation. It could be argued that a combined operation would have better access to sources of information such as ship movements. But this might come at the cost of poorer information from other sources such as Customs and classified information from Defence.

There have been arguments that Defence should take over Coastwatch. The report draws attention to fundamental differences between a defence role and a policing role such as Coastwatch. One such difference is that Defence officers are trained to fight and destroy Australia’s enemies, whereas a po-
licensing role involves the minimum use of force. Although Defence could use the marine assets as a valuable training ground for the Navy, there is a risk, if Defence took over Coastwatch, of Defence becoming distracted from its prime objective of being prepared to defend Australia in times of conflict.

In analysing the call for a paramilitary coastguard it is tempting to base an argument solely on the comparative costs of the US Coastguard. The committee has not done this. Creating a coastguard would lead to duplication of marine assets. If the RAN patrol boats and Customs vessels were moved to form the nucleus of a coastguard, the Navy would still need patrol boats, and Customs would still need a maritime arm. Customs told the committee that 30 per cent of the operational time of its eight Bay Class vessels would not be spent on Coastwatch operations. Putting the Bay Class vessels into a coastguard would mean that Customs would need at least two new vessels. As well, there would be competition for personnel. Despite the results of the new Defence Force recruitment drive, a coastguard is likely to deplete the Defence Force and the coastguard itself may be understaffed.

And would the new organisation perform better? Well, it might not have the good access to Defence intelligence Coastwatch presently has, and enjoy the good relations with, and intelligence from, Customs and Immigration. To quote from evidence provided from an AFP witness about the UK experience:

... from a law enforcement perspective they would give their right arm to have arrangements similar to those which exist in Australia because [in the UK] there is competition for intelligence and for investigative supremacy ... that is absolutely counterproductive.

But we must ask, ‘Does the current Coastwatch stack up against the criteria the committee has used?’ Coastwatch is a coordinating agency. There is no duplication of assets because Coastwatch does not own them. Through its memoranda of understanding it has ready access to the resources it needs. Because the assets used by Coastwatch belong to others, the risks associated with those assets are borne by others—risks such as maintenance, repair and replacement. And when those assets, such as Customs vessels or RAN patrol boats, are not used by Coastwatch, they can be deployed elsewhere.

A major advantage of contracting-in the assets Coastwatch needs is that if circumstances change, if the suite of platforms and sensors have to be changed to meet a new threat, Coastwatch can renegotiate its relationship with its asset providers. Coastwatch will not be saddled with outmoded equipment, but will instead be a body able to quickly adapt to new threats and to take advantage of new and developing technology.

The committee is of the view that the current Coastwatch is in effect an ‘outsourced coastguard’. The core business of coordination has been retained and the provision of services is provided by other entities both private and public sector. Australia has been able to achieve this position without the cost and pain of creating then dismantling a large and cumbersome coastguard.

In conclusion, I would like to express the committee’s appreciation to those people who contributed to the inquiry by preparing submissions and giving evidence at public hearings. I wish to also thank the members of the Sectional Committee for their time and dedication in conducting this inquiry. I also thank the secretariat staff who were involved: the secretary to the committee, Dr Margot Kerley; inquiry secretary, Dr John Carter; research officer, Ms Rebecca Perkin; and administrative officer, Ms Maria Pappas. I commend the report to the House.

Mr COX (Kingston) (9.52 a.m.)—by leave—The Coastwatch inquiry is the first time in 10 years that the Public Accounts and Audit Committee has produced a dissenting report. Senator Hogg and I found that the evidence confirmed the need for an Australian coastguard to protect our borders from civil threats, including people smugglers, smugglers of illicit drugs and illegal fishing. These activities all bring with them major public health risks and potential for breaches of quarantine control that could devastate whole industries. With 37,000 kilometres of coastline and an exclusive economic zone stretching out a further 200 nautical miles, ensuring the integrity of Australia’s border is
a significant challenge for a nation of less than 20 million people. But with current technology it is practical for Australia to maintain a high level of surveillance and response capability to deal with threats in its maritime approaches. That, however, requires that the relevant assets, including platforms, personnel and financial resources, are concentrated and focused on maximising those capabilities.

The current arrangements are less than optimal. Without legislation or a formal charter and with a diffuse set of mechanisms for determining operational priorities, there is a gap between the growing demands on the organisation and accountability for its priorities and performance. There are limitations on the extent to which coordination arrangements can adequately manage a growing and complex operation like the current Coastwatch function, and it is now time to implement a more robust structure with direct responsibility for the control of the principal surveillance and response platforms.

There are always operational trade-offs between strategic and tactical surveillance. For example, a tactical counter-drug operation will draw surveillance assets away from strategic surveillance, increasing the risk of other threats, such as illegal immigration, not being detected and high priority threats not receiving an adequate response. As a consequence of these trade-offs, we have seen boatloads of illegal immigrants not being detected before they reach Australian shores and apprehensions of illegal fishing boats falling below acceptable levels.

Late last year, the committee received evidence that Coastwatch had effectively been on an illegal immigrant tactical operation for almost the last 18 months. That significantly reduced the availability of patrol boats to deal with illegal fishing. The Australian Fisheries Management Authority provided information that between January and December 1998 apprehensions as a proportion of the 1,471 sightings of Indonesian fishing boats fishing illegally were as low as two per cent for traditional sailboats and six per cent for motorised craft in some areas.

For the same period a year later, the number of sightings increased to 4,827 and the apprehension rates had fallen to 0.6 per cent for sailboats and 1.4 per cent for motorised vessels in some areas. When I asked the Director-General of Coastwatch, “Is your gut feeling that we do not actually have enough platforms out in that part of the world?” he replied, “It would be a foolish Director-General, Coastwatch, that said he had enough assets.”

One of the solutions to these problems is achieving a higher utilisation of existing assets. The Dash 8 surveillance aircraft have excess capacity and if it were necessary more surveillance could be achieved at incremental cost with more air crew, a relatively simple contractual issue. It is worth pointing out that we use civil assets optimised for this civil role rather than military assets because it is more cost effective. The average cost of surveillance using a Dash 8 is 21c per square nautical mile. The comparable cost of using an Air Force P3C Orion is $3.30 per square nautical mile.

Increasing the availability of the naval patrol boats is more complex because they are currently a military asset. An examination of the use of the patrol boats over their total life and the significant national interest operations to which they are applied in their civil role—80 per cent of patrol boat days are allocated to Coastwatch—indicates that their principal role is civil. But the total number of patrol boat days is limited by Navy’s general personnel tempo rate of 150 days. By transferring the patrol boat capability to a coastguard, more flexible crewing arrangements would be possible by using more crews than vessels, resulting in a greater number of available sea days in their critical civil operations.

Civil operation would produce significant savings in personnel costs, such as military superannuation, subsidised housing and service allowances, which could be applied to additional sea days. The patrol boats’ only military operational role is confined to low-level contingencies consistent with the proposed role for an Australian coastguard in times of conflict. And, in contradiction to what the chairman of the committee has just
said, it would not in that case be at all necessary for the Defence organisation to acquire patrol boats if the existing capability were transferred to an Australian coastguard. The contribution that the patrol boats make to the training of junior officers and sailors can also still be accommodated. Secondment to the coastguard would become a normal part of a naval career.

No existing capability in Defence, Customs, air-sea search and rescue or maritime safety is going to be lost by adopting the coastguard model. I asked the head of Strategic Command, Defence, if there was any reason why the specific military tasks that the patrol boats do could not be done by a coastguard, to which he replied, ‘I guess you could have a whole different set of arrangements if you wanted to.’ I also asked the CEO of Customs whether there were any things the Bay class patrol boats could not do for Customs if they were transferred to a coastguard, to which he replied, ‘There is nothing that I would want Customs to do that could not be provided by a capability of the kind that you are suggesting.’ The Bay class presently provide 70 per cent of their sea days to Coastwatch and there is absolutely no reason why Customs would not have access under the coastguard model. In fact, there is every reason to assume that they would, because that would be one of their principal functions. So there would certainly be no reason for Customs to be wanting to acquire additional patrol boats either.

I have been rather fascinated by the long list of additional resources that the chairman has suggested should be acquired, which are actually quite unnecessary when you consider that the existing assets could be utilised a great deal better than they are at the moment. Similarly, I asked the managing director of Australian Search and Rescue whether there was any reason search and rescue and maritime safety functions could not be amalgamated with the current Coastwatch functions, to which she replied, ‘On a theoretical basis, probably not.’ In fact, search and rescue, maritime safety and coastal surveillance operated together in the 1980s. There would now be important benefits from an amalgamation of these functions, particularly given the 1997 incorporation of air search and rescue, including on land, and today’s urgent need to develop a capability to respond to threats involving unauthorised aircraft movements—threats that, again, the chairman and the committee seem to want to deny. The Howard government has not given any agency the primary responsibility for dealing with that critical issue. Only modest and inconclusive efforts have been made to get a handle on the extent of the problem.

The Torres Strait is a significant route for illegal traffic, with drugs and illegal immigrants being moved south and gun-runners sending their deadly cargo north. It was significant, in that context, when Air Force headquarters told the committee that, with respect to aircraft movements:

... Cape York Peninsula is not under surveillance. So we have no idea of the types of activity that do or do not occur in that area ...

Certainly when we were up there the amount of anecdotal evidence we were given about aircraft movements that were not followed up and about the amount of gun-running, drug movements and potential illegal immigration was fairly significant. I would suggest that it is in fact a major issue and it is fairly important that it begin to be addressed, and addressed as a matter of urgency. When I asked whether, if there was an infrequent threat—say, 50 aircraft movements a year—Norforce was equipped to go and respond, its commander said that they currently saw themselves only being involved in a ‘forensic activity’—that is, he said:

We have had a suspected UAM that may have landed in this area. Do you have the capacity to send a patrol there to verify that? Did something happen? If so, where, when and what other information can be gathered?

So they go and have a look and say, ‘Well, there might have been something that happened but we really cannot tell.’ But their actual capacity to respond to it is, they admit, absolutely negligible. The CEO of Customs, Mr Woodward, made it abundantly clear that Coastwatch was not responsible in this area, was not equipped to deal with the issue and simply was not able to do it. This is not a satisfactory situation, and that is why a coastguard should be given responsibility for
coordinating, assessing the threat from UAMs and developing an appropriate response.

The final issue is the Minister for Defence’s frequent and totally specious attempts to suggest that Labor’s coastguard model is in some way analogous to the US Coastguard and would cost a couple of billion dollars to implement. It is an issue that he has been on about this week as well, and I have no doubt he will be on about it again in question time today in response to this report. One Defence official—mercifully, he has left the Defence Force, I understand—who was responsible for running ministerial services for the department tried to run the minister’s line at the committee when he realised that the evidence that was being given to the committee by most of the agencies was not in conformity with the government’s policy. That official listed the assets of the US Coast Guard, with its US$4 billion annual budget, as 40,000 people, 12 FFGs, 31 medium endurance cutters, 85 patrol boats, 23 Falcon jets and 140 other aircraft. He could have mentioned—but he was too sloppy to do so—that the US Customs Service has an equally impressive list of assets, with AEW&C aircraft and 24 Black Hawk helicopters for response and interdiction. Then the official went on to say:

I just mention that because we are dealing here with comparable demands. The United States is a continent which is comparably the size of Australia, but Australia has a population of 20 million people and a GDP somewhat less than the state of California. I just think that issue about costs is a fundamental issue that we have to bear in mind in Australia. Defence spends about $12 billion. We are talking about a continental coastguard arrangement which is about the size of our national defence spend.

I was singularly unimpressed with that piece of analysis coming from a senior Defence official. The threats in terms of drug interdiction and illegal immigration with which the US Coast Guard and US Customs must contend are of an order of magnitude many times greater than Australia can ever expect to face. The US Coast Guard must deal with these threats in an environment of crowded sea lanes and the most heavily trafficked skies in the world. In Australia, the situation is the opposite. Presently we face a comparatively low-level threat, but a significant one in terms of its cost relative to the size of our population. The remote environment through which that low-level threat is projected toward Australia means the focus is on achieving cost-effective surveillance and closely matching an effective response to those threats. The principal objective for an Australian coastguard is to achieve an improvement in the performance of the various surveillance, interdiction, maritime safety, and search and rescue functions within the existing level of resources. I am absolutely convinced that the Australian coastguard model, as proposed by the Australian Labor Party, will be an excellent vehicle to do exactly that.

Mr LINDSAY (Herbert) (10.07 a.m.)—by leave—This report that the Chairman of the Joint Public Accounts and Audit Committee has tabled today comprehensively rejects the notion that Australia should ever consider establishing a coastguard system. I am certain of that view. After more than a year of public and private inquiries, after a very comprehensive look at this whole subject, I think the committee has quite correctly come down on the side of the existing Australian Coastwatch system. I am satisfied, from the evidence that was presented to me and to the committee, that the Australian Coastwatch is doing a marvellous job. The report found that it detects a staggering 98.6 per cent of illegal vessels attempting to enter our waters.

In the course of this inquiry, I was very privileged to see and to hear information that is not normally available to the general Australian population. I was able to see first-hand how the Coastwatch system works and why it works so well. I was able to see why the integration of a whole range of resources from many agencies would work and does work better than a proposal for a coastguard. One thing that stood out in my mind was the comparison with the capabilities of Australia’s PC3 Orions and the aircraft operated by Surveillance Australia. I was also very impressed with the way that the staff of Surveillance Australia blend seamlessly into the Coastwatch-Customs operation. They are all
part of the one team. They all work for the one goal, and they do it extraordinarily well.

The radars and the forward looking infra-red equipment on the Surveillance Australia aircraft are virtually as good as you can get in the world. I was able to see radar pictures of objects in the Timor Gap that were 50 miles from the aircraft. The radar operator could say, ‘That is a such-and-such vessel,’ and the vessel never even knew that the aircraft was in the area. It is very sophisticated equipment. It is the same in the Torres Strait: even with the helicopters operated there by Surveillance Australia, the equipment is extraordinarily sophisticated.

With the committee coming down strongly on the side of retaining Australia’s Coastwatch system, the concern that I have about the Australian Labor Party’s dissenting report is that there has been no investigation of the cost and the impact on Australia’s Defence Force of servicing this particular need. The Australian Labor Party’s suggestion that we need a coastguard, but not one similar to the American model, is puzzling. What Labor is really saying is that somehow or other wants to use the resources of the Australian Defence Force but it does not. It wants to use the financial resources of the Australian Defence Force but it does not. A moment ago my colleague suggested that the order of costs that has been suggested is not what the Australian Labor Party envisages. But somebody has to pay for this thing. You cannot have the Defence Force doing what the Labor Party says it will do, as well as doing other things, without it costing extra.

The fear that I have is that, if there is a coastguard, it will not do the job as effectively as Coastwatch. Coastwatch is a very effective way of bringing together a number of partner agencies that all contribute their assets and do the job that Australia expects them to do. In my patch, which has Australia’s largest defence base, I fear that resources will come out of that defence base and they will be transferred by the Australian Labor Party to a system that will not be as effective as the committee has found Australia’s Coastwatch system to be.

Mr CHARLES (La Trobe) (10.13 a.m.)—by leave—I move:

That the House take note of the paper.
I seek leave to continue my remarks when the debate is resumed.

Leave granted; debate adjourned.

WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) BILL 2001

Cognate bill:

WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2001

Second Reading

Debate resumed from 21 August, on motion by Mr Abbott:

That the bill be now read a second time.

upon which Mr Bevis moved by way of amendment:

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

(1) condemns the Government for further entrenching unfairness and bias in the industrial relations system;

(2) condemns the Government for excising provisions of the Workplace Relations Act 1996 and placing them into a separate Act; and

(3) calls upon the Government to withdraw the Bill and redraft it to provide for:

(a) the retention of provisions concerning registered organisations in the one Act together with all other industrial relations matters and including necessary improvements; and

(b) improvements to be reflected in amendments to be moved by the Member for Brisbane during the consideration of the Bill in detail”.

Mr ABBOTT (Warringah—Minister for Employment, Workplace Relations and Small Business) (10.14 a.m.)—In summing up this cognate debate on the Workplace Relations (Registered Organisations) Bill 2001 and the Workplace Relations (Registered Organisations) (Consequential Provisions) Bill 2001 I thank all who participated; although I should note that many of the speeches from members opposite would have been appropriate for a different piece of leg-
islation. A number of them made some very passionate and, no doubt, heartfelt points about what they perceive to be grievous failings of this government, but the failings, if any, identified by them are certainly not on display in this legislation.

The Workplace Relations (Registered Organisations) Bill 2001 is a housekeeping bill. It is a technical bill designed to bring the rules governing registered organisations into the 21st century. The government has gone through a long process of consultation on all of the provisions of this bill. The bill as originally tabled did have some contentious material in it. The government has done all it can to remove that contentious material and is most anxious to see this particular bill go through the parliament as a matter of consensus between all of those who are interested in the workings of our workplace relations system.

I think any fair-minded observer would have to say that much that is good has happened with the workplace relations system over the last 5½ years and that if the tree is to be judged by its fruit there is much to commend the system which this government has put in place. Wages are up and that surely is a good thing for ordinary workers. Average weekly earnings are up by some 12 per cent since March 1996, after rising by just four per cent over the previous 13 years. Basic award earnings are up by some nine per cent since March 1996, after actually falling in real terms by five per cent over the previous 13 years. Employment is up; there are 800,000 new jobs since March 1996, and nearly half of them are full-time jobs. Taxes are down; workers get to keep more of their income, thanks to the largest personal income tax cuts in Australia’s history. Most important, with the possible exception of the last few weeks, there have been fewer strikes and industrial disputes over the last 5½ years than at any sustained time in our history. These are good things, and they should be acknowledged by all Australians as good things. Many of them are to the credit of this government and to the industrial system for which it has been responsible.

There are very significant ideological, philosophical and values differences between this government and the opposition, and I do not think we should ever try to minimise those differences. This government, unlike the opposition, does not put unions up on a pedestal. We think unions are important community organisations, but we do not invest them with any mystical significance. We think they should be treated with respect but no more than any other important community organisation. Some names that come to mind are the NRMA, the Country Women’s Association and the Australian Council of Social Service. These are important community organisations and they deserve to be treated with respect. Unions intrinsically deserve no more respect than any other community organisation. Obviously, anyone who wants to run a decent enterprise, a decent business, has to understand that the most important asset the business has is its workforce. A committed, enthusiastic, skilful, contented workforce is the most important asset that any business has, and the only way you are ever going to get that kind of workforce is to talk to your staff. Artificial, class based distinctions between the shop floor and mahogany row should have no place in any modern economy. Certainly they should have no place in Australia, where we have always rightly prided ourselves on a fundamental egalitarianism and a fundamental view that Jack is as good as his master.

Talking to your workers is quite different from talking to union officials, and this government does not make the mistake so often made by members opposite of assuming that the union official always and everywhere accurately represents the views and interests of the workers at a particular workplace. I guess one of the key differences between this government and the opposition is that we have faith in workers. We think that the workers of Australia are more than capable of speaking for themselves and telling their bosses whatever they think the bosses need to hear. We do not believe that the workers of Australia always need unions and other organisations to hold their hands.

While I was listening to some of the contributions by members opposite in this debate—which I accept were made with great sincerity and conviction—I thought to my-
self, ‘These people may not believe in fairy-tales but they certainly believe in ghosts and in goblins.’ They think that there are ghosts and goblins in this government that are somehow haunting the industrial relations debate and trying to poison the very essence of relations in our work force. That is not the case. Yes, there will be differences of opinion; yes, there are differences of philosophy, ideology and values, but this government is no less committed than the previous government was. This government is no less committed than members opposite to the national interest as we perceive it. We are no less committed to a happy, healthy, prosperous and contented work force operating in a dynamic, creative and ever more successful economy.

I will turn to some of the substantive points that were made by members opposite in the course of the debate. I suppose the biggest tabloid point that was made by members opposite is that this government is supposed to be in the business of simplifying industrial law, and yet we have sought to pass some 1,300 pages of industrial legislation. It is true that the Workplace Relations (Registered Organisations) Bill 2001 is a big, thick bill. But this is not new legislation. This is legislation that we are seeking to take out of the Workplace Relations Act and put into a separate act so that workplace practitioners, as opposed to people who are in the management of registered organisations, can have their act, and then there will be a separate act for people involved in the management of registered organisations. We are not adding to industrial legislation with these bills; we are simply relocating and improving it.

The biggest issue that members opposite had with this particular bill is the question of union disamalgamation. I guess there is a question of values here: members opposite seem to think that only unions can protect workers, that only unions can speak for workers and that only big unions are capable of standing up for workers against big companies. I simply disagree, and I think that the Australian people would, by and large, disagree. I do not think that the Australian people suffer from an industrial gigantism syndrome; I do not think the Australian people necessarily believe that big is best. I think our experience of large organisations, whether they are big business, big bureaucracies or big unions, is that the bigger the organisation the more difficult it is to make it respond to the real needs of real people. Why shouldn’t people be able to set up new unions? They can start new businesses, they can start new political parties and they can start new community organisations. Why shouldn’t they be able to set up new unions? It is a perfectly reasonable question, and I think the government’s desire to allow union disamalgamation, under quite strictly controlled conditions, is a perfectly reasonable one.

The other substantive point raised by members opposite in the course of this debate is the question of allowing legal aid for people seeking to bring about the disamalgamation of unions. I take the rhetorical points that were made by members opposite: why would you allow legal aid for people engaged in an internal union dispute when the victims of crime and the victims of persecution in all sorts of other areas are struggling for access to a never very large legal aid budget? As a rhetorical point, as a debating tactic, I suppose that is fair enough. I guess it is understandable that people should make those points in this kind of debate, but the truth is—and anyone who understands the way in which industrial relations works at any level would know this—that unions are extremely well-funded organisations. Some of the largest unions have an annual budget from subscription income of some $50 million or more every year. Unions, like other organisations, jealously guard their turf, and the expectation that ordinary workers can have any real chance of succeeding in disamalgamations while having to use their private resources against the massive resources of large unions is just unreal. That is why the government believes that legal aid should be available to people promoting disamalgamation of unions. It is not to be automatic; legal aid rarely is. It will be by application to the Attorney-General in the usual way and applications will be looked at on their merits in the usual way.
I do not want to prolong this second reading debate. Let me simply say that the spite and rancour that we saw from some members opposite were really quite inappropriate in this particular debate. There are many things that we do not agree on in this House, but I think one thing we should agree on is the importance of trying to have well-run industrial organisations that are genuinely accountable to their members, that are reasonably open and responsive to their members, that are run honestly and that are not easily susceptible to fraud, undemocratic practices and all those things that, sadly, in this vale of tears happen all too often when people can get away with them. I commend these two bills to the House, and I indicate to the House at this point in time that the government remains committed to a constructive approach to this legislation. I have indicated to the shadow minister for industrial relations, the member for Brisbane, that I will look very seriously at his amendments. Once we have the second reading process concluded, it is my intention to adjourn the debate so that the government can further consider the amendments in detail that the opposition wishes to proceed with, with a view to coming to some common ground.

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

The House divided. [10.32 a.m.]

(Mr Deputy Speaker—Mr H.A. Jenkins)

Ayes........... 74
Noes........... 61
Majority........ 13

AYES
Abbott, A.J. Andrew, J.D.
Andrews, K.I. Anderson, J.D.
Bailey, F.E. Baird, B.G.
Barresi, P.A. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.I. Brough, M.T.
Cadman, A.G. Cameron, R.A.
Causley, I.R. Charles, R.E.
Costello, P.H. Draper, P.
Elsden, 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. MacArthur, S. *
McGauran, P.J. Moylan, J. E.
Nairn, G. R. Nehr, G. B.
Nelson, B.J. Neville, P.C.
Pearce, C.J. 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.
Somiayay, A.M. Southcott, A.J.
St Clair, S.R. Stone, S.N.
Sullivan, K.M. Thompson, C.P.
Thomson, A.P. Tuckey, C.W.
Vaile, M.A.J. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Wooldridge, M.R.L.

NOES
Adams, D.G.H. Albanese, A.N.
Albanese, A.N. Brereton, L.J.
Bevis, A.R. Byrne, A.M.
Burke, A.E. Crean, S.F.
Cox, D.A. Danby, M.
Crosio, J.A. Ellis, A.L.
Edwards, G.J. Evans, M.J.
Emerson, C.A. Ferguson, M.J.
Ferguson, L.D.T. Gerick, J.F.
Fitzgibbon, J.A. Gillard, J.E.
Gibbons, S.W. Hall, J.G.
Griffin, A.P. Hoare, K.J.
Hatton, M.J. Horne, R.
Hollis, C. Kerton, C.
Irwin, J. Latham, M.W.
Kerr, D.I.C. Lee, M.J.
Lawrence, C.M. Macklin, J.L.
Livermore, K.F. McClelland, R.B.
Martin, S.P. McLeay, L.B.
McFarlane, J.S. Melham, D.
McMullan, R.F. Mossfield, F.W.
Morris, A.A. O’Byrne, M.A.
Murphy, J. P. O’Keefe, N.P.
O’Connor, G.M. Price, L.R.S.
Plibersek, T. Ripoll, B.F.
Quick, H.V. Sawford, R.W. *
Roxon, N.L. Sercombe, R.C.G. *
Sciaccia, C.A. Sidebottom, P.S.

Short, L.M.
Smith, S.F.  Tanner, L.
Thomson, K.J.  Wilkie, K.
Zahra, C.J.

PAIRS
Howard, J.W.  Beazley, K.C.
Worth, P.M.  Swan, W.M.
* denotes teller

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

Bill read a second time.
Ordered that further consideration of the bill be made an order of the day for a later hour this day.

COMMONWEALTH ELECTORAL AMENDMENT BILL 2001
Second Reading

Debate resumed from 9 August, on motion by Mr Slipper:
That the bill be now read a second time.

Mr TANNER (Melbourne) (10.38 a.m.)—When I first heard about the Commonwealth Electoral Amendment Bill 2001, I thought it must have been a joke, but sadly it is a deadly serious piece of legislation, and it is totally inappropriate. It is good to see that a number of Queensland Liberal Party members are present today, because they are really what it is all about—it is special legislation just for them. The stated purpose of the bill is to amend the Commonwealth Electoral Act 1918 so that the agent of the federal Liberal Party’s federal secretariat can determine the distribution of public funding between the federal secretariat and the state and territory divisions of the Liberal Party. The real purpose of the bill is far more sinister, far sleazier and much more about an internal power struggle within the Liberal Party than the glib words from the government suggest. The bill is really about the Liberal Party federal secretariat’s desperate dash for cash and the fact that the federal office of the Liberal Party does not trust its state divisions. Particularly, it does not trust its state division in Queensland. That does not come as any great surprise when you consider the performance of the state division of the Queensland Liberal Party in recent times.

To resolve this internal dispute within the Liberal Party by way of legislation is nothing more or less than a misuse of this parliament—an abuse of the parliament. It is extraordinarily arrogant for the Liberal Party to think that they can waltz into this chamber with a bill and just expect a tick from both chambers to resolve what is essentially an internal party dispute within their state divisions. Does the Prime Minister really believe that anyone in Australia who has an internal housekeeping problem within their organisation has a right to expect Parliament to pass a law to get their internal inadequacies fixed? For the Liberal Party to bring on this bill is an abuse of process and an extraordinary outright abuse of the parliament.

The Electoral Act currently provides that public funding is paid to the agent of the state or territory branch of a party for which the candidate who attracts that public funding stood. The candidates are, of course, members of their state branches, and their state branches nominate them. It is logical, then, that the state branches receive the public funding unless they agree to do otherwise. There is of course one exception to that, and that is the Australian Democrats—an exception which was legislated for in 1995 with the approval of both major parties, because the Australian Democrats have a national party structure. They do not have a state branch or divisional structure equivalent to the Liberal Party and the Labor Party. That precedent provides no joy to those Liberals who will seek to support this legislation here today.

It is open to a state branch of a political party that is receiving public funding to lodge a notice with the Australian Electoral Commission requesting payments to be made to the agent of the party or to an agent of another division of the party. That is the simple mechanism which is set up by the electoral act for parties to resolve how public funding is organised. It is up to the individual parties to sort out precisely how they do that. In the case of the Australian Labor Party, our national secretariat reached agreement with all of the state and territory divisions of the Labor Party that the national secretariat receives public funding for federal
elections on behalf of all of the branches of the Labor Party. It is clear, however, that the Liberal Party’s federal secretariat has been unable to reach such an agreement with the various divisions of the Liberal Party.

The Prime Minister is exposed by this legislation yet again as being totally incapable of putting his own house in order, completely incapable of exerting his own authority within the Liberal Party and unable to sit down with the various divisional directors of the Liberal Party and the federal director, Mr Crosby, and get them to reach agreement on how the Liberal Party will handle its public funding allocation. The Prime Minister is shown to be unable to run his own party. He simply does not have the ticker. Because of this failure of leadership he now has to come into this parliament and essentially ask the parliament to sort out the Liberal Party’s internal woes—to do his job for him.

Given the financial and political problems of the Liberal Party’s divisions in almost every state, the Liberal Party federal secretariat is absolutely desperate to create a mechanism so that it can receive and determine the distribution of the funds that are due to the Liberal Party, in the wake of the 2001 and subsequent federal elections, arising from the public funding mechanism. Because of the Prime Minister’s failure of leadership, the federal secretariat of the Liberal Party has prevailed on the government to avoid a nasty confrontation with some of its state divisional directors by simply getting parliament to legislate to solve the problem. Let me make this abundantly plain: this bill addresses specifically internal Liberal Party problems and imposes on the Liberal Party a resolution to the bickering over the disbursement of public funding within their party. It has nothing to do with anything or anybody other than the Liberal Party and its internal operations.

We are in effect now contemplating in this chamber a bill to create a special law to sort out the internal problems of the Liberal Party. It is unprecedented for the internal battles, the internecine warfare, within a political party in this country to be resolved by legislation of the federal parliament. This was the government that was supposed to be for all of us—or maybe even for some sections of the community. It is now a government for one faction of the Liberal Party seeking to impose its will on another faction of the Liberal Party. In particular, it is a government desperately trying to sort out the problems within its Queensland branch, which is rapidly assuming Pythonesque proportions.

For example, reports in the paper a day or two ago suggested the effective dumping of the Queensland Liberal leader in the Brisbane City Council in order to obtain another seat in the Queensland Liberal Party branch executive for somebody from the opposing faction. That is extraordinary behaviour on any account. The Liberal Party should be allowed to structure themselves in any way they wish that is in accordance with the law of the land. That is a very important principle, a principle to which the Labor Party adheres, and it is tied very closely to a principle that the Liberal Party purports to adhere to, that of freedom of association. This bill is extremely instructive in the extent to which it demonstrates how much the Liberal Party in this place really reveres freedom of association. Clearly the Liberal Party’s perception of the role of parliament and government spending is that they are there to serve the Liberal Party, not the reverse. The Liberal Party’s rorting of public funds to pay for political advertising continues with great gusto—no less than $20 million per month. Now the parliament has before it—

Mr Brough—Mr Deputy Speaker, I raise a point of order. The language used by the shadow spokesman for finance regarding rorting is obviously offensive and incorrect. I ask him to withdraw.

Mr DEPUTY SPEAKER (Mr Jenkins)—Order! The chair is in a dilemma because the chair did not actually hear—the chair did not actually hear—

Mr Hardgrave interjecting—

Mr DEPUTY SPEAKER—I am sure the honourable member for Moreton is jovially trying to be of assistance, but the chair is in a great dilemma because the chair did not hear the exact words used by the honourable member for Melbourne. Given that a perception of a degree of offence has been indicated
by the minister, it might assist the proceedings of the parliament if the member were to withdraw and then resume the debate. I will then listen carefully to what is said and adjudicate on any words that are used.

Mr TANNER—The words I used were ‘the Liberal Party’s rorting of public funds to pay for political advertising’. I withdraw the word ‘rorting’ and insert the word ‘misuse’—misuse of public funds to pay for political advertising.

Mr Melham—No, it’s being talked about.

Mr DEPUTY SPEAKER—Order! The honourable member for Banks is not assisting the chair or the chamber. I thank the honourable member for Melbourne.

Mr TANNER—My concession and your ruling will be remembered and I am sure will have the potential to be used at other times. Now the parliament has before it a rushed bill designed to assert the dominance of the Liberal Party’s federal secretariat within their party. Clearly, the government think the parliament and the public purse are essentially for one primary purpose: to fund the government’s re-election campaign. What will we have next? If a Liberal minister is having a family law problem, will the Liberal Party pass an amendment to the Family Law Act to bind that person’s spouse to a particular course of action? If a latter-day John Moore or Warwick Parer is involved in a corporate dispute, will we see a specific amendment to the Corporations Law interfering in the internal affairs of a private company to assist the individual minister who has a problem? Of course, to do so would be absolutely ludicrous and totally inappropriate. But that in effect is what is happening in this legislation.

This situation illustrates precisely how weak the Prime Minister is when it comes to activities and affairs within his own party. His Western Australian branch ignored him on the question of Pauline Hanson’s One Nation and preferences to that party. Now, following the debacle of the Country Liberal Party in the Northern Territory, some of the people in the Western Australian branch—not all, but some—seem to have had a bit of a change of heart and realised that this may not be a brilliant electoral strategy. But the Prime Minister has been unable to enforce his own edict or to ensure that the Liberal Party directs preferences against One Nation around Australia. This legislation gives us an indication of why. He does not have the guts, he does not have the strength, he does not have the purpose to ensure that his own party follows a coherent, single, national position. This case is about public funding of the candidates—

Mr Ronaldson—Mr Deputy Speaker, I raise a point of order. I appreciate that it is early in the morning and that the shadow minister may not have much to say in this matter, but I think he should confine his comments to the bill itself. This is totally irrelevant. I ask you, Mr Deputy Speaker, to get him back to the bill.

Mr DEPUTY SPEAKER—Order! The question is that this bill be read a second time. The honourable member for Melbourne will recognise that that is the question before the House.

Mr TANNER—Rather than making these sorts of trivial interferences, the member for Ballarat should worry about finding a successor, since his latest one has disappeared. Can we expect that, if the One Nation problem becomes serious for the Prime Minister, he will have a bill in this House directing the various divisions of the Liberal Party as to how they might allocate their preferences? That would be the same kind of unjustified interference that is occurring in the case of this legislation.

It is also very interesting to note what this bill says about the government’s legislative priorities. We do have, as you would be aware, Mr Deputy Speaker, a parliamentary committee currently holding an inquiry into electoral funding and disclosure laws. The Joint Standing Committee on Electoral Matters inquiry was deferred in August 2000 while the government prioritised its since discredited inquiry into the integrity of the electoral roll. However, the joint standing committee’s inquiry into electoral funding and disclosure laws has now been resuscitated.
The Australian Electoral Commission is concerned that there are significant problems with the current electoral funding and disclosure laws, and it has made two very substantial submissions to the inquiry. Submissions addressing the AEC’s recommendations have also been received from the major political parties. The question of the internal financial arrangements of the Liberal Party and the operations of the public funding legislation as they relate to the internal affairs of the Liberal Party have never been raised by coalition members of this committee or by the federal secretariat of the Liberal Party. This committee is considering very serious issues associated with the funding of election campaigns, where political parties get their money from and how those funds are disbursed. This issue, the issue that is the subject of this legislation, has not been raised.

It is extraordinary that the government should bring forward this bill. Leaving aside all of the other important issues that are facing Australia today—issues of public hospitals, university funding, schools; all of those critical issues that are facing this country today—they cannot even bring forward a bill that tackles the key issues in the electoral law situation. There are much more significant electoral funding and disclosure issues before the parliament, and with some political will from the government a consensus could perhaps be reached on these issues. They cannot even do that. At a time when we are soon to get to an election, the amount of legislative time available for this parliament is fast dwindling and yet their legislative priority is to fix up an internal financial dispute within the Liberal Party by legislation.

The opposition has argued publicly that a number of funding and disclosure issues require the urgent attention of both the Joint Standing Committee on Electoral Matters and the parliament. All of these issues deserve priority over this legislation. The government’s prioritisation of this bill over matters such as secret donations and the accountability of political parties demonstrates their real priorities and indeed their political desperation. This bill has no public policy benefits. The only beneficiary here is the federal secretariat of the Liberal Party and one faction within the Liberal Party which will be able to assert its dominance over other factions. They will be benefiting by an absolutely improper and outrageous misuse of the parliament. This bill is unnecessary, it is unjustified, it is arrogant, and the opposition totally opposes this legislation.

Mr HARDGRAVE (Moreton) (10.53 a.m.)—I have heard a few acorns being grown into oak trees before from those opposite, but not quite as much as we have heard on the Commonwealth Electoral Amendment Bill 2001 this morning, something that is just so simple and so procedural that we do not need to waste much time of the House on it at all. There is no change in the amount of money that is being appropriated for the purposes of election funding. There is no change in any circumstance other than the destination of that money. There is nothing that is not disclosed. There is nothing that is held in secret. There is nothing that is not open to accountability. There is nothing that is beyond the public gaze out of anything to do with this legislation. It is a simple and straightforward matter. But those opposite saw an opportunity to use this legislation to attempt to create all sorts of fanciful circumstances and one-liners, such as ‘dash for cash’ and other things that are being thrown at us this morning. All of these one-liners are being thrown around this morning with gay abandon. I find it an unamusing waste of the time of the parliament.

It is important to note that those opposite oppose this legislation simply because they do not want the Liberal Party to be able to do what the Australian Labor Party already does and, for that matter, what the Democrats already do. The big difference that those opposite do not understand with the way that a political organisation like the Liberal Party works—

Mr Brough—Oh, yes, they do.

Mr HARDGRAVE—The minister suggests that they do understand. I suggest that the minister is probably right: they do understand that the big difference between the way the Liberal Party and the Australian Labor Party work is that there is actually nothing within the rules of the Liberal Party that enforces the great will of one or enforces the
great will of the central governing body of the Liberal Party onto others within the Liberal Party organisation. The Liberal Party is proudly a consequence of the Australian political body politic; that is, it is an organisation that is based on the federation of Australia, with individual state divisions running their own game. With the way that federal elections are now being run, it is understandable that the federal Liberal Party would want to be able to direct those campaigns and be sure of where the funds are to back up the need to campaign for the votes of all Australians. That really is what this bill is about. It is about bringing the Liberal Party, in a sense, in line with what the Labor Party do through coercion within their internal systems. It is about what the Democrats do as a truly federal party, in the sense of being a centralised party. So in that regard this legislation is really quite tedious and of no great consequence to the great debate of national politics. But those opposite will choose to try to generate it into something else.

One aspect of the contribution of the member for Melbourne with which I can readily agree is that there is a series of huge priorities that need to be looked at under the Commonwealth Electoral Act. I would like to try to bring my contribution around to some of the further priorities raised already by the member for Melbourne, such as the need to look at some other initiatives within the Commonwealth Electoral Act to try to ensure integrity of the electoral process. Unlike those opposite, I do not want to spend my time talking about politicians type issues but rather about issues important to the average person. It is important to state clearly that the integrity of the electoral process is at the heart of the integrity of the democracy that we have enjoyed for the past 100 years. The integrity of the electoral process is absolutely vital to ensure that what we have enjoyed in this country for the past 100 years continues for the next 100 years and beyond. The integrity of the electoral process is hinged completely on the way the electoral roll is organised, the way people who come to vote are verified, and the way those who enrol to vote are verified.

These are matters that we have heard a lot about in the past 12 months. So I guess in that regard there is yet another motive for why those opposite want to try to create some kind of unnecessary controversy out of what is simply a pretty boring procedural matter. That is, they want to try to hide the sorts of corrupt practices that have been allowed to develop by an electoral roll process that does not enforce the need for identity. They want to try to hide the sorts of processes that the Australian Labor Party-union nexus provides the manpower—or, should I say, 'person power'—to implement; that is, firstly, the rorting of the electoral rolls, the enrolment of people, and, secondly, the number of bogus votes that are cast on every day on which there is an election in this country. Bogus votes occur all the time. We have no way of ensuring that those who claim a vote are in fact entitled to that vote or are legitimately the person they say they are when they come up to claim. The only test ever offered is the polite, almost old-world and gentlemanly approach of, ‘Have you voted anywhere else today?’ That is the only question that is ever asked. If you are about to deceive, you are never afraid to say, ‘No, I have never voted anywhere else today,’ and on you go.

One other big difference between the Liberal Party and the Labor Party—apart from the fact that the Labor Party enforce their right from a central management committee from the Leader of the Opposition down—is that the Liberal Party, as an organisation, is the ultimate volunteer organisation in Australian politics. It is an organisation that is made up of the mums and the dads, the young people and the old, who are themselves involved in real world activities, who are involved in small business, who are involved in working for various organisations, governments and private enterprise, who are legitimate Australians who volunteer their time because they believe in the sort of country they want to try to create. They are not, as automatically contrasted with those opposite, paid union officials who are taking money from the 100 per cent of union members to prop up apparatchiks, to install them in key locations, to get them out there to actively participate in the political process of
electoral enrolment and, indeed, for that matter, as evidence has been produced over the last 12 months, all too often in electoral fraud. It is people only from the Australian Labor Party who have found themselves in jail as a result of their activities in that regard.

A lot of huff and puff and blarney has come from those opposite and will continue to come, because I note that originally there were going to be only three speakers from those opposite, but someone had the brilliant plan of turning this into an attack on the Liberal Party. They will play politician, rather than just simply getting on with the business of trying to run the country, as most people would expect. The huff and puff and blarney from those opposite has now been excelled. We now have three extra speakers from the opposition, so they have doubled their speaking numbers. They want to delay the parliament on what is a very simple procedural matter to try to create some kind of smokescreen for their complete lack of integrity with regard to the electoral process in this country.

It is important as we reflect on 100 years of democracy in this country that we realise that our system of preferential voting, our system of the universal franchise and our system of compulsory voting is quite unique in so many ways across the world. Our system is, indeed, our system, so therefore our system needs to also look at ways to constantly enhance the integrity of it.

I worry when I look at the way that some of the various state electoral commissions organise their lot in life. I worry when I think about the Australian Labor Party in the thirties, forties and fifties in Queensland when we used to see dumbbell shaped seats around provincial cities, running along railway tracks to the next provincial city. They ensured that there was a dumbbell shaped seat up through the Gympie-Maryborough area, with the Labor voting pockets all tied together, so that, with the way the electoral rolls were created, the Labor Party returned a member. By the 1985 redistribution, there was an awfully corrupt process as far as the electoral maps were concerned, the basis of which grouped voters together. The National Party in Queensland in fact refined the Labor Party's electoral rorting processes of the maps.

As a journalist I can remember very clearly talking to the Surveyor General of Queensland responsible for that redistribution. In 1985 when they released the maps for the 1986 election I pointed out Wujal Wujal. Dr Peter Coaldrake gives me credit for that; Quentin Dempster gives me credit for that. I saw Four Corners the other night raising the late Andrew Olle’s interview with Sir Joh about exactly the point that I raised. So I believe I bring some credibility to this debate. It was determined under the Queensland Electoral Act that Wujal Wujal must always be in the state electorate of Cook. When the boundaries of Barron River moved north, Wujal Wujal suddenly became this hole in the Barron River electorate. Labor voting members of the Aboriginal settlement of Wujal Wujal were assigned to somewhere 100 kilometres north. These sorts of things, which began with the trickery of the Labor Party in the thirties and were refined by the National Party in the eighties, drove me to the point of wanting to be in a place like this, because it is these sorts of things that strike hard at the validity of our claim to democracy.

It is disturbing to note that, even after the Fitzgerald inquiry in Queensland, the 1991 Electoral and Administrative Review Commission’s boundaries in Queensland equally were so rorted. There were rorts there as well when the member for Woodridge, Bill D’Arcy, now in jail for child sex offences, had a seat with 17,000 people in it. The seat next to it, Sunnybank, had 26,000 people. This was metropolitan Brisbane. This was the sort of thing that was going on even as late as the 1990s.

What I am trying to say is that I believe that state electoral commissions cannot necessarily be trusted in this country. In a lot of ways we need to centralise the process under the Commonwealth Electoral Act, the act which we are discussing today. We truly do need to have the Australian Electoral Commission take over the business of handling all state and federal election processes in this country, to take over the responsibility for
drafting the way the boundaries are carved, to take over the way the rolls are maintained, and of course, to centralise the identity needs for the integrity of the roll. That is my view on it. It is as simple as that. The time has come to end things like the gerrymander of the upper house in various states like Victoria and Western Australia. The time has come to ensure that some of the things that may have been happening in the Northern Territory over the last quarter of a century need to be stopped. The time has come to try to deal with some of the corruption that continues in the New South Wales political system. The time has come to deal with the Queensland matter as well.

The reason we need to deal with this is that we need to have a consistent concern for the integrity of the process that delivers government in this country in its various forms. We need to ensure that there is identity for voting. We need to bring in mechanisms to do that. We need to ensure there is identity of those who are enrolling to vote.

Opposition members interjecting—

Mr HARDGRAVE—Those opposite keep protesting. Every time the question of identity for voting comes up, the Australian Labor Party howls, changes the subject and brings up any sort of furphy like it has been doing in the debate thus far, and it will continue to do so. Why? Because it wants to silence the commonsense that Australians would like. Surely we as members of parliament must have reached the stage where we can agree that the process that elects us is far more important than any one of us. Surely we must have reached the stage of maturity in this country where we understand that, as so many forms of photo identity are available for the average Australian, we do not have to enforce one, as the Labor Party tried to do 15 years ago in the form of the Australia card, but we can trust the people to actually bring forward a form of identity to verify who they are. Surely we have reached the point in the electoral process in this country where we are not afraid to say that some are abusing the old-world gentlemanly trust that is exemplified every time we vote, with the ‘Have you voted anywhere else today?’ question.

There are those who abuse the trust and go around in gangs, as the Australian Labor Party has organised, and as we have heard evidence of in the last 12 months, and claim to be people they are not and pervert the outcome of elections. I worry about the electoral roll in my own electorate, because when I send out mail-outs I get ‘no longer at this address’—mail-outs to people who have just enrolled and who, within three months of claiming a vote in my electorate, have moved somewhere else. Earlier this year, when the rolls closed in the Queensland state election in early February, out of some thousands of mail-outs I sent, I received 197 returns, that is, 197 people who were no longer there but were able to claim a vote, and 197 people who had an impact on margins in various seats. If I had that list, those opposite would have had that list. Unless we bring in an integrity measure such as identity when people come to vote, which is enforced by an integrity measure when people enrol to vote—

Mr Danby—It is a compulsory voting system!

Mr HARDGRAVE—I do not understand why those opposite are so passionate in their opposition to it. They keep interjecting to try and show that they are not in favour of this. I do not understand why those opposite are not in favour of this, unless, to paraphrase Shakespeare, they protesteth their innocence a tad too much.

Mr DEPUTY SPEAKER (Mr Nehl)—That is not an exact quote.

Mr HARDGRAVE—As I said, to paraphrase, Mr Deputy Speaker. My point is very simple: there is nothing to be feared from an integrity process on enrolment, and there is nothing to be feared from an identity process upon the execution of your right to vote. There is nothing wrong with that. In fact it is astonishing to note that, after all that happened in the Shepherdson inquiry, yet again in Queensland, coming out of the Labor Party’s headquarters in the Trades and Labour Council building in Peel Street are emails for the University of Queensland Union, telling people to find people to enrol and telling them to enrol to vote. It is a coordinated effort by the Australian Labor Party.
Here we have the Labor Party writing to caravan park residents in my electorate, saying:

Even if you have never been enrolled before, or if you have not voted for some time, now is the time to make your vote count. There is no penalty for enrolling now.

The Australian Labor Party are out there doing all their old tricks—things for which they were found wanting over during the past 12 months. Despite how much public exposure comes their way, they know absolutely nothing other than stacking the rolls. That is why they are going to spend the rest of this debate trying to bring up some ill-founded motive with regard to the very simple matters that are before us today. That is why they are trying to howl and scream about things that are simple and procedural. That is why they are doing it. It is very simple: they want to change the subject.

This is the same thing that we saw night after night here in this place at this time last year, as the evidence was rolling out from the Shepherdson inquiry. I remember one night when, after there had been some sort of suppression order issued by Mr Shepherdson as an unnamed federal member of parliament may have been implicated, none of us was supposed to mention that federal member of parliament. I listed all seven Labor members from Queensland, and they came in here and they were after my blood that night. Everybody on that side is paranoid about the exposure that would come from some form of identity come election day. In that regard they should stand condemned. It concerns me greatly, for the key reason that I have outlined in my contribution today, and that is that the integrity of our democracy is perverted by these sorts of corrupt practices.

Mr Emerson interjecting—

Mr HARDGRAVE—The member for Rankin is howling now. The integrity of the process is perverted. You have only to look at the headlines in the past couple of days after I predicted in February that, if the Beattie government were returned in record numbers, their arrogance would grow and that they would feel that it was okay for Labor to continue rorting. You have only to look at the editorials in the *Courier-Mail* and at the front pages of the *Courier-Mail* about the fact that the Australian Labor Party in Queensland, far from being magnanimous in their magnificent victory of February this year, are now closing down the opportunity to bring them to account. The changes to the cost structure for freedom of information is simply a continuation of the kind of wedge that the Labor Party are going to drive through the society of Queensland. That sort of arrogant, non-accountable approach to running a state can come only when you know you have got the electoral books cooked. That is why I say that no state electoral commission can be relied upon to do the right thing any more. No political party like the Australian Labor Party that opposes identity to ensure that legitimate votes are cast only once by legitimate voters should be allowed to continue.

The Australian Labor Party need to rise in this debate and assure me and the people of Australia that they believe in the integrity of the electoral process, to the point where they believe that the identity of the voter, once assured, in casting a vote once is okay by them. To do otherwise will simply line them up for the condemnation they deserve for the great rorting of the electoral process that they have continued to undertake right through to this very day. They should be condemned for the furphy that they are trying to run in this debate. *(Time expired)*

Mr DEPUTY SPEAKER (Mr Nehl)—Order! Before I call the next speaker, the chair would like to observe that in the period in which this occupant was here I did not hear the member for Moreton speak one word that was relevant to the bill before the House. I also noted the strictures and advice given to the chair by those on my left. Having heard the member for Banks and the member for Melbourne Ports, who will both speak in the debate, complain about the lack of relevance of the member for Moreton, I hope that they follow their own advice and speak to the bill. I have grave doubts that that action will be followed, but I will try to be fair to both.

Mr MELHAM (Banks) *(11.14 a.m.)*—To be clear, Mr Deputy Speaker, I am quite happy to be relevant and speak to the Com-
monwealth Electoral Amendment Bill 2001. But, as you appreciate, the honourable member for Moreton has opened up this debate and made a number of serious allegations, and they will need to be responded to. I did not take a point of order, because the honourable member for Moreton, whom we could probably nickname Nostradamus because he kept giving us predictions and telling us how they were coming true, has raised a number of issues in relation to the Electoral Act which the Labor Party is quite happy to debate. I think he needs to be responded to immediately.

During its period in office, the 13 years between 1983 to 1996, the Australian Labor Party looked at the integrity and transparency in the roll and allowed the independent umpire, the Australian Electoral Commission, to operate in an environment which has our electoral system as the envy of the world. Under this government, we now have a situation where they want to turn Australia into the Florida of the world. The amendments and the acts that the honourable member for Moreton talked about in relation to identity and a whole range of other things will be dealt with in other bills coming before this parliament.

Let us be clear: the Australian Labor Party has a proud record when it comes to the administration of the Electoral Act in this country, and to supporting the Electoral Commission. That record dates back to the initial report that was produced in this parliament in the early eighties by the then honourable member for Prospect, Dick Klugman. I note that Senator Robert Ray and others were on that electoral committee. We oversaw improvements in the Electoral Act. I was a member of that committee, the Joint Standing Committee on Electoral Matters, from 1990 to 1996. That is why members of the Australian Electoral Commission are now sent overseas as independent observers.

The honourable member for Moreton was going on about a furphy in his speech. It was not relevant to this bill, because this bill is indefensible. It is notable that only the honourable member for Moreton gets up to try to defend it. You do not see the honourable member for Hume, Mr Schultz, in here. You do not see the Chairman of the Joint Standing Committee on Electoral Matters, the member for Sturt, Mr Pyne, in here defending this bill, because the bill before the House is red hot. It is a rort that has been perpetrated from the Prime Minister’s office and the current secretary of the National Liberal Party, Mr Crosby, in terms of an internal dispute within the Liberal Party. That is what the bill before the House is about. This bill is unnecessary on any objective evidence. What John Howard wants to achieve—

Mr DEPUTY SPEAKER (Mr Nehl)—The Prime Minister.

Mr MELHAM—What the Prime Minister and Lynton Crosby want to achieve can be done by agreement. I notice that this bill does not have references to the Labor Party. Of course it does not, because we have agreement in the Labor Party. The Parliamentary Library has produced a terrific Bills Digest which pings this bill for what it is. What we have is an internal blue within the Liberal Party and the Prime Minister has now become a centralist. He wants centralised funding to the Liberal Party national secretariat because he cannot get it through his state branches. What we have here is not the traditional Liberal Party—the states based party and the federalist party.

I was listening to AM this morning—it is compulsory listening of a morning. I noticed that there has been a blue in the party room and Senator Herron has been verballed in terms of his views in the party room, as have a number of others. They are not happy. That is what this bill is all about. It is about resolving the internal problems of the Liberal Party and giving little Caesar more power in the national secretariat so he can run his national campaign the way he wants it. That is what this parliament is being asked to do, and it is red hot.

One of the reasons why the Labor Party is opposing the bill is because you are not seeing definitions in the bill with respect to the Australian Labor Party. We are a nationally based party with state branches, but we have reached agreement. The Bills Digest states on page 3 in this regard:

Another rationale alleges that the amendments serve to settle an unresolved dispute among the
Federal Secretariat and certain of the State and Territory Divisions. As indicated, while the State and Federal Branches of parties are entitled to determine by agreement the distribution of election funding, the State and Territory Divisions and the Federal Secretariat have not yet lodged such an agreement with the AEC.

What this government wants to achieve can be achieved without legislation. You just need to sign up to it. But they cannot get their state branches to sign up to it. So in a desperate act, in the dying days of this parliament, the Prime Minister sends in this legislation to resolve an internal dispute that he has in the Liberal Party, because he is going to do whatever it takes to give him his best chance at the next election. All of a sudden, the Prime Minister has become a centralist. I would not mind if he was consistent, but he has turned his back on his beliefs in his last desperate, remnant attempts to hang on to power.

This bill is unnecessary. It is a rort because it is about resolving internal problems in the Liberal Party and it has nothing to do with integrity and transparency. The Liberal Party can do what it wants to do by agreement. It is an abuse of this parliament for us to be debating legislation to resolve the internal differences of the Liberal Party. If you do not think that there are internal differences, have a look at their speakers list. You would expect the Chairman of the Joint Standing Committee on Electoral Matters, the member for Sturt, to come in and debate this. He knows that this is red hot. He has been trotted out on the mantra of integrity of the roll on other things because he is looking for his ministry in the next Howard government if they happen to be elected. However, this is too red hot for him. So they pull out the member for Moreton.

Let it not be said that the Labor Party are being uncooperative; we are not. We are calling this for what it is: a rort. It is unnecessary. The Democrats occupy a special position. They raised their concerns some years ago and that was addressed when we were in government. Why? Because the Democrats have a different structure. They have a national base and they are a nationally based party. That is why they are referred to in the Australian Electoral Act. They were given dispensation. But both the Labor Party and the Liberal Party have national structures; we both have state structures. We have got our differences in the Labor Party—we are a broad church—but we resolve them. We did not come into the parliament seeking weasel words and clauses to resolve our differences. We said, ‘When it comes to national elections, we have a national secretariat. It will be the national organisation that has control,’ and the states signed up to that. But what we have here is the Liberal Party wanting this parliament to do over their state branches because they have not got the guts or the numbers to do it. The parliamentary secretary knows the debate that occurred in his party room. This legislation is unnecessary, and it is an affront to the parliament that we have to debate it in the dying days of this government.

Members opposite go on about the integrity of the rolls, and I want to address some of the matters that the member for Moreton raised. The amendments that will come before this House from the Liberal Party have nothing to do with the integrity of the roll or transparency: it is about knocking off votes that they do not think they will get in the general election. It is like the old Florida performance in terms of the legislature over there, and frankly in terms of their politically appointed judiciaries, all the way up, unfortunately, to their Supreme Court. The honourable member for Moreton comes in here and talks about all the returned mail. The Australian Electoral Commission has already answered that. One of the problems with him and the member for McEwen is that they have not got their postage system up to date. A lot of the problems that they have had with returned mail is because they are using old mailing lists; they have not got their proper, updated mailing lists.

The Labor Party has already said, in relation to these other matters, ‘Produce the material.’ No, they come out with simplistic solutions, trying to bring discredit to the whole system when we know there is an odd person here or there doing the wrong thing. What is going to happen as a result? They want to close the roll off on the same day as an election is called. What will that do? Dis-
enfranchise 80,000 prospective voters, and a whole range of other things. And it is all on the record. The only reason I am raising this, while the parliamentary secretary jumps to his feet—

Mr Slipper—Mr Deputy Speaker, I raise a point of order. I wish the honourable member for Banks would direct his mind to the subject matter of this particular legislation. He is straying very widely from the bill.

Mr DEPUTY SPEAKER (Mr Nehl)—I thank the parliamentary secretary very much indeed. The reality is that, as introduced by the member for Moreton, it has been a very wide-ranging debate. I might say that if the standing orders were to be observed as strictly as they should be for all members of this parliament we would only need to sit for one day a week or a month, because most of the speeches are not that relevant. I have to say in defence of the member for Banks that he has been more relevant to the content of the bill than the member for Moreton and, while I accept the validity of your comment, it has been a wide-ranging debate and in fairness I have to let the members on my left continue.

Mr MELHAM—I do not want to continue to abuse it, though I think the member for Moreton did range into areas and was scoring political points. But the point I would like to make is this: the Labor Party always stands ready in a nonpartisan, nonpolitical fashion to improve our electoral system. Our history shows that. But what we have here is a pattern of legislation and amendments that are being introduced not for transparency or integrity of the electoral roll but for political advantage. The current piece of legislation is being introduced into this parliament because the Prime Minister sees political advantage now in the money going to the federal secretariat of the Liberal Party. The Labor Party has no objection to that if that is what they want, but let the Liberal Party sort out their own dirty linen under the existing act.

The parliamentary secretary in his second reading speech, which was very short, has not said that what they want to do cannot be done under the legislation as it currently stands. Of course it can be done, and the Labor Party is the shining example. Our money is going to our national secretariat. Our money is going to our national secretariat because the states ticked it off. Let us be clear: the Liberal Party cannot say, ‘We’ve been robbed!’ When this legislation was introduced, where was the Liberal Party? Why was this legislation drafted this way in the first place? Because the Liberal Party wanted it that way.

This legislation, which specifically refers to the Democrats, was designed for the Democrats because they were up front and said, ‘We are a national based party in terms of our membership lists. This is the way we want it done,’ and an agreement was reached. But both the Labor Party and the Liberal Party also signed off on it, and what has happened? We have achieved funding to our national secretariat by agreement. The Liberal Party have been unable to sort out their ideological debate about centralism and states rights and the role of their state branches and so they have now introduced this legislation into the House so that this House will resolve an internal blue within the Liberal Party.

I say that we should not do it. We should tell them, ‘Go back and do your own dirty work. This is not about integrity. Don’t come here to us and say that what you want to do cannot be done under the legislation as it currently stands; it can.’ All the Prime Minister has got to do—and Lynton Crosby, their national secretary—is get their state branches to sign up and this legislation is unnecessary. Go and get all your state branches, bring out your agreement, tick, tick, tick and lodge it: the legislation is not required. That is the real test. That is why they are not lining up on the other side to support this, because you know and I know, Mr Deputy Speaker, that they are blueing. This is red hot and they know it is red hot. I have no problem with an argument about states rights or whatever, but let the Liberal Party resolve it. Don’t demean this parliament by bringing in sleazy, grubby legislation to resolve internal disputes, because that is how you impugn the electoral system, the Electoral Act and our independent umpire, the Australian Electoral Commission.
I say to members of the public who are listening: this bill does not come forward as a recommendation from the Joint Standing Committee on Electoral Matters and it does not come forward as a recommendation from the Australian Electoral Commission—and that is the test. Who is initiating it? It is coming from within the bowels of the Liberal Party, from within the bowels of the Prime Minister’s office. I say to you: it is not a priority, it is not necessary. The legislation is not deficient; this government, their Liberal Party secretariat, signed up to the legislation as it currently is. This bill deserves to be defeated and consigned to the dustbin of history.

Mr Slipper—But you are supporting it.

Mr MELHAM—No, we are not supporting this bill at all. You were not here, brother. We are opposing it. That is why I am here to give you your little message: don’t come into the parliament to resolve your disputes in the Liberal Party; don’t demean this parliament. That is why the Labor Party is not supporting it. The bill should not be here. It should not be necessary. Your Prime Minister should be getting up and tabling the agreement that he has from all the secretaries of the Liberal Party around the country at a state level and saying, ‘Here we are: we do not need to waste the time of the parliament—we have agreed.’ He cannot do it. The poor old Parliamentary Secretary to the Minister for Finance and Administration knows. He did not have much to say in the second reading speech—he got given his words to read and he dutifully read them.

They are trying to make out that this is just a non-contentious, straightforward piece of legislation. It is a piece of garbage. It shows how the Prime Minister and his office and the secretariat are now trying to debase this parliament and bring it into an internal dispute in the Liberal Party. They had their chance a couple of years ago. The legislation allows them to have their money sent off to the national secretariat of the Liberal Party; they do not require this legislation. That is why the Labor Party is opposing this legislation. It has got nothing to do with integrity of the rolls. But we say: be wary of simple slogans. What the government are trying to do in the other bills that they want to bring in, as shown in the speech by the member for Moreton, is to mislead the electorato into thinking that their amendments are about integrity and cleaning up the rolls. They are not; they are about gaining political advantage. What they are going to do is use a sledgehammer to crack a walnut in a number of instances. If their other amendments and regulations go through as they are, people will be disenfranchised, not because they are not legitimate people voting but because they are the disadvantaged and the poor in the community.

So this piece of legislation deserves to be thrown into the dustbin of history, because it is not urgent, it is not a priority and, more importantly, it is not necessary. It is not necessary because the Liberal Party can get a cheque made out to its national secretariat merely by getting the state branches to sign up and say, ‘Give it to them and they will distribute it.’ That is what the act allows. The Labor Party has done it. We say to the Liberal Party: go and do what we had to do—go and resolve your internal differences in your own branches, in your own political party, but don’t demean this parliament by bringing in legislation such as this at a critical point in the electoral cycle, and not because you are about cleaning up the rolls.

This is unusual for this Prime Minister. And it is interesting that some members of the Liberal Party secretariat are talking about GST implications, saying, ‘We have to do this to avoid problems with the GST.’ The Bills Digest exposes that myth. But if there are problems with the GST, they are of the government’s own making, not of the Labor Party’s, because we opposed the GST all the way down the line. So the Labor Party will be opposing this bill. It is unnecessary. It is red hot. It is a rort by the Prime Minister and Lynton Crosby. It does not deserve to be passed. (Time expired)

Mr DANBY (Melbourne Ports) (11.34 a.m.)—I wish to join the members for Banks and Melbourne in opposing the Commonwealth Electoral Amendment Bill 2001. I do not think anyone could have been as elo-
quent as the member for Banks in exposing the fact that this amendment is absolutely unnecessary to do what could have been done by simple discussions in the Liberal Party. In fact, what this amendment is was revealed on the AM program on the ABC, which, as the member for Banks says, is compulsory listening. There is a severe difference between people in the Queensland branch of the Liberal Party—particularly Senators Mason and Brandis, who are very strongly opposed to this amendment—and the national secretariat of the Liberal Party and, apparently, the Prime Minister.

The act currently provides that public funding is to be paid to an agent of the state or territory branch of a party for the state or territory in which the candidates stood. As the member for Banks said, that was the arrangement that the Liberal Party sought in the beginning. The Labor Party, quite differently, has arranged, via agreement by its state branches, for our federal matching funding to be paid to our national secretariat. The exception to this, which was mentioned by the members for Melbourne and Banks, is where a state branch lodges a notice with the AEC requesting payments to be made to the agent of another party. This amendment provides a simple mechanism for state and national offices of parties to register agreements over which a body will receive public funding. In the case of the ALP, as I have said, our national secretariat reached agreement with all the state ALP branches so that the national secretariat would receive this funding.

It is clear that the Liberal Party federal secretariat is unable to reach a similar agreement with its state divisions, particularly with its Queensland division. I notice they had to wheel out someone from their Western Australia division this morning to try to see that it had some support from the state divisions. I know there is opposition in other states from other people in the Liberal Party. Given the financial and political problems of the Liberal Party’s state divisions, particularly its apparently bankrupt Queensland branch, the federal secretariat is desperate to create a mechanism so that it will receive and determine the distribution of public funding due to the Liberal Party following the 2001 and subsequent federal elections. I suppose in an economic rationalist sense—the ethos that informs this government above all else—this is quite a sound principle from its point of view, and this is what Mr Crosby and the Prime Minister have in mind. They do not want to throw good money after bad. They do not want the Queensland Liberal Party branch profligately spending this money and they do not want it going into a branch which is obviously so incompetent it does not even have a cricket team in the Queensland parliament.

The exception of the Australian Democrats was raised by the member for Banks and the member for Melbourne. They explained that, because the Australian Democrats had a different political set-up from the beginning, the legislation dealt with them in a quite different way. The member for Moreton was the only person the government could wheel out to defend this highly unusual legislation—apart from Queensland Liberal senators, who are vociferously opposed to this ‘dash for cash’ as the member for Melbourne called it, by the Liberal Party national secretariat and the Prime Minister—which attempts to fix up internal Liberal Party finances and differences in state divisions with federal legislation. The member for Hume, Mr Schultz, has now joined in opposition to this. He has questioned the federal government’s decision to use parliament to try to change the party’s funding rules. The member for Hume has said that the parliament and the government should give more thought as to how it deals with these matters. He said just this morning:

That is a decision that has been made at a senior level of the party and, whilst I may have some personal views as to whether that is appropriate or not, it is immaterial. It has been made by a senior level of the party and the party will follow it through.

So he was putting the finger on the Prime Minister’s office and the national secretariat. This is not something that the member for Hume supports either. This is something that is being brought about at a very senior level by the government.

The member for Melbourne raised what I think is the crucial point in this whole de-
bate, and it was opened up by the member for Moreton: the lack of principle that informs this amendment. The member for Melbourne said that there were much more serious issues of electoral funding before the Joint Standing Committee on Electoral Matters, of which I am a member. The member for Banks pointed out that this peculiar amendment—this ‘red-hot’ amendment, as he described it—had never been recommended to this parliament by the Joint Standing Committee on Electoral Matters. It has not come from the minister’s office via the Australian Electoral Commission. Serious matters of corporate donations and foreign donations have been identified by the Australian Electoral Commission, but there has been no principle that informs this decision. It is simply the result of an internal Liberal Party brawl that the government is trying to solve by having this parliament make a decision that should have been made freely between the various state offices of the Liberal Party.

The member for Moreton used the very strong language that the integrity of the electoral roll was in danger of being perverted. That, coming from the government, is really an inversion of reality. Let us look at some of the issues of principle that we should be looking at as a parliament. They were raised by the member for Moreton and give some context to the extraordinary proposals advanced by the government this morning, which were not advanced out of any principle or by the relevant independent commissions or by the relevant committees. I particularly want to turn to the issue of the proposal to close the electoral roll. Enrolling to vote is not often at the front of a first-time voter’s mind, usually a 17- or 18-year-old. They want to participate in our democratic process—they have to because of our compulsory voting system—but voting is not necessarily at the front of their minds. The proposal advanced by Mr Lynton Crosby—and this is part of his plan: get the cash, exclude the young voters—to limit the number of people who are allowed to enrol was first revealed in the post 1998 election report of the Joint Standing Committee on Electoral Matters. This amendment, which deals with the proposal for an early closure of the electoral rolls and other regulations about witnessing, which I will come to in a minute, is part of this wider context of the government’s lack of principle when dealing with these matters.

The matter of younger people and the people who enrol in the week after the election is announced is a serious one. I asked a question on notice on this subject of Mr Fahey, the Minister for Finance and Administration representing the Special Minister of State, in Monday’s Hansard. The Electoral Commission suggests that some 400,000 people will have a change of address and will potentially be excluded from the electoral roll. A total of 80,000 first-time voters might be excluded if this Liberal Party proposal, from the same secretariat that is advancing this amendment, is carried through this parliament. As I told Melbourne radio this morning, this is not something that is simply a recommendation from the Liberal Party; this is something that has been passed by the Joint Standing Committee on Electoral Matters and, in the normal course of events, would be passed by this parliament and taken up by the government. The Liberal dominated Joint Standing Committee on Electoral Matters has recommended and taken up Mr Crosby’s suggestion that the voters roll be closed on election day. The Australian Electoral Commission, in Monday’s Hansard, said that 400,000 Australians would lose their democratic right because of this proposal and that 80,000 first-time voters would lose their democratic right.

The member for Moreton said that the Labor Party would be running ‘wedge’ politics campaigns. We are urging 17- and 18-year-olds to take the opportunity to enrol to vote—undermining the Liberal Party’s attempt to see that they do not—by going to their post office, filling out a green Australian Electoral Commission card, and sending it in to the Electoral Commission. There is no postage required. This way they can make sure they are on the roll so that the Liberal Party cannot disenfranchise them, which is their plan as recommended by Mr Crosby and by the Liberal dominated Joint Standing Committee on Electoral Matters. They want to disenfranchise people by removing their
opportunity to enrol in the week after the election is announced. If the young or first-time voter is provisionally enrolled, the Electoral Commission will have them on the roll when the election is announced and the Liberal Party’s plan will not be carried through.

This is a most serious matter on the basis of evidence already before us. I would have thought if matters of principle were of concern, to Queensland members of the Liberal Party in particular, they would be more concerned about the fact that 40 per cent of 18-year-olds in the last Queensland state election did not register to vote. The Australian Electoral Commission has a wonderful advertising campaign directed towards young people but, in every election since 1983, young or first-time voters used the period in the five days after the election was announced to enrol. At the last election in 1998, 65,000 people enrolled during that five-day period. With the growth in Australia’s population, the Electoral Commission predicts that 80,000 first-time voters could miss out on their opportunity, even after the Electoral Commission’s public relations and advertising campaign advising people about their ability to provisionally enrol.

The possibility that so many young people could miss out is very strange, based on the context of previous reports. I remember reading last year about the ‘young fogeys’—generations X and Y—in the Australian newspaper, which wrote in great detail about these young people who support the Prime Minister. It is very strange. Why are they doing this? Why has Mr Crosby got these proposals? Why has Mr Pyne’s committee passed it? Why does the Liberal Party intend to treat young people like this, given all of the propaganda in the last 18 months about young people—whom they described as ‘young fogeys’—supporting the Prime Minister? Obviously, Mr Crosby has looked at the polling and thinks that these people will not support the government. Again, this is a matter of the lack of principle of this government in its treatments of these electoral matter issues.

This comes very much to mind when we consider the next area of the government’s lack of principle, which is their proposal to introduce regulations on witnessing. As the member for Banks outlined, this will make it a great deal harder for a large number of people to enrol to vote. People will have to have all kinds of ID and there will be a prescribed number of people who will be allowed to witness an enrolment form. It will make it a great deal harder for a lot of people to enrol to vote, particularly Aboriginal Australians. Again, I think this is part of a wider plan of the government and the Liberal Party, under the rubric of integrity of the electoral roll, to knock out voters who will not support them. This is, I think, what the whole rorts inquiry that was held during the last part of last year was really about. It was about knocking out voters who were not supporting the government.

The witnessing provisions are part of the context which the government has brought to us this morning, together with the lack of principle that it has when knocking out people who have changed addresses and with closing the roll early. The AEC takes a great deal of effort to communicate with 18- to 24-year-olds so that they can maximise their effective participation in the electoral process. It has electoral education centres in Canberra, Melbourne and Adelaide. It has this continuous roll update, the CRU program, that matches the databases from Centrelink, the Transport Accident Commission and various other databases, to bring people onto the electoral roll as quickly as possible. But the government has been determined over the last year to create this false sense of crisis about the integrity of the electoral roll, to minimise their rights to vote.

One of the things I remember in particular about the committee hearings was the testimony of the Electoral Commissioner, Mr Becker. Mr Becker explained that, in the last decade, Australia has had six voting opportunities: four elections, a constitutional convention and a referendum. On each occasion, 12 million voters took part. That is 72 million votes over a decade. What do we find with people who had falsely enrolled or against whom the Australian Electoral Commission was able to act? Even after Senator Ferris came out with her silly exam-
people about the cat that was enrolled in the seat of Macquarie in 1980, there have been 72 cases—out of 72 million votes. These people were able to produce from their inquiry one example of electoral rorting in a decade. I think the Australian people know that we have an electoral system that is the envy of the world. If we look at what has happened in the United States recently, we can see that we do a lot better than they do. We have a compulsory voting system, we have an obligation to the Australian people to see that we have the right to enrol—

Mr Slipper—It is an honour system—

Mr DANBY—The parliamentary secretary is getting very excited, because he knows the effect of my and other people’s highlighting of the fact that the Liberal Party want to exclude young people, people who are of Aboriginal origin, and people who have changed their address and will be denied the opportunity to participate in the Australian democratic process at the end of this year when the federal election comes up. That is what their agitation is all about.

The Australian electoral system works very smoothly. It is a very modern system. We do not need this kind of legislation. This is a completely unnecessary amendment that could easily have been fixed up by the Liberal Party in their state branches. As the member for Banks said, this legislation was introduced without any evidence being brought before the Joint Standing Committee on Electoral Matters, without any discussion and, as I have outlined, without any principle. Why are we debating this amendment to the Commonwealth Electoral Act to cover up internal ructions in the Liberal Party? That is what their agitation is all about.

Mr Slipper—Mr Deputy Speaker, I raise a point of order. As your predecessor in the chair indicated, this has been a wide ranging debate, but I suspect the Deputy Leader of the Opposition is ranging even more widely than anyone else and I ask you to bring him back to the provisions of the bill, which are quite specific.

Mr DEPUTY SPEAKER (Mr Mossfield)—As the parliamentary secretary has pointed out, the previous occupant of the chair has ruled that, due to remarks by other speakers, this is a wide ranging debate. However, I will ask the member for Hotham to remain as close to the bill as he possibly can.

Mr CREAN—I know they are sensitive. This is a Liberal Party with a piece of legislation to sort out their internal affairs. Just as they did a special deal for John Howard’s brother, the only family policy one could argue that the Prime Minister has, they are now doing a special deal for their party—one for the family and one for the party. They are the sorts of standards we are looking at in this legislation, and it is a disgrace.

Let us just try to understand why the Howard government is changing the electoral funding act. I will give this quote and then give the source:

The Commonwealth Electoral Act Bill contains measures amending the Commonwealth Electoral Act to provide that, following elections, public funding for the Liberal Party is to be paid in full or part to the agent of the Liberal Party of Australia—namely, the Federal Secretariat.
The quote goes on:
There’s no secret about it. It’s a Commonwealth electoral amendment bill. It simply puts in place that, in relation to funding of Federal elections, the funding which is due under the public funding system which goes to the Liberal Party is paid to Federal Secretariat as the agent of the state divisions, given that the Liberal Party is a state-based party rather than a Federal party. There’s no big deal about it.

That was said by Liberal MP Kevin Andrews, the member for Menzies, when he was briefing journalists after the party meeting that endorsed it, a party meeting that we know led to continuing confusion for them yesterday and division within their own ranks. Even within the ranks of the Liberal Party there is criticism of what they are doing here, and so there should be. This is a circumstance in which you are doing a deal to simplify the GST collection process because it is a complication for your party. But you have thousands of small businesses around the country telling you that there are complications associated with the way in which they have to deal with the paperwork of the GST and for them you do absolutely nothing.

We know you are proposing to do nothing for the small businesses of the country, because of the leaked cabinet memo that was produced in this parliament in the last session. It was a submission that was signed off by the Minister for Small Business that contained within it a cri de coeur from the small business sector, a group that has said that more needs to be done to simplify the GST. What do the government propose? Nothing. Yet they put forward as a priority in this parliament a secret deal—it is not secret now because we have blown their cover; it is a special deal—to simplify the GST for their party. I say to the parliamentary secretary at the table: it sounds like roll-back to me. This is the word you always want to ridicule. This is what you want to say cannot be done, but you are bringing special legislation into the parliament to do it for one select group in the community: the Liberal Party of Australia. Because their own constituent units cannot sort out the arrangements among themselves, we have to have special legislation to do it for them. What an absolute disgrace!

In the last couple of days, we have heard the government saying, ‘We can’t afford more money for health or education or aged care.’ Despite the crisis going on out there, there is no more money for them and nothing by way of legislation to address their fundamental problems. We are told that the government are too busy in the parliamentary schedule to bring forward other important pieces of legislation. But that is not the case with this legislation—this gets the special rush-through treatment. This story was referred to in the Canberra Times of 8 August this year. The article says:

The Liberal Party will side-step its own GST paperwork headache when it changes the law so its public funds are paid directly to head office. Currently, the Australian Electoral Commission pays the party’s public funding after each election directly to Liberal state divisions. The states then send some back to headquarters.

The great legacy of Robert Menzies, the Prime Minister’s icon, was to establish a party structure so that the states were autonomous and independent. The government will have Ming turning in his grave over this. They are changing the very nature upon which the Liberal Party was established because the GST has caused them a problem and has mucked things up for them. And why wouldn’t it have mucked things up for them? It has mucked things up for most Australian families and most small businesses.

This was supposedly the simple new tax that would solve everyone’s problems. It has not solved the Liberal Party’s problems. With 1,860 amendments on the books when the legislation is but a year old, it does not sound like a simplified new tax system to me. There have been 1,860 amendments put through because the government did not get this tax right. They never got it right. They were deceptive about so much of it. But it is not only about the 1,860 amendments that are being made to their GST; there are 84,287 tax rulings in relation to this simple new tax. What a joke! There are people out there who cannot comprehend this tax system. They are asking for simplicity and for the government to listen to them and do something that simplifies their process, but the government say, ‘No, we can’t do it. We
can’t legislate—but we will legislate for ourselves. We’ll do a special deal for our mates at Liberal Party headquarters because we are the party of the few, not the many. We don’t rule for all; we rule for a few. It is the way we have always operated, and we have no intention of changing. Forget the fine rhetoric in terms of us standing for the broader community; we are about self-interest alone and we will use the parliament to deliver that self-interest. It is an absolute disgrace.

Can you imagine, Mr Deputy Speaker, what the outcry would be if it were the Labor Party seeking to put through legislation to satisfy its own internal needs alone? But, because this legislation is fixing a GST mess, the cheer squad who always wanted the GST remain mute on these things. Why is it that, if we have such complexity, the only people who get a solution are those in the Liberal Party of Australia, not the small businesses of Australia and certainly not the families of Australia? The *Canberra Times* article goes on about why the problem has occurred for them:

... the goods-and-services tax introduced last year complicates the system, with the states forced to pay GST on the funds they send back to head office, and then claim it back.

I have heard businesses around the country talk about the complications in terms of their cash flow, where what they have to do is pay the funds up front and remit them when they have not received the claim back. As reported in the *Canberra Times* article:

That, according to the party’s Western Australian state director, Peter Wells, creates cash-flow problems.

I can remember the small business minister coming into this parliament and saying that he was not aware of any business where the GST had created cash flow problems. He should speak to his own party branch in Western Australia—it is a business and it has cash flow problems associated with the GST.

But the minister stands here and tells everyone, “There are no problems for small businesses in this country. There are no cash flow problems associated with the GST”—until Lynton Crosby gets on the phone to the Prime Minister and says, ‘Our Western Australian members are revolting. They are saying that they have cash flow problems. You had better fix it for us.’ And so they did: the government brought in a special piece of legislation. The *Canberra Times* article then quotes Mr Wells—in his revolt—as saying: To me it makes a lot of sense. Because why mess around with GST if you don’t have to?

So here we have the champions of the GST. This has been the Prime Minister’s and the Treasurer’s crusade. This has been the Liberal Party’s panacea for everything in this country. This is the simple new tax system. But you have the Western Australian Liberal Party director saying, ‘Why mess around with it if you don’t have to?’ There are small businesses in this country that would heartily agree, but they do not have a solution. They do not have the political clout with the Liberal Party to put through special legislation to help them out—only those in the Liberal Party have that clout. The article goes on to quote Mr Wells as saying:

Apart from the GST implications, the new system would be ‘tidier’, because election advertising campaigns were funded centrally.

We know about the advertising campaigns. They might be funded by the Liberal Party from time to time, but at the moment the most outrageous advertising campaign in the history of this country is being funded by Australian taxpayers. It is the advertising campaign that this government has rolled out to defend and supposedly promote its policies.

You must be sick to death of seeing the ads on TV, ads about ‘closing the gap’ in the hospital system—we have shown so many gaps in the hospital and aged care system over the last two days that it would make your blood boil—ads promoting work for the dole, or those famous Joe Cocker ads we remember: *Unchain my heart*. These were the unchained ads about what the GST was supposed to do in liberating people. Go and tell that to the small businesses of the country, which, rather than being unchained, have been wrapped up in so much red tape that they cannot move: the 1,860 amendments, the 84,000 private rulings, a tax act that in 1996 could be compressed into 3,000 pages which is now 8,500 pages, a promise that this government made to halve the red tape
on Australian businesses—look what they have given them.

Have advertising campaigns centrally but do not continue to deceive the Australian public about the merits of this GST—they are awake to you. It is an absolute disgrace that the expenditure on those advertising campaigns continues to run at the rate of $20 million per month. I say to the people in the gallery: imagine what you can get for $20 million a month. That is $240 million a year. Yesterday we were highlighting the gap in the public hospital system since this government came to office, in terms of running down the Commonwealth contribution to public hospitals. That is a gap that could be sensibly funded with access to another $240 million a year. We identified yesterday that 2,000 people are on the waiting list for aged care beds. The only place they can get treatment is in hospitals; they cannot get into nursing homes. This government are directly responsible for nursing homes, but will they put more money into them? No.

The Prime Minister on the weekend said, ‘It’s already a great system; nothing more needs to be done.’ He said that of health, he said it of aged care and he said it of education. They cannot find the money to put into important social community infrastructure, but they can find it to advertise their wares. They can advertise to try and dress up this bad tax, but they will not fool the Australian people. Federal Liberal Party director Lynton Crosby denied the GST motivated change. He said:

If there’s any GST issue—
If there is any GST issue? Give us a break! It is all about the GST; it is all about the complications for the Liberal Party. He goes on: but I’m not sure there is but I’ve heard one state say that—it’s only a timing issue ... There would be a cash-flow implication but that’s all.

This is after the Minister for Small Business says, ‘There’s no cash flow problem with the new tax system. It’s all perfect; everything’s running as smoothly as we want.’

Nothing that has been said about this GST has been proven correct. It has not been good for the economy; it halved the growth rate of the economy. It has not been good for Australian families: it has forced them further into debt. They are now more in debt, paying $100 a month more in terms of total debt repayments than when this government came to office. Why? Because the government has increased the charges to them, in particular through the GST, and because it has cut back the very services that they used to take for granted—dental services, hospitals, aged care, school funding. They have to fund those services out of their own pockets, but at the same time as they are putting their hands into their pockets to pay for the services that are being ripped away from them they have John Howard’s and Peter Costello’s hands right in behind theirs taking out another 10 per cent every time they purchase.

The GST has not been good for the elderly in the community, who were promised a $1,000 bonus and were ripped off. So many of them got nothing. We saw in the last budget the mea culpa by the government: they gave $300. The elderly got $300 instead of $1,000, or 30 cents in the dollar. Even the creditors of HIH are expecting to do better than that, but not the elderly in this community, who were deceived about the impact of the GST and are now finding out. We were told that the GST would not increase the inflation rate except as a one-off, but we now have inflation running higher than was expected. We were told it was even going to lift the Australian dollar, and we have seen it plummet to unplumbed territory. We were told that the price of petrol would not increase by more than 1.9 per cent, and it did, and they were forced into a GST roll-back on that. We were told that the price of ordinary beer would not go up by more than 1.9 per cent, and it went up by 10 per cent, until we forced them to roll back on that.

Now we are being told that the government cannot further simplify the GST for small business. Tell that to small business when you are prepared to put through this grubby piece of legislation to do a secret deal for the Liberal Party to simplify its GST collections. This is a government of hypocrisy, it is a government that has stopped listening, it is a government that is out of touch and it is a government that is a disgrace to
everything it stood for in the past, even to the extent to which it is centralising a party that Robert Menzies said should never be organised on that basis. Why is it doing it? Because the GST has forced it to do it. I am sure the legacy in terms of his standing would be sadly regarded in the current circumstances. This legislation is a disgrace; it is why Labor will not be supporting it. You cannot do special deals for your mates and ignore Australian small business. (Time expired)

Mr Emerson (Rankin) (12.13 p.m.)—This legislation, the Commonwealth Electoral Amendment Bill 2001, is an abuse of the Australian parliament. It is an attempt to use the Australian parliament to settle a grubby squabble between the federal and state divisions of the Liberal Party. The Prime Minister has no ticker. When he gets on the phone to a state Liberal director and says, ‘We’ve got to sort out our finances,’ they say to him, ‘No, we’re not going to do that.’ As a result, he comes into this parliament with this grubby bill and says, ‘We can’t sort out our own problems. We are asking the Australian parliament to sort them out for us.’ On our side of the parliament we will not be assisting the Prime Minister to sort out those grubby internal squabbles. They are squabbles over finance and they are squabbles over power. You do not have to rely on me for that, because it is quite clear that that is the Prime Minister’s view. He has recently said that, following the 1996 federal election, the Queensland division of the Liberal Party ‘had reneged on handing over its share of funding’. On this basis, he was reported to have ‘made it clear’ that the bill was going ahead.

Let us understand that it is an attempt to use the Australian parliament to abuse the Australian parliamentary processes to settle financial squabbles with the federal and state sections of the Liberal Party, and most particularly in my home state of Queensland. For reasons that are not fully known to me, Liberal Party members seem to come around to my house from time to time. I take the rubbish out on Wednesdays and I look in the letterbox. Usually I find the minutes of a particular Liberal Party annual general meeting or some other Liberal Party meeting. I have a number of them here. I take the garbage out and I bring the garbage in. I have here the minutes of the annual conference Liberal Party of Australia Longman FEC. It is a very good example of the financial squabbles that are going on in the Queensland Liberal Party. The reports of the chairman say:

A letter from Jeff Taylor to Senator Herron regarding—

Mr Slipper—Mr Deputy Speaker, I raise a point of order. The member, in raising this point of order, is absolutely out of order. This bill relates to legislation which is aimed fairly and squarely at dealing with the financial problems in the Liberal Party, and the member from Queensland is highlighting that point of view.

Mr Slipper—Can I make a comment first, Mr Deputy Speaker?

Mr Slipper—Mr Deputy Speaker, I raise a point of order. This may well be a wide ranging debate but, as far as the member for Rankin is concerned, he is way off the planet. I would ask you to sit him down, shut him up and ask him to come back to the substance of this legislation.

Mr O’Connor—Mr Deputy Speaker, I raise a point of order. This legislation, the Commonwealth Electoral Amendment Bill 2001, is an abuse of the Australian parliament. It is an attempt to use the Australian parliament to settle a grubby squabble between the federal and state divisions of the Liberal Party. The Prime Minister has no ticker. When he gets on the phone to a state Liberal director and says, ‘We’ve got to sort out our finances,’ they say to him, ‘No, we’re not going to do that.’ As a result, he comes into this parliament with this grubby bill and says, ‘We can’t sort out our own problems. We are asking the Australian parliament to sort them out for us.’ On our side of the parliament we will not be assisting the Prime Minister to sort out those grubby internal squabbles. They are squabbles over finance and they are squabbles over power. You do not have to rely on me for that, because it is quite clear that that is the Prime Minister’s view. He has recently said that, following the 1996 federal election, the Queensland division of the Liberal Party ‘had reneged on handing over its share of funding’. On this basis, he was reported to have ‘made it clear’ that the bill was going ahead.

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A letter from Jeff Taylor to Senator Herron regarding—
meeting ... The Chair also commented that Gary Parsons campaign for the state seat of Pumicestone—

Mr Slipper—Mr Deputy Speaker, I again raise a point of order. I just want to point out that, while there has been a wide ranging debate, the comments of the member for Moreton related to matters concerning Commonwealth elections. The member for Rankin is talking about internal party minutes from an alleged meeting of the Longman FEC. He is also talking about matters which are absolutely nothing to do with Commonwealth elections. To allow him to proceed in this way is an abuse of the processes of the House. Mr Deputy Speaker, I would ask you, notwithstanding the wide ranging debate in relation to Commonwealth electoral matters, to rule that this speaker— who ought not to be on his feet, because I have the call—ought to deal with the specific provisions of the bill before the chamber.

Mr DEPUTY SPEAKER—Order! I did not hear what the member for Moreton said so I am unable to comment. I can only act on the guidance of Deputy Speaker Nehl, who has indicated that this is a wide ranging debate. I will not uphold the point of order. I call the member for Rankin to continue his remarks but once again ask him to stick to the bill.

Mr EMERSON—Thank you, Mr Deputy Speaker. The point I am making is that it is a squabble with the federal secretariat of the Liberal Party, Lynton Crosby’s dash for cash bill. He is trying to get all of the public money sent to the federal secretariat and not to be in the hands of the state divisions of the Liberal Party. What I am about to point out is that this is an attempt to resolve a financial squabble, an example of which I am about to give. The minutes say:

The Chair also commented that Gary Parsons campaign for the State seat of Pumicestone had been strictly managed, and only monies available had been spent. This was in contrast to the Debbie Taylor campaign for the State seat of Glasshouse, which still had total debts of more than $9500 outstanding. Concern was expressed that a number of local businesses had not received payment and that this would have a detrimental affect on the re-election prospects of our Federal member for Longman Mal Brough.

Mr Brough, after the chairman gave this report, gave his report. He said that they must not rely on the Queensland Liberal Party for his re-election. Never a truer word! How could you rely on the Liberal Party for his re-election? The member for Fisher here knows you cannot rely on the Queensland Liberal Party, because it is broke and it is completely dysfunctional. They are brawling all over the place. Again you do not have to take my word for that, Mr Deputy Speaker. You can take the word of the Fairfax Federal Electorate Council. I quote:

For far too long, the Liberal Party has been the news rather than its elected representatives making the news. Groups within, continue to fight for control of an organisation that is increasingly seen as irrelevant in today’s professional political world.

Mr Slipper—Mr Deputy Speaker, I wish to take a further point of order. While the debate has indeed covered a range of matters, the member for Rankin is circumscribing the forms of the House and abusing the standing orders. I ask you—I plead with you, Mr Deputy Speaker—to enforce the standing orders of the House of Representatives.

Mr DEPUTY SPEAKER—Order! There is no point of order.

Mr EMERSON—The Fairfax Federal Electorate Council minutes go on to say:

The Queensland Division does not belong to those few who continue to divide us.

That is what this bill is about—trying to legislatively heal a division between the federal secretariat of the Liberal Party and the Queensland division. That is exactly what this bill is about, that is why it is an abuse of the parliamentary processes, that is why we are so angry about it and that is why we are going to oppose it. Now let us go to the minutes of the division of the member for Moreton. Here we see further internal divisions in the Liberal Party, because a motion was brought forward, saying:

This branch calls upon the State Executive to hold a postal referendum of all party members as soon as possible asking their permission to suspend the party’s constitution in order to allow the Federal Secretariat to take over the party and restore the party’s finances ...
That is completely relevant to the bill. We have people here in the division of the member for Moreton—the people running his own division, his own electorate council—saying, ‘We want Lynton Crosby to take over the finances of the party.’ That is exactly what the bill does. These people would get their way if they had the numbers. The motion goes on to say:

remove debilitating cronyism, improve the party’s standing in the community, and restore the party to its proper place in Queensland politics ...

Then, when the member for Moreton had his chance, he talked about the budget—last year’s budget—and he is quoted in the minutes as saying that the budget was ‘not honest’. Well, there is not much honesty in the Queensland Liberal Party. By the way, that resolution was moved by Mr Mark Scott and seconded by Steven Huang, and it was lost.

Now we move on to the federal division of Ryan, where there is another unedifying mess going on, an enormous squabble, where we have candidates in a three-horse race. I have never seen the odds change so dramatically; you would think that they would be fairly stable. But in the preselection for the Ryan by-election there were three candidates: Michael Johnson at 10 to 9 on, Matthew Boland at 6 to 4 and Bob Tucker at 33 to 1. Johnson and Boland were from the same stable; they were running mates. But the Boland forces nobbled the Johnson campaign—made sure that he could not actually run—so he was a late scratching in that particular race. So what happened was that the backers of the Johnson stable—

Mr Slipper—I raise a point of order, Mr Deputy Speaker, in relation to relevance yet again. I have raised a number of these points of order and I regret the rulings that you have made. The member opposite is just so far beyond the provisions of the Commonwealth Electoral Amendment Bill 2001 that it is an abuse of the processes of the House to allow him to continue along the line that he is taking. I understand that you are usually fair. You did not listen to what the member for Moreton had to say. At least what the member for Moreton had to say had something to do with Commonwealth elections. Quite frankly, it is quite appalling, and outside the standing orders, to allow this member to stray as though he is on a world trip. He does not even know what the bill is about. Mr Deputy Speaker, I would ask you to bring him back to the provisions of the bill before the chamber. Not to do so would be to condone the appalling, out of order conduct by the member for Rankin.

Mr DEPUTY SPEAKER—Order! There is no point of order.

Mr EMERSON—It is not a world trip; it is a trip around the Queensland Liberal Party. So the market was framed then in the current preselection: Tucker 10 to 9 on, Johnson 6 to 4, Boland 33 to 1—he was an outsider because of his bust-up with his running mate. Then there was another attempt at nobbling, by the Boland backers at Tucker. They contrived a process for judging the winner. It was designed by that genius in the Senate, the lawyer Senator George Brandis, who said, ‘We will contrive a new system to work out who wins. We will not give everyone a vote, you see.’ So Mr Tucker took it to court and he won. Now they are going to have a full preselection. So there is a new market now with a full preselection. Johnson has a whole lot of votes that otherwise would not have got a go and Tucker has got a bunch of votes that would not have got a go. But the new market is Johnson; I think that he is going to get up at 10 to 9 on. Tucker is a 6 to 4 chance and Boland is 33 to 1.

But there are going to be more market fluctuations before this race even starts, because today’s Australian says there is another candidate, Dr Vallati—he must have been a 100 to 1 outsider; I do not actually know him. He is very upset because 1,100 statutory declarations have been sent out by the Liberal Party to potential preselectors in the seat of Ryan, saying, ‘You must declare whether you are an Australian citizen or not.’ This particular 100 to 1 outsider was very upset about that. The Australian reports that
he sent a letter to the Liberal Party—in fact to John Howard—which said:
The Liberal Party in Queensland reeks of defeat and it is just a matter of time when and who will dispose of the carcass … The Australian further reports:
Dr Vallati branded the citizenship mail-out as the ‘most insulting, offensive and slanderous document I have had the displeasure to receive in my 52 years as an Australian-born citizen and enrolled voter in Ryan’.

‘I accuse all those who had part in publishing this piece of racist, bigoted and hypocritical claptrap of extreme disloyalty to all of the principles which I and many other Liberal Australians, of whatever ethnic or national origin, have supported,’ he said.
The new party rules provide that only Australian citizens and those with residency, work or educational links to a seat can vote in preselections. That is wide open and that is why the Liberal Party is sending out the statutory declarations. The problem is that the Liberal Party in Queensland is disintegrating. Imagine calling on the Australian parliament to settle that. John Howard is saying, ‘I’ve got ticker,’ and then the state directors of the Liberal Party tell him where to go and he says, ‘Oh, well, I can’t prevail over them, so I will see if I can slip something through the federal parliament. Maybe people won’t notice. Maybe the Democrats will support us. Maybe the Labor Party won’t even know that we are doing it.’

In fact it is pretty amusing, I think. As our deputy leader and shadow Treasurer pointed out, Kevin Andrews was doing the briefing out of their party room meeting and he read out the details of one bill that was not on the list. He said, ‘Well, there were two lists, and I had the wrong list.’ So he went on to explain, ‘There is no conspiracy theory or anything else. I just read out from the list that I was not supposed to read from, because we hope that we can slide the bill through the parliament and maybe no-one will notice.’ But people do notice. And you know who else will notice? The small business community of this country. The other reason for this legislation is that the Liberal Party are struggling under the weight of the GST and the ‘simplified new tax system for a new century’. But they have now said, ‘The administrative burden is pretty heavy for us and we would like a special little deal legislated by the parliament just for us—’

Mr O’Connor—just for the Liberal Party.

Mr Emerson—just for the Liberal Party. Don’t worry about the hundreds of thousands of small businesses around this country. Don’t worry about any deals or any special arrangements for them. Don’t worry about any simplification for them. This is as simple as it gets.’ That is what they say to the small business community, but they in the Liberal Party want a special deal. That is pretty clear because, as the party’s state director in Western Australia, Peter Wells, said, ‘Look, it creates cash flow problems,’ which it does. This is that we have been saying. We invite the Liberal Party to make a submission to Labor’s BAS inquiry if they are truly concerned, as we are, about the cash flow problems and the administrative problems created by the GST. The member for Wills is the chair of that inquiry and I, as secretary, would welcome a submission from the Liberal Party at least owning up to the fact that the GST does impose a heavy burden on small business. They are trying to get this deal through here just for them. Mr Wells said, ‘Why mess around with the GST if you do not have to? If we can slide the bill through the parliament, all the small business people around Australia will still have to mess around with the GST, but we won’t have to.’ And that is what it is all about. It is about trying to solve this squabble that a weak-ticked Prime Minister and his federal director cannot settle, and that squabble is, in the clearest possible terms, in my state of Queensland.

It is pretty clear, too, that there is a lot of cynicism in Longman. The member for Longman said in his report that he hoped to announce university funding in July. Now here we are in late August and university funding has not been announced. Why? Because the government are going to hold it off until the election campaign. How cynical can you get? People are waiting and hoping for extra funding for the university in the seat of Longman, but in a completely cynical exer-
express the Liberals have now decided, ‘We will wait and hold that announcement until the election.’ I hope that announcement is forthcoming, that is for sure, because they are stringing the voters up there along with this on-again off-again promise that ‘we might do something for the university’.

Here we are debating the Commonwealth Electoral Amendment Bill 2001. What are we not debating and why not? I will give you are a few examples. The Wool International Amendment Bill 2001 is not being debated. Where is the member for Gwydir, the member for Eden-Monaro, the member for Gippsland, the member for Indi, the member for Groom and the member for Maranoa? What did they do in their party room when this was listed? They should have said, ‘The Wool International Amendment Bill 2001 should be debated ahead of some sort of sleazy deal.’ What about the regional forest agreements bill? The Minister for Forestry and Conservation comes in here all the time, thumping his chest and saying, ‘We have to get this regional forest legislation through,’ but where was he in the party room when the Prime Minister said, ‘The priority must not be the regional forest agreements legislation, which would give some certainty to industry; we have to concentrate on settling this squabble and getting square with Queensland’? He said so himself in the media that it was all about getting square with Queensland. Where was the member for Eden-Monaro, the member for Gippsland, or from Queensland the member for Blair and the member for Forde? Why didn’t they object to this being listed ahead of the regional forest agreements legislation?

Why aren’t we debating the Family Law Amendment Bill 2000? All Liberals say, ‘We are pro-family; we are in favour of families.’ The only family they are in favour of, as the shadow treasurer said, is Mr John Howard’s family. The Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2001 is not being debated because we are having to debate this. Where is the government’s commitment to the Sex Discrimination Amendment Bill (No. 1) 2000 and to the Broadcasting Legislation Amendment Bill 2001, which would allow the granting of more than one community licence in an area? The Ozone Protection Amendment Bill 1998 [1999] is dispensable too. What has happened to the child support legislation, the health and other services compensation amendment bill and several migration amendment bills? All of these are being put on the backburner because this Prime Minister lacks the ticker to settle this dispute. He thinks that he can come into the parliament and call on the Labor Party and the Democrats to settle it for him. How pathetic and how grubby is that? Of course we will be opposing this legislation. It is a total abuse of the parliamentary process. (Time expired)

Mr ANDREN (Calare) (12.33 p.m.)—Of all the reforms needed to the Commonwealth Electoral Act 1918, the Commonwealth Electoral Amendment Bill 2001 is by far the least worthy. Here we have the parliament of the nation debating what percentage of public funding should go to state or federal secretariats of the Liberal Party. It is more than interesting to trace the history of public funding. Introduced in 1983 under amendments to the 1918 act that we are amending here, public funding was not designed to ‘subsidise ongoing administration costs or provide a financial base from which future election campaigns could be fought’. I contend that with subsequent amendments, notably in 1995 and, indeed, now with these subtle changes, that is exactly what is occurring.

In those 1995 amendments the direct link between funding and costs incurred in a federal election campaign was broken. Scrutiny by the Australian Electoral Commission was curtailed and in the words of the Bills Digest to these amendments ‘the distinction between reimbursement for campaign costs and subsidy for ongoing administration’ was blurred. These amendments purportedly ensure that public funding is directed to the agent of the Liberal Party’s federal secretariat and not to state branches.

The public can rightly ask whether it is designed to settle a family dispute, notably between the Queensland branch of the party and head office. The Prime Minister is on the record as saying how concerned he was that
the Queensland division of his party had re- nered on handing over its share of funding after the 1996 election. And so, amid the continuing preselection brawling over the seat of Ryan and the decline of the Liberal Party in Queensland, we have to entertain legislation designed to help the federal division sort out its family squabble, while other more fundamental flaws in the electoral system are ignored.

The cost to the public purse of election funding is substantial and rising. In 1984 just on $7 million was paid out at 60c a primary vote to parties and individuals securing more than four per cent of the primary vote. By 1998 it had risen to $33.9 million at $1.62 a vote. Next election the rate will be almost $1.77 a vote, indexed steeply as a result of the inflation spike caused by the GST. How pensioners and small business wished they received full compensation for the impact of the GST!

The legal opinion on this bill suggests some real concerns about public account- ability. The Bills Digest says:

A law which permits the agent of the federal secretariat of the Liberal Party to determine the funding entitlements of a state division would seem to be a law which gives a private body—that is, the secretariat—the power to make an important public funding decision.

It goes on:
The apparent outsourcing of this decision from the AEC to the federal secretariat raises some difficult public accountability questions.

As the Bill Digest points out, there is no guidance in these changes as to the role of the agent of the federal secretariat in determin- ing federal and state percentages. I would go further: there are no guidelines as to what purposes such public funding, ostensibly for campaign expenses, is put. Similarly, the ALP and the Australian Democrats have a centralised control of public funding and, again, no clear accountability, so far as I can see, as to whether these funds are used to directly subsidise election expenses of can- didates or for other reasons.

Let me outline why I find it so offensive to be debating a bill that is designed to cen- tralise even further the so-called democratic processes in this country to ensure that the head office of the major parties controls the propaganda machines. Let me outline how offensive it is to be debating a bill like this when so much needs to be done to make our electoral laws transparent and fair to all. In April this year the Financial Review detailed results of an investigation that showed how leading companies were channelling millions of dollars to political parties in ways that ensure that they do not have to disclose it as donations to the Australian Electoral Com- mission. The newspaper reported that Aus- tralia’s system for disclosing political dona- tions was in disarray—deliberate disarray. I would say—with glaring discrepancies be- tween the level of donations declared by pol- itical parties, the amounts that big corpora- tions say they are donating, and the level of donations reported by the AEC.

According to the Financial Review, companies are making political donations by paying large sums to intermediary companies and investment vehicles linked to parties paying for unidentified services provided by political parties, or paying thousands of dol-Iars to attend fundraising events. Of course, we have also seen the so-called loans ar- ranged through associated entities. While the AMP lists a payment of $65,000 to the Lib- eral Party as a donation, the Liberal Party lists it as a receipt, which is defined as any money including in-kind services. One won- ders if anyone pays the GST. The National Australia Bank and the St George Bank, ac- cording to the Financial Review, have not declared any political donations in 1999 on the AEC records, but the NAB is recorded by the Australian Electoral Commission as pro- viding funds of more than $365,000 to vari- ous political entities, including the ALP and the Liberals and their investment vehicles, Labor Holdings and Vapold. These receipts are somehow not regarded as donations un- der current legislation, and according to a NAB spokesman quoted in the article of 20 April, they represent ‘other types of income that are reportable by the party but are not donations from the National, such as bank transactions and attendances at political con- ferences for commercial purposes’. In other words, as the Financial Review says:
Discordant opinions on what a company has reported and what a political party discloses makes it difficult to ascertain the levels of corporate donations to Australia’s political parties. I make these points to highlight that while we are debating how one party corrals its share of the $40 million available from public funding at the next election, the public has no way of properly knowing the degree or scope of funding coming from other sources. Public funding should be sufficient in any election campaign. The alternative is to head down the US path and have the second best democracy money can buy. In 1996, a US congressman had to raise $US600,000 in each campaign in order to be re-elected. By 2001, the figure is probably closer to $US1 million, with full-time fundraisers on each congressman’s staff. The influence over votes has been documented. I remember one story about the US IT industry and how massive campaign donations to both parties were followed by several sympathetic legislative outcomes. Public opinion and the uniring efforts of people like Republican John McCain have led the charge to reform the US donation regime and the electoral laws, but no-one is holding their breath that the reforms will be wide ranging or enduring enough while those laws are legislated by a majority of vested interests.

As it stands, there is very little chance of anyone being elected to this place who does not have party endorsement and support. Like a giant tsunami, the overwhelming resources of the major parties can sweep away an independent candidate. In 1996, at the very end of the campaign, slick television commercials produced at Liberal campaign headquarters in Melbourne told viewers in my electorate that a vote for Andren was a vote for Keating. At the Lithgow end of the electorate, more modest although significant ALP literature said that a vote for Andren was a vote for Howard. As a novice, and naturally unsettled somewhat by that blitz, I had to find $8,000 of my own resources to shoot and run a commercial to counter those fatuous arguments, by simply saying that a vote for Andren was a vote for Andren and that voters could allocate their preferences according to their choice. It gave me the opportunity to cement the completely free choice on my how-to-vote ticket, which people appreciated, and in many ways the clever-trick campaign backlashed on the major parties. But it underlined the resources that the major parties have that can swamp an independent or, indeed, a minor party candidate.

All up, the major parties spent about $400,000 on electronic advertising in Calare during the 1996 campaign. I spent $50,000 on the entire campaign, and about $15,000, from memory, on radio and TV. Public funding covered the lion’s share in 1995 and all of the budget in 1998. I believe that a cap of $50,000 per candidate should be mandated and audited to level the playing field for political campaigning in this country to give ordinary individuals the chance to stand for parliament. As in so many areas of public accountability, the Canadian model is worth close study. In those legislated outcomes, we see restrictions on the candidates’ and parties’ total spending. Public funding in Canada is based on the reimbursement of authenticated candidate and party campaign expenses and it is paid at a set rate of vote obtained, but importantly in Canada access to electronic media is intensively regulated. What an absolute joke were the high-minded reasons that were given publicly back in 1984 for the public funding of elections. The Labor Party argued that it gave the parties an equal opportunity to present their case to the electorate and that it diminished the likely influence of big donors. The Hon. Kim Beazley told this House on 2 November 1893 that:

It is simply naïve to believe that no big donor is ever likely to want his cut some time. The price of public funding is a small insurance to pay against the possibility of corruption. The trouble is the big donors got bigger, and I certainly am not so naïve as to think that a big donor is never likely to want his cut some time, especially with electoral laws that are so clearly and cleverly avoided as to hide the degree of big donations from big sources with big agendas. The former member for Gwydir, Ralph Hunt, got it right when, on 9 November 1983, he said:

I do not believe any system will effectively stop those who seek to avoid disclosure. It will not
stop those groups in the community who wish to support a party and its policy from doing so and avoiding the disclosure processes.

Not only do the parties enjoy funding disclosure laws that can best be described as non-disclosure laws, they are able to exploit existing parliamentary entitlements to further fuel the propaganda juggernauts with such things as use of staff overtime and travel allowances in complete defiance of so-called regulations, or that cuter term ‘conventions’, that enable use of full entitlements, for instance, right up to the time of the Prime Minister’s policy speech. For example, in 1998 the staff TA and overtime of ministers not up for re-election skyrocketed. Indeed, more recently there was the establishment of campaign bunkers months before the election in a capital city—staffed by whom? Not volunteers in all cases, I bet; perhaps a ‘cipher’ or two. Then there are the uncapped entitlements available day in, day out to carry on campaigns throughout the course of a parliament. And, on top of all this, there is $40 million worth of public funding.

The parties are on notice that the use of such entitlements is under the scrutiny of the Auditor-General in the lead up to, and during, this election campaign. However, as usual, one wonders what response, if any, the findings will elicit from this or any future government, because we would not want to upset the club, would we? In this regard, I also note the words of the Minister for Employment, Workplace Relations and Small Business when he introduced the government’s Workplace Relations (Registered Organisations) Bill 2001, which was designed in the interest of increased accountability to enforce more onerous reporting and disclosure requirements on unions. However, even with the Auditor-General concluding in his recent report on the entitlements of parliamentarians that ‘the control framework governing parliamentarians’ entitlements doesn’t effectively address the risk of abuse, irregularities and errors in expenditures’, there is no sign of any action from the government to increase the accountability of a system of entitlements wide open to misuse for party political purposes. That is double standards yet again when it comes to political interests. I am waiting for the prime minister with the gall to hold his policy speech until the night before voting day to exploit to the fullest the convention that the campaign begins when that speech is delivered, and only then do the parties have to dip into their mysterious reserves instead of into the public purse.

It is important in the context of this bill to remind the House of the arguments used to discredit public funding. A parliamentary research paper prepared in 1994 on this issue by Dr Rolf Gerritsen makes the following points:

Various critiques of public funding have emerged. It supposedly shifts organisational power from local/state membership and supporters to the central party bureaucracy and its national organs. This shift of the locus of power may have occurred in the ALP ... also despite the advent of public funding a similar centralisation of power is not obvious in the Liberal Party.

Well, it is today with these amendments. So both major parties in this country have completed the journey from grassroots to inner sanctum, the corporate model of controlling democracy so that it does not get out of hand and let real people interfere. Although I see that the Victorian Independents took a different line on public funding yesterday, I do not find it a problem per se. The problem lies in the control of such funding and the complete reluctance of government and opposition to make any moves on capping access to other publicly funded entitlements, or to make any moves on proper and transparent funding disclosure laws.

Again, it is interesting to note from the 1994 parliamentary research paper the observation that the Labor Party’s historical funding disadvantage vis-à-vis the coalition has been ameliorated by its incumbency, at that stage since 1983. As the writer says, this ‘may reflect no more than the greater acceptability of its economic policies to business’. You bet that was the reason, and the reason why the public are looking more and more for alternatives to Tweedledee and Tweedledum, with large slices of the electorate completely alienated by many of the economic forces driven by both parties across the Australian landscape over the past 20 years.
As we stand here debating whether the Liberal Party’s federal secretariat should have access to public funding in a hasty piece of amending prior to the federal election, what are we doing about the recommendations included in the report of the Joint Standing Committee on Electoral Matters of May this year? That was a report into the integrity of the electoral roll. For example, there is no sign of any amendments in line with recommendation 12, that the benchmark penalty for enrolment fraud be increased to 12 months imprisonment or that the Electoral Act be amended to ensure that the principle of one vote, one value for internal party ballots be a prerequisite for the registration of political parties.

Let me remind the House of the allegations surrounding electoral fraud in connection with the Queensland roll in recent years. In an eye-opening introduction to an updated publication by noted electoral author Dr Amy McGrath, the investigative journalist Bob Bottom detailed some of the electoral rorts he uncovered in relation to Bribie Island. Digging further, he unearthed discrepancies in voter turnout in that one Bribie Island booth in 1989 recorded an extra 879 voters in two years since the notorious 1987 federal poll. According to Bottom, that was the greatest population boom in Australia’s history.

Bottom records that, as recently as a few weeks ago, a so-called Labor Party insider made allegations about multiple voting in the 1987 federal ballot in the seat of Fisher, while the chairman of the National Party in Fisher at the time of the 1987 poll, according to Bottom, told the post-election committee inquiry that year:

On election day groups of people visited the booths and voted under different names.

The same allegations were made from two opposing parties 13 years apart about the integrity of the electoral roll.

Until all these things are properly closed off in the existing legislation by unanimous and multipartisan agreement, the public can have little confidence in the electoral process and will look with even more jaundiced eyes across the party political landscape, seeking alternatives. The only way to reform the system is with a non-rotatable voter ID, perhaps a card with barcode and photo. I know the issues of lower income or indigenous constituents and general privacy come into the debate, but we must protect the integrity of our voting system, and that needs across-the-board commitment.

I note that another protracted inquiry by the joint standing committee has been under way since last year into electoral funding and disclosure, but there will be no report and certainly no amendments to legislation in this parliament’s life, and no guarantee that there will ever be a report, let alone changes. The government is now displaying to the electorate the level of its determination to reform the electoral processes in the lead-up to the federal election by debating how public funds are divvied up by the Liberal Party.

Before I conclude, I must place on the record my great disquiet at the protracted delay in the registration of new political parties. I have been engaged in discussions with David O’Loughlin of the Lower Excise Fuel and Beer Party, who has been trying since February, along with seven or so other groups, to have a new party listed. I read with interest the Electoral Commissioner’s answer to me as to why this delay has occurred. The answer included two by-elections and the need to be satisfied new parties have not relied on the same members as existing parties for the purposes of registration. Given the registration of Country Labor in New South Wales and the failure of this House to support my amendments to the Commonwealth Electoral Amendments Bill (No. 1) 2000, it seems more than unfair that minor parties have been held up to the point that they stand little chance of being registered in time for the upcoming federal election.

In debate on that bill last October, I simply moved that the commission may not register an eligible political party where a political party that is related to it has been registered. That is the situation as far as I can see with Country Labor. There was no interest in this and a related amendment. It only shows how much our existing laws favour the major parties, framed as they are to allow the commissioner to register an eligible political party notwithstanding that a political
party that is related to it has been registered. This bill is about further concentration of political power away from the grassroots and it certainly does not have my support.

Mr BEVIS (Brisbane) (12.53 p.m.)—When dealing with legislation from this government, I have noticed that the titles given to the bills are very often misleading. I came to that conclusion in my portfolio responsibilities of industrial relations very easily. You need look no further than the government’s second wave industrial laws, which had the official title of ‘More Jobs, Better Pay’. There was not a person in Australia who believed that is what that law was about. But it does encourage you to read carefully what the title should be and what it is.

This bill has a most innocuous title. It is the Commonwealth Electoral Amendment Bill 2001, and that sounds straightforward enough. If they are going to use their usual standards, though, it probably should be retitled—something like ‘the Commonwealth Electoral Amendment (Liberal Party Funding Fix) Bill 2001’. If you read the bill, you find that in fact the Liberal Party is mentioned, in just six clauses of the bill, no fewer than 30 times. There are only a few pages in this bill; nearly every paragraph has the Liberal Party mentioned in it. This is a bill that has one purpose only: it is to fix the Liberal Party’s internal headaches. That is what the bill proposes to do; it has no other purpose.

The people of Australia would rightly ask, ‘Why, in the dying days of this government, as the parliament draws to a close with the election near, would parliament spend precious time dealing with this issue?’ This is not important legislation for the welfare of ordinary Australians. It will not produce one extra dollar in the pockets of any Australians; it will not create any more productivity; there are no exports it will generate. This is not a bill that does anything at all to assist Australia at large. The parliament is spending its time in these dying days of this government trying to deal with a bill that does nothing more than provide a financial fix for a political problem that the Liberal Party have. I do not think too many voters in any electorate, whether they are Labor or Liberal, would appreciate knowing that this parliament is being required to spend its time dealing with such a self-serving piece of legislation. But we are, because the government is in disarray; we are having to deal with this because the Liberal Party are in disarray. One of the reasons they are in disarray is that they cannot control their own organisation, and the old adage, ‘If you can’t control your own party, you can’t control the government; if you can’t lead your party, you can’t lead the government,’ is certainly apt.

Nowhere is the disarray in the Liberal Party more evident than in Queensland, although that is a big call to make when you look around the country and you see that Chikarovski in New South Wales continues to suffer from divisions, the Liberal Party in Victoria are still trying to figure out what they should do after Jeff Kennett’s departure, the Liberal Party in South Australia are desperately trying to hold on against the odds and the Liberal Party in Western Australia were so distraught at losing the election that we saw a quite remarkable set of circumstances: the defeated Premier had this charade that he was going to resign and then he was not going to resign, then he was going to get one of the federal Liberal backbenchers from Western Australia to swap seats and she was going to go into the state parliament for a deal to become leader of the Liberal Party in opposition. When that fell through as well, he decided he probably would not hang around either. What a shambles of an organisation.

So this parliament is being asked to fix this mess of a political party called the Liberal Party; asked to spend its time to fix this mess and to do what John Howard and the Liberal Party organisation cannot do for themselves. There is a simple solution to the Liberal Party’s problem in this. There is a simple solution to the problem of Lynton Crosby and John Howard: show a bit of leadership. If you cannot lead your own political party on a matter of national campaign finance, why should any Australian believe you can lead the nation? I am sure the people of Australia will have an opportunity to reflect on that as the weeks unfold.

In spite of that litany of disarray of the Liberal Party around the country, you are
hard pressed to find a place where they are in greater disarray than Queensland. I suppose someone has to stand in this place to defend the Liberal Party of Queensland, because no-one on the government side has. I find myself in the peculiar circumstances of defending the Queensland Liberals against their national leadership’s incompetence on the one hand and aggression from others in the other half of their faction on the other. They were reduced to three members in the state parliament, which is a truly remarkable outcome. It did lead to some interesting circumstances, I must say, because the leader of the Liberal Party was then selected as the—

Mr Slipper—Mr Deputy Speaker, I rise on a point of order. I want to draw your attention to standing order 81, which deals with relevance and says:

No Member may digress from the subject matter of any question under discussion ...

This legislation is the Commonwealth Electoral Amendment Bill 2001. The member for Brisbane initially pointed out that it related to funding for the Liberal Party. That is indeed correct. The member is now digressing widely from the subject matter of the bill. I would ask you to bring him back to the contents of the bill.

Mr DEPUTY SPEAKER (Mr Hawker)—I am sure that the member for Brisbane will come back to the bill.

Mr BEVIS—As I am sure you are aware, Mr Deputy Speaker, this debate has been wide ranging, as the parliamentary secretary knows, and if he wants to continue to take points of order on me that he knows are frivolous and contrary to the rulings that have been given throughout this debate by Mr Speaker and other deputies in his place then let him do so. It will not cause these facts to be hidden. As I said, this is a bill which on no fewer than 30 occasions refers to the Liberal Party in just six clauses. This is a bill where the parliament is being asked to pass a law to fix an internal problem of the Liberal Party. It is absolutely central to that that those internal problems in your political party on that side of the House that caused this parliament to deal with this bill are totally germane to this debate, because if you did not have that mess in the Liberal Party you would not have this bill here. You keep raising points of order and I guarantee we will take up the 20 minutes and I guarantee I will repeat those accusations against your political party and substantiate them.

We are here because the Liberal Party cannot govern itself. This bill is here because it cannot govern itself. The public is entitled to know why it cannot govern itself. The government have not been willing to present themselves and explain why they need this bill. They said it is technical. They know that is not true. This is not technical at all. It is because of their internal divisions. It is clear to the world, even if it is not clear to the parliamentary secretary, that that is the case. Just yesterday the front page of the Brisbane Courier-Mail carried the banner headline ‘Dumped Lib warns of poll fallout’. It was referring to an ongoing problem of internal factional brawls in the Liberal Party that saw Councillor Caltabiano, who until yesterday was the leader of the Liberal Party in the Brisbane City Council, get rolled for a position on their executive—it is the first time a leader of the Liberal Party in the Brisbane City Council has not been a member of their state executive. This is what Councillor Caltabiano said:

I can’t believe the stupidity of the party ... Any issue like this that negatively portrays the Liberal Party can clearly have an impact (at the federal level).

The article went on to state:

Sources said an ongoing brawl between two party factions led to Cr Caltabiano being dumped from the state executive.

Councillor Caltabiano is often linked to a faction associated with former state MP and powerbroker Santo Santoro. Most of his council colleagues are associated with an opposition faction linked to former party president Bob Tucker. Bob Tucker, of course, is important in the background to this bill and why the parliament is being asked to shift money around within the Liberal Party. I am sure members will know that Mr Tucker was the unsuccessful Liberal candidate in the recent Ryan by-election. He wishes to be the candidate at the next federal election, but, because of the internal brawls which produced this bill and which have
seen Bob Tucker on the losing end of a decision at the state executive, he decided to take the Liberal Party Queensland executive to court and challenge their decision. It transpired that the Liberal Party Queensland division said that they did not have enough funds to fight that matter in the Supreme Court and they asked the national office of the Liberal Party to bail them out. The national office of the Liberal Party, for reasons I am sure are quite sound, said that they would not fund the defence of that action in the Queensland Supreme Court, so a couple of fairly well-heeled Liberal members of the state executive took it on themselves and lost. Bob Tucker won.

What we are about here in this parliament is passing a law to shift the money around in the Liberal Party so that some of those embarrassments might not occur. That is what this bill is designed to do. There is a clear link with this parliament and with the government in relation to the way in which this money changes hands in the Liberal Party. The article in yesterday’s *Courier-Mail* had one other interesting paragraph. It noted:

Prime Minister John Howard and state party president John Herron refused to comment on the latest display of disunity, prompting criticism from party sources that the pair were unprepared to exert proper leadership.

That is dead right. It is that same absence of leadership that requires this parliament to deal with this bill. If indeed Senator Herron were a real president of the Queensland branch and if he had the leadership qualities, he would have sorted that out. If indeed John Howard were Prime Minister and head of the Liberal Party in any meaningful way, he would have sorted this out. It is passing strange that whenever there is an industrial dispute we get a tirade from ministers opposite telling us that Kim Beazley or I or someone else should go and tell the ACTU—

Mr DEPUTY SPEAKER—I remind the honourable member, under standing order 80, to refer to members of this chamber by their seat or title.

Mr BEVIS—I am not sure which one I did not.

Mr DEPUTY SPEAKER—You referred to the Leader of the Opposition.

Mr BEVIS—I doubt that he would have been offended, but I accept that it is not in accordance with the standing orders. The Leader of the Opposition and I find ourselves attacked on a regular basis whenever there is an industrial dispute, being told that we as Labor Party members should tell our union people what to do and that if we cannot tell the union people what to do then we are not leading properly. So the standard that the government wants to apply to the Leader of the Opposition is not only should he be able to lead the members of the parliament in the caucus, not only should he be able to lead the ALP organisation, but also he should somehow be able to tell the trade union movement in every corner of the country what they can and cannot do and when they can do it. That is the standard that the government applies to the Labor Party. When it comes to the Liberal Party we have a situation in which the Prime Minister is not even able to sort out the question of where the money goes in his own political party. So he loses the argument in his political party and fronts up here in the parliament to try to crunch through a bill to fix that problem that the Liberals have.

The scenario that I referred to in yesterday’s *Courier-Mail* has been followed up, of course, by the events in the council chamber that are reported in today’s *Courier-Mail*. Under the heading ‘Labor reopens Libs’ self-inflicted wounds’, the article states:

An empty chair stole the show at the weekly Brisbane City Council meeting yesterday. It was a powerful symbol that Liberal Party infighting had claimed another scalp.

They were referring to the empty chair that is normally occupied by the Leader of the Liberal Party in the Brisbane City Council, where the Liberal members outnumber their colleagues in the state parliament by about three to one. Obviously that did not warrant their leader having a place on the state executive. This is symptomatic of the internal problems in a party that comes here to the parliament asking for a special law to be carried about how they run their own internal finances. What a shambles! In his closing remarks, the member for Calare made some passing reference to the attitude of the government in introducing its regis-
tered organisations bill. He started to touch on a point which I wish to raise also, and that is the attitude the government likes to take on matters of self-government and regulation in relation to bodies like trade unions.

When it comes to bodies like trade unions, you certainly would not see the government facilitating this sort of assistance—quite the opposite. However, there seems to me to be an interesting parallel. The government is very keen to promote what it views as freedom of association when it comes to industrial matters. Freedom of association is, indeed, a principle that the Labor side of the parliament holds dear as well. It is an obligation under our ILO commitments—not that that would mean a great deal to this government, because it has breached ILO commitments on a number of occasions. To the extent that it means anything to them, they should be pleased to know that freedom of association is actually a common view shared by most countries in the world. When it comes to this bill, though, a different standard is being applied.

This is not freedom of association in the Liberal Party; this is the parliament legislating to decide for the Liberal Party where its money will go. There is no freedom of association, there are no broad rights here for the Liberal Party membership to make the decision. In fact, the Liberal Party membership have made the decision. They made a decision that Lynton Crosby and the Prime Minister do not like. So, because the Liberal Party has come to a free decision which happens to be a decision that the Prime Minister does not like, the parliament is now being asked to step in and pass a law to tell the Liberal Party what they will and will not do with their money. That is a most peculiar set of circumstances.

This is without doubt one of the most extraordinary pieces of legislation that this parliament will deal with in a long, long time. It is an indication of the total lack of control that the Prime Minister has over his own political party. It is an indication of the absolute chaos and division that exists within the Liberal Party in every state and territory but, I have to say, most notably in Queensland. I would like to think that at least the Liberal Party members in Queensland were willing to stand by the Liberal Party organisation in Queensland, but not one of them has. The parliamentary secretary at the table comes from Queensland. He is in the Liberal Party now, although he used to be in the National Party.

I am rather bewildered that the parliamentary secretary at the table does not choose to support the desires of the Liberal Party rank and file in this matter. I am rather surprised that the member for Moreton, who spoke earlier in this debate, took the opposite view and did not want to support the position. That may have something to do with which faction of the Liberal Party in Queensland they are members of. They might like to enlighten the parliament as to whether they are in the Santoro group or whether they are in the Bob Tucker group. In any event, the parliament should not have its time taken in this way to try to sort out a tawdry internal dispute in the Liberal Party.

This is a Dodgy Brothers bill. It has no place in this parliament. The Liberal Party should be ashamed of itself for bringing it to the House. It has enough to be ashamed about with the way in which it has conducted its internal affairs without compounding the problem by bringing this bill before the parliament. But make no mistake about it: the government’s lack of leadership, the Prime Minister’s lack of leadership and the internal divisions within the Liberal Party are now bare and exposed for all to see. I can assure you that the people of Australia will take that into account when they decide who has the capacity to lead this nation into the 21st century, as they did in Queensland with resounding results. I have no doubt that, given the divisions of the Liberal Party in Queensland and the way in which the government has now brought this bill forward, that will be spotlighted in Queensland in the weeks ahead.

Mr Slipper (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (1.12 p.m.)—in reply—What absolute arrogance uttered by the honourable member for Brisbane, because he claims to have already won the federal election. The people of Australia will decide between this
government, which has done an outstanding job since it was elected in 1996, and the ragtag opposition, which wants to flip-flop over the line on election day without having any substantive policies. It does not know where it stands on so many issues. It changes its mind. Every time we open a newspaper, we find that the matter of roll-back seems to either attract support or become of less relevance.

Anyone who listened to this debate in the chamber could well have failed to understand that we were in fact debating the Commonwealth Electoral Amendment Bill 2001. In particular, with the previous occupant of the chair I tried to emphasise the importance of observing standing order 81, the standing order which deals with relevance. If we were able to have wide ranging debate on bills to the extent to which a number of Labor Party members sought to expand this debate, the parliament would never deal with the business it has before its chambers.

This bill, though, contains amendments to the Commonwealth Electoral Act 1918 to provide that, following elections, public funding for the Liberal Party is to be paid to the agent of the Liberal Party of Australia federal secretariat rather than to the state and territory divisions of the Liberal Party—that is, those state and territory divisions in the Liberal Party that are constitutionally linked to the federal secretariat, namely, New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania and the Australian Capital Territory. There isn’t any great conspiracy here. This is not an attempt to deceive the rank-and-file membership of the Liberal Party. Indeed, the Liberal Party’s federal executive on 22 June passed a motion to the effect that this bill should be implemented as part of the law of the Commonwealth.

The legislation provides that the agent of the federal secretariat of the Liberal Party may lodge with the Australian Electoral Commission prior to polling day a written notice that sets out the proportion of the public funding to be paid to the agents of the state and territory divisions and the proportion of the public funding to be paid to the agent of the federal secretariat. The public funding would then be paid to those agents in accordance with the proportions set out in the notice. Those points were made by me in the second reading speech.

Also, it ought to be noted that the Electoral Act provides that public funding be paid to the agent of the state or territory division of a party for the state or territory in which the candidate stood. It has been outlined that the federal secretariat of the Liberal Party is now responsible for the national campaigns which we have whenever federal elections are held, and the feeling within the Liberal Party nationally is that it is appropriate that all or part of the public funding should be paid to the agent of the federal secretariat.

It was considered that this bill would be non-controversial. It is, however, obvious that the Labor Party has decided to play cheap and petty politics with what ought to be a straightforward and technical change. After all, what is being implemented is just putting into practice, as far as the Liberal Party is concerned, a similar arrangement to that which relates to the Australian Labor Party. The Labor government, when in office, passed a bill which sought to ensure that the Australian Democrats had a similar arrangement. Politics being what it is, the ALP wants to consume the time of the parliament talking about matters which are entirely foreign to the narrow subject matter of this bill.

The Liberal Party is being utterly transparent about our funding arrangements. This is something that our colleagues in the Australian Labor Party do not understand, and we all know about Labor’s dodgy deals regarding Markson Sparks and the McKell Foundation. This simple administrative reform brings the Liberal Party’s funding arrangements in line with the Liberal Party’s wishes, and most people would concede that that is quite a reasonable proposition. Also, there is nothing unreasonable about Commonwealth moneys being paid pursuant to Commonwealth legislation for the purposes of Commonwealth elections. Therefore, one could quite logically argue that it makes sense for such moneys to be paid to the federal manifestation of the Liberal Party.
It is unfortunate that the openness and logic of this legislative amendment have been impugned by Labor. They cannot see the point and they have decided to get up and take just another cheap political action in seeking to delay the parliament and seeking to avoid the federal Liberal Party implementing a system which applies in practice to other political parties, although not by legislation in all cases.

The fact is that the Labor Party is embarrassed by its history of electoral rorts and its complete failure to embrace the government’s electoral reform agenda, which would have ensured integrity of the Australian electoral rolls. Instead of being supportive of our open and transparent endeavour to reform our funding arrangements, the ALP, which prefers the politics of the brown paper bag, has instead engaged in the policies of payback. The Liberal Party is doing something about Labor’s electoral rorting and Labor does not like it. That is the real issue here. I see that the member for Melbourne has returned to the chamber.

Mr Tanner—Mr Deputy Speaker, I rise on a point of order. At the start of this debate I was requested by another Deputy Speaker to withdraw for using the term ‘rort’ with respect to the Liberal Party. Therefore, I request the member at the table to withdraw his use of the term ‘rort’ directed at the Labor Party.

Mr Slipper—On the point of order, the standing orders provide that I should withdraw such a comment were I referring to the honourable member for Melbourne, but I was referring to what is on the public record—that is, the rorting by the Australian Labor Party as a body. I was not referring to the member for Melbourne as an individual.

Mr Tanner—The situation is precisely the same. The reference I made was to Liberal Party rorting, not to a specific individual. I was asked by the Deputy Speaker to withdraw. I did so and inserted the term ‘misuse’ instead of ‘rorting’. I request that the term be withdrawn by the member for Fisher.

Mr Deputy Speaker (Mr Hawker)—In the interests of a sense of balance, the parliamentary secretary might choose to rephrase what he said.

Mr Slipper—I do not consider that under the standing orders I am required to do so, but as you have asked me, Mr Deputy Speaker, I will in fact withdraw that particular reference. The Labor Party has manipulated the system outside the provisions of the law. The parliament’s time is being wasted by the Labor Party. Why on earth is it not prepared to support the very important changes that this government wants to bring about to restore the integrity of the electoral roll? The member for Melbourne likes to try to create trouble wherever he can. He claimed that this legislation was to benefit one faction over another. We all know about the Labor Party’s factions and how, particularly in the Victorian Labor Party, there are many manifestations of the Left. This legislation has absolutely nothing to do with factions; it is all to do with a very orderly means of public funding for the Liberal Party.

The member for Calare referred to the rorting which occurred in my electorate of Fisher and he referred to the 1987 election. We all know what happened with respect to Karen Ehrmann and the Australian Labor Party in Townsville. If the shadow minister is seriously concerned about electoral fraud, he ought to support the government’s principles for voter identification and other moves to reduce fraud. The member for Banks also claimed that the Labor Party has always supported integrity measures. What we have in this country at the moment is an honour system. People are able to fill in any number of electoral roll enrolment forms. They are able to use the reply paid envelopes kindly provided by the Australian Electoral Commission. While there are a few checks and balances in place, at the end of the day people have the right to go on the electoral roll, and so we have an honour system. If people want to register large numbers of nom de plumes then that is very easily done, and that is why the government is very strong in supporting the principle that people ought to prove they exist before they go on the electoral roll. Also, as an integrity measure, it is vital that we close the rolls very promptly when an election is called.
The member for Melbourne Ports referred to the Australian Electoral Commission’s advertising campaigns and remarked that they have not been adequate, in his view, to ensure that all young people are able to get on the electoral roll and vote in an election. The point I want to make is that we do have a provision for provisional enrolment. As Australians we do have an obligation to register for elections, and one of the great difficulties we have in ensuring integrity of the electoral roll is that when we have an enormous flood of late enrolments it is nigh on impossible for the Australian Electoral Commission, with the best will in the world, to check those enrolments and to verify those people’s right to go on the roll. So if we have a lot of people who get on the electoral roll at the last minute then those people are put on and, because elections these days are decided by a handful of people in a handful of marginal seats, we have a situation where the Australian public cannot, in those circumstances, be confident that the result as announced on polling night is in fact that for which they collectively voted.

We all know about the problem in Australia of increasing alienation from the political process. People are disconnected from the political process. If we can bring about a situation where we do have integrity of the electoral roll, people will have confidence that the electoral result is what they voted for and we might find that people start to re-engage. I just want to plead with the shadow Attorney-General opposite, who is a pretty decent sort of guy, that we have a vested interest on all sides of the parliament in ensuring that we have an electoral roll with integrity.

The ALP has opposed the 1998 bill measures concerning the early close of the roll and the enrolment proof of identity, and it is happy for large numbers of prisoners to vote. It also voted against more restricted assisted voting provisions. In the interests of saving time, I will not go through all the details concerning the proof of identity and witnessing requirements except to say that the government was suggesting a very liberal regime. We were not trying to keep people off the electoral roll. We want every Australian eligible to vote in federal elections to have the opportunity to do so. If there were numbers of young people who did not get on the electoral roll in time, we should now ensure that the Australian Electoral Commission runs an even better advertising campaign so that all of those people eligible are indeed able to exercise their democratic right to vote at federal elections.

There was also a comment made concerning those people who have changed address. Some hundreds of thousands of people were in that position. The fact of the matter is that those people would not be disenfranchised. They have a limited period in which to change their address, but at the end of the day they are still able to vote for the federal parliament.

The member for Melbourne Ports threw in some more red herrings in relation to the exclusion of Australia’s indigenous people from voting. I want to point out briefly for his benefit that regulations will make allowance for persons who do not have a proof of identity document listed in the regulations to provide instead a written statement to the Australian Electoral Commission from a person who has known the applicant for at least one month and who is a person eligible to witness an enrolment, or a person who the Australian Electoral Commission is satisfied is a community leader or representative, or is a person approved in writing by the Australian Electoral Commission. Also, the list of acceptable witnesses includes leaders of the Aboriginal and Torres Strait Islander communities and other persons with whom Aboriginal or Islander people may come into regular contact. It is entirely spurious and bordering on defamatory to suggest that the government is trying to prevent Australia’s indigenous people from exercising their right to vote as part of our Australian population.

The member for Hotham came into the House. Obviously, he is concerned that his chances of becoming the Treasurer are evaporating. He wanted to come in and Huff and puff and make a whole lot of noise, also talking about matters which are not central to the bill. He claimed that the legislation was all about avoiding the GST on the Liberal Party’s part. So on the one hand we find that
some members of parliament—for instance, the member for Brisbane—have said that this is about internal Liberal Party wrangling, which is an absolute nonsense, and then a contrary point of view has been taken by the member for Hotham, who claims that this is about the Liberal Party trying to provide some sort of special deal for itself when we are not looking after the interests, in his view—quite wrongly—of small business.

The member for Brisbane ought to sit down and talk with the member for Hotham. Perhaps they are in different factions. I know they come from different states. It would be good if we had a coordinated argument from the opposition which articulated a position on which they have agreed, rather than find that individual members of the Labor Party come in here and talk a whole lot of claptrap without any sense of coherent thread running through the Labor Party’s opposition to this very important piece of legislation.

I want to assure the House that this amendment is not at all about avoiding GST. The amendment is to allow the Australian Electoral Commission to pay public funding directly to the federal secretariat that would normally be paid to the state or territory branch. The member for Melbourne might know, but the member for Hotham, who probably did not even read the title of the bill, seemed to have that point entirely escape him, which is regrettable.

The member for Rankin made a contribution that was entirely away from the subject matter of this bill. He came in to peddle what he alleged were stories contained in minutes of Liberal Party meetings. I took a number of points of order on the member for Rankin and, while no doubt the previous Deputy Speaker exercised his view honestly, I think the Deputy Speaker was wrong and the member for Rankin strayed so far beyond the subject matter of the bill that it became almost an abuse of the processes of the House for him to continue.

This is a very important piece of legislation. It ought to be a piece of legislation which is non-controversial. The Liberal Party and the government strongly support it and we ask the Labor Party to do likewise.

People are sick and tired of the ALP coming in and playing cheap and shoddy political point scoring with respect to what should be straightforward technical legislation. I am very pleased on behalf of the government to commend this legislation to the chamber.

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

The House divided. [1.34 p.m.]
(Mr Deputy Speaker—Mr D.P.M. Hawker)

Ayes…………… 73
Noes…………… 60
Majority……… 13

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, F.E.
Barresi, P.A.
Billson, B.F.
Bishop, T.J.
Cadman, A.G.
Charles, R.E.
Downer, A.J.G.
Elson, K.S.
Fahey, J.J.
Forrest, J.A.
Gambaro, T.
Georgiou, P.
Hardgrave, G.D.
Hull, K.E.
Katter, R.C.
Kelly, J.M.
Lawler, A.J.
Lindsay, P.J.
Macfarlane, I.E.
McArthur, S. *
Moylan, J. E.
Nehl, G. B.
Neville, P.C.
Prosser, G.D.
Reith, P.K.
Ruddock, P.M.
Scott, B.C.
Slipper, P.N.
Southcott, A.J.
Stone, S.N.
Thompson, C.P.
Truss, W.E.
Vaile, M.A.J.
Wakelin, B.H.
Williams, D.R.

Anderson, J.D.
Anthony, L.J.
Baird, B.G.
Bartlett, K.J.
Bishop, B.K.
Brough, M.T.
Causley, I.R.
Costello, P.H.
Draper, P.
Entsch, W.G.
Fischer, T.A.
Gallus, C.A.
Gash, J.
Haase, B.W.
Hockey, J.B.
Jull, D.F.
Kelly, D.M.
Kemp, D.A.
Lieberman, L.S.
Lloyd, J.E.
May, M.A.
McGauran, P.J.
Nairn, G. R.
Nelson, B.J.
Pearce, C.J.
Pyne, C.
Ronaldson, M.J.C.
Schultz, A.
Secker, P.D.
Somlyay, A.M.
St Clair, S.R.
Sullivan, K.J.M.
Thomson, A.P.
Tuckey, C.W.
Vale, D.S.
Washer, M.J.
Mr KELVIN THOMSON (Wills) (1.40 p.m.)—The General Insurance Reform Bill 2001 is another bill which the opposition support. Indeed, it is one we have been calling on the government to bring forward all year. What I wish to do, however, is to move an amendment to the motion for the second reading. I move:

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

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

(1) condemns the Government for its slow and disinterested handling of the process of reforming the general insurance prudential regulatory regime;

(2) condemns the Government for its failure to satisfactorily deal with the collapse of HIH Insurance;

(3) condemns the Government for the delay in commencing the Royal Commission into HIH, and for the inadequacy of its terms of reference; and

(4) calls on the Government to adopt the Opposition’s policy on medical indemnity insurance and structured settlements in order to deal with the insurance problems now facing obstetricians and rural practitioners in particular.”

I will first raise the issue of auditors and how the royal commission ought to be handling that question. The appropriateness of the conduct of the audits by Arthur Andersen on both HIH and FAI leaves many doubts. The specific issues that need to be addressed in order that the royal commission is able to arrive at an appropriate conclusion include the audit of FAI as at 30 June 1998 and subsequent impacts. Close examination is required of the rationale for the auditors, Arthur Andersen, signing off on the accounting treatment of National Indemnity and General and Cologne Reinsurance Australasia contracts at 30 June 1998. A profit of $56 million was booked on these contracts at 30 June 1998, with an unbooked future loss on the contracts of $68 million not recognised at that date. The accounting treatment of the reinsurance contracts helped to offset both the consequences of the deterioration of the FAI underwriting results and the overvaluation of investments, thereby leaving HIH with an unexpected loss of $68 million to be
written off after acquisition. The rationale of an internal support paper which was prepared by FAI senior management, including executive directors, to justify the treatment of the reinsurance contracts as risk transfer needs to be closely examined.

The royal commission needs to ensure that processes are put in place so that financial reinsurance transactions are not allowed to be accounted for as risk transfer transactions. If FAI were not allowed by Arthur Andersen to account for these transactions as risk transfers then the acquisition by HIH would probably never have been made, or at least not been made at the price paid. The actions of those involved in this transaction require very close scrutiny, as they allowed the financial results of FAI at 30 June 1998 to be presented in a light which was materially more favourable than it would have been without the contracts.

FAI cooked the books before it was sold to HIH—there is no doubt about it. The question is: why didn’t the auditors, Arthur Andersen, who audited both FAI and HIH books, pick this up? To what degree was all available information on the reinsurance transactions made available to the auditors? Indeed, was a certain letter from FAI to GCR concerning recoverability under the treaty withheld from the auditors? That letter effectively said that there would be no recoveries made under the reinsurance treaties with GCR. If known by the auditors at the time, the recognition of the profit on the treaties should not have been able to be booked.

What were the instructions issued to the reinsurers by FAI, and were these ever made available to the auditors? To what degree was Arthur Andersen compromised by allowing the FAI treatment of reinsurance contracts at 30 June 1998 when considering similar HIH reinsurance contracts at subsequent reporting dates? Was there ever any pressure of legal action, implied or otherwise, by HIH against Arthur Andersen if it did not allow the June 1998 HIH reinsurance transactions to be accounted for in the same manner which had been used by FAI? In other words, the Australian public wants the royal commission to find out whether Arthur Andersen signed off on dodgy HIH books at June 1999 for fear of being exposed as having signed off on dodgy FAI books for June 1998. What was Arthur Andersen’s view on the valuation of FAI goodwill in the books of HIH at 30 June 1999 and 30 June 2000? Hindsight clearly says it was not justified. The valuation at 30 June 1999 was clearly overly optimistic.

The determination of the goodwill at 30 June 1999 and subsequent adjustments at later recording dates need to be closely examined. The methods applied provide examples to auditors of what they should not allow clients to include in goodwill calculations. What was Arthur Andersen’s view of the valuation of FAI’s investments at 30 June 1998 and 30 June 1999, and how did they arrive at those conclusions, given Rodney Adler’s publicly stated view that they were overstated at the time by some $80 million as at September 1999? What audit work did Arthur Andersen undertake in respect of the actuarial reserves of FAI at 30 June 1998? If they discussed the nature of reserves with knowledgeable claim staff as opposed to senior executives, what conclusions did they draw from those discussions? Did those discussions fully cover the inwards reinsurance and Medical Defence Union exposures of FAI?

To what degree did Arthur Andersen understand the treatment of related body assets in the determination of the solvency calculations of FAI as required under the Insurance Act? A round robin of intercompany loans effectively generated a greater than existed value of assets in the main APRA-regulated insurance entity. Just because APRA had approved these assets for solvency purposes does not mean that Arthur Andersen could or should have accepted that as being correct. The question is: were Arthur Andersen and APRA relying on each other to agree to the treatment of these transactions for solvency purposes? Was it that neither party understood it and each relied on the other? Another trigger for concern was missed.

In respect of the audit of HIH, close examination is required of the mechanisms that HIH used to manage the reporting of underwriting results. HIH suffered significant de-
terioration of a number of one-off insurance arrangements including US liability, international aviation, and Charman. The combined deterioration on these accounts was well in excess of $60 million, and that was offset at an underwriting level by benefits which arose from non-insurance transactions, including a tax recovery, favourable settlement of an investment dispute and unrelated goodwill adjustments. By not disclosing the deterioration of the underwriting performance, users of the financial statements were not aware of the extent of the adverse prior year development of claims.

HIH’s dilemma was exacerbated by holding no prudential margin on its claims reserves as protection against such adverse developments. Other means were therefore required to offset the deterioration on the underwriting account. Somewhat weak reasons for justifying the treatment of these one-off items over time were accepted by Arthur Andersen in 1998 and subsequently. Clearly, a firmer stand at the time would have assisted with more appropriate disclosure being made by HIH.

What was the rationale for Arthur Andersen signing off on similar reinsurance contracts in HIH at 30 June 1999 which generated a similar bottom line impact? The reinsurance transactions were realistically only entered into in order to allow profit in the June 1999 year to be boosted and the cost of the FAI-induced deterioration deferred into future periods. Arthur Andersen allowed the transaction to be accounted in a manner which was, with hindsight, clearly inappropriate.

The accounting for the reinsurance contracts worked along the lines that HIH held discounted booked claims reserves, a reinsurance contract was written which provided cover and excess arrangements, and a premium was paid for the cover. As the recovery from the reinsurer will not be for many years, the arrangement was for the reinsurer to invest the funds with the expectation that they would grow by the time the claims were due for payment. The discounted benefit of the recovery from the reinsurer is calculated using a rate that generates, in this case, a recovery of $260 million. So a profit of $60 million was then booked on that contract.

The reinsurer agreed to take a risk exposure on the premium growing at a higher rate of return than that at which the insurer has discounted its claims. This creates that opportunity for the insurer to book the profit of $60 million. The cost to HIH is that it has lost the benefit of any future investment return on its cash outlay of $200 million. That profit is then used to offset claims reserve deterioration in the current year. It makes the audit and actuarial sign-off easier, as HIH now has reinsurance on the blow-out of reserves up to $200 million above its book reserves. What is not disclosed is that the future investment has dried up and that a profit on the reinsurance contract has been used to offset adverse claims reserve developments and asset write-downs. This scenario can be dressed up as an acceptable reinsurance transaction within the context of current insurance accounting requirements, while what is wrong is the lack of full disclosure of the profit impact of the transaction.

There is also the question of the accounting treatment of goodwill on acquisitions, including CIC, HIH America and FAI. Acceptance of the methodology by Arthur Andersen must be questioned, given the extent of its use over time. The problem was that they signed off this in the first instance, then it was repeated with subsequent acquisitions. The closeness of Arthur Andersen personnel to HIH personnel certainly did not help in this question of the strength of Arthur Andersen’s convictions where there are grey accounting methods.

The extent of actuarial work undertaken by Arthur Andersen on the adequacy of claims reserves booked by HIH was very limited. There was minimal reliance on the official HIH actuary, David Slee, given his methods and closeness to management. Having effectively disregarded David Slee, the alternative approach used by Arthur Andersen was limited. It mainly relied on the audit manager, John Pye, reviewing triangulations with Dominic Fodera. Mr Fodera has mentored Mr Pye throughout his career, both having worked on the HIH audit in partner-manager role. Dominic Fodera provided a
reference for John Pye’s promotion to partner in mid-1999 as the June 1999 accounts were being audited. So the relationship between HIH personnel and Arthur Andersen personnel was simply too close and too cosy and the level of general insurance experience of the Arthur Andersen audit staff was limited except at the senior manager level.

The complexity of the group and the nature of the issues that need to be addressed are now evident in the length of time that it is taking KPMG to unravel what has occurred. After over five months of investigation by the liquidator and his team, they still have a range of numbers between $2.7 billion and $4 billion. At this time the question that HIH continue to ask of Arthur Andersen is why they did not warn them about the state of FAI’s books—whether it was embarrassment or ignorance or having had the wool pulled over their eyes. The end result of this was that HIH got some sympathy from Arthur Andersen and their results were allowed to be released as prepared by the client, HIH.

The extent to which intercompany transactions were examined by Arthur Andersen to ensure that they were not being used to generate more favourable results in reporting entities with severe underwriting problems must also be questioned. The whole account reinsurance contract provided ample opportunity for allocation of favourable items as it covered entities both inside and outside Australia. Profit transfers between reporting entities and geographic reporting locations certainly helped disguise the deterioration of the results in the impacted areas. Did Arthur Andersen ever properly question the micro disclosure of the items? Again, another trigger opportunity was missed.

I also ask: what work did Arthur Andersen undertake to verify that the 1995 indemnity agreement between HIH and Winterthur was not activated? Under this agreement, if the claims reserves of either the HIH group or CIC deteriorated by more than $25 million net of the deterioration of the other party, then an indemnity payment for the entire deterioration would be triggered. Both claims reserves deteriorated, but the HIH reserves needed benefits on non-underwriting events to be taken into account, so the trigger was not activated. Activation of the trigger would have been potentially very financially damaging for the group as it would have indicated that there were previously undisclosed underwriting problems. Winterthur would have been unlikely to have been able to sell out of the $2.58 it received on its shares. By allowing the treatment adopted by both HIH and Winterthur, it could be construed that Winterthur was able to benefit to the detriment of the incoming shareholders.

I turn to the issue of reinsurance. As highlighted by the reinsurance transactions I have referred to, reinsurance played a key role in hiding the financial woes of both HIH and FAI. Reinsurance should involve the transfer of a substantial element of risk from the insured to the reinsurer. Those reinsurance transactions where there is minimal risk transfer are called financial reinsurance. The distinction between risk transfer and financial reinsurance transactions can be grey. Remote risk exposures can be easily added to an otherwise financial reinsurance contract to create the impression of risk transfer. The FAI June 1998 reinsurance arrangements had real components to provide an element of risk transfer and others in order to achieve the desired result for FAI; that is, to get the auditors to agree that the risk transfer existed and was real.

The use of reinsurance contracts to smooth results is not limited to HIH and FAI. APRA and ASIC now need to ascertain from each Australian insurer what special reinsurance arrangements they now have in place in order to ascertain their nature; identify how profit has been impacted over, say, the past four years by these contracts; ascertain the full financial overhang of these contracts on future years; and ascertain from the reinsurers how they have accounted for these contracts—that is, risk transfer or financial reinsurance. If accounted for as financial reinsurance, they would have only brought to account the fee implicit in the contract as income; that is, they would not report it as an underwriting transaction. APRA and ASIC should also identify any taxation advantage
that has been gained from using these contracts.

I understand that a number of prominent insurers in the Australian market are using reinsurance contracts to smooth results from one year to the next. The contracts allow them to minimise the volatility in insurance results. The problem is that the users of the accounts of these companies are not aware of the true underwriting result for the year. Full disclosure of the financial impact of these contracts needs to be made to ensure that users are aware of the true underlying results of the business. In addition, it leads to the industry underpricing, which in the long term destabilises our financial system. The accounting for these reinsurance contracts could also impact management bonuses and the value and number of their options. Contracts that are used to create paper profits need to be severely questioned.

HIH also entered into a range of other one-off reinsurance contracts which require examination. They include reinsurance of losses on the Charman account back to Australia to limit the losses reported in the UK on this transaction. A Luxembourg reinsurer was used for this purpose. They also include reinsurance of the marine portfolio under an aggregate stock loss with an underwriting profit of $6.8 million on the transaction recognised, which was reversed in the next six-month reporting period.

Mr SPEAKER—Order! 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 the member for Wills will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE
Public Hospitals: Treatment of Patients

Mr BEAZLEY (2.00 p.m.)—My question is to the Prime Minister. Prime Minister, given your claim that enough federal money is being spent on health and that all health problems are the states’ fault, are you aware that the most recent annual performance report for the Australian health agreements shows that 287,000 patients classified as urgent—that is, presenting with potentially life-threatening conditions such as severe hypertension or persistent vomiting, and children at risk—were not treated in our public hospitals within the target time of 30 minutes? Isn’t it a fact—

Government members interjecting—

Mr SPEAKER—The Leader of the Opposition is entitled to be heard in silence. He will recommence his question at the point at which he was interrupted by the noise.

Mr BEAZLEY—Isn’t it a fact that many of these patients spent many hours either in waiting rooms or on trolleys, waiting for a bed for an urgent operation? Prime Minister, what positive solution will you be proposing to tackle the long waiting times suffered by our families seeking emergency care in our public hospitals?

Mr HOWARD—I thank the Leader of the Opposition for the question. I have not actually read that report, but I am aware of the argument that is being put by the Leader of the Opposition. I first of all remind him of what his mate Peter Beattie said: ‘Public hospitals are owned and run by state governments.’ Our responsibility is to provide an adequate level of funding, which this government has done. This government has in fact increased—

Mr Crean interjecting—

Mr SPEAKER—The Deputy Leader of the Opposition will extend the same courtesy as I expect extended to the Leader of the Opposition.

Mr HOWARD—It has increased the funding that has been made available. I noticed that long, rambling news conference that the Leader of the Opposition had, that long, rambling sort of attempt to explain away the outrageous deception of your own caucus and the Australian public—but I will come to that in the moment. In that long, rambling news conference the Leader of the Opposition repeated this completely wrong, dishonest and disreputable claim that in some way, under the funding arrangements we have with the states, we are not paying as much money to the states under the various arrangements as was recommended by Ian Castles.

The reality is that the Commonwealth is providing $31.6 billion over five years to the
states. That is an increase in real terms of 28 per cent over the previous agreements. This amount includes indexation of around $650 million, which the Commonwealth agreed to on top of the default index rate written into the agreements. Once again, knowing the facts, you always twist them: give the Leader of the Opposition some known facts and he will always try and embellish them to try and make his own case look a bit better.

Over and above that, our decision not to enforce provisions in the agreement associated with the rise in private health insurance participation and revenue associated with veterans has provided the states with the benefit of an additional $3 billion under the terms of the agreement. The reality is far from a short-changing of the states in relation to the Castles recommendations; the states will be over a net $2 billion better off than if we had fully implemented Castles and we had adjusted, as agreed, for private health insurance. Once again, the Leader of the Opposition is distorting the truth in trying to score cheap political points in the health debate.

Rural and Regional Australia: Health Services

Mr HAASE (2.04 p.m.)—My question is addressed to the Minister for Health and Aged Care. Would the minister advise the House of the progress being made in the improvement of health services, particularly general practice services, in rural and regional Australia as a result of federal government policies? Are there any impediments to the delivery of better services?

Dr WOOLDRIDGE—I thank the member for Kalgoorlie for his interest in this area. Obviously it is of major effect to his electorate. When we came to government 5½ years ago, rural health services really were in crisis. We had a long-term decline in the number of rural general practitioners. We had an increase in average age of rural general practitioners. We had very few country kids going into medical school. That is probably the most indictable figure. The best figure I can get is that in 1996 only eight per cent of the 1,200 kids in medical schools around Australia were from a rural or regional background, in spite of the fact that more than 25 per cent of kids are educated in rural and regional areas.

It is not something that we waited long to act on, Mr Speaker. If you care to look at our 1996 election policy, we had significant initiatives in rural health, starting with a clinical school at Shepparton and a university department of rural health at Broken Hill. Our idea was to try and radically change the mould, to get medical education out of cities and into country areas and to get more country kids into med school, which over the long term will actually fix this problem, because a country kid has got a 45 per cent chance of going back to the country whereas a city kid has only got a five per cent chance of going to the country. After five years, we now have around one-quarter of all medical students in 2001 in first year in medical schools coming from a country background. We believe that figure is going to rise, so country kids will actually be overrepresented in medical schools by the positive steps we have taken. We have not had to introduce quotas, we have given incentives, and we have had an extraordinary turnaround.

We have also had initiatives that have kept more doctors in country areas. Between 1997 and 2000, the headcount of country doctors went up seven per cent—a dramatic turnaround on the best part of 20 to 30 years of decline. The rural clinical schools and university departments have been so successful that they have been expanded to every university in the country, so every university will now have probably 10 to 15 per cent of their medical education outside capital cities. Country kids will be able to get a RAMA scholarship—$10,000 a year, not bonded, for a kid from a country background who comes in to do medical school, recognising that they have higher costs associated with living away from home.

Our bonded places put an extra 100 kids into medical school last year, who now have a commitment to work in rural areas. Our GP training has been regionalised, with probably half of all general practice training now occurring in rural and regional areas. We have also implemented specific programs, such as the Rural Women’s GP Program, because we recognise the fact that women in cities have
a great range of doctors to choose from but in country areas there may be no such choice. We found that in Whyalla—in the member for Grey’s electorate—which has a population of 26,000, there was no access to a female GP at all a couple of years ago. In Gunnedah in the Deputy Prime Minister’s electorate, which has a population of 8,000 people, there was no access to a female GP. People now have access to female GPs through these initiatives.

In this year’s budget, we have further increased that. We have continued the Rural Retention Program, with 1,600 GPs being paid cash bonuses to stay in country areas. We work on the principle that the easiest doctor you are ever going to get is the one you have there already and we should keep the ones we have before trying to get new ones. There was $104 million to have practice nurses in rural areas to look at issues of public health and broader health issues because the GPs are so busy. There was $13 million for 100 new places for rural nurses to go and train nursing. This has been a dramatic turnaround and a lot of hard work, and it is bearing tangible, objective fruit in an area that was neglected for 30 years.

Public Hospitals: Treatment of Patients

Mr BEAZLEY (2.08 p.m.)—My question is to the Prime Minister. Prime Minister, given your claim that enough federal money is being spent on health and that all health problems are the states’ fault, are you aware of the case of an 18-year-old Adelaide man who last month was bashed and taken immediately to Royal Adelaide Hospital for treatment? Are you aware that, after waiting for more than an hour for treatment, his mother took her son away to Wakefield Hospital, where he was immediately admitted? Given that South Australian Human Services Minister Dean Brown has called for a report into this incident, what positive solution do you have to tackle the problem of long waiting lists that are suffered by our families seeking emergency care in our public hospitals?

Mr HOWARD—I am not personally aware of that particular case. I therefore will make no comment on it in the absence of having the details. I would imagine that the administrative responsibility for those cases would be the same now as it was 10 years ago. I cannot imagine that 10 years ago, as a member of the Hawke or Keating governments, the Leader of the Opposition would have accepted the proposition that the Prime Minister of the day was personally responsible for every delay in a public hospital run by a state government. It is an absolutely absurd proposition. This represents the Himalayan heights of the opposition’s alternative health policy. Peter Beattie, a somewhat more successful Labor leader than the Leader of the Opposition has been to date, said:

You have to remember the states run the hospitals. We have the best public hospital system in Australia.

That is a little bit of the boasting, a little bit of the puffery you naturally get from state premiers. I suggest to the Leader of the Opposition that, if he has complaints about the running of state hospitals, he take it up with his state colleagues. I suggest that, if he has problems with the operation of state hospitals in Western Australia, he ought to take them up with Geoff Gallop. He also ought to, in the process, remind Dr Gallop that, under the arrangements that we have put in place, the public hospitals of Western Australia are going to share with the public hospitals of the other Australian states an increase of 28 per cent in real terms under the five-year period of the Australian health care agreements.

I often hear the Leader of the Opposition talk about accountability and responsibility. I would not have thought he needed a first-year lecture in political science and the constitutional structure of the Australian federation but, under the federal system in Australia, there are some responsibilities given to federal government and there are some responsibilities given to state governments. We have responsibilities of a national character. We have an obligation to adequately fund to the extent of our capacity the operations of states. We do that. I remind the Leader of the Opposition that he still opposes the introduction of a goods and services tax. He still remains opposed to a goods and services tax, but he is going to give to the states of Aus-
tralia a greater capacity to fund their private hospitals in the years ahead.

I remind the Leader of the Opposition that every time he rails against the GST he is railing against the capacity of the states of Australia to adequately fund their public hospitals and their government schools. You cannot have it both ways: you cannot claim to be the champion of public schools and public hospitals yet try to oppose the very revenue lifeline that will make it possible for states, years into the future, to more adequately fund their own constitutional responsibilities.

Public Hospitals: Western Australia

Mr PROSSER (2.13 p.m.)—My question is directed to the Minister for Health and Aged Care. Would the minister update the House on the Howard government’s contribution to the public hospital system in Western Australia? Is the minister aware of recent comments concerning the performance of the public hospital system in Western Australia?

Dr WOOLDRIDGE—I thank the honourable member for his question. Western Australia is an area where in recent times we have put very substantial extra resources into the public hospital system. We do not have the latest figures on overall funding, because the Western Australian budget is yet to be brought down. I understand that is going to happen next month. In terms of the Commonwealth’s own spending, this year the actual Commonwealth money paid over to Western Australia will go from $586 million to $644 million, an increase of $58 million, or about 10 per cent. That is an enormous additional increase in just one year, particularly when you consider it is a middle year of the health care agreements and that big increases like that were usually factored towards the first year of the health care agreements to get the states to sign up. So we are halfway through the health care agreement, and we are delivering an extra $58 million to the Western Australian government.

I am aware of some comments about the functioning of the Western Australian health system made by the Western Australian health minister, Bob Kucera. He has been on radio recently, and I have heard him say two things. The first thing I have heard him say is:

I am certainly embarrassed by anybody that has to put up with the difficulties we have within the health system.

It is easy to understand why he is embarrassed, because in the West Australian on 14 August we have an article entitled ‘Health faces budget axe’. In what appears to be a very well sourced story, the reporter says, ‘The health department will have its finances slashed by 20 per cent in this year’s budget.’ So here we are, in the month before a budget, and we are having leaks to the West Australian newspaper. After the expenditure review committee in Western Australia has made its deliberations, the leaks start coming out: the Western Australian government is planning to slash funding to health by 20 per cent. That is at the same time as the Commonwealth is putting 10 per cent additional funds into health care. This is a new Labor government in office, and we have a well sourced leak that the health department is facing a 20 per cent cut in health care.

Bob Kucera went on to make a very revealing statement—the sort of statement that is disarmingly frank and charmingly made during someone’s early career in politics. He said:

I make no apologies that we have got problems within the system. The problems are within the system. Six months in the job, and we are starting to forge forward, as I said. We are going to get over these pay claims, and I suspect that as soon as the pay claims are settled, the crisis will disappear. It is as simple as that. It has on every other occasion with these unions.

Here we have a Western Australian state Labor minister blaming the unions for manufacturing a health crisis in his own state. I would not be so cynical as that about his unions, because Bob Kucera will find, as he has been in the job longer, that the unions probably have a legitimate claim for being under some pressure. The fact is that to have a Western Australian Labor health minister simply trying to blame the unions for his own pending 20 per cent cut in health care budgets when the Commonwealth budget has increased by 10 per cent shows you where the blame for this problem clearly lies.
DISTINGUISHED VISITORS
Mr SPEAKER—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from Israel. The members in the distinguished visitors gallery are all members of the Knesset, and they are led by Mr Boim. In the Speaker’s Gallery we have the accompanying officers from Israel. On behalf of the House, I extend to all of you a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE
Public Hospitals: Commonwealth Funding
Mr BEAZLEY (2.17 p.m.)—My question is to the Prime Minister and it follows an answer that he gave previously on the subject of the attitudes of Ian Castles. Isn’t it a fact that the Commonwealth agreed to the appointment of Ian Castles as the independent arbiter to resolve the dispute over the correct way to index payments under the Australian health care agreements? Isn’t it a fact that the arbiter recommended that payments should be increased by CPI plus an extra one-half per cent, but you have refused to accept his recommendation and have unilaterally adopted the lower wage cost index one? Doesn’t this refusal to adopt Ian Castles’s recommendation leave the states short each and every year—and this shortfall is now over $200 million a year?

Mr HOWARD—The answer is no, because subsequent to that decision we made other decisions which forgave money to the states that should have been refunded because of the rise in private health insurance. When you set the one off the other, the states are $2 billion better off.

Public Hospitals: Treatment of Patients
Mrs MOYLAN (2.19 p.m.)—My question is to the Minister for Health and Aged Care. Is the minister aware of recent comments about the appropriateness of accident and emergency treatment in public hospitals in Western Australia? Is there any foundation for these comments?

Dr WOOLDRIDGE—I thank the honourable member for Pearce for her question. I am aware of certain allegations about treatment in accident and emergency—in fact, quite a large number of different and competing allegations about treatment in accident and emergency in Western Australia.

This started yesterday when on AAP at 1.27 p.m. we had a story that came out of a briefing from the Labor caucus. The briefing was done by two people, George Campbell and Sue West. Both briefed independently. The story ran like this:

Suffering from acute appendicitis about two months ago, Mr Beazley’s middle daughter, Hannah, was taken to several public hospitals in Perth trying to get emergency admission. But the effort failed. There were no public beds available. Eventually the 22-year-old was admitted to a private hospital for treatment. A friend drove her from accident and emergency ward to A&E, a caucus spokeswoman said.

This story was still running on AAP at 7.12 p.m. the same night. No effort had been made to correct the story. The story at 7.12 p.m. read:

Opposition leader Kim Beazley today blamed a funding shortfall for an incident where his daughter was denied emergency admission at several public hospitals. Mr Beazley told a meeting of Labor MPs and senators the incident happened about two months ago while his 22-year-old daughter was struck down with acute appendicitis. Attempts to get his daughter treated in public hospital failed because there were no spare beds.

And then they drove around and around and around.

We have a third independent confirmation of what was said at that caucus meeting, by the member for Jagajaga, who went on Sydney radio that afternoon and said:

When Kim told us that story today in caucus, everybody gasped—

I’ll bet they did—

because you really do not imagine that people will be turned away in an emergency.

Here we have three people separately using the media to portray a picture of a person being turned away and denied emergency treatment in the case of acute appendicitis—a story that was allowed to run without correction, a story that will was still running at 11 o’clock last night.
Mr Howard—And in today’s papers.

Dr WOOLDRIDGE—And in today’s papers, naturally. We find this morning that we have had a media release from the Sir Charles Gairdner Hospital, something quite unusual. In fact, it comes after the Sir Charles Gairdner Hospital said that they would not be commenting in detail. Let me read the Sir Charles Gairdner version of events, which has occurred after a review of the records that exist for this case:

Mr Craig Bennett, Chief Executive of Sir Charles Gairdner Hospital, today confirmed the following points:

Ms Hannah Beazley presented to the Emergency Department of Sir Charles Gairdner Hospital on the morning of Tuesday, 24 July 2001, with lower abdominal pain.

She was correctly diagnosed as having appendicitis and given appropriate pain relief. Because the operating theatres at SCGH were busy, there would have been a slight delay in her surgery, as is often the case with appendicitis.

On the day in question, an operating theatre was available at St John of God Hospital Subiaco more quickly than at Sir Charles Gairdner Hospital, but surgery could have been safely performed at SCGH had Ms Beazley preferred that.

Opposition Members—When?

Mr SPEAKER—The same courtesy that I expect to be extended to the Leader of the Opposition when asking questions I expect to be extended to the minister when responding.

Ms Gillard—He doesn’t deserve it.

Mr SPEAKER—The member for Lalor!

Dr WOOLDRIDGE—The opposition asks when. In the words of the CEO at Charles Gairdner, ‘After a slight delay.’ The media release from Sir Charles Gairdner Hospital goes on to say:

[Ms Beazley’s election] to utilise her private insurance and have surgery at St John of God Hospital was primarily based on the availability of operating theatres.

Senior clinical staff at SCGH have reviewed the records of her care and are of the firm view that her care and treatment at SCGH was both timely and appropriate.

We had the opposition yesterday running a story until 11 o’clock last night in order to score a cheap political point off the government that someone had been turned away from an accident and emergency department and had been denied treatment; yet nothing could be further from the truth. It was a cold, calculated untruth told to the Australian people and repeated throughout the day by three independent sources. Having had overnight to try to get the story right, you would think that today the Leader of the Opposition might actually be able to get a consistent story. He appeared this morning on AM on ABC radio and he made this point to Linda Mottram:

Not at all naïve. If you have the experience in your household of a person going to a public hospital, certainly having been looked at at that public hospital, but then having to go on to a private hospital for treatment...

That is not what Sir Charles Gairdner Hospital is saying as of lunchtime today. Sir Charles Gairdner Hospital is saying as of lunchtime today that there would have been a ‘slight delay in surgery, as is often the case with appendicitis.’ They go on to say that Ms Beazley’s surgery ‘could have been safely performed at Sir Charles Gairdner had she preferred it.’ So even today the Leader of the Opposition has not got his story right. He is prepared to go on AM this morning and suggest that there was an absolute need to go to a private hospital when the public hospital itself in a Labor state says that that is complete bunkum.

Opposition members interjecting—

Mr SPEAKER—The minister will resume his seat.

Mr Sawford—Just tell us when.

Mr SPEAKER—The member for Port Adelaide is warned!

Dr WOOLDRIDGE—Most of us in this place have kids, most of us know how distressing it is when our kids get sick and most of us know that we might even lose a bit of objectivity when our kids get sick, but most of us do not use our kids to make cheap political points.

Public Hospitals: Treatment of Patients

Mr BEAZLEY (2.29 p.m.)—My question is to the Prime Minister. Prime Minister, given your claim that enough federal money
is being spent on health and aged care, are you aware that at the end of July as many as 150 patients were waiting in public hospitals in the Perth metropolitan area for a nursing home bed? Are you aware that on 25 July this year one hospital, the Sir Charles Gairdner Public Hospital, had 41 patients waiting in the hospital for a nursing home bed? Given these statistics, are you surprised that many Australians, including those in Perth, are having difficulty accessing beds and treatment in our public hospitals? Prime Minister, given that the availability of nursing home beds is a federal government responsibility alone, what positive solutions are you proposing to tackle the growing problem of prospective nursing home patients occupying hospital beds while hospital patients queue for treatment?

Mr HOWARD—The Leader of the Opposition will be comforted to know that this line was run at the Premiers’ Conference by, I think, Steve Bracks. He raised it without briefing, without argument, without substance and without material. I pointed out to him that the most recent analysis in relation to the state of Victoria indicated—

Mr Zahra interjecting—

Mr SPEAKER—The member for McMillan is warned!

Mr HOWARD—from recollection, that the contribution being made to waiting lists in Victoria, and therefore the unavailability of beds in public hospitals through people waiting on a place in nursing homes, was something in the order of four per cent. I will check the precise statistic, but it is something in that order. In other words, the very substance of your question is totally and completely wrong. The truth of the matter is that public hospital waiting lists are the fault of state governments, whether they are Liberal governments or Labor governments, because the states have constitutional responsibility.

Mr Ripoll interjecting—

Mr SPEAKER—The member for Oxley is warned!

Mr HOWARD—Until the Leader of the Opposition can come up with a more convincing argument than that, all of the people on this side of the House are entitled—I think the phrase is—to turn away from the argument being put by the Leader of the Opposition.

Public Hospitals: Western Australia

Dr WASHER (2.32 p.m.)—My question is addressed to the Minister for Health and Aged Care. Would the minister inform the House of any further allegations regarding treatment available in accident and emergency departments in public hospitals in Perth? Minister, how recent are these allegations?

Dr WOOLDRIDGE—I thank the honourable member for his question. There is one further allegation, and it concerns how often these allegations have indeed been made. On AM this morning, in trying to defend taking a cheap political point over a fictitious and trumped up situation in the accident and emergency department, the Leader of the Opposition attempted to defend himself with the following words:

Look, I’m not in the business here—and this is the first time I’ve said anything about this publicly.

But he went on—he said more. He said:

... let’s get that absolutely clear. This is the first time I’ve said it.

So we have the Leader of the Opposition in trouble on ABC radio this morning, under very substantial pressure for having gilded the situation and having said that his daughter was turned away from treatment when, in fact, nothing could be further from the truth. So what does the Leader of the Opposition do when he is under pressure for having fibbed the previous day? He says,

’Look, I’ve never raised this before. Let me make that absolutely clear. I’ve never raised that before.’ But he has a problem with that. That problem is what happened at Merimbula. A month before, in Merimbula, the Leader of the Opposition addressed a policy forum of 150 of his closest friends, and two people independently—one a local journalist, Donald Kerr—have come forward and said that they very clearly remember Mr Beazley making these allegations at that meeting.

Opposition members—So what?

Dr WOOLDRIDGE—The opposition ask, ‘So what?’ I will tell you so what: the
Leader of the Opposition, when under pressure over having said something that was clearly not accurate, chose again to try to justify his situation by saying the first thing that came into his mind, which was, itself, clearly and demonstrably inaccurate. This is an issue of character. This is an issue that goes to the heart of the fitness of this man to even be the Leader of the Opposition. The fact is that this man will lie and say anything that suits him to get himself out of trouble. Because of that, Mr Speaker, I seek leave to censure the Leader of the Opposition.

Honourable members interjecting—

Mr SPEAKER—The House will come to order! If members wish, I will simply issue a general warning. I have not done so, but I will do so if that sort of behaviour is repeated.

Leave granted.

LEADER OF THE OPPOSITION
Motion of Censure

Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (2.36 p.m.)—I move:

That this House censures the Leader of the Opposition:

(1) for the way in which he has mislead the Australian people about health policy in general and access to public hospitals in Western Australia;

(2) for his failure to show any leadership in preventing members of his Caucus from also deliberately misleading the public about his recent experience with the public hospital system in Western Australia; and

(3) for undermining the Australian people’s faith in receiving quality care when presenting with serious health problems at accident and emergency departments around the country and undermining the essential work done by health professionals in these accident and emergency departments, who save the lives of thousands of Australians every year.

A censure motion against the Leader of the Opposition is the most serious thing a government can move. This government is moving this motion because the Leader of the Opposition on three separate occasions in less than 24 hours has been caught out telling blatant untruths. In politics from time to time people have been known to gild the lily about political events, but the Leader of the Opposition on this occasion has chosen to bring his family into this situation to score a cheap political point on the government—a political point that turned out to be grossly untrue.

The opposition is trying to engender a system of crisis where no crisis exists, to try and whip up community fear. These are the sorts of tactics that you might call ambulance-chasing or that the member for Werriwa might call scab picking. It is the lowest of the low when you do not have any policy yourself but you intend to engender fear in the public. You only get in trouble when you actually do not tell the truth, as the Leader of the Opposition has on this occasion. He has been caught out not telling the truth on not one occasion but three separate and distinct occasions. When you get in trouble, you can come out and say, ‘I’m sorry, my family were involved and I got a bit emotional, I got a bit carried away,’ and anyone would understand that. But this morning, in attempting to defend himself, he has gone one step further and continued to be untruthful on two further occasions.

First, he reiterated the situation that his daughter was required to go to the private hospital for treatment, whereas at lunchtime today Sir Charles Gairdner said that is clearly and blatantly untrue. On the third occasion he attempted to say, ‘I brought my family into it, but it’s only the first occasion I’ve ever done it,’ and that was shown to be blatantly and demonstrably untrue. Could he bring himself to admit he was wrong in his press conference at about 1 o’clock this afternoon? Not on your life. Watching the Leader of the Opposition attempt to squirm out of the fact that he had said this was the first occasion that he had ever done it, except for the fact that he forgot he did it in front of 150 of his closest friends at Bega a month previously, was really a sight to behold.

I intend to go through these situations in order. The first situation arose yesterday. It was probably an off the cuff comment in caucus. It was using a point to illustrate an
argument—something we all do. It was perhaps going one step too far—something that many of us do as well. This was different in that it was a step too far, designed deliberately and calculatingly to scare the Australian public about a situation that exists in our accident and emergency departments. It was a situation designed calculatingly and deliberately to undermine faith in the public hospital system. It was a situation calculatingly and deliberately designed to misrepresent the case in terms of funding, when in fact the responsibility from the Commonwealth’s end is a 10 per cent increase in funding and we have reports of a 20 per cent decrease in funding by the Leader of the Opposition’s own party in his own state.

I can believe and I will concede that one person could get it wrong. One person often does get it wrong. But we do not have the case here where one person got it wrong. We have at least three examples, and that is what we have been able to find in under 24 hours—I suspect more examples will come to light. If it had been one person giving a briefing, you could have very reasonably said the person made a mistake, the person embellished it or the person took it too far. I am prepared to concede that Senator West in her non-attributable briefing to caucus—which I understand is the norm—went a step too far. But have a look at Senator West’s take-out of what happened yesterday. Senator West talked about the Leader of the Opposition’s own harrowing experience. She said that his daughter was denied treatment at a public hospital.

Mr Howard—Denied treatment?

Dr WOOLDRIDGE—Denied treatment. She was turned away, and she had to get back into the car and go from accident and emergency to accident and emergency to accident and emergency. I was immediately suspicious because, as a doctor before I entered politics and someone who completed their basic surgical training, I have had enormous experience in accident and emergency departments and I have actually taken out a good number of appendices myself. I have never, ever heard of a case of someone with known appendicitis being turned away from a hospital. What we then find is that perhaps Senator West went too far, and perhaps it was just one hospital—I concede that completely.

We have a report that is running that is incorrect. Sometimes our friends in the media do not report us as accurately as we might like, and we do occasionally have inaccurate things running in the media. Everyone in this parliament who deals with the media knows that the media is pretty fair in this. You ring up, put your case, say something is inaccurate and you can either correct it or have it corrected for you. In almost all cases you would seek to have an inaccurate statement corrected. That is part of our ministerial code of conduct: when you come to realise that something is incorrect, you are required to correct it at an early opportunity. So did the leader of the opportunity—

Honourable members interjecting—

Dr WOOLDRIDGE—That is called a Freudian slip. The trouble with the Leader of the Opposition was that he could have taken the opportunity to say, ‘Look, this is not right. I’m sorry, the story is wrong. My daughter did have a bit of a wait. We were distressed by it, naturally, but she didn’t have to go from A&E to A&E to A&E, and she wasn’t turned away. She in fact got excellent treatment from the people at the Sir Charles Gairdner.’

Ms Macklin interjecting—

Mr SPEAKER—The member for Jagajaga is warned.

Dr WOOLDRIDGE—The opposition leader deliberately chose yesterday not to do this. He had a new standard for corrections in his press conference at 1 o’clock. He said, ‘A correction is: if you ring me and ask me if a briefing is true, I’ll tell you whether or not it’s true.’ So we are supposed to know from now on that nothing ever given at the normal weekly non-attributable caucus briefing can be known to be true unless you ring up and ask if it is true. ‘If you don’t ask if it’s not true, don’t blame me for you printing something that’s incorrect.’

Mr Costello—Why didn’t we think of that?

Dr WOOLDRIDGE—In the words of the Treasurer, ‘Why didn’t we think of that?’
That has never been the standard by which people are judged in this place. The Leader of the Opposition’s culpability in this is compounded by the fact that this story was allowed to run incorrect all day. The last call I received was at 11.30 last night, when a friend of mine who had seen it on the late news rang me to say that he was distressed by this and thought it was going to cause me some political problems. It ran the entire day—this terrible story about how the daughter of the Leader of the Opposition was turned away, was denied treatment, had to go from accident and emergency to accident and emergency to accident and emergency.

I said that this was corroborated by three people. The opposition cannot put the case that this was a mistake made in the briefing. The briefing was also given by George Campbell. There were two separate people briefing. We have a tape of this briefing. It is very clear that the same story of distress and neglect by Charles Gairdner Hospital, of a person being turned away, was given by two separate people in the briefing. George Campbell was very interesting because in the briefing he also added, ‘Can you imagine, it even happened to the Leader of the Opposition,’ as if a good socialist would expect to get preferential treatment. Given the past history of Labor ministers on this, that is quite understandable. There is a third person who independently went out and sought to beat this story up. It was the member for Jagajaga. On radio in Sydney, on Graham Richardson’s radio show in Sydney—

Mr Costello—Whatever it takes!

Dr WOOLDRIDGE—Yes, whatever it takes. The member for Jagajaga made the specific allegation that this person was turned away from the hospital.

Mr Crean—Not the only one.

Dr WOOLDRIDGE—They were the words that were used. I can understand one person in the caucus mishearing what was said. I would be highly dubious about two people in the caucus mishearing what was said. But we have three people that we have so far found, mishearing, independently, in the caucus—all talking, all running the story, all running the lie that the person was turned away, was unable to get treatment. It is designed calculatingly and deliberately to reduce the public’s trust in the public hospital system. That is the first occasion on which the Leader of the Opposition has been caught red-handed being loose with the truth to make a political point.

The second occasion on which this happened was this morning—the second and third occasions in fact—when the Leader of the Opposition attempted to make a point on AM. I will quote from AM. The Leader of the Opposition was talking about why he had brought the matter up. Again, you can understand that in the heat of the moment, trying to illustrate a point, you might say something and think later, ‘Gee, I wish I hadn’t said that.’ I have to admit that there has been more than one occasion on which I have done that. But on this occasion the Leader of the Opposition knew he was under fire. I first decided to go on AM after seeing the comments from Sir Charles Gairdner Hospital which had been faxed to me overnight. I rang the executive producer and he said, effectively, ‘At this late hour we would have to have the opposition on.’

So the Leader of the Opposition had at least 20 minutes warning that this was coming up. He knew that he was going to be under attack. He knew he would have to get his story right. He knew there had been one untruth. But he compounded his first untruth by trying to explain it away with a second blatant untruth. In the end it was the Leader of the Opposition who chose to raise this issue. It would not have been raised without him. The Leader of the Opposition, in attempting to explain why he had chosen to raise this issue, used the following words:

... I’m not in the business here ... this is the first time I’ve said anything about this publicly ...

To reinforce that, he said it twice: he continued:

... let’s get that absolutely clear, this is the first time I’ve said it.

There is no equivocation there. There is no weasel word. Those in politics sometimes have a great vocabulary of words to qualify something or allow themselves to get out later. There are none of those here. It is black and white: ‘I have never raised this issue...’
before. Let’s get it absolutely clear. I’ve never raised it before.’ What a pity about Merimbula!

The trouble in public life is that people have long memories. I can understand the Leader of the Opposition wanting to raise this on the South Coast. It is very distressing to have a family member who is unwell. I can understand someone being annoyed about it. I can understand someone being annoyed about having to wait. I cannot understand someone, in trying to defend themselves, saying, ‘I’ve never raised it before’ when in black and white they raised it in front of 150 people a month before.

Here we have the Leader of the Opposition under fire. What does he do? Does he say, ‘Look, I’m sorry, I made a mistake’, and that is it? No, he does not. He chooses to compound his first untruth with a second blatant untruth. How does he seek to justify this at a press conference at lunchtime? I have to say that he is one of the masters of obfuscation. The Leader of the Opposition said, ‘Well, I didn’t say it to the national media.’

So we now have a definition of what is public, just as we now have a definition of what is a correction. A correction is when you ring up and ask us whether the briefing is right or wrong. A definition of public is when you go out and tell the national media. It is somehow public to talk about it in front of your 90 to 100 colleagues in the Labor caucus. That is clearly, by this definition, public, because he said, ‘That’s the first time I’ve talked about it publicly.’ But it is not public to talk about it in front of 150 people at a public meeting at Merimbula or Bega on the South Coast. This is not a debating point. The point is that, under pressure, the Leader of the Opposition chooses to say the first thing that comes into his mind.

Mr Crean—No; that’s you.

Dr WOOLDRIDGE—The Leader of the Opposition says something—

Mr SPEAKER—I warn the Deputy Leader of the Opposition!

Dr WOOLDRIDGE—It was not just Douglas Kerr the journalist; it was also Marea Moulton. She is the second person who has independently corroborated what has happened here. She is reported as saying very clearly, referring to Mr Beazley:

“He made an attempt to connect with the community by talking about how his daughter had been, I think it was an attack of appendicitis or something like that I can’t quite remember the detail, but she was certainly on a protracted waiting list and that specifically drew his attention to the matter,” she said.

“And he said ‘don’t think Labor is removed from this situation...”

So here he has been travelling around the country, using his daughter’s situation to drum up political points against the government, and, when he has to explain why he has chosen to bring his family in, the first thing that comes into his head is to say something untruthful, and that is exactly what he did.

The third occasion on which the Leader of the Opposition has compounded what he said was again on AM when he stated that his daughter had to go—she was required—and have treatment in a private hospital. This is a follow-on of this long and harrowing saga. I am prepared to concede that any child being sick is a harrowing story, but let me again put on the record what Sir Charles Gairdner Hospital said. It is a public hospital in a Labor state. Think about that: a hospital putting out a press release like this in a Labor state. You can imagine that it has pored over the records, because there are records of this admission, and it has been absolutely precise and correct in such a difficult circumstance.

The chief executive officer of the Sir Charles Gairdner Hospital has said that the person involved was correctly diagnosed as having appendicitis and was given appropriate pain relief. Because the theatres were busy there would have been a slight delay. Busy theatres are nothing out of the normal. This was Tuesday morning. Operating theatres in public hospitals operate on a theatre list that starts at 8 a.m. All the theatres are busy from 8 a.m. until 1 p.m. with elective surgery. Of course the theatres were going to be busy—that is normal. Secondly, with appendicitis there is often a slight wait. In the words of Sir Charles Gairdner, ‘there would
have been a slight delay in her surgery, as is often the case with appendicitis’.

Mr Lee—How long?

Dr Wooldridge—Slight, and I have said that four times. The press release continues:

On the day in question, an operating theatre was available at St John of God Hospital Subiaco more quickly than at Sir Charles Gairdner Hospital, but surgery could have safely been performed at SCGH had Ms Beazley preferred that. So here we have the third occasion in 24 hours when the Leader of the Opposition has chosen to say the first thing that comes into his head, to compound his confusion, to make the fourth or fifth version of events that we have had from him and his office. Members of the press gallery who were receiving calls yesterday trying to get corrections will know that this story was a shifting sand from the time it started at 1.27 p.m. This morning we have the third occasion. It was said that she had to go to the private hospital for treatment, whereas Sir Charles Gairdner is saying very clearly that she could have had it done there safely—after a short delay, which is absolutely normal for appendicitis—if she had chosen to do so.

This is, again, another occasion of a person saying the first thing that takes into his head, whether it is truthful or not, to try to create a picture. The picture is one of apparent crisis in health care. I am happy to tell you what a crisis in health care is. It is having no rural kids getting into medical school and having rural doctors vanishing from the scene. A crisis in medical school is having health care agreements that are dysfunctional. A crisis in health care is having private health insurance dropping through the floor. A crisis in health care is having measles epidemics in an advanced Western country—as happened in 1993 and 1994. All of those things happened under the previous Labor government. All of those things have either been fixed or are on the way to being fixed. The Leader of the Opposition will not achieve anything by deliberately obfuscating, by attempting to create a crisis where one does not exist, and he certainly will not achieve it by not telling the truth.

Mr Speaker—I second motion and reserve my right to speak at a later time.

Mr Beazley—I move:

(1) for his dishonest fabrication regarding the Leader of the Opposition this morning, when the Minister claimed the Leader had ‘lied about his family circumstances’;

Honourable members interjecting—

Mr Speaker—I have interrupted the Leader of the Opposition because he is entitled to be heard in silence as, indeed, the minister was. I will deal with those who defy the chair.

Mr Beazley—I continue:

(2) for his gross misrepresentation of the facts related to patient treatment in Australia’s hard-pressed public hospital system, as evidenced by his dishonest fabrication this morning about the facts and circumstances of the treatment of the daughter of the Leader of the Opposition;

(3) for his refusal to address the resource strains our public hospitals are facing and his denial that citizens are being forced to wait in pain for treatment;

(4) for his gross misrepresentation of Labor’s cancer policy including hysterical, shrill and deceitful claims about the possible death of women; and

(5) for his incompetent, uncaring and arrogant administration of one of the most critical Commonwealth portfolios which affect the welfare of Australians’.

Mr Beazley—As it turns out, all the propositions made by the minister in his paltry censure motion were answered by me in a press conference today.

Fran Bailey interjecting—

Mr Speaker—the member for McEwen!

Mr Beazley—But, before I answer in detail and talk about the circumstances that affected my daughter and affect so many others in the public hospital system, let me shine a light—

Fran Bailey interjecting—
Mr SPEAKER—I warn the member for McEwen!

Mr BEAZLEY—on what is going on here. Let me shine a light on the performance of this minister, the Prime Minister and the Treasurer out there today. If you had a collective of Uriah Heeps, you would have that collective description applying to each one of them: ‘We are ever so humble! It makes us so sad to have to mention the family of a particular member of parliament. But, of course, he started it and therefore it is reasonable for us to be joining in like a pack of wolves to see what we can make of it, to exploit it for our own political purposes.’ What I corrected at the press conference—

Mrs Draper interjecting—

Mr SPEAKER—I warn the member for Makin!

Mr BEAZLEY—was clearly a misbriefing and that misbriefing, contrary to what was said by the minister for health, was being dealt with all yesterday afternoon. There are—and I briefed the caucus on—two bad stories about the public hospital system. One related to the bypass of the public hospital system emergency, frequently—

Mr Tuckey interjecting—

Mr SPEAKER—The Minister for Forestry and Conservation!

Mr BEAZLEY—right around this country, because there is an absence of beds, and the other related to the circumstances of my daughter in the public hospital system in Western Australia—both bad stories; both worth the telling, now that you have chosen that we should tell them. Let me take the first of those stories—that is, the issue of bypass.

Mrs Draper interjecting—

Mr SPEAKER—The member for Makin will excuse herself from the House under standing order 304A.

The member for Makin then left the chamber.

Mr BEAZLEY—Every single newspaper in this country and everybody who looks at the Australian health care system knows the truth of the fact that there are thousands of people each year who await appropriate treatment but, because of the pressure on the public hospital system, cannot get it. Then there are the circumstances that my daughter confronted. I do not disagree with the interpretation being given by the hospital. Mine is not an attack on the hospital, but it does depend a little on the timing.

Let me tell you what my daughter and her mother told me—the basis on which I made these statements. Let me tell you the story they told me. My daughter attended the hospital, vomiting and with severe stomach pains, early on the morning of that date. She was put on a trolley and she then spent, after having been given a pain-killer, a considerable amount of time being moved—

Mrs Hull—How long?

Mr BEAZLEY—If you must know, she was there for about five hours. About five hours—a slight time, just a little bit of time, just a smidgin—

Dr Martin interjecting—

Mr SPEAKER—I warn the member for Cunningham!

Mr BEAZLEY—Let me go on with this experience. It was just a smidgin of time and, at the end of that, she was not operated on. During that morning and into the early afternoon, there was a repeated discussion with her about whether or not she could get access to a bed. There were promises of it and then those promises having to be withdrawn. She makes no complaint about the way she was dealt with by the staff; she was dealt with by the staff very well. But there was no bed to be found for her. She was told, as she later reported to me, that there were no beds available because there were a large number of people in the hospital who ought more appropriately be in nursing homes. Do you think that is an uncommon story?

Honourable members interjecting—

Mr Cameron Thompson interjecting—

Mr BEAZLEY—You are completely unreal!

Mr SPEAKER—I warn the member for Blair!

Mr BEAZLEY—Indeed, we know that 41 people were in the hospital who ought to have been in nursing homes: we found that out subsequently. The second thing they told
Then her mother came to the hospital. Her mother was asked the question as to whether or not she had private health insurance. Although my daughter is an adult, she is a student, and therefore she has private insurance through her mother. Her mother then asked, ‘On the basis of that private health insurance, what are the options here in Sir Charles Gairdner?’ The surgical registrar then advised, ‘In those circumstances, you could use an independent consultant, which might bring the operation forward—indeed, it probably would.’ To which her mother replied, ‘While I have total confidence in the doctors here at Sir Charles Gairdner, it would be better if this could be done earlier, so we would appreciate bringing in the independent consultant for that.’ The surgical registrar said, ‘That is fine. Then we shall be able to obtain a bed for her, because somebody who is about to go into surgery gets access to a bed.’ He then came back sometime later and said to my daughter’s mother, ‘I’m afraid to say that there isn’t a bed. There are 16 people left over from last night, who of course have priority on the list.’ So what then transpired, you who would move censure motions, was this suggestion by the registrar to the girl’s mother: ‘Because we cannot do this immediately and, at the very best, it will be much later today’—although the recollection of my daughter was that it was to be the day after—‘I would recommend to you, as she has private health insurance, that you go to St John of God Hospital to have that operation done.’

The truth of the matter is this: her circumstances were that she would have been hours in that hospital. The suggestion of the hospital was, ‘Look, we are crowded to the gills—go and get your operation done elsewhere.’ That is the experience of family after family in this nation. We are not talking about 10 minutes in hospital, half an hour in hospital or three or four hours in hospital; we are talking about a very lengthy period of time, possibly going into the next day. Remember, there were 16 people left over from the day before still to be operated on during the course of that afternoon.

What is the solution to that? It is to go to the private hospital. Why is that an option for my daughter? Point one, it is because her mother and I can afford private health insurance. Point two, it is because of the availability of one bed in St John of God Hospital at that time. What if it were not she? What if it were not a girl whose parents had private health insurance? What if it were a set of circumstances in which the personal income status of the persons concerned were different? Then of course her experience would have been different. It would have been the experience such as that told to me by a nurse who has just sent me an email. It is one of a tonne of calls, emails and other messages that have come into my office regaling us with experiences that are similar to mine.

That nurse says:

I congratulate you for speaking out on your daughter’s experience of having to wait an inordinate length of time for appropriate treatment for acute appendicitis. As a nurse I am well aware of the risks involved in any delay in treatment for such a situation. It is fortunate that she had other options, as the outcome could have been disastrous. On a similar note, two friends of mine were both diagnosed with breast cancer at the same time. One was able to have her surgery within a few days, as there had been a cancellation. The other was told she would have to wait at least six weeks for her surgery. Understandably, my friend did not want to wait that length of time to have an aggressive form of cancer treated. She felt her only option was to have surgery at a private hospital. She didn’t have private insurance and the financial cost to her was considerable. This option would be out of the question for many people. I am glad to see the ALP making health a priority.

Indeed we are. What we have here is a desperate attempt to cover themselves for their culpability.

If you want to talk about deception in this chamber and the people who are deceiving, let me go to the efforts by the Prime Minister in question time today. He talked about the fact that these were not issues for Commonwealth governments; these were issues for state governments—they would be issues for state governments from this point onwards.
He had nothing more to do with them beyond what he had already agreed. That triggered a few things in my mind about where I may have heard argument about this before. I recollect debates about these matters in parliament when we were in government and you were in opposition. When you were out there condemning the Prime Minister of the day, Paul Keating, what was one of the charges that you laid against him? It was long waiting lists for public hospital treatment. Were there lectures about Peter Beattie then? Were there lectures about the state governments and the states then? Were there lectures about the distinct responsibilities of the Commonwealth and the states then? There were none at all. We are dealing with a bunch of canting hypocrites on this—hypocrites on family issues.

The simple fact of the matter is that my daughter’s experience in the public hospital system, through no responsibility of the public hospital system, through no malice by the doctors—in fact, the treatment that they gave her was as good as they probably could give—was down to the fact that the funding arrangements now leave our emergency services clogged, leave nursing home beds in public hospitals instead of in nursing homes where they should be, and leave empty beds in public hospitals. That produces circumstances like those that confronted my daughter. The illustrative point that I used at the community forum in Merimbula or in caucus yesterday, along with the other point I used, and that related to the well-known fact that people are passed from emergency service to emergency service all the time, leads to one thing, and that is a commentary on the character of the public hospitals for which this government bear direct responsibility and about which they wish to lie and prevaricate. We are telling the truth about these matters and you cannot bear it, and you should be censured for it. (Time expired)

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

Honourable members interjecting—

Mr SPEAKER—Order! I now issue a general warning: anyone who interrupts the House will be required to leave it.

Mr ANDERSON (Gwydir—Deputy Prime Minister) (3.13 p.m.)—I cannot pretend to be one who takes censure motions lightly. Indeed, it is with some reluctance that I participate in this debate, but it is plainly made necessary by the actions and the words of the Leader of the Opposition in recent times, and it is now made more important by the reality that, in the diatribe we have just heard, he did not address any of the substantive allegations. The censure motion should not be necessary. We should not be in a position where an aspirant to very high office, the highest in the land, places in serious doubt his own credibility before the Australian people. But, by his words and by his actions in the past few days, he leaves himself open to the charge that he has sought to make cheap political advantage out of something that all of us would regret—that is, dragging his own family’s affairs into the public arena. But we did not do that; he did that, and he did it in a way that was plainly meant to run. And it was plainly allowed to run when it was obvious that it was running in a way that would call into real question the credibility of the man who would seek the Lodge in this country.

Let us just recap briefly on the first of those allegations, namely, that he sought yesterday, via the briefing after caucus, to allow to emerge into the public arena a real concern that his daughter had been turned away several times from a hospital bed. That was running on AAP at 1.27 p.m. yesterday. The story was that she was turned away and had to be driven from accident and emergency to accident and emergency, and she ended up in a private hospital. It was still running at 7.12 p.m. last night. As the Minister for Health and Aged Care pointed out, it is hardly an adequate defence to then turn around and say, ‘Well, the way for these things to be corrected is for the journalist to ring us up and check whether it is accurate or not.’ We gather that they have two spokesmen for caucus. It is interesting to speculate why that might be. I presume one faction has to keep the other one honest. But evidently in this case, that was something that could not be double-checked. We had no way of
knowing which one was telling the truth. However, no-one was going to correct the story. It was still running last night.

Today we have a shift. There was no answering of the allegation, but a shift. Today, it appears it was recommended to his daughter—recommended. That is a far cry, of course, from the claim that she had to be driven from centre to centre and was turned away. Today there is a recommendation from the hospital, apparently, that his daughter go to a private hospital, which was of course made possible by the fact that she had private health insurance, about which certain members on the other side of politics in this country have had some highly critical things to say. We might hear a bit more about that in a moment.

The other point I want to make is that there was no attempt here today to deny the very strong and, I suspect, very carefully mounted case by the Sir Charles Gairdner Hospital that her care and treatment were both timely and appropriate. At no stage today did the Leader of the Opposition go so far as to suggest—and we are very thankful that this is obviously the case—that she was in any danger, or that her care could have been painted as somehow negligent and life or health threatening. Nor does the Leader of the Opposition respond at all to something that was revealed by one of the journalists, which was the claim made by the Leader of the Opposition that this was a private matter as he had just told caucus—and of course it was briefed out of caucus. It was never meant to be kept to caucus; I do not believe that for a moment. That is not the way the place works. The other part of the claim was that ‘this was a private matter and I’ve never, ever spoken about it anywhere else.’ He very obviously had done that, at some length, in a way designed to make a political point. Again, his choice; he dragged his family and his personal affairs into it.

When it comes to integrity in public policy, which is important, there is something I particularly want to touch on—and the Minister for Health and Aged Care referred to this today. It comes to the issue of the Labor Party insisting that all Australians ought to have equal access to health care. Strangely enough, I do not know how that sits with the very interesting claim, which I will come to in a moment, by the Leader of the Opposition that somehow or other, as the Leader of the Opposition, it was very surprising that, if his daughter was left in that situation, what could others expect? That was a very interesting juxtaposition.

Mr Howard—High privilege.
Mr ANDERSON—It is a slight implication that we would expect a bit of privilege there.
Mr McMullan interjecting—
Mr Costello interjecting—
Mr ANDERSON—that is what he said and I will read the quote; we will come to the quote in a moment.
Mr SPEAKER—Order! I remind the Treasurer and the Manager of Opposition Business of my earlier caution.
Mr ANDERSON—it does not alter the fact. The whole basis for Medicare back in the 1970s was that all Australians ought to have equal access to health care in Australia. That was their basis for establishing Medicare way back then and they have always maintained it since.

In reality, one of the great frauds in public policy in Australia has been that under them, there was no commitment to an equal standard of health care for all Australians. If you were an urban Australian, you got a different standard of health care from that of a regional Australian. It might be news to the cities, but one-third of Australians do not live in urban Australia. Regardless of where we live, every one of us here would want to commit ourselves to decent health care for all Australians, but the reality is that they presided over a very serious problem which they must have known was evolving. The Minister for Health and Aged Care pointed to the figures. The fact that about eight per cent of the medical intake to the medical schools in this country were country Australians when 25 to 30 per cent of the population comes from the country ought to have alerted them to the nature of the looming crisis, but it did not. They did nothing about it. They left us some 1,400 GPs short, and that is without considering the shortages of
specialists, nurses, allied health carers, beds in aged care facilities and what have you across rural and regional Australia, and with waiting lists that are unbelievable and horror stories coming from public hospitals. I am aware of a doctor on duty in a community of 15,000 people who was trying to deal concurrently with a woman giving birth, a man with a heart attack and with two people in very grave danger after a nasty car accident.

What was the cause of the problem? It was a chronic shortage of rural doctors. Who was it that left us with that situation? Who did not plan, address the issue or apply the resources? Who allowed a very serious underspend on one-third of the Australian population in respect of their per capita health expenditure? It was the Labor Party. If ever there was a lack of integrity in public policy, it was in the area of health, the very area in which they are now trying to paint us as lacking integrity.

There are other examples. The Commonwealth Bank comes to mind. This was the man who in December 1993 took over as Labor’s finance minister. He inherited the Labor government promise issued in a formal prospectus that it had ‘no intention whatsoever of reducing its ownership of the Commonwealth Bank below 50.1 per cent’. He was the finance minister in May 1994 when he was asked on the Business Sunday program whether his government would have to sell more of the Commonwealth Bank, and he replied, ‘No, it wouldn’t be our intention to do that.’ He was finance minister when the sale of the rest of the Commonwealth Bank was announced just one year later in the 1995 May budget.

What reason did the finance minister give then for the rejection of that solemn pledge? He said, ‘The real reason why we sold the Commonwealth Bank is that there is no need for us to hang onto it any longer.’ I do not know whether anyone actually believed that explanation but I would suggest to you that it stretches credibility extraordinarily and again it goes to the heart of the issue of whether or not people in public life and the Leader of the Opposition in particular can enjoy the credibility that aspirants to the office that he aspires to ought to be able to engender in the Australian people. What staggering arrogance he showed in that case.

We saw it again, though, with One Nation. Never have we seen a political leader posture so much as the Leader of the Opposition has on this. I had a certain exchange with the Leader of the Opposition in this chamber a little while ago on this matter. He sought to undermine my position on the matter. When I challenged the Labor Party’s action on One Nation preferences, pointing out that the Queensland Labor Party had cynically and slyly issued newspaper advertisements and how to vote cards encouraging Queenslanders not to distribute preferences so that there would be no Labor how to vote card putting One Nation last, I asked these questions: did the Leader of the Opposition take a clear position on that one? Did he deplore that cynical political ploy? He called us moral pygmies but did he demand integrity and honesty from his own branch in Queensland? The answer is no, he did not. Instead, he took a personal explanation to point to a very tricky little out clause in fine print—that Labor had intended to put it there—to weasel its way out of any embarrassment over the issue. Far from deploiring the cheap political trick—far from wanting to correct the record—he actually endorsed the lack of integrity and straightforwardness of the Queensland branch on that matter.

We have heard the Treasurer talk, too, occasionally about something called the Beazley black hole. We were told in the build-up to the 1996 election—endlessly told—that the budget was in surplus, that the Australian economy was in fine shape and that all was straightforward and in good order. Of course the reality was anything but—that is not the way that it was.

And then we come again of course to this very sad and sorry incident regarding the Leader of the Opposition’s daughter’s attendance at Perth Public Hospital. I do not want to go back over the details of it—the minister for health did that very well—although it has to be said that the way in which the Labor Party leader has sought to use this is, I think, very disturbing and very sad indeed. He sought to defend himself by saying that these comments were made privately. Privately?
Private comments made in a Labor Party caucus? I touched on this a moment ago: it was never intended to be private. I cannot accept for a moment that it was not meant to be out there as part of the political point scoring game that we are engaged in at the moment. That is why they brief. Was it actually not meant to be briefed? Was it not meant to be out there?

Mr Reith—It was deliberate.

Mr ANDERSON—Of course it was deliberate. They were not private comments—they were intended to be reported; they were intended to be made public.

Mr McMullan—that is not true.

Mr ANDERSON—the Manager of Opposition Business shakes his head and says, ‘Not true.’ What is not true? The statements were not true or it was never meant to be public?

Mr McMullan—it was never meant to be briefed.

Mr ANDERSON—it was never meant to be briefed. I see.

Mr SPEAKER—the Deputy Prime Minister will address his remarks through the chair.

Mr ANDERSON—So your caucus backgrounders were not meant to actually brief. If that is the case, it begs the question: why again did the Leader of the Opposition not ring the newspapers and AAP and say, ‘Sorry, they weren’t meant to be briefed about this particular story. You weren’t meant to be told’? Why was the member for Jagajaga on radio, for that matter? If it wasn’t meant to be in the public arena, why were people in Gary Nairn’s electorate at Merimbula told all about it? They were not private comments. They were intended to allow the Leader of the Opposition to use his family to score political points.

What is even more disturbing—and I come to the point that provoked the reaction over here—is that the Leader of the Opposition was recorded by Louise Dodson in the Age this morning to this effect:

Mr Beazley said to the meeting that if he, as Opposition Leader, could not get access to treatment in a public hospital for his daughter, then what chance would anyone else have?

Mr Howard—he implied privilege.

Mr ANDERSON—he implied privilege, as the Prime Minister says. Until I read that I was a little bit inclined to give the Leader of the Opposition—

Mr Howard—No, don’t.

Mr ANDERSON—all right, I should not—I accept that. It was wrong of me to be inclined to give him the benefit of the doubt. This comment really removes all doubt about it. It betrays an arrogance and a selfishness and a self-importance on the part of the Leader of the Opposition that ought to be profoundly disturbing to people as they contemplate who it is that they want occupying the Lodge in this nation. I find it quite extraordinary that he would claim that his position should give his family some sort of preferential treatment from our health system. Our hospitals are there for all Australians; they are there to meet everyone’s needs.

There might be those who would recall the old saying that money makes the world go round. We talk a lot in this place about the economy, fiscal policy and the like. But the real currency of the world is relationships. Relationships between people underpin everything that happens in the world and are critical. The most important element in relationships is trust, whether it is within families, between families, between the elected and the electorate, or between the electors and the institutions that serve our nation so well in this the 100th anniversary of our Federation. Trust is important. The Leader of the Opposition deserves to be censured. (Time expired)

Ms MACKLIN (Jagajaga) (3.28 p.m.)—There seem to be two groups of people in Australia. There are those who recognise, as the vast bulk of Australians do, that there are serious problems in our public hospitals. Those are the people who have been ringing and emailing our offices with stories over and over again of who has to wait and how long they have to wait in emergency departments, whether they are people who cannot walk or who are vomiting too much or who
have infected hips. Those are the sorts of people who have been ringing and emailing our offices today.

We have just heard from the Leader of the National Party about the issue of trust and whether or not the public take what this government has done and its approach to public health as something that they will consider at the next election. I want to share with you part of an email that was sent to the Leader of the Opposition this morning. It says:

Dear Kim

I saw with interest Wooldridge’s comments in parliament yesterday. I can only back you up on the poor health system. My daughter was turned away from hospital only last week, so the hospitals under Wooldridge are turning people away. What this rotten government doesn’t understand is that we all have brains and we use them. And on a reassuring note, you—meaning the Leader of the Opposition—are coming across as a very caring person, a fatherly type, approachable. This is touching the hearts of the people. Not long to go now before you’re the loved leader of Australia. I am a 51-year-old mother of five.

That is a lady from Queensland who wrote to us this morning about her experiences in the public hospital system. We know that this government does not want to talk about the problems that exist in the public hospital system and we know that is why we have had this extraordinary attack today on the Leader of the Opposition. The government is trying to make up a story just to divert attention from what are very serious problems within our public hospitals. That is why I was on the radio yesterday talking about—as a heading of the interview says—‘The need for increased public hospital funding’, which, of course, this government does not want to talk about. Two issues were referred to. One was the serious issues that—day in, day out—people, families and the elderly, confront in our public hospitals. The interviewer, Graham Richardson, did ask about Kim Beazley’s daughter and the fact that the experience of Hannah Beazley was pretty frightening. I think if anyone had to wait five hours—

Mr Crean—A slight wait!

Ms MACKLIN—Yes, a slight wait, according to the minister for health. From the information we have, it was about five hours in pain, not knowing whether or not she would have an operation that day. She was told sometimes that she would; at other times while she was waiting she was told she may not. I said on the radio yesterday that of course we were shocked. I said: We gasped, because they—meaning the caucus—really don’t imagine that people generally—because we know how often people generally are being turned away—will be turned away in an emergency.

If this government do not think people are being turned away, they are absolutely on another planet. Unfortunately, it is the case that ambulances turn up at hospitals, the emergency departments are full and the hospitals are full, and the ambulances are told to keep going. Some nights, in some cities, it goes on and on, through hospital after hospital. In fact, we know that in Perth that has happened just recently, when the major teaching hospitals were all on what is called ‘ambulance bypass’. That means the ambulance has to bypass the hospital; it cannot stop at the hospital because they are full. One of the reasons the hospitals are full is that they have many people waiting for nursing home beds who just cannot find them. The Sir Charles Gairdner Hospital in Perth has been referred to. On or around the time when the Leader of the Opposition’s daughter was in that hospital waiting in the emergency department to get an operation, when they could not find her a bed and the operating theatres were full, we find there were about 40 people waiting for a nursing home bed. No wonder there was no bed—there were 40
people who were inappropriately in that hospital, all of them wanting to get out into a nursing home bed but unable to do so. If ever you wanted one, that is an explanation for why our hospitals have to go on ambulances bypass, for why people have to wait so long in the emergency departments, sometimes for five hours, like the Leader of the Opposition’s daughter, and sometimes, I am sorry to say, much longer than that.

The most recent report we have, the annual performance report of the Australian health care agreements, shows that the nearly 300,000 people classified as urgent—that is, as defined in this report, people presenting with potentially life-threatening conditions such as severe hypertension or persistent vomiting, and children at risk—were not treated in our public hospitals within the target time of 30 minutes. So this is not about one person; this is not about the daughter of one person. This is being experienced in the families of all of us, of all the people all around Australia. It is no wonder that we are all hearing about it. It is no wonder that so many people are concerned about it when we have such a serious situation as this: 300,000 people waiting and waiting, because they cannot get into a hospital bed and an operating theatre because the beds and operating theatres are full.

As we know, this issue is very serious in Perth. It is serious in all of the other states as well, and there is only one reason for it: this government—not any other government—is not living up to the expectations that it set forth that it would properly fund our public hospitals. We know that is not the case. An independent inquiry has found that this government is not indexing the public hospital grants in the way it should be to keep up with the costs of paying wages and the demand on our public hospitals. The government has dudged the states. We saw that yesterday from the figures that were tabled in this House. This government is contributing only 43 per cent of total public hospital costs. When it came into government, 45 per cent came from the Commonwealth and now it is down to 43 per cent. In just this year alone, that means $200 million that our public hospitals could have been getting if this government had agreed to that level of indexation and had kept up with the right level of public hospital funding.

The real question that is at issue here today is about integrity. That is what the motion is about. I found it quite extraordinary indeed when I saw who moved the motion. Everybody here will remember that extraordinary series of events that became known as the scan scam. Whose big mouth was it that let the secret out of the bag that this government was going to give Medicare rebates for MRI scans? Whose big mouth was it? I think it was the Minister for Health and Aged Care that let this information out. The evidence is there for all to see.

Mrs Gash—Where’s the proof?

Mr SPEAKER—The member for Gilmore not only has forgotten her status in the House but is the first person to interrupt the speaker. The member for Jagajaga has the call. The member for Gilmore can count herself very fortunate.

Ms MACKLIN—Here’s the proof: 33 machines were bought in four days after the minister had met with radiologists. Amazingly enough, given the cost of these machines—don’t forget, they are at least $1½ million a throw; I’m sure you’ve all got a spare $1½ million to throw around—33 machines were ordered. Someone had to have let them know that this decision was being made for them to take that risk. When the Auditor-General investigated this matter, he came out and said that, in all probability, the information got out at this meeting just before the May budget. As a result of that, we had to have an Auditor-General’s inquiry and a Health Insurance Commission inquiry. The DPP also looked at all of the issues that were involved.

We also know that this minister has been extraordinarily busy on the fundraising front. Not only did Dr Wooldridge, the Minister for Health and Aged Care, open his big mouth to radiologists just before the 1998 budget but many sources let us know that he also attended a series of dinners in the months leading up to the 1998 election. Who do you think the dinners might have been with?
What sort of specialists might they have been?

Mr SPEAKER—The member for Jagajaga will address her remarks through the chair.

Ms MACKLIN—They included radiologists and health insurance companies, which certainly have done very well under this government, and this minister has done very well indeed out of them. We heard our colleague Senator Robert Ray go through Dr Wooldridge’s entertainment expenses. We certainly know he has extremely expensive tastes. I gather from the information provided by Senator Ray that around $34,000 had been claimed for various dinners and functions held by this minister.

I see in the *Australian* today that the minister has been given his most famous tag. He has been given an extraordinary description, ranging from various colours of wine, starting from a very white riesling through to a very full beajolais, although it might have been burgundy. This minister has the temerity to come in here and talk about integrity after what he did yesterday. He came in here and said that the Labor Party’s cancer policy would kill women. That is what this minister did. He knows that is nothing short of a complete and total fabrication. He knows that Labor’s cancer policy is about extending the availability of cancer services in this country. He knows that the vast majority of Australian women already see their GP and that we will be targeting those who do not. He knew he was telling an untruth. He came in here and called us nothing short of killers, and he has the audacity to talk about integrity here today. We know what this minister is like. We know how he has performed in health. He knows that he has given us the Americanisation of our health system. We know the way in which he treats pensioners.

*(Time expired)*

Mr Crean—I support the amendment.

Mr SPEAKER—I am about to put the question. The Deputy Leader of the Opposition will resume his seat, and I will put the question and recognise him. I was merely going to say that the immediate question is that the words proposed to be omitted stand part of the question.

Mr CREAN (Hotham) (3.44 p.m.)—All week in this parliament, the government has been asked to announce one positive—

Motion (by Mr Fahey) put:

That the question be now put.

The House divided. [3.48 p.m.]

(Mr Speaker—Mr Neil Andrew)

Ayes............. 76
Noes............. 62
Majority........ 14

AYES


Mr SPEAKER—Order! I appoint the same tellers as in the previous division. Members must remain in their seats unless they are leaving the chamber, did not vote in the previous division or are changing their vote, in which case they must report to the tellers. While it is true that we are in the process of a division, I would remind members of the warning issued earlier.

Question put:

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

The House divided. [3.55 p.m.]

(Mr Speaker—Mr Neil Andrew)
Wednesday, 22 August 2001

Gillard, J.E. Griffin, A.P.
Hall, J.G. Hatton, M.J.
Hoare, K.J. Hollis, C.
Horne, R. Irwin, J.
Jenkins, H.A. Kernot, C.
Kerr, D.J.C. Latham, M.W.
Lawrence, C.M. Lee, M.J.
Livermore, K.F. Macklin, J.L.
Martin, S.P. McLeary, 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’Keeffe, N.P. Plibersek, T.
Price, L.R.S. Quick, H.V.
Ripoll, B.F. Roxon, N.L.
Sawford, R.W. * Sciaccia, C.A.
Sercombe, R.C.G. * Short, L.M.
Sidebottom, P.S. Smith, S.F.
Tanner, L. Thomson, K.J.
Wilkie, K. Zahra, C.J.

PAIRS

Worth, P.M. Swan, W.M.
* denotes teller

Question so resolved in the affirmative.

Mr Price—Mr Speaker, I raise a point of order. I was wondering whether the member for Kennedy actually reported to a teller.

Mr Speaker—Mr Speaker, under standing order 150, would you write to the Treasurer and seek a reason for the delay in answering my question No. 2527 of 5 April this year?

Mr Speaker—I will follow up the matter raised by the member for Stirling as the standing orders provide.

PAPERS

Mr Reith—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings.

Motion (by Mr Reith) proposed:

That the House take note of the following paper:

DEPARTMENT OF RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS


Debate (on motion by Mr McMullan) adjourned

MATTERS OF PUBLIC IMPORTANCE

Health: Government Funding

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Public Hospitals: Treatment of Patients

Mr Howard (Bennelong—Prime Minister) (3.57 p.m.)—Mr Speaker, I want to add to an answer. During question time I was asked a question about the impact on public hospital waiting lists of people waiting for nursing home beds. I was asked about the Charles Gairdner Hospital and I said I did not have that, but I did quote the Victorian figures. I said that, by recollection, the Victorian figure was four per cent of the total number. I took the liberty of checking that and I should inform the House that I was wrong in saying that the figure was four per cent. In fact, the percentage was 1.4 per cent.

QUESTIONS TO MR SPEAKER

Questions on Notice

Ms Jann McFarlane (3.58 p.m.)—

Mr Speaker, under standing order 150, would you write to the Treasurer and seek a reason for the delay in answering my question No. 2527 of 5 April this year?

Mr Speaker—I will follow up the matter raised by the member for Stirling as the standing orders provide.

PAPERS

Mr Reith (Flinders—Leader of the House) (3.58 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings.

Motion (by Mr Reith) proposed:

That the House take note of the following paper:

DEPARTMENT OF RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS


Debate (on motion by Mr McMullan) adjourned
Mr BEAZLEY (Brand—Leader of the Opposition) (3.59 p.m.)—Mr Speaker—
Motion (by Mr Reith) put:
That the business of the day be called on.

Opposition members interjecting—

Mr SPEAKER—I would have thought it highly unlikely that any member, including the Leader of the House and the Leader of the Opposition, would want me to take the action that I am obliged to take following the issue of a general warning.

The House divided. [4.04 p.m.]

(Mr Speaker—Mr Neil Andrew)

Ayes............ 75
Noes............ 62
Majority........ 13

AYES
Abbott, A.J. Anderson, J.D. Tuckey, C.W. 
Andrews, K.J. Anthony, L.J. Vale, D.S. 
Bailey, F.E. Bartlett, K.J. Washer, M.J. 
Barresi, P.A. Brough, M.T. Wooldridge, M.R.L. 
Billson, B.F. Cameron, R.A. 
Bishop, J.J. Charles, R.E. 
Cadman, A.G. Downer, A.J.G. 
Causley, I.R. Draper, P. Elson, K.S. 
Costello, P.H. Entsch, W.G. Fahey, J.J. 
Draper, P. Fahey, J.J. 
Enitch, W.G. Ferguson, M.J. 
Fischer, T.A. Forrest, J.A. * Fitzgibbon, 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. 
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. MacArthur, S. * Lawrie, R.G. 
McGauran, P.J. Moylan, J. E. 
Nairn, G. R. Nehl, G. B. 
Nelson, B.J. Neville, P.C. 
Pearce, C.J. 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. Thompson, C.P. 
Thomson, A.P. Truss, W.E. 

NOES
Adams, D.G.H. Albanese, A.N. 
Beazley, K.C. Bevis, A.R. 
Brereton, L.J. Burke, A.E. 
Byrne, A.M. Cox, D.A. 
Crean, S.F. Crosio, J.A. 
Danby, M. Edwards, G.J. 
Ellis, A.L. Emerson, C.A. 
Evans, M.J. Ferguson, L.D.T. 
Ferguson, M.J. Fitzgibbon, J.A. 
Gerrit, J.F. Gibbons, S.W. 
Gillard, J.E. Griffin, A.P. 
Hall, J.G. Hatton, M.J. 
Hoare, K.J. Hollis, C. 
Horne, R. Irwin, J. 
Jenkins, H.A. Kerton, C. 
Kerr, D.J.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. Melfham, 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. 
Sawford, R.W. * Sciaccia, C.A. 
Sercombe, R.C.G. * Short, L.M. 
Sidebottom, P.S. Smith, S.F. 
Tanner, L. Thomson, K.J. 
Wilkie, K. Zahra, C.J. 

PAIRS
Worth, P.M. Swan, W.M. 
* denotes teller 

Question so resolved in the affirmative.

RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

Main Committee Report

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

Ordered that the bill be taken into consideration forthwith.

Bill agreed to.
Wednesday, 22 August 2001

**Third Reading**

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

**HEALTH AND AGED CARE LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001**

**Main Committee Report**

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

Ordered that the bill be taken into consideration forthwith.

Bill agreed to.

**Third Reading**

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

**TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 2) 2001**

**Main Committee Report**

Bill returned from Main Committee with amendments; certified copy of bill and schedule of amendments presented.

Ordered that the bill be taken into consideration forthwith.

**Main Committee’s amendments**—

(1) Schedule 3, item 49, page 19 (lines 23 to 26), omit paragraph (b), substitute:

(b) the statement:
   (i) is false or misleading in a material particular; or
   (ii) omits any matter or thing without which the statement is misleading in a material particular; and
   (c) the person is reckless as to whether the statement:
      (i) is false or misleading in a material particular; or
      (ii) omits any matter or thing without which the statement is misleading in a material particular.

(2) Schedule 3, item 51, page 20 (after line 7), after paragraph (1)(b), insert:

(ba) the record does not correctly record the matter, transaction, act or operation; and

Amendments agreed to.

Bill, as amended, agreed to.

**Third Reading**

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

**TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 3) 2001**

**Main Committee Report**

Bill returned from Main Committee with amendments; certified copy of bill and schedule of amendments presented.

(Quorum formed)

Ordered that the bill be taken into consideration forthwith.

**Main Committee’s amendments**—

(1) Clause 2, page 2 (line 6), omit “is”, substitute “and Part 4 of Schedule 3 are”.

(2) Schedule 3, page 61 (after line 7), at the end of the Schedule, add:

**Part 4—Trade Practices Act 1974**

**16 Subsection 6(6)**

Omit “400”, substitute “2,000”.

**17 Subsection 75AZC(1) (penalty)**

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

**18 Subsection 75AZD(1) (penalty)**

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may
be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

19 Subsection 75AZD(2)
Omit “2,000”, substitute “10,000”.

20 At the end of subsection 75AZD(2)
Add:
Note 1: The penalty specified in subsection (2) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (2) to a person other than a corporation (and the corresponding penalty), see section 6.

21 Subsection 75AZD(3)
Omit “2,000”, substitute “10,000”.

22 At the end of subsection 75AZD(3)
Add:
Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (3) to a person other than a corporation (and the corresponding penalty), see section 6.

23 Subsection 75AZE(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

24 Subsection 75AZF(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

25 Subsection 75AZG(1)
Omit “2,000”, substitute “10,000”.

26 At the end of subsection 75AZG(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

27 Subsection 75AZH(1) (penalty)
Repeal the penalty, substitute:

Penalty: 2,000 penalty units.

Note: If a corporation is convicted of an offence under this subsection, subsection 4B(3) of the Crimes Act 1914 allows the Court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the Court on an individual convicted of the offence.

28 Subsection 75AZI(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation:
subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

29 Subsection 75AZJ(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

30 Subsection 75AZJ(2) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

31 Subsection 75AZK(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

32 Subsection 75AZL(1)
Omit “2,000”, substitute “10,000”.

33 At the end of subsection 75AZL(1)
Add:

Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

34 Subsection 75AZL(3)
Omit “2,000”, substitute “10,000”.

35 At the end of subsection 75AZL(3)
Add:

Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (3) to a person other than a corporation (and the corresponding penalty), see section 6.

36 Subsection 75AZM(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

37 Subsection 75AZM(2) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

38 Subsection 75AZN(1)
Omit “2,000”, substitute “10,000”.

39 At the end of subsection 75AZN(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

40 Subsection 75AZO(1)
Omit “2,000”, substitute “10,000”.

41 At the end of subsection 75AZO(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

42 Subsection 75AZO(2)
Omit “2,000”, substitute “10,000”.

43 At the end of subsection 75AZO(2)
Add:
Note 1: The penalty specified in subsection (2) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (2) to a person other than a corporation (and the corresponding penalty), see section 6.

44 Subsection 75AZO(3)
Omit “2,000”, substitute “10,000”.

45 At the end of subsection 75AZO(3)
Add:
Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (3) to a person other than a corporation (and the corresponding penalty), see section 6.

46 Subsection 75AZP(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

47 Subsection 75AZP(5) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

48 Subsection 75AZQ(1) (penalty)
Repeal the penalty, substitute:
Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

49 Subsection 75AZQ(4) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

50 Subsection 75AZS(1)
Omit “2,000”, substitute “10,000”.

51 At the end of subsection 75AZS(1)
Add:

Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

52 Subsection 75AZS(3) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

53 Subsection 75AZT(1)
Omit “2,000”, substitute “10,000”.

54 At the end of subsection 75AZT(1)
Add:

Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

55 Subsection 75AZU(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

56 Subsection 75AZU(2) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

Amendments agreed to.
Bill, as amended, agreed to.
Third Reading

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

GENERAL INSURANCE REFORM BILL 2001

Second Reading

Debate resumed.

Mr KELVIN THOMSON (Wills) (4.17 p.m.)—Prior to question time, I was speaking on the General Insurance Reform Bill 2001 and my second reading amendment and I was raising issues which the royal commission into HIH ought to be considering. I was on the topic of the reinsurance arrangements which HIH entered into which require examination, and the two concluding arrangements are: an internal reinsurance arrangement established through Hannover that allowed a higher net retention to be held on certain portfolios—this created opportunities for recognising profits on these layers of exposure potentially before they should have been; and HIH America reinsurance arrangements which generated profits in year one with premiums to be paid in subsequent years for minimal likelihood of risk exposure, as considered at the time.

The range and nature of the reinsurance transactions clearly assisted in creating a greater degree of difficulty in determining the true results of HIH. Unless the nature of these abnormal transactions is properly identified, quantified and understood, then the interpretation of the financial statements of a general insurer is nigh on impossible.

Labor have indicated that we believe the royal commission’s terms of reference are inadequate. One of the things that we believe needs to be canvassed is the role, if any, played by political donations. The royal commission should call Mr Ron Walker, the federal Treasurer of the Liberal Party, as a witness and ask him to identify both on how many occasions he sought and received political donations from Mr Ray Williams as chief executive officer of HIH and whether on any of those occasions Mr Williams sought any political favours or political action to be undertaken by the Liberal Party. The royal commission should call Mr Andrew Peacock as a witness and ask him whether he at any stage received an HIH consultancy and whether he used HIH office space for his business activities. If so, how much was he paid, what activities did he carry out and what work did he do on behalf of HIH?

The royal commission should also call Mr Alan Stockdale as a witness and ask him: what work was done by HIH for the Victorian Liberal opposition prior to the state election in 1992 and what political donations were made to the Victorian branch of the Liberal Party? Mr Stockdale should be asked to identify the nature of the work done by HIH for the Victorian Liberal Party and what use was subsequently made of that work by the Kennett Liberal government.

The royal commission should call—and I daresay it will—Mr Rodney Adler as a witness and ask him to identify what political donations he made to the Liberal Party both during the period he was associated with FAI insurances and during his subsequent period with HIH insurances. It should ask him whether any occasions he requested Liberal Party parliamentarians or personnel to take any action concerning insurance matters which would have been of assistance to FAI or HIH, including in the course of this legislation making its way here to the parliament. It should also ask him whether HIH engaged in artificially closing files to improve the look of its balance sheets and whether HIH sold off its reinsurance cover such that the cover was not available when it was supposed to be available. It should also ask him about the extent of personal trading in HIH shares and whether any such personal trading was in conflict with his duties as a director. It should also ask him about the use made of money from a $10 million trust fund set up using HIH money to which Mr Adler had access, and in particular whether $6 million or a similar amount was used to purchase shares belonging to Mr Adler in stocks that he owned in other companies which were losing value as a result of the so-called tech wreck. The federal parliamentary Labor Party pushed strongly for this royal commission to be established, and we believe that these issues need to be examined to ensure ongoing public confidence in the integrity of
general insurance in Australia and indeed in the integrity of Australia’s political processes.

I want to also turn to some of the things that the royal commission needs to be doing in relation to FAI. The significance of the financial impact of FAI on HIH needs to be fully examined. Clearly, there were black holes across much of FAI’s balance sheet for several years. These ranged from undervalued claims reserves in relation to professional indemnity and inwards reinsurance; legacy costs on reinsurance contracts; overstated property assets; overstated values for investments in associated companies; generous deferred expenditure; and overstated tax assets. The June 1998 balance sheet of FAI presented a company trying to get itself sold. The use of executive contracts which provided significant termination benefits made talking up the interests of the company and protecting the market expectations of the results very beneficial to the senior executives in the event of an acquisition.

The royal commission needs to fully examine the preparation of the June 1998 financial statements. HIH were effectively embarking on a course of legal action against FAI, and the liquidator needs to pursue this action vigorously. While the extent of the unbooked liabilities and overvalued assets might be disputed on an individual basis, clearly there was a pattern across all areas. In the aggregate there are serious questions to be asked by the royal commission.

I turn now to the role of APRA. As I have said before, the role of the regulatory authority in addressing problems in the general insurance industry has been disappointing, to say the least. The problems with APRA are: inadequacy of the legislation through the Insurance Act, which we are debating here; inappropriateness of its organisational structure; lack of general insurance industry knowledge held by staff; loss of historical knowledge of the industry when Canberra based personnel did not move to Sydney when the old Insurance and Superannuation Commission became APRA; lack of general insurance accounting and actuarial practices; lack of a proactive approach for fear of hurting the industry; and an increased number of new entries to the financial services industry tying up resources.

What should APRA have done differently in the FAI and HIH cases? First, it should have undertaken a much greater degree of scrutiny of FAI from earlier years when they were left with a pile of Bond Corporation assets of questionable value—that is, St Moritz, Emu Brewery and Oceanic Coal. Second, it should not have allowed the various intercompany loans within the FAI group as admissible assets—they were clearly fooled into allowing this to occur. Third, there should have been much closer examination of the FAI acquisition by HIH—this was a disastrous combination. Fourth, there should have been more proactive attention to the cries of the industry and the press. The depth of information provided to APRA in June 2000 both verbally and in documented form should have evoked an immediate response, and for APRA’s chief executive now to talk about gifted amateurs or people being wise after the event simply does not do justice to the amount of information which I have catalogued elsewhere which was provided and available to APRA by the middle of last year. Fifth, clearly HIH was lost in November 2000. Westpac had secured all the liquid assets and there was no cash, so why was there no action then by APRA? Sixth, there was a lack of any review of actuarial valuations of HIH; a simple request for it would have identified that there were none prepared on the total group. Seventh is the extent of review and understanding of the one-off reinsurance contracts entered into by FAI and HIH. Eighth, APRA should use all of its currently available powers, including requesting an independent actuarial review.

Unfortunately, time is against me, but the important question with this legislation is: what should APRA be doing now to prevent another HIH happening again? The royal commission needs to focus on a number of key areas, including looking to see whether there are other Australian insurers with similar exposures to those of HIH—that is, growth into unfamiliar areas, group assets tied up by overseas regulators, long-serving management, large bonuses or share options for staff dependent on profits being reported,
smoothed results over time using reinsurance contracts and, dare I say it, Liberal Party connections. All those areas need to be examined to ensure that we do not see other insurers going the way of HIH.

Another area of concern which time prevents me from going into—but my colleague the member for Jagajaga may touch on this—is that of self-insured professional societies of the legal and medical professions. The activities of those medical defence organisations and how they are placed—the adequacy of their prudential arrangements and the regulatory arrangements surrounding them—are also a matter of concern. (Time expired)

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

Mr Tanner—I second the amendment moved by the honourable member for Wills and reserve my right to speak.

Mr McARTHUR (Corangamite) (4.27 p.m.)—In opening my remarks on the General Insurance Reform Bill 2001 I notice the members for Melbourne and Wills are here again. I commend the member for Wills on his thoughtful speech, but I observe that the royal commission will answer most of his more recent political asides on what he thinks might be the part of HIH and other political connections. With regard to paragraph (1) of the opposition’s amendment to the motion for the second reading of the bill, I suggest that the ‘slow and disinterested’ approach by the government really is a virtue, in that the government has spent two years consulting with those members of the insurance industry to try to get a correct answer. With regard to paragraph (2), there is no easy answer to the HIH collapse, and I have not heard the member for Wills or the member for Melbourne provide a simple answer to the whole catastrophe that took place. With regard to paragraph (4), I have some sympathy with the member for Wills about the general problem of medical indemnity insurance, and I think all members of this House should look closely at that problem as it affects country people and medical and legal practitioners.

I will make some general remarks about the insurance industry and the general understanding that members of this House and the public might have, because I think that some of the arguments have been rather overlooked. Insurance is taking out a premium on a future risk. It is paying money in the short term in case of a catastrophic outcome, which everyone who takes the insurance hopes will not happen. So you have a strange set of circumstances, which I guess is self-evident, in that large sums of money are being paid for household insurance, public liability insurance and fire insurance, in the case of the farmers, in the hope that it will never be needed. So the question is: if that catastrophic event did take place, does the insurance company have sufficient resources to pay the claims? For those from rural areas—and I see two of my colleagues who fully understand the insurance industry in relation to bushfires—the question is: if you insur, will the company cover you, will they pay the money and will they pay up quickly?

I welcome the arrival of the member for Batman. It is nice to see him here to learn something about insurance, because he does not know much at all and he might gather some intelligent comment about the insurance industry.

Mr Martin Ferguson—I wouldn’t take advice from Malcolm Fraser on the industry.

Government members—He’s got a name, has he?

Mr McARTHUR—The member for Batman could be a name; he is so wealthy after his time at the ACTU. But, as the member for Batman was alluding to, those people who had their names at Lloyd’s and put their assets behind that particular insurance organisation felt very secure because they felt that, by lending their asset backing, Lloyd’s of London with its hundreds of years of history would not go under. We saw in recent years that Lloyd’s of London and the various syndicates did not take their reinsurance seriously, and certain catastrophic events overcame Lloyd’s of London.

Mr Adams interjecting—
Mr McARTHUR—I am having a bit of trouble here, Mr Deputy Speaker, from my friends.

Mr DEPUTY SPEAKER (Mr Jenkins)—I advise the honourable member for Corangamite not to encourage some of the other members, and I ask other members to give him a go.

Mr McARTHUR—I am only dealing with the matter of insurance. The member for Lyons might not know much about it, and I am being advised by members of the opposition. I will continue with the very serious problem of Lloyd’s of London, which demonstrates the problem we have had with HIH. Lloyd’s of London, as the members would be aware, have taken on some of the greater risks in the insurance industry and generally speaking have laid off their insurance risk with other syndicates outside the Lloyd’s set of arrangements. Obviously, they did not assess the risk correctly and Lloyd’s of London, with a long history of paying claims, had difficulty in meeting their final payments, as some members of the Australian community found to their detriment.

So the fundamentals facing the Australian insurance industry are: what is your reserve position, and can you pay? I think all members of this House would like to see a set of rules and regulations that ensure that, if people take an insurance policy, they know that they will get paid if something happens. The important things are: the attitude to risk, how much premium you will pay, how much you will insure a particular risk for—be it a house, crop, farm, indemnity insurance of a professional kind, or public liability—and what the possible outcome will be. You would like to know that, if it is a big risk, there is sufficient underwriting of that risk by the insurer with a third party.

The government has acted, through the good offices of the Minister for Financial Services and Regulation, Joe Hockey, and I do commend the minister for his particular attention to this issue. I have talked to him on a number of occasions about it and I know that he has been very careful in the way in which he has consulted the industry and tried to draw up some guidelines under this new bill that will bring about a better situation with regard to the insurance industry in Australia. So the prudential standard that this bill is trying to introduce is one of looking at the liability valuation, the capital adequacy of any insurer, the reinsurance arrangements which the member for Wills referred to and, of course, the risk involved.

Before I look at the details of the bill, I would say that this parliament and this government cannot legislate for honesty. In the matter of insurance, all members would be aware that it really comes down to the honest assessment of those people taking insurance and, of course, those people receiving the premium and giving the undertaking that they will pay in the event of a catastrophic outcome. In the long run, APRA and the government of the day really depend upon a sense of obligation, honesty and understanding of what insurance is all about and upon the idea that the right thing will be done by Australian citizens across the board in the whole insurance sector.

As I said before, the insurance industry has been consulted widely over a two-year period, since the prudential arrangements with APRA were first suggested. The situation in Australia is that we have 161 general insurers and they manage $63 billion worth of assets, which is really a remarkable amount of asset capital to support that insurance industry. This regulation regime, as other members have alluded to, remained relatively unchanged—during a Labor government, I might note—for the last 28 years. Now we have the newer authority, the Australian Prudential Regulation Authority, managing the Insurance Act, and this bill is providing the background for that position.

The aim of the bill, as I have said, is to increase protection for policyholders, to have a transparent regime for both the insurers and the insurance companies and to remove the anomalies that are currently in existence. APRA will supervise the industry and develop some skills both for themselves and in relation to industry players. This will bring general insurance into line with the capital requirements of the life insurance and banking industries. In view of the large amount of capital backing of the insurance industry, I think that is a step very much in the right
direction for these three areas of financial activity.

The important thing is that the statutory minimum of capital requirements will increase for most insurers, and they will have to have a guaranteed capital of $5 million, up from $2 million. Again, I remark that average Australians who insure with some of these smaller companies have always had a concern about whether they would get paid if a bushfire were to take place. Hopefully, the bigger amount of capital will ensure that they have a much better chance of getting their money. This change in the amount of capital required will impact on about 41 of the 161 general insurers in Australia. This is moving capital requirements in the right direction and it will force some of the smaller companies to raise a greater amount of capital. Because of this bill, certain mergers will occur, which is happening worldwide, and we will have fewer insurance companies—and I guess that they will become more powerful in terms of capital adequacy.

This bill will also address the risk involved and the different classes of insurance, which I alluded to in my earlier remarks. Some classes of insurance—be it rural, household or fire—do have different premium rates, and this legislation suggests that there will be a different class of insurance, which will allow people to make better judgments. Even though there will be different classes, the insurers with the bigger amount of capital will not need to increase their capital buffers. The new capital requirements will increase the minimum statutory requirements by about 50 per cent for a licence for the average insurer.

On the risk of insurance—and other members have alluded to this—the professional indemnity will need to double its capital requirement. I note that the HIH professional indemnity was a problem; as I read the reports, that was the blow-out. Those of us who have to take public liability insurance and are aware of professional indemnity know of the blow-out that is now taking place, not only on individuals but on smaller groups throughout the community. Small cricket clubs in my state of Victoria are suddenly finding that indemnity insurance, public liability has just gone through the roof. I think that is of real community concern.

I must say personally that I am concerned about the legal profession following through these liability claims to the nth degree. In the longer run, individual Australians pay the premiums for those bigger court cases and bigger payouts. I think some people tend to overlook that important consideration. As I said, one of the bigger factors with HIH was this professional indemnity collapse and the problems associated with it. Obviously, the royal commission in its hearings over the next two or three years might be able to give us answers to some of these fairly complex questions.

One question is whether HIH had under-reserving—that is, that it did not have sufficient capital to pay out insurance claims that obviously turn up in the normal course of events. It was reported that HIH had aggressively increased its short-term earnings from reinsurers by demanding high payments in the early years of reinsurance contracts. I find this practice rather surprising and would condemn it out of hand in the reinsurance arrangement—that is, the laying off of the risk. Hopefully, that is put there for a rainy day or in case there is a catastrophic claim. In the *Australian Financial Review* of 19 July 2001, John Breusch had this to say:

... FAI Insurance, which HIH acquired in late 1998, agreed with its reinsurers to receive inflated payments in the early years of its reinsurance contracts in order to bolster short-term earnings. Under such arrangements, the company would then agree to return the favour in later years by paying extra premiums, sometimes on "dummy" reinsurance contracts, or by accepting diminished payments.

I condemn in the strongest terms an insurance company undertaking these sorts of practices—to be out for the short-term dollar, putting at risk the long-term investors and Australians who had invested in good faith so that, if something did happen to their business or house, they would be paid in full. Under this legislation, APRA will look at these types of practices, and I guess many others, to demand answers when these sorts of things become excessive and completely unreasonable. The act will put a test on a fit and proper person to be a director of general
insurance. Again, public comments in the press suggest that some of the directors might not have acted in an ethical way with the corporations power, and this particular legislation will make sure that directors are forced to measure up both as a director under corporations power and a director in the insurance industry. So competence requirements will be introduced, and people will need to make sure that they are qualified and fit and proper persons. In section 25, as a matter of interest, bankrupts and those convict of fines relating to the finance sector will be excluded from being directors of these companies.

The insurance legislation applies to associated companies. I think we saw the situation with the HIH collapse that it was not so much the main company but associated companies where some of the problems arose. APRA was unable to trace the allocation of liabilities with some of the subsidiaries and non-holding companies, and in the long run this really became a problem.

The bill also talks about increased auditing. I have some concern about the auditing arrangements. In Corangamite and Geelong, I come from the Pyramid territory. After auditors giving a clean bill of health to that building society, we found that all was not well and that prudential arrangements were lacking. I personally suggest that those auditors should be looking very carefully at the valuation of liabilities. They should be conversant with the insurance industry and make sure that they understand those long-term liabilities. The auditors and APRA should make sure that they check what the valuations are and how the profits are being reported. That should be done on a routine basis to prevent a final conclusion being reached in a very dramatic manner, as happened with HIH. (Quorum formed) As the time available to me has been shortened by the member for Batman, I conclude my remarks by saying that this piece of legislation will help to control the overexpansion of ambitious insurance companies by looking very carefully at overcompetitive premiums paid in the market for insurance, checking very carefully the complex reinsurance arrangements to ensure that they are bona fide and by attacking the fraud and greed of some smaller insurance companies. I commend the legislation, I commend the thrust of it, I commend the minister, and I hope that the opposition will support the bill in total. (Time expired)

Mr ADAMS (Lyons) (4.47 p.m.)—The honourable member for Corangamite spoke about Lloyd’s of London, and I was trying to make the point that there seemed to have been two operations going on: an outer Lloyd’s of London which, I think, affected his constituency a bit like mine, and an inner city Lloyd’s of London where, I think, the money came from the colonies, and colonisation was still working a few years ago when that occurred. I would much sooner still have that money in my own electorate than back in London.

The General Insurance Reform Bill 2001 introduces a new prudential regulatory regime for the general insurance industry, seeking to harmonise Australia’s insurance regulatory system with international standards. The bill gives the Australian Prudential Regulation Authority new powers to set prudential standards for general insurers and sets new capital adequacy standards. I understand that there is an amendment to the bill to require the APRA’s powers to exempt an insurer from requirements to appoint an actuary under section 47. This is a disallowable standard. This bill is the final act of a consultative process to reform the prudential regulation of the insurance industry commenced in 1995—and, of course, this government failed miserably to progress that in a proper way. The General Insurance Reform Bill 2001, of itself, is not dramatic; its major impact is that it gives the APRA the power to set prudential standards. The APRA have, in turn, established a series of prudential standards covering capital adequacy, risk management and valuation of liabilities. In examining these standards and the bill itself, the major changes that have occurred since the HIH collapse relate to the timetable of implementation.

I want to use this discussion on general insurance to look at the question of public liability insurance. It is a question that has been haunting me since the beginning of the
year when I discovered that for some reason public liability insurance premiums had suddenly increased several thousand per cent, putting both public and community events, and the use of local buildings for such events, out of the reach of hundreds of small and medium groups.

In my own electorate of Lyons, thousands of such groups have been made very vulnerable, including groups such as girls netball teams, the local market at Epping, different classes held in halls, young groups of people meeting in halls, Lions Club meetings, quilting groups—10 women sitting around a table in a hall once a week—senior citizens clubs, card evenings, line dancing, community meetings and all sorts of others. I was asked to provide public liability cover when meeting constituents in a local government hall.

This appears to stem from a decision by Tasmanian councils, some 29 in all, to join a local government self-insurance mutual liability scheme. Because of the mutuality clause in this, the member councils are obliged to collectively agree to indemnify one another against loss. This has sent shock waves through the system. Up until now councils covered public liability in their own buildings under a general policy, and the rent of those buildings reflected a small amount for this. Someone who paid $10 for a hall for a couple of hours to have a meeting once a week has now been asked to pay $800 up front to cover some form of public liability consideration.

According to the insurance company concerned, the councils have panicked. The company says that, while mutuality delivers benefits, it also imposes obligations, and that members have to conduct their business in a way which does not place any unnecessary burden on other members. What it does not address is the enormous burden it also places on the community. Again, according to this company, the insurance cover spreads the risk between the individual member councils, councils collectively as a mutual, and the reinsurers. What was not said was that all councils in Tasmania were to be covered under this policy, and that it was to be linked with councils in Victoria, and probably other states. Thus the risks being covered were not just Tasmanian risks, but those of more populated states, therefore covering potentially greater risks. Then I learnt that it was not just Tasmanian councils that had had a hike in premiums. Many of Tasmania’s small businesses, country shows, sporting events and even theme parks had suddenly been hit with the same problem. It came out of the blue, and to all intents and purposes with no warning. These businesses are now having to close or remove anything that might move that creates a greater risk.

I have done a fair bit of research on this and cannot find any huge claim or greater risk that has suddenly appeared on the horizon. The only thing that appears to have occurred was the collapse of HIH Insurance. What exactly is going on? Have the risks changed or have the profits dwindled for some reason? I have received a press release from the Insurance Council of Australia. In part it said:

The biggest impact on public liability and professional indemnity premiums in recent years has been a sharp increase in the cost of claims. The ICA executive director, Alan Mason, has been reported as saying:

... from every dollar collected for public liability and professional indemnity insurance, more than 100 percent was paid in claims. And this loss ratio does not include other costs to insurers, such as overheads and expenses, when underwriting public liability and professional indemnity risks.

Then he went on to say:

... in the current climate where industry profitability was an important objective for shareholders and policyholders, premiums were far more responsive to meet present and predicted future levels of claims, and also reflected the high risk exposures.

I ask here how these risk assessments are calculated and where the information comes from to arrive at this collective risk. The ordinary mortals who just happen to want to use a hall for a meeting, a few girls throwing a basketball around or some of our senior citizens getting together over a cup of tea and a bit of knitting, do not seem to be catered for in this scenario. Alan Mason said:
The cost of insurance is only a reflection of our increasingly litigious society and the approach of the courts...

The latest Australian Prudential Regulation Authority figures show that professional indemnity insurance premiums rose by about 18 per cent between 1998 and 2000, while the overall cost of claims increased by around 82 per cent. In the same period, the cost of public liability premiums rose by about 14 per cent, with the cost of claims increasing by 52.5 per cent. Alan Mason said that this does not necessarily reflect an increase in the number of claims made—rather, an increase in the average cost of each claim. Then he pointed to another aspect that is indeed a new problem. He said that the legal system is seeking damages beyond the country’s ability to pay, and our court awards are becoming more generous because of the public expectation that people can win the lottery. What they do not understand is that the more the individual gets in one of these payouts, the more his or her community loses in community activity.

Mr Mason said that public liability and professional indemnity insurance are not simple products like those that cover property damage, such as motor car insurance. Claims can take many years to develop and be notified, and many more years to proceed through the legal system. There are often complicated legal, contractual and medical issues, and the claims or allegations are often denied or countered by the person or business against whom the claim is made. Medical and technological advances and inflation often boost the cost of claims. Whilst public liability and professional indemnity claims are not as frequent as car or house claims, they can be much larger, often running into tens of millions of dollars. Insurers need to create an adequate pool to meet the cost of these losses. It has been revealed that, according to the latest general insurance industry survey conducted by Ord Minnett, these classes of insurance are expected to continue to lose money in the coming year. According to the ICA, in some cases risk management expertise could be available to help policyholders reduce their risk. For example, when taking out a public liability policy, people should talk to their insurer about what they can do to reduce potential risks, as this may give them savings on their premiums. How does this help the small embroidery group, the fitness class or the netball club?

It should be the councils that should be assessing their risk, considering ways by which risk can be minimised or developing public education to help the public understand the sorts of risks that are acceptable and the ones that are not and that risk taking should be part of an individual’s personal responsibility. However, there would be a need to change the legislation to allow some sort of cap linked to personal responsibilities in these sorts of cases.

Another aspect of this is the ability of one company to take control of all the public risk situation in local government that does not seem to allow any element of competition to enter. Tasmania does not fare well under the normal elements of competition policy because of its small population, but here we might have scored a bit under this situation, if more than one company were involved, because of the potentially lesser risk. However, there may be other elements that are not apparent that would prevent this, but, even so, a 3,000 or 4,000 per cent hike in fees is quite extraordinary in any situation and I have to question its fairness. I have been working on this for a while and believe that there is a desperate need for a change to the legislation in this area. This bill has a number of aspects that may be able to assist, but I will be looking for changes in some of the legal aspects of public liability and looking at the amount of payments being made and where the main responsibilities lie.

A report to the New South Wales parliament’s Public Bodies Review Committee looked at the public liabilities of local councils. This had some interesting findings. Under the common law rules and principles of negligence, a council can be sued for damage caused by a negligent performance of its activities or by a negligent failure to act when it is under a duty to act. Public liability insurance is intended to cover a council’s legal liability to the general public for bodily injury and property damage caused by a negligent act or omission by the council, its coun-
cillors, employees or agents and the council’s liability as an owner of premises leased to the general public for bodily injury caused as a result of the state of the premises or its surrounds.

I would say that this does not cover a person’s liability if they get onto a wall where there are no stairs or normal access points and jump off into a canal with little water in it and break their neck—but apparently it does. So, if you climb up to the top of a quarry where there is fence with a sign on it that says, ‘Dangerous Spot’, but you still get over the fence and fall down the face of the quarry, you can sue. I believe we have to come to a conclusion that, if you get over the fence and fall down, you have to accept some responsibility. If the fence is not there, I think you certainly have a reasonable case, but now you can sue even if the fence is there. Somewhere along the line we have lost personal responsibility for our actions. If there was a hole in a wall and someone just walked through it and jumped, then there may be an argument of negligence on behalf of the owner of the wall.

One of the submissions to this inquiry stated that it is difficult to nominate any other industry which owes a duty of care to such a wide spectrum of the general public and which can be held accountable at law where there is a breach of that duty of care. Councils appear to be more directly accountable for our actions. If there were a hole in a wall and someone just walked through it and jumped, then there may be an argument of negligence on behalf of the owner of the wall.

The need to reform the Insurance Act 1973 has been apparent and obvious for some considerable time. So, whilst the introduction of a new prudential regulatory regime for the general insurance industry and the harmonisation of Australian standards with international standards are welcome, they are long overdue, and this government stands condemned for dithering on this matter.

The government commenced a consultative process on this bill in 1995—not two years ago as a speaker from the government said. In reality, we are only introducing this bill now because of the collapse of HIH. The government had no intention of bringing forward this piece of legislation at this time. No, they had intended implementation of the reforms in 2003 and transition to new capital adequacy requirements in 2007. It has taken the collapse of Australia’s largest insurance company, with the prospect of the government’s bailout package being in the vicinity of $640 million and growing, to force this government to act.
The government’s priorities are so in tune with the electorate and their understanding of voters is so intense that, instead of bringing on this bill today as a matter of urgency, we debated the Commonwealth Electoral Amendment Bill. The government are so out of touch that they have no idea what is going on around them. What an outright abuse of this place—parliament having to resolve an internal Liberal Party squabble. Instead of dealing with pressing matters of genuine public importance, we debated which part of the Liberal Party gets public funding dollars. Instead of bringing forward in a timely manner this bill, which may have prevented the collapse of not only HIH but also GIO, we debated how the Liberal Party carves up its public funding. The ALP and the Democrats do not need to abuse parliament to resolve their internal conflicts; only the Liberals need to do that. Here we have a piece of legislation that affects the bulk of Australians, as the majority have some form of insurance, be it car insurance or house contents insurance—the list is endless. Instead of hearing government member after government member welcome the bill and its moves to ensure greater protection for policyholders, we heard only one government member. Minister Hockey was going to fast-track the general insurance legislation, but even that most critical reform had to wait for the farce that we heard today on the Liberal Party’s internal squabbles.

The government has been consulting extensively with the industry about reforms in this bill, which at one level is very reassuring, because consultation and discussion is not a trade mark of this government—no, it has more of an ‘introduce and think about it later’ style of operation. Why has it taken six years of consultation to introduce fundamental reforms? Why has it taken six months to respond to the Wallis inquiry report—its crowning piece of financial reform. It has taken until now for this bill to materialise, and at what cost? As I have said, it has cost the taxpayers of Australia $640 million and the shattered lives and dreams of countless Australians who thought they had protected themselves by taking out insurance.

APRA, in defending themselves against the hue and cry over their failure to act in respect of the HIH collapse, cited the flawed nature of the legislation they were dealing with. Whilst at one level that has some truth, it fails to recognise that APRA already had immense power under the Insurance Act 1973, which they did not exercise. They had ‘valuation of assets’, section 33 of the act; ‘reinsurance’, section 34 of the act; ‘accounts and statements to be lodged with APRA’, section 44 of the act; ‘appointment of auditor’, section 46 of the act; ‘actuarial investigation of outstanding claims provision’, section 48A of the act; and ‘liabilities’, section 49F of the act. At their disposal was an immense legislative power that they chose not to use—they totally ignored it. I hope that with the royal commission we will discover just why.

Nevertheless, we are talking about the legislation before us. APRA has been waiting for a considerable time to act on legislative changes that it has been drafting and consulting widely on. It has tried to ensure that it has appropriate powers and mechanisms to regulate the insurance industry. In May, before the House standing committee, the Governor of the Reserve Bank summed up rather nicely where we were at with this legislation. Mr Macfarlane said:

I am glad you have raised this general subject because I sit on the board of APRA—and this is an interesting ideological grouping being formed over here ...

Mr Ian Macfarlane—It is a different Mr Macfarlane.

Ms BURKE—Yes, very different. He went on to state:

We come from a background where we know a fair bit about bank supervision, but we do not
know much about insurance supervision. We were put on the board of APRA not because we were experts in particular institutions but because we are responsible for overall system stability, and we want to look across the whole range of financial institutions. One of the things that has become apparent to us is the difference in the standards of supervision of different types of institutions.

APRA is responsible for supervising banks and other deposit taking institutions like building societies and credit unions, life insurance, general insurance and the superannuation industry. Because of the way history has turned out, the body of legislation and regulations and the prudential supervision is of a very high standard for the supervision of banks and for other deposit taking institutions like building societies and credit unions. They had their crisis back in the late 1980s and early 1990s and we have learnt a huge amount since then. There has been constant updating and improvement and they are in very good shape. The standards of supervision and the underlying laws and regulations behind it are excellent. I think to some extent you could say the same for the life insurance industry where the legislation was updated in 1995.

When we move to general insurance we really have to come down from that level. We are dealing with a piece of legislation that is pretty old—it dates from 1973—and an awful lot of changes have occurred since then. Firstly, the ISC and then APRA have tried extremely hard to update that legislation and body of regulation, and they have met with considerable opposition from the industry—a degree of opposition that has surprised me, considering my experience with the banking industry. If there is one good thing that has come out of HIH, it is that that opposition has now finally retreated and we are going to see some action there pretty soon.

APRA has already worked out what the regulations should be. That was back in May. The Governor of the Reserve Bank said, ‘APRA has already worked out what the regulations should be.’ He went on to state:

They have had all the discussion papers and they have got a new model. They are just waiting for the legislation. I think there will be some improvement there. It has really happened, in a sense, only because we have had the same sort of episode that affected the State Bank of Victoria, the State Bank of South Australia and Pyramid Building Society, et cetera, a decade ago. It has really happened in the general insurance industry in the last year, and it is not just HIH but GIO.

That may be the case. APRA has worked very hard on trying to bring the supervision of general insurance up to date—to drag it into the 21st century—as I have said, against considerable opposition.

I sometimes wonder who that opposition was from. He went on to state:

The problem at the moment is not that APRA does not have staff or that APRA has recently been created. The problem is that they have worked with an act that gave the general insurance industry enormous flexibility in the way they value their assets and liabilities and gave APRA very little power to do the sort of things that you could do with bank supervision. That is going to be changed, and the new legislation will overcome both of those problems.

So here we are. APRA has been calling for it. They have written it up and they were sitting on it, but they could not get it introduced because of considerable opposition. Why have we been waiting? Is this government, and the responsible minister, a captive of the insurance industry, which boasts $19.9 billion in asset reserves? Is this why this bill has taken six years to surface? Is it the same reason that the government made no demand on the insurance sector to support the victims of the HIH collapse, and is it connected in any way to the generous donations made by numerous insurance companies, including of course HIH, to the Liberal Party? The public will get to judge on that shortly.

I have been highly critical of APRA and continue to have grave concerns about its ability to effectively administer its prudential responsibility. The Australian National Audit Office report into APRA’s bank prudential supervision also calls into account APRA’s light touch on regulation. The ANAO report was yet another signal that things were not working at APRA. APRA’s decision to rely upon the work of a bank’s internal and external auditors and the workings of the bank’s own risk management system begs the question: just what is it doing? Is APRA just a pigeonhole for reports or is it a financial regulator? This laissez-faire approach to regulation is going to cost the taxpayers of
Australia at least $640 million because of the HIH collapse. That is just not good enough.

As APRA has adopted what it refers to as a conglomerate approach to regulations, the standards used in the banks are the same as those used in insurance and superannuation funds companies. Whilst the ANAO report highlights concerns with banking supervision, it signals grave concerns about APRA’s ability to regulate superannuation funds and the diverse and massive insurance industry. APRA has had numerous critics, particularly from within the insurance sector, who question the capacity and knowledge of the staff dealing with this sector. When APRA was formed, it suffered an enormous loss of experienced and dedicated staff from the ISC, staff that had experience in insurance regulation. That has left an organisation bereft of ability and corporate knowledge. Obviously moving the ISC from Canberra to Sydney took away a lot of people, as did the changes to terms and conditions and the forcing of staff onto AWAs.

Trust me, the insurance sector is a creature unto itself. Having had the pleasure of dealing with HIH, FAI, CIC, SGIO and others in my previous working life, I know that it is a unique industry with rules and regulations, and a culture known only to itself. This is why this legislation is needed and has been needed for a considerable length of time.

Two aspects of the bill are worthy of note. One is the liability valuation standards. These will certainly help. APRA is introducing technical standards that will provide a measure of certainty and consistency in estimating the value of insurance liabilities. The liability valuation standard requires the calculation of a risk margin with respect to insurance liabilities by class of business. The standard is also referred to as a prudential margin and is designed to ensure that an insurance company holds sufficient assets to cover the probability of an insurance claim. APRA has set the risk margin at 75 per cent; that is, fully disclosed future claims for investment income provide a 75 per cent degree of certainty. This certainly was not the case in FAI or HIH. This is a welcome change in the legislation.

The other aspect worthy of note is the capital adequacy standards. APRA has established prudential standards for capital adequacy. General insurers will be required to have capital resources that are adequate for scale, complexity and mix of business. The minimum capital adequacy for insurance will be increased from $2 million to $5 million. Again, while this is welcome, I worry about the small companies that will have to go out of business or merge because they will not have the capacity to raise the $5 million. Nowhere do we talk about the workers who will lose their jobs, transmission of business et cetera. We have seen so many people in the finance sector lose their livelihoods already. It is a bit of a tragedy that this was not considered.

Mr Hockey—Don’t you want us to do it?

Ms BURKE—I do want you to do it, but I wanted you to think about all the other aspects that are implicated with it.

This bill is well overdue and there is no obvious reason why constituents of mine, like Nick and Millie, had to lose their dream house because of the collapse of HIH for this bill to finally be introduced into this place. Nor is there any reason why APRA and the government did not utilise the powers under the existing legislation to act sooner and more decisively to ensure that countless Australians were not impacted by the collapse of HIH. The lack of action on this bill is like the government’s reluctance to hold a royal commission into HIH.

Mr Hockey—We are.

Ms BURKE—Yes, you are, but you were dragged there, kicking and screaming. That impacts on all Australian taxpayers, as we will be footing the bill for the bail-out package for HIH and the royal commission. Just about every Australian has some form of insurance. At a minimum, the government should be calling upon the insurance sector to find some of the funds to go towards it.

In a flash, we have a royal commission into the building industry unions which will be conducted in public, unlike the HIH royal commission. That impacts on few Australians and is not going to cost, and has not cost, taxpayers in excess of $640 million.
However, as quick as a wink, we have a royal commission into the building industry unions, but it took the government a very long time to call a royal commission into HIH. This government’s priorities are so far out of touch with reality that it is just frightening.

I support the amendments moved by the member for Wills, which highlight the glaring deficiencies of this government’s approach and I ask again: what did the government know about the collapse of HIH and when? I trust that that will be made apparent through the royal commission. This bill is long overdue and many aspects of it are worthy of introduction, and I commend the government on finally introducing it. But it should not have taken so long. It should not have taken the collapse of HIH for the government to bring this legislation before this House. They should stand condemned for that.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (5.22 p.m.)—I would like to thank the member for Chisholm for her good intentions. I would like to thank the other speakers for their contributions to this debate, in particular the member for Corangamite, who always gives a very erudite and well thought out argument in support of government legislation, and I welcome that. Even though the opposition are supporting the legislation, I understand they just could not resist the temptation to have a shot. That is a little disappointing, Madam Deputy Speaker. As you would be aware, the opposition has a tendency to gild the lily a little, and it is a little disappointing.

The shadow Assistant Treasurer, the member for Wills, raised a number of issues in his address to the House. It is unfortunate that he is not here at the moment but, if he has any substantive allegations to make in relation to HIH, the government, on behalf of the people of Australia, is spending a lot of money now on a royal commission and that is where the allegations should go. If there is a royal commission, I am sure the opposition can send any information they want. There are extremely broad terms of reference to address any possible concern or allegation that may arise as a result of the collapse of HIH. The opposition can continue to run the same old lines about political favours or whatever the case might be. They very neatly tend to forget—

Mr Martin Ferguson—Madam Deputy Speaker, I draw your attention to the state of the House.

The bells having been rung—

Madam DEPUTY SPEAKER (Hon. J.A. Crosio)—Order! A quorum not being present, the sitting will be resumed at 5.43 p.m.

Sitting suspended from 5.28 p.m. to 5.43 p.m.

The House having been counted and a quorum being present—

Mr HOCKEY—I thank my colleagues, who are vitally interested in the General Insurance Reform Bill 2001. They are vitally interested in just how important it is to have good insurance regulation in Australia. It is a shame that the opposition do not share that attitude about protecting policyholders with good laws and about ensuring that people who have put money into insurance companies can rest easy, knowing that their insurance is in fact solid and reliable.

I will return to the details of the bill. As I said a little earlier, I would hope that the member for Wills, if he has any allegations to make in relation to the demise of HIH, will send the information to the royal commission, which will start on 1 September. I invite him to do that. Otherwise, it is certainly not for me or anyone else in the government to speculate on what the outcome of the royal commission may be.

The member for Lyons made a valid point about the quite significant increases, in some cases, in insurance premiums over the last few months. He pointed out that public liability insurance premiums in particular have risen. A number of my colleagues have also raised this with me, including the member for Dawson, the member for Indi, the member for Makin and the member for Eden-Monaro. We have asked the ACCC to look at the reasons why insurance premiums have increased quite significantly in the last three months and to report back. They will be providing that advice to me by the beginning of
October. That will give us some very reliable information about the current state of the insurance industry in Australia in relation to premium increases.

This is a historic bill which is the culmination of a long period of consultation. The transition to a new general insurance regime that is being put in place is very complicated. The member for Wills, who is at the table, would be aware that there have been a number of APRA discussion papers released over a period of time. Of course, he made submissions to APRA in relation to these papers—or did he? There is deafening silence over there.

Madam DEPUTY SPEAKER (Hon. J.A. Crosio)—You need to ask through the chair.

Mr HOCKEY—Somehow I do not believe that the opposition did make any submissions to APRA in relation to the new statutory solvency standards. There have been discussion papers put out by APRA, including the ‘Study of the Prudential Supervisory Requirements for General Insurers in Australia’ and the ‘Statutory Liability Valuation Standard for General Insurers’—this is a standard that has been widely discussed particularly between the ISC and the Institute of Actuaries. Then there is the more detailed policy discussion paper of April 2000, which was basically a summary of the proposed reforms. The member for Chisholm acknowledged the fact that this was a detailed, highly consultative process as I came into the chamber. She said that this will have a profound effect on a number of insurance companies in Australia.

There are about 157 licensed insurance companies in Australia. Some of them will not meet the capital standards that will be required under the new regime and, because of this, it is going to cause some rationalisation in the general insurance industry. That is not a decision anyone should take lightly. The opposition recognises, as we do, that there does need to be an increase in the capital requirements for general insurers. Currently, 16 to 20 general insurers will not meet the current new capital requirements under the new regime, and they need to ask themselves, ‘Should we merge, should we raise new capital, or should we be taken over by another insurance company?’ I accept that that is a difficult transitional question for a number of smaller insurance companies to answer, but the insurance industry today is very different from what it was when it was last reformed in a serious way—30 years ago. Because it is a very different industry, it has different pressures on it, and some of those are global trends that have quite a severe impact on the capital requirements of smaller companies.

The reinsurance market—both inwards and outwards reinsurance—is a whole lot more sophisticated today than it was some years ago. The old rock that was the cornerstone for the general insurance industry around the world was Lloyd’s of London, but the whole concept of the reliability of Lloyd’s was challenged by the severe losses that were suffered in the 1980s, and even more recently. That has also brought into question the capacity of smaller general insurers to cope with the changing and increasingly volatile general insurance market. These are very sophisticated markets, where billions of dollars are transacted each day in order to transfer risk from one party to another. In global financial markets, that occurs on a daily basis in various lines of business, such as foreign exchange or other markets. Australians see it each day in the movements in the Australian dollar or in the changing value of shares on the Australian Stock Exchange. The same is the case in relation to insurance. The costs and actuarial assessments have an impact on the value of an insurance policy, and risk is reassessed on a continuing basis for trends that might occur and affect premiums. Recently we have seen a hardening of insurance premiums in Australia. When I say hardening, I mean an increase of insurance premiums. There are a number of factors that will be determined as the cause of that, and the ACCC will reveal those.

One of the factors causing insurance premiums to rise is that insurance premiums around the world are rising as the impacts of certain natural catastrophes are being felt by insurers, just as the opening up of what was the general insurance market around the
world to competition led to premium cutting, with the net result that there was a huge battle between insurers to try to get market share as the industry globalised. It created unreal premium levels, which have increased as the effects of natural disasters have come to the fore. Within that context and given the fact that insurance is now more globalised than ever before, that a number of large insurers in Australia are in fact foreign owned insurers, not just domestic insurers, and that the profile of risk in the industry and the nature of insurable items have changed dramatically over the last few years, we have been about improving prudential supervision in general insurance for the last two years. I remind the House that last October, when I released this bill and said that it had passed through cabinet, there was not one centimetre of column space anywhere that reported my announcement that we were undertaking the biggest prudential reform of the general insurance industry in Australia. Then we had the HIH collapse and everyone said, ‘What the hell are you doing?’ We announced the reform months before the HIH collapse and well before we knew that HIH was going to hit the wall.

Mr Kelvin Thomson interjecting—

Mr HOCKEY—I think the member for Wills now appreciates just how complicated the insurance industry is and how far-reaching the prudential supervision changes are. Finally, I feel as though I have been very involved in some quite historic bills in my portfolio in the last few months. We have had a change to the Corporations Law, which was obviously a historic bill. We have had the Financial Services Reform Bill 2001, which the Senate is now debating and which is a historic bill that will restructure seven per cent of the Australian economy. And today we have the General Insurance Reform Bill 2001, which restructures the general insurance industry in Australia. In fact, this bill is the first of its kind in the world. It will be regarded as the most progressive and, I believe, the most advanced prudential supervision regime for the general insurance industry in any jurisdiction.

It is not a habit that I am into but I want to take the opportunity to thank some people who have been working very hard over the last three years on this. I want to thank from the Treasury: Amanda Goodban, Matthew Hampton, Steve French, Karen Whitham, David Cavanough and Emily Hurley, and from APRA: Brian Gray, Daryl Roberts, Wayne Byres, Laura Abbatantuono and Prue Morris. I would also like to thank Peter Cullen from my office for the enormous amount of work he has done on this bill. I thank the opposition for their support for this bill. I think that on an issue such as this it is a good thing to have a bipartisan approach to what are very difficult and obviously very sensitive pieces of legislation. But, at the end of the day, after this bill is passed through the parliament and the reforms are implemented we will have a much stronger, more vibrant and, more importantly, more robust and consumer sensitive insurance industry in Australia. I commend the bill to the House.

Amendment negatived.
Original question resolved in the affirmative.
Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr KELVIN THOMSON (Wills) (5.57 p.m.)—I move opposition amendment No. 1:

(1) Schedule 1, item 22, page 20 (line 19), at the end of subclause 25(1), add:

; or

(f) the person is not a fit and proper person.

In moving this amendment I indicate to the House that this amounts to an additional clause 25, on the matter of disqualified persons, which would include or require that a person is a disqualified person if they are not a fit and proper person. The House might remember that Labor moved an amendment to the Financial Sector Legislation Amendment Bill (No. 1) to require that bank directors be fit and proper persons. This was because the bill required superannuation trustees to be fit and proper persons. The Government argued for more time so that APRA could draft proper standards. This is being done and there is currently a draft prudential banking standard out for consultation that
represents bank directors to be fit and proper persons.

The insurance prudential standards also introduce a fit and proper person test. APRA appears to have decided that the appropriate place for a fit and proper person test is in regulation rather than in legislation. I believe there is a strong argument that it should exist in legislation. I guess the case for regulation is that it allows for greater flexibility for change, but we think that a fit and proper person test should be in legislation, as it is fundamental. We want to make this point to APRA and feel that the House as a whole ought to make this point to APRA.

As I understand it, the government has a problem with this in terms of the subjectivity of the test. Our position would be that, if fit and proper persons tests are subjective tests, why is it the case that we have a fit and proper person test for superannuation trustees in the Financial Sector Legislation Amendment Bill (No. 1). We do not think that we should have inconsistent legislation and regulatory arrangements between different areas of the finance sector on this point. So we feel it is appropriate to have the fit and proper person test set out in legislation.

To assist the minister, I indicate to the House that it seems to me that, in this area of general insurance, the importance of a fit and proper person test is absolute. In debate on this bill and in debate on other bills associated with the collapse of HIH Insurance, I have indicated to the House our concerns with regard to the conduct of particular persons involved in the collapse of HIH. I do not want to recanvas or go over that ground here again, but these concerns are broad. The HIH collapse, involving taxpayers in a $640 million liability over the next five to 10 years and the requirement for an unprecedented royal commission involving, if not the largest corporate collapse in Australian history, certainly the largest insurance company collapse in Australian history, with an estimate of between $2.7 billion and $4 billion in liabilities at present, is a matter of the greatest concern.

In our view, it underscores the need for a fit and proper person test to be included in a legislative sense. We need to make it clear that, if it is good enough to have such a test for superannuation trustees, it is certainly good enough to have such a test for those involved in the running of general insurance companies. One of the things we have to do in this country is restore the reputation of general insurance following the collapse of HIH Insurance. We think that the collapse itself and the government’s handling of it have done immense damage to the reputation of general insurance in this country. The regulatory regime that is adopted from here on in is essential for the restoration of public confidence. A fit and proper person test set out in legislation is necessary for the restoration of public confidence.

As I indicated previously, there are areas that we expect the royal commission to examine; for example, the conduct of individuals who have been associated with the running of HIH and also FAI Insurance, which was bought by HIH after June 1998. (Time expired)

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (6.02 p.m.)—I appreciate the words of the member for Wills in relation to this amendment. We will be rejecting this amendment in this place. Although we agree with the concept, there are some issues that need to be addressed in relation to the way this test can be applied—whether the test is objective or subjective. I would like to have a further look at it and do not rule out totally amendment in the other place. I understand where the opposition is coming from. In principle, there is no reason why someone who does not satisfy the normal fit and proper person test could not be disqualified, but there are a number of issues involved and we would like to address those matters at a later time.

Amendment negatived.

Mr KELVIN THOMSON (Wills) (6.04 p.m.)—I move opposition amendment No. 2:

(2) Schedule 1, item 22, page 24 (lines 20 to 25), omit subclause 32(3).

I am encouraged by the words of the Minister for Financial Services and Regulation in relation to opposition amendment No. 1 and I hope that the government does give that amendment due consideration between here
and the other place. Amendment No. 2 proposes to delete section 32(3) of the bill, which provides that APRA may determine prudential standards. In its present form section 32(3) says:

In making a prudential standard, APRA must have regard to good commercial practice and the burden, in complying with the requirements of the standard, that would be imposed on:

(a) general insurers;

Labor moved an amendment with respect to the Financial Sector (Collection of Data) Bill 2001 in the same fashion to delete that provision. Our point in moving this amendment is that, in formulating prudential standards, APRA should have regard not to reducing the burden on the industry but to ensuring the safety of our money. In these matters, we think APRA’s priorities have been wrong, and we want to underscore this point by altering the legislation in this way.

Perhaps to reinforce why we think this kind of change is necessary, it is worth mentioning that there have been criticisms that the former Insurance Act was out of date. Indeed, we have been happy to support the changes that the government has made to this legislation. But it should be noted that the Insurance Act 1973 has provided APRA with considerable powers with respect to prudentially regulating general insurers. They were powers that APRA simply did not use in the case of HIH Insurance. Just to give the House a few examples on this front: with the valuation of assets, section 33 of the act provides that APRA can require body corporates to furnish APRA with such information with respect to the value of an asset of the body corporate as APRA specifies in the notice. Despite public comment about the quality of FAI’s assets—assets such as the St Moritz Hotel in New York—APRA did not use its power to issue a notice to either FAI or HIH in respect of the valuation of those assets.

Section 34 of the act gives APRA powers in relation to reinsurance arrangements. APRA acknowledged to a parliamentary committee that it approved HIH’s reinsurance arrangements. HIH in fact used reinsurance instead of carrying a prudential margin—that is, holding sufficient assets to cover unforeseen events. It has since emerged—and I indicated something of this to the House earlier today—that HIH also loaded payment of reinsurance premiums up front, in effect further reducing its risk margins in a way that was hidden from the market, but there was no action from APRA on this front, despite the fact that it had legislative powers.

On statement of accounts, section 44 of the existing act requires a general insurer to lodge statements of accounts with APRA. Answers that we received to questions we placed on notice indicated that APRA’s record of receiving information from HIH was poor and certainly not in accordance with the legal requirements, but APRA did not charge any penalties for the late submission of accounts. The purpose of prompt submission of accounts is to provide the regulator with early warning signs. In the case of HIH, APRA failed to see those early warning signs. In the area of appointment of auditors, section 46 of the act says that APRA must approve the appointment of an auditor and may revoke the approval if it is satisfied that the auditor has failed to fulfil its obligations. APRA approved the appointment of Andersen Consulting as auditors, despite the fact that a number of Andersen’s consultants went on to become company directors. There does not seem to have been any questioning of this.

Again with actuarial investigation, section 48A of the insurance act gives APRA the power to order an actuarial investigation of outstanding claims provisions. APRA did not use the power. Not only that, it has admitted that it did not in fact request to see the company’s own internal actuarial reports produced by David Slee. (Extension of time granted) Similarly with section 49F of the act, which provides that APRA may, with the Treasurer’s agreement, direct a body corporate to make further provision of a stated amount in respect of liabilities. Despite HIH’s September 2000 figures, provided in January 2001, revealing a sharp reduction in net assets, APRA did not use its powers under the Insurance Act to direct HIH to make a provision.

It is all very well for the government and others to complain that previous legislation...
should have been better, or for APRA’s chief executive to talk about gifted amateurs and so on, but the facts are here: APRA had a great deal in the way of legislative power which it could have and should have invoked, and it did not. Our expectation in moving this amendment is that we send a message to APRA that we expect better, and that in terms of the balance of its conduct it is geared towards ensuring the safety of financial institutions. That is the reason it is there: to do everything it possibly can to keep our money safe, whether it be in banks, superannuation funds, or as policy holders for insurance in the event that we have personal calamity or are liable to legal action, which can of course be financially calamitous. That is what APRA is there for. That is the message that we want to underscore and spell out by moving this amendment.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (6.11 p.m.)—Without commenting specifically on a number of the issues the member for Wills raised in relation to the conduct of the Australian Prudential Regulation Authority during the days leading up to the collapse of HIH, I can advise the House that the government is prepared to accept this amendment. We have taken the equivalent sections out of the Financial Sector (Collection of Data) Bill 2001 after consultation with the opposition. It should be noted that under section 8 of the APRA act APRA has a statutory obligation ‘to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality’. Subclause 32(3), which the opposition is amending for removal today, is really just a restatement of this objective.

I am sure that nobody wants to see the situation where insurers are prevented from competing in, for example, the international marketplace, because of prudential regulations which cannot be justified on cost-benefit grounds. However, that being said, subclause 32(3) is not absolutely necessary. It is more of a motherhood statement which repeats the act’s objectives. Therefore, the government is prepared to agree with the opposition to delete the subclause. For the edification of the member for Wills, who might not have heard my earlier remarks during the summing up debate on the bill, quite properly I have taken the view that I will not give a running commentary about events in the lead-up to the collapse of HIH, given that a royal commission is starting. It would be highly improper for me or anyone else who may want to contribute to the royal commission to open up some of the issues in another forum.

Amendment agreed to.

Mr KELVIN THOMSON (Wills) (6.13 p.m.)—I can understand the surprise of the clerk at the government accepting an opposition amendment. We welcome the fact that the government has accepted the opposition amendment, and I thank the minister for agreeing to do that. I hope that prudential regulation of insurance is enhanced as a result. My other comment in relation to the minister’s observations concerning HIH and the royal commission is that it is certainly my opinion that the royal commission is there to enhance accountability, not to detract from accountability, and should certainly not be a vehicle behind which people hide. It should not be suggested that it is improper to comment on these matters of great public interest. I move opposition amendment No. 3:

(3) Schedule 1, item 23, page 32 (after line 3), at the end of clause 47, add:

(4) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

This amendment goes to the question of an exemption from a requirement to appoint an actuary. The government’s legislation says: APRA may determine in writing that one or more general insurers is exempt from the requirement ... to appoint an actuary.

What we are adding in here is a proposal that, if APRA does that—if it exempts someone from being an actuary—a determination under this section is a disallowable instrument. We do that because we think this question of independent actuaries is a very important one.

The role of actuaries has been the subject of a great deal of discussion in the wake of
the HIH collapse, and appropriately so. The extent of reliance on actuarial reviews conducted by independent actuaries was limited in the HIH environment. Actuarial reports, according to information provided to me, were extensive only on certain portfolios, including HIH America workers compensation, UK business, and New South Wales and Queensland compulsory third party. The remainder of the portfolios had their reserves set by David Slee. His association with HIH over a period of more than 20 years meant that a detailed knowledge of the business was established and maintained over time, but clearly there should have been more actuarial examination of the treatment of the profit smoothing reinsurance transactions in both FAI and HIH, the need for prudential margin, the adequacy of inwards reinsurance reserves, the determination of actuarial reserves by statutory entity, reserve discounting, future claims handling costs and things of that character. The Australian portfolio suffered from data reliability issues, especially for ex-CIC business, and ‘work-arounds’ were created in a number of instances, thereby making it difficult to consistently obtain timely and accurate data for modelling.

The question of insurance company valuation of assets and valuation of claims liabilities—issues fundamental to solvency—is clearly a matter where, depending on how various factors are treated, you can get a very wide range of different outcomes. In the HIH case, the total reserves were $2,800 million, but any of the pattern of claims payments or pattern of notification of claims and the level of prudential margin and so on generated a significant bottom line impact. If pressure is applied to actuaries consistently in one direction, the total reserve central estimate can be reduced significantly and it can still be called an actuarial reserve. It is worth noting that HIH commissioned PricewaterhouseCoopers to undertake an actuarial review of its Australian professional indemnity and liability portfolios in 1998. With limited data, they drew slightly higher conclusions than those of David Slee. The PricewaterhouseCoopers report, which was requested in draft form only, was never used—or disclosed to David Slee, for that matter. The point that needs to be made here is that actuarial reports will be used only to the extent that it suits the initiator. Unless the actuarial reports are prepared by a properly informed actuary, the results will be of limited use and credibility.

A paper by Jeff Trahair and Peter McCarthy to the Institute of Actuaries in 1999 has been the subject of quite widespread media comment. (Extension of time granted) I have referred to this paper in detail in speeches I have given. The paper clearly highlights the degree of concern that existed in the minds of two senior actuaries with knowledge of HIH. They had what might be described as a tongue-in-cheek go at the industry. It proved to be all too true. No-one took much notice, however.

These things underscore that the reporting lines of the independent actuary within an organisation need to be addressed. Clearly they should be as important as the internal auditor and have a line of report to at least the audit committee of the board, if not the chairman. The reporting lines of actuaries to APRA also need to be closely addressed to help support the quality of information available to them in making their assessment of the insurers.

Given those types of concerns and the fact that we need to get the role of actuaries right in this area, it seems to the opposition that, if APRA wants to determine that a general insurer should be exempt from that requirement under paragraph 40(1)(b) to appoint an actuary, that ought to be something that is the subject of parliamentary scrutiny and that therefore any determinations made under this section should be disallowable instruments. That is why we have moved amendment 3.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (6.20 p.m.)—We are not accepting this amendment to the General Insurance Reform Bill 2001. A class determination is disallowable under section 47(3) and therefore is adequately dealt with by the bill. Where a whole class of general insurers is exempt by the prudential standards, this is also covered under 47(3), where the prudential standard is already a disallowable instrument. However, an individual determination would have particular
issues specific to the individual general insurer and should not rightly be a public instrument such as a disallowable instrument. In circumstances where particular prudential requirements are to be applied to an individual insurer, it is not usual for determinations to be disallowable instruments, obviously, because they may be commercially sensitive. When they are commercially sensitive and they are disallowable instruments, it can have quite a profound effect on the commercial viability of the organisation at that particular moment. Therefore the government is not in a position to accept this opposition amendment.

Mr KELVIN THOMSON (Wills) (6.22 p.m.)—Labor’s amendment would apply to individual exemptions, not class ones. We cannot imagine a situation where APRA would want to exempt. If it is that unusual, in our view it should be subject to parliamentary scrutiny. So we think that the need for the amendment stands; that it is about accountability to parliament. We are entering a new era. APRA is introducing new regulatory powers. Those standards, like APRA itself, ought to be accountable.

(Quorum formed)

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (6.25 p.m.)—The member for Wills points out that they would like this amendment to apply to a single insurer and not a class of insurers. That is one of the reasons we are opposing this—because of the commercial sensitivity applying to a single insurer with commercial interests rather than a class of insurers. That is why we are not agreeing to this amendment.

Amendment negatived.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (6.26 p.m.)—Mr Deputy Speaker, did you see that? The member for Watson was belting up the member for Wills. He was actually hitting the member for Wills for not calling regular quorums.

Mr Leo McLeay—It is an old way of friendship, but you do not have any friends, Joe, so—

Mr DEPUTY SPEAKER (Mr Andrews)—I think the member for Watson might sort out that matter outside the House.

Mr HOCKEY—The member for Watson is claiming that it is a form of Labor Party friendship—to belt up each other. We are fearful, if they ever become lovers, about what they will do to each other. I seek leave to move government amendments Nos 1 to 65 together.

Leave granted.

Mr HOCKEY—I move:

(1) Schedule 1, item 6, page 4 (line 11), omit “general insurer who", substitute “body corporate that”.
(2) Schedule 1, item 6, page 4 (after line 15), at the end of the definition of foreign general insurer, add:
; and (c) is authorised under section 12 to carry on insurance business in Australia.
(3) Schedule 1, item 7, page 4 (lines 18 and 19), omit “and includes a foreign general insurer”.
(4) Schedule 1, item 22, page 8 (line 22), after “corporate”, insert “(other than a Lloyd’s underwriter)”.
(5) Schedule 1, item 22, page 9 (line 25), omit “”, in the approved form,”, substitute “in writing”.
(6) Schedule 1, item 22, page 9 (lines 27 and 28), omit note 1.
(7) Schedule 1, item 22, page 9 (line 29), omit “Note 2”, substitute “Note”.
(8) Schedule 1, item 22, page 9 (after line 32), after subsection (1), insert:
(1A) APRA may require the body corporate to provide a statutory declaration in relation to information or documents provided in relation to the application.
(9) Schedule 1, item 22, page 12 (after line 11), at the end of subsection (1), add:
; or (g) the insurer has not, within the period of 12 months after it was granted an authority under this Part, carried on insurance business in Australia.
(10) Schedule 1, item 22, page 12 (line 12), after “authorisation”, insert “under this section”.
(11) Schedule 1, item 22, page 12 (lines 21 and 22), omit all the words from and including “APRA” to and including “date”.

Quorum formed
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(12) Schedule 1, item 22, page 12 (after line 22), after subsection (3), insert:

(3A) To avoid doubt, APRA may give a notice under subsection (3) to a general insurer even if, at the time the notice is given, APRA is not satisfied that the insurer has no liabilities in respect of insurance business carried on by it in Australia.

(3B) If APRA gives a notice under subsection (3) to a general insurer, APRA must not revoke the insurer’s authorisation until after the date specified in the notice, and after consideration of any submission, as mentioned in paragraph (3)(b).

(13) Schedule 1, item 22, page 13 (lines 20 to 25), omit all the words from and including “to:” to and including “direction” (second occurring), substitute “to arrange, subject to APRA’s approval, to assign those liabilities to one or more other general insurers. The insurer must effect the assignment of the liabilities within the period specified in the direction and comply with such conditions relating to the assignment as are specified by APRA in the direction”.

(14) Schedule 1, item 22, page 13 (lines 26 to 33), omit subsection (2) (including the note), substitute:

(2) Subsection (1) has effect despite subsection 17B(1).

Note: A general insurer who has asked APRA for a revocation under section 16 may, for the purpose of obtaining the revocation, make an application to the Federal Court under Division 3A for an order transferring the insurer’s insurance business to another general insurer.

(15) Schedule 1, item 22, page 14 (after line 13), after subsection (4), insert:

(4A) Where a general insurer (the first general insurer) accepts an assignment of liabilities from another general insurer (the second general insurer) approved by APRA under subsection 17(4), the following are taken to have occurred:

(a) policies in respect of which liability is accepted by the first general insurer (the transferring policies) are to be treated for all purposes as if each policy had been transferred by novation from the second general insurer to the first general insurer;

(b) a policyholder of a transferring policy is taken to have the same rights against the first general insurer as the person would have against that insurer had the person’s policy been transferred by novation to the first general insurer;

(c) the rights of the first general insurer against policyholders of transferring policies are the same as they would be had the transferring policies been transferred by novation to the first general insurer from the second general insurer.

(16) Schedule 1, item 22, page 14 (after line 25), at the end of section 17, add:

(8) A general insurer commits an offence if:

(a) the insurer does, or fails to do, an act; and

(b) by doing or failing to do the act, the insurer fails to comply with a direction under this section.

Maximum penalty: 60 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the Criminal Code.

Note 2: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 3: If a body corporate is convicted of an offence against this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose a fine of up to 5 times the penalty above.

(17) Schedule 1, item 22, page 14 (before line 26), before Division 4, insert:

Division 3A—Transfer and amalgamation of insurance business

17A Interpretation

A reference in this Division to a body corporate affected by a scheme is a reference to a body corporate that is a party or proposed party to an agreement or deed by which the transfer or
amalgamation provided for by the scheme is, or is to be, carried out.

17B Transfer or amalgamation of insurance business
(1) No part of the insurance business of a general insurer may be:
(a) transferred to another general insurer; or
(b) amalgamated with the business of another general insurer; except under a scheme confirmed by the Federal Court.

Note: A transfer or amalgamation of an insurance business may also require approval under the Insurance Acquisitions and Takeovers Act 1991.

(2) The reference in paragraph (1)(a) to a general insurer includes a reference to a body corporate that is authorised under this Act but has not begun to carry on insurance business in Australia.

(3) A scheme must set out:
(a) the terms of the agreement or deed under which the proposed transfer or amalgamation is carried out; and
(b) particulars of any other arrangements necessary to give effect to the scheme.

(4) Subsection (1) does not require that a transfer or amalgamation of insurance business be made under a scheme approved by the Federal Court if:
(a) immediately before the transfer or amalgamation, the insurance business is carried on outside Australia; and
(b) the transfer or amalgamation will result in the insurance business being carried on outside Australia.

17C Steps to be taken before application for confirmation
(1) In this section:

affected policyholder means the holder of a policy affected by a scheme.

approved summary means a summary approved by APRA.

(2) An application for confirmation of a scheme may not be made unless:
(a) a copy of the scheme and any actuarial report on which the scheme is based have been given to APRA in accordance with the prudential standards; and
(b) notice of intention to make the application has been published by the applicant in accordance with the prudential standards; and
(c) an approved summary of the scheme has been given to every affected policyholder.

(3) Without limiting the provision that may be made by the prudential standards for the purposes of paragraph (2)(b), the notice referred to in that paragraph must include, in relation to each body corporate affected by the scheme, details of the place and time at which an affected policyholder may obtain a copy of the scheme.

(4) An affected policyholder is entitled, on the person’s request, to be provided by the company with one copy of the scheme free of charge.

(5) The Federal Court may dispense with the need for compliance with paragraph (2)(c) in relation to a particular scheme if it is satisfied that, because of the nature of the scheme or the circumstances attending its preparation, it is not necessary that the paragraph be complied with.

17D Actuarial report on scheme
(1) When a copy of a scheme has been given to APRA for the purpose of paragraph 17C(2)(a), APRA may arrange for an independent actuary to make a written report on the scheme.

(2) APRA may give a copy of the report to each body corporate affected by the scheme.

17E Application to Court
(1) Any of the bodies corporate affected by a scheme may apply to the Federal Court for confirmation of the scheme.

(2) An application for confirmation must be made in accordance with the prudential standards.

(3) APRA is entitled to be heard on an application.

17F Confirmation of scheme
(1) The Federal Court may:
(a) confirm a scheme without modification; or
(b) confirm the scheme subject to such modifications as it thinks appropriate; or
(c) refuse to confirm the scheme.

(2) The Federal Court may make such orders as it thinks fit in relation to reinsurance.

17G Effect of confirmation etc.

When a scheme is confirmed:
(a) it becomes binding on all persons; and
(b) it has effect in spite of anything in the constitution of any body corporate affected by the scheme; and
(c) the body corporate on whose application the scheme was confirmed must cause a copy of the scheme to be lodged at an office of ASIC in every State and Territory in which a company affected by the scheme carried on business.

17H Costs of actuary’s report

(1) When a scheme is confirmed, the body corporate that applied for the confirmation becomes liable to pay to the Commonwealth an amount equal to the expenses reasonably incurred by APRA in obtaining a report under section 17D in relation to the scheme.

(2) An amount due under subsection (1) may be recovered by the Commonwealth as a debt in any court of competent jurisdiction.

17I Documents to be lodged in case of transfer or amalgamation

(1) If any part of the insurance business carried on by a general insurer is transferred to, or amalgamated with, the insurance business of another body corporate, the latter body corporate must give APRA such documents as are required by the prudential standards.

(2) The documents must be lodged within the time fixed by the prudential standards or within such further time as APRA, in accordance with the prudential standards, allows.

(18) Schedule 1, item 22, page 14 (line 29), omit “, in the approved form,”, substitute “in writing”.
(19) Schedule 1, item 22, page 15 (lines 5 and 6), omit note 2.

(20) Schedule 1, item 22, page 15 (line 7), omit “Note 3”, substitute “Note 2”.
(21) Schedule 1, item 22, page 15 (after line 10), after subsection (1), insert:
(2) APRA may require the body corporate to provide a statutory declaration in relation to information or documents provided in relation to the application.

(22) Schedule 1, item 22, page 17 (line 8), after “authorisation”, insert “under this section”.
(23) Schedule 1, item 22, page 22 (after line 14), at the end of section 27, add:

(7) A general insurer commits an offence if:
(a) the insurer does, or fails to do, an act; and
(b) by doing or failing to do the act, the insurer fails to comply with a direction under this section.

Maximum penalty: 60 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the Criminal Code.

Note 2: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 3: If a body corporate is convicted of an offence against this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose a fine of up to 5 times the penalty above.

(24) Schedule 1, item 22, page 24, after line 25, after subsection (3), insert:
(3A) APRA may modify a prudential standard in respect of a particular general insurer, authorised NOHC or subsidiary of a general insurer or authorised NOHC.

(3B) In modifying a prudential standard, APRA must have regard to the particular business and circumstances of the general insurer, authorised NOHC or subsidiary concerned.

(3C) If APRA modifies a prudential standard in respect of a particular general insurer, authorised NOHC or subsidiary of a general insurer or authorised NOHC under subsection (3A), APRA
must give written notice of the modification to the general insurer, authorised NOHC or subsidiary concerned.

(3D) The prudential standards may provide for APRA to exercise powers and discretions under the standards, including but not limited to discretions to approve, impose, adjust or exclude specific prudential requirements in relation to the following:

(a) a particular general insurer, authorised NOHC or subsidiary of a general insurer or authorised NOHC;

(b) specified general insurers, authorised NOHCs or subsidiaries of general insurers or authorised NOHCs;

(c) a class of general insurers, authorised NOHCs or subsidiaries of general insurers or authorised NOHCs.

(3E) APRA must obtain the Treasurer’s written agreement before modifying a prudential standard under subsection (3A).

(25) Schedule 1, item 22, page 24 (after line 31), at the end of section 32, add:

(6) Despite section 49A of the Acts Interpretation Act 1901, the standards may make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

(26) Schedule 1, item 23, page 29 (after line 17), at the end of subsection (1), add:

; or (c) does not meet the eligibility criteria for such an appointment as set out in the prudential standards.

(27) Schedule 1, item 23, page 30 (after line 16), at the end of subsection (2), add:

; or (c) does not meet the eligibility criteria for such an appointment as set out in the prudential standards.

(28) Schedule 1, item 23, page 31 (after line 6), at the end of subsection (3), add:

; and (c) meets the eligibility criteria for such an appointment as set out in the prudential standards.

(29) Schedule 1, item 23, page 31 (line 25), after “happened”, insert “and the reasons for and circumstances of the event”.

(30) Schedule 1, item 23, page 31 (line 28), omit “40”, substitute “39”.

(31) Schedule 1, item 23, page 31 (after line 29), after subsection (1), insert:

(1A) An exemption under subsection (1) may be subject to one or more conditions specified by APRA in the determination.

(32) Schedule 1, item 23, page 31 (line 30), after “determination”, insert “under subsection (1)”.

(33) Schedule 1, item 23, page 32 (line 2), omit “40”, substitute “39”.

(34) Schedule 1, item 23, page 32 (after line 3), at the end of section 47, add:

(4) An exemption under subsection (3) may be subject to one or more conditions specified in the prudential standards.

(5) A general insurer commits an offence if:

(a) the insurer does, or fails to do, an act; and

(b) doing or failing to do the act results in a contravention of a condition of the insurer’s exemption under subsection (1) or (3).

Maximum penalty: 60 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the Criminal Code.

Note 2: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 3: If a body corporate is convicted of an offence against this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose a fine of up to 5 times the penalty above.


(36) Schedule 1, item 23, page 34 (after line 9), after paragraph (d), insert:

; or (e) the general insurer, NOHC or subsidiary:

(i) has contravened this Act or any other law; and
(ii) the contravention is of such a nature that it may affect significantly the interest of policyholders of the general insurer or of a general insurer that is a subsidiary of the NOHC;

(37) Schedule 1, item 23, page 35 (line 21), omit “Investigation by an independent actuary”, substitute “Actuarial investigation required by APRA”.

(38) Schedule 1, item 23, page 36 (line 28), omit “auditor’s”, substitute “actuary’s”.

(39) Schedule 1, item 23, page 38 (line 9), omit “21”, substitute “7”.

(40) Schedule 1, item 23, page 38 (line 11), omit “21”, substitute “7”.

(41) Schedule 1, item 23, page 38 (line 16), omit “21”, substitute “7”.

(42) Schedule 1, item 23, page 39 (after line 22), after paragraph (a), insert:

(aa) the reports referred to in section 49J; and

(43) Schedule 1, items 30 and 31, page 43 (lines 6 to 15), omit the items, substitute:

30 Subsection 51(1)

Omit all the words from and including “Where” to and including “may:”, substitute:

Where:

(aa) it appears to APRA that a body corporate that is a general insurer or authorised NOHC:

(i) is, or is likely to become, unable to meet its liabilities; or

(ii) has contravened or failed to comply with a provision of this Act or a condition or direction applicable under this Act; or

(ab) it appears to APRA that there is, or there may be, a risk to the security of a general insurer’s or authorised NOHC’s assets; or

(ac) it appears to APRA that there is, or there may be, a sudden deterioration in a general insurer’s or authorised NOHC’s financial condition; or

(ad) the Treasurer agrees, in writing, to the giving of a notice under this subsection;

APRA may:

(44) Schedule 1, item 36, page 43 (lines 25 to 29), omit the item, substitute:

36 Subsection 52(1)

Omit all the words from and including “Where” to and including “this Act,”, substitute:

Where:

(aa) it appears to APRA that a body corporate that is a general insurer or authorised NOHC:

(i) is, or is likely to become, unable to meet its liabilities; or

(ii) has contravened or failed to comply with a provision of this Act or a condition or direction applicable to it under this Act; or

(ab) it appears to APRA that there is, or there may be, a risk to the security of a general insurer’s or authorised NOHC’s assets; or

(a) it appears to APRA that there is, or there may be, a sudden deterioration in a general insurer’s or authorised NOHC’s financial condition; or

(b) the Treasurer agrees, in writing, to the giving of a notice under this subsection;

Note: The heading to section 52 is altered by omitting “body corporate” and substituting “general insurer, authorised NOHC or subsidiary”.

36A Subsection 52(1)

Omit “. on specified grounds”.

36B After subsection 52(1)

Insert:

(1AA) A notice under subsection (1) must specify which of paragraphs 1(aa), (ab), (a) or (b) is being relied on to give the notice.

(1AB) Despite subsection (1), APRA may specify a period of less than 14 days in a notice under that subsection if the Treasurer has agreed, in writing, to the lesser period being specified.

(45) Schedule 1, page 44 (after line 13), after item 41, insert:

41A Subsection 55(1)

After “body corporate” (first occurring), insert “that is a general insurer, authorised NOHC or the subsidiary of a general insurer or authorised NOHC”.

Note: The heading to section 55 is altered by omitting “the” (wherever occurring).
41B Subsection 55(1)
Omit “the whole or part of the affairs of which APRA or the inspector is investigating”.

41C After subsection 55(1)
Insert:
(1A) APRA or the inspector may give a notice to a prescribed person in relation to a body corporate only if:
(a) APRA or the inspector is investigating the whole or part of the affairs of the body corporate or a body corporate that is associated with that body corporate; or
(b) the notice is given for the purposes of APRA’s monitoring functions under section 38.

46) Schedule 1, page 44 (before line 14), before item 42, insert:
41D Paragraph 59(1)(b)
Repeal the paragraph, substitute:
(b) an inspector may by signed instrument delegate his or her powers to:
(i) an APRA staff member, within the meaning of the Australian Prudential Regulation Authority Act 1998; or
(ii) a person included in a class of persons approved in writing by APRA for the purposes of this subparagraph.

52A Paragraph 93(10)(c)

54) Schedule 1, item 60, page 48 (lines 9 and 10), omit all the words from and including “section 116” to and including “and” (first occurring).

55) Schedule 1, item 60, page 48 (line 21), omit “those purposes”, substitute “the purposes of section 116 (General insurer not to carry on insurance business after start of winding up) and section 28”.

56) Schedule 1, item 60, page 48 (line 32), omit “those purposes”, substitute “the purposes of section 28”.

57) Schedule 1, item 60, page 49 (after line 10), at the end of section 116A, add:
(4) For the purposes of section 116 and section 28, unless the contrary intention appears, a reference to liabilities of a body corporate includes a reference to liabilities made in its accounts, or directed in accordance with section 49M to be made, but does not include:
(a) a liability in respect of share capital; or
(b) where the body corporate is registered under the Life Insurance Act 1995, a liability that is, in accordance with that Act:
(i) referable to a class of life insurance business carried on by the body corporate in respect of which it has established a statutory fund under that Act; or
(ii) charged on any of the assets of such a statutory fund.
(5) The whole or such part as APRA determines of an amount owed to a body corporate by way of portions of premiums retained under a contract of reinsurance by a person outside Australia are, for the purposes of section 28, to be taken to be an asset in Australia of the body corporate.

(6) Where:
(a) a determination has been made under subsection (5); and
(b) it appears at any time to APRA that the determination is no longer necessary or should be varied;
APRA must, by notice in writing served on the body corporate concerned, revoke or vary the determination, as the case may be.

(58) Schedule 1, page 50 (after line 6), after item 65, insert:

65A Subsection 122(1)
Omit “Authorized Insurers”, substitute “General Insurers and Authorised NOHCs”.

(59) Schedule 1, page 50 (before line 7), before item 66, insert:

65B Paragraph 123(1)(a)
Omit “Authorized Insurers”, substitute “General Insurers and Authorised NOHCs”.

(60) Schedule 1, page 50 (after line 8), after item 66, insert:

66A After section 125
Insert:

126 Acceptance and enforcement of undertakings
(1) APRA may accept a written undertaking given by a person in connection with a matter in relation to which APRA has a function or power under this Act.
(2) The person may withdraw or vary the undertaking at any time, but only with APRA’s consent.
(3) If APRA considers that the person who gave the undertaking has breached any of its terms, APRA may apply to the Federal Court for an order under subsection (4).
(4) If the Federal Court is satisfied that the person has breached a term of the undertaking, the Federal Court may make all or any of the following orders:
(a) an order directing the person to comply with that term of the undertaking;
(b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
(c) any order that the Federal Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
(d) any other order that the Federal Court considers appropriate.

(61) Schedule 1, page 50 (before line 9), before item 67, insert:

66B Before section 128
Insert:

127 Severability
(1) Without prejudice to its effect apart from this section, this Act also has effect as provided by this section.
(2) This Act has, by force of this subsection, the effect it would have if reference to a NOHC in relation to a body corporate were expressly limited to a reference to a NOHC of a general insurer.
(3) This Act has, by force of this subsection, the effect it would have if the Act separately provided as mentioned in the following paragraphs:
(a) the Act has effect as if a reference to a subsidiary of a general insurer were expressly limited to a reference to such a subsidiary that is a corporation to which paragraph 51(xx) of the Constitution applies;
(b) this Act has effect as if a reference to a subsidiary of a general insurer were expressly limited to a reference to such a subsidiary that carries on banking with respect to which the Parliament has the power to make laws under paragraph 51(xiii) of the Constitution.
(4) This Act has, by force of this subsection, the effect it would have if the Act separately provided as mentioned in the following paragraphs:
(a) the Act has effect as if a reference to a subsidiary of an authorised NOHC
were expressly limited to a reference to such a subsidiary that is a corporation to which paragraph 51(xx) of the Constitution applies;

(b) this Act has effect as if a reference to a subsidiary of an authorised NOHC were expressly limited to a reference to such a subsidiary of an authorised NOHC, being a NOHC that carries on banking with respect to which the Parliament has the power to make laws under paragraph 51(xiii) of the Constitution.

(62) Schedule 1, page 52 (after line 6), at the end of the Schedule, add:

81 Section 131
Omit “or 105”.

(63) Schedule 2, page 54 (after line 5), after item 3, insert:

3A Effect of authority under old Act
(1) An authority to carry on insurance business granted to a body corporate under section 23 or 24 of the old Act ceases to be in force immediately after an authority is granted to the body corporate under section 12 of the new Act.

(2) However, subitem (1) is subject to any determination under item 4 in respect of the body corporate.

(64) Schedule 2, page 57 (after line 6), after item 10, insert:

10A Application of the old and new Act to certain insurers after the end of the transition period
(1) Items 4, 5, 6, 7, 8, 9 and 10 continue to apply (with the modifications mentioned in subitem (2)) to a body corporate at a time after the end of the transition period if:

(a) the body corporate;

(i) is authorised under the old Act to carry on insurance business; or

(ii) is a general insurer under the new Act; and

(b) APRA is satisfied at that time that the body corporate is carrying on insurance business in Australia for the sole purpose of discharging liabilities that arose before the end of the transition period.

(2) Items 4, 5, 6, 7, 8, 9 and 10 continue to apply to the body corporate as if:

(a) a reference in those items to the transition period included a reference to times after the end of the transition period; and

(b) a reference in those items to a specified period included a reference to an indefinite period.

(65) Schedule 3, page 58 (after line 10), after item 1, insert:

1A After subsection 56(6)
Insert:

(6A) It is not an offence if the disclosure of protected information or the production of a protected document is to:

(a) an auditor who has provided, or is providing, professional services to a general insurer, authorised NOHC or a subsidiary of a general insurer or authorised NOCH; or

(b) an actuary who has provided, or is providing, professional services to a general insurer, authorised NOHC or a subsidiary of a general insurer or authorised NOCH;

and the disclosure is for the purposes of the performance of APRA’s functions, or the exercise of APRA’s powers, under a law of the Commonwealth or of a State or Territory.

These amendments will update and further modernise the general insurance prudential regime. There are a number of simple technical amendments that make the Insurance Act more consistent. The amendments also correct discrepancies in the original bill that may have caused the new provisions to be misinterpreted or ambiguous. In addition to these technical amendments, I would also like to put forward nine enforcement and resolution of failure provisions which will strengthen APRA’s current powers. The amendments will broaden the circumstances and increase the flexibility with which APRA can undertake enforcement actions and improve the workability of these provisions. They will give APRA the capacity to receive enforceable undertakings and they will enhance the transfer of business provisions to facilitate the transfer of insurance liabilities to other insurers.

The last amendment is a particularly important amendment. If there is an insurer in some form of distress, it is vitally important
that APRA have the power to be able to move businesses quickly to ensure that policyholders are protected and that they are not at risk should the holding company be in some form of financial distress. In effect, these amendments I am moving will add to APRA’s regulatory toolbox. They provide an early warning response system and APRA will be able to undertake significant action should it become necessary, and we all hope that it would not be necessary. I present the supplementary explanatory memorandum.

Mr KELVIN THOMSON (Wills) (6.29 p.m.)—The opposition have been acquainted with these amendments only very recently. The government often does introduce amendments very late and so we will be reserving our position here and considering the matter between here and the Senate.

Amendments agreed to.

Bill, as amended, agreed to.

Third Reading

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

ALCOHOL EDUCATION AND REHABILITATION ACCOUNT BILL 2001

Consideration of Senate Message

Bill returned from the Senate with a request for an amendment. Ordered that the requested amendment be taken into consideration at the next sitting.

HIGHER EDUCATION FUNDING

Consideration of Senate Message

Message received from the Senate acquainting the House that the Senate had agreed to a resolution that, in the opinion of the Senate, the following was a matter of urgency:

The crisis in Australia’s university system as a result of the Commonwealth Government’s funding cuts, as well as the Government’s intemperate attacks on those Vice Chancellors with the temerity to point this out.

Ordered that consideration of the message be made an order of the day for the next sitting.

MIGRATION LEGISLATION AMENDMENT (IMMIGRATION DETAINES) BILL (No. 2) 2001

Second Reading

Debate resumed from 27 June, on motion by Mr Ruddock:

That the bill be now read a second time.

Mr SCIACCA (Bowman) (6.32 p.m.)—The Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001 before the House tonight introduces the power to conduct strip searches of detained asylum seekers in an attempt to safeguard the working conditions of the officers tasked with the job of guarding the detainees and also to ensure the safety of other asylum seekers within the detention centres. As you would appreciate, Mr Deputy Speaker, this bill has provided a lot of food for thought for my colleagues and me, and the issue of not compromising the safety of guards and detainees, while at the same time assessing the impact of strip searches on boys and girls as young as 10, weighed heavily on our minds.

Over the past 18 months there have been a number of riots, disturbances, protests and escapes at immigration detention centres at Woomera, Curtin, Port Hedland and Villawood, resulting in several officers and detainees sustaining serious injuries and substantial damage to Commonwealth property. These actions by detainees are mostly caused by frustration over the length of processing times for refugee applications and by the desperation of some who face imminent deportation following the rejection of their claims for protection. While the refugee determination processes and the operation of the detention system need to be reviewed, it is nevertheless unacceptable to the Australian public that the health and safety of the detention centre officers and the majority of detainees is placed in jeopardy as a result of destruction and violent behaviour on the part of a small number of people who almost invariably have been refused refugee status.

Having said that and before discussing Labor’s response, I believe it is important to place on record the opposition’s sincere concern about the escalation of violence within the centres, as well as our concern about the
government’s response to this violence. Labor understands the difficulty that is faced by those people who work or who are detained in the centres and whose safety it seems cannot be guaranteed on a day-to-day basis. Endangerment of life and physical safety are unacceptable under any circumstance. Yet to some extent we have been fortunate that, aside from a couple of incidents where detainees have felt compelled to take their own life because of either desperation or mental illness, no life has been lost as a result of riots, disturbances and protests at our immigration detention centres. It would be a tragic day indeed, not only for those directly involved but for all Australians and for our democratic system, if that were ever to occur.

In this context, Labor support the measures proposed in this bill, subject to a number of government amendments which, I take it, the minister will move later. I must stress, however, that, having granted these additional powers, the department and those charged with the daily management of detainees at these detention centres should exercise their discretion wisely. The opposition considered in detail the provisions of the bill and consulted widely with people who routinely conduct strip and other searches on just what sort of physical and mental environment leads to a strip search being authorised and conducted on another person, especially one possibly as young as 10. Following our consultations, we approached the government with a number of amendments and measures that the opposition believe would establish a process whereby the seriousness of the search and the need to prevent abuse of powers was reflected in the process leading to a strip search being actually conducted. We considered who should authorise them, who should be present and who should be aware of the processes involved.

The following measures have been agreed to by the government and will now be reflected in the legislation. There will be an amendment providing for strip searches to be conducted only after an objective assessment of intent is proven—that is, following the conduct of conventional searches limited to passing through metal detectors, scanning by hand-held metal detectors, conventional frisk or pat-down search, or other information or intelligence that is available to the officers. In other words, there has to be a reasonable suspicion and there has to be a reason as to why these people are being asked to be strip searched. In addition, there is an amendment, which again the government has agreed to include in the bill, providing that authorisation for a strip search must be given by a DIMA SES officer of at least acting deputy secretary level or above.

A further amendment provides that in the case of a minor being strip searched, the permission for the strip search must be given by a magistrate—that is, not by a court or a magistrate sitting in court, but by a magistrate—who no doubt would have to be satisfied that there were reasonable grounds upon which that would be necessary. There is another amendment providing that the detainee has the option of having another person of their choice present to act as a witness during the conduct of the strip search.

To date I have seen a number of examples of weapons that have been found in the possession of detainees. I agree that manufacturing them or carrying them on their person for the purpose of threatening, harming or causing self-harm cannot be condoned and must be discouraged. The opposition will continue to maintain an open mind to any government proposal or measure that we believe will value add or provide solutions in this difficult area. Our bipartisanship, however, is seldom acknowledged by the government, and unfortunately that is very much to the detriment of our refugee program. Often during question time or in media interviews, the Minister for Immigration and Multicultural Affairs seeks Labor’s support for the passage of this or that bill, ostensibly in the name of bipartisanship. However, when the opposition sometimes suggest alternative courses of action or a fresh approach, we are met with behaviour that is less than agreeable. I will talk about that later, particularly given that my friend the Minister for Immigration and Multicultural Affairs is here. I am glad that you are here, because I have a few things that I want to say
to you—through you, of course, Mr Deputy Speaker Hawker.

To provide an example, recently an all-party parliamentary committee reached an unlikely consensus about the conditions within detention centres and the operation of those centres, and it produced a number of what I thought in the main were good suggestions and good recommendations. In particular, I was impressed by the committee’s conclusion about the proposal for a detention centre with higher security to house detainees who have been found not to have genuine claims for protection. Currently, there are essentially no efforts to delineate between those who are likely to be given protection visas and those who no longer have anything to lose and have become desperate following the rejection of their claims, usually in accordance with Australia’s and United Nations’ refugee determination criteria. When facing deportation, after realising that they have wasted many months trying to convince the authorities of their claims, the anxiety and desperation that are felt by unsuccessful claimants often spill into physical anger directed at not only those whom they believe to be responsible for their fate, namely the Department of Immigration and Multicultural Affairs and the Australian authorities, but also fellow detainees and other asylum seekers who most likely will be granted refugee status.

It seems logical to me that there should be some separation of those people from the general population at the detention centres. What is the government’s response to that suggestion? The immigration minister, on a visit to the Paddington branch of the Liberal Party—I imagine that there would not be too many Liberals in Paddington—got onto his soapbox and described how the Labor Party intended to build super jails in Sydney to house troublesome illegal immigrants. I do not have the capacity to get a transcript of everything that he says, and I do not pay the enormous amounts involved in getting those transcripts. I must put a question on notice about that; I will be very interested to see how much the minister pays to find out what he says, and usually it is reported in the newspapers, anyway.

I am certainly not advocating the building of new high security centres or super jails, as the minister claimed. Rather, I am suggesting that there is a compelling argument for the upgrading of security in at least one or more of the detention centres to house detainees awaiting deportation, and certainly not detention centres that are close to major centres such as Sydney and Melbourne, where all they need to do to escape is get through a few drainage pipes or cut a bit of fencing, never to be seen again, except in the case of one. In the end, we must not lose our perspective on these issues. We are dealing not with murderers or hardened criminals but with often desperate people who are seeking a better life and who have breached our laws by entering our shores illegally.

The opposition has made some constructive suggestions, in many instances based upon the good work of committees such as the all-party human rights subcommittee, which received a less than welcoming response from the minister. In fact, if I remember correctly, it was said that they had no life experience and that they had been trotting around Geneva too much. I think that was the initial response of the minister. Fine, you can say that. The only problem is that those people were some of his star members, such as the member for Cook and a number of others. I do not think that they would have been all that impressed with the minister’s comments.

Ms Kernot—They didn’t even go anywhere near Geneva.

Mr Sciaccia—I am glad that the member for Dickson is in the chamber, because shortly I will say something about the candidate against her in her electorate. I ask only that the immigration minister keeps his mind open and does not succumb to the vitriol of some of his colleagues, especially that which his compatriots in the state Liberal Party organisations have decided to dish out in some of the marginal seats around Australia where they hope to curry favour with members of society who feel disfranchised and who look to parties such as One Nation for answers. Those strategies serve only to divide society
and polarise opinion. The damage caused to Australia’s harmonious relationship with its many diverse cultures is certainly not worth a few votes. Only today, the Minister for Health and Aged Care talked about actions on behalf of our party and tried to pick up a few cheap political points.

I have with me copies of pamphlets and material that have been distributed by Liberal Party candidates in certain areas. I want to deal with a couple of them. To highlight the subject, let me read from the sort of literature that the government is spreading in seats such as Dickson, which is held by my friend and colleague Cheryl Kernot, who is here at the table; Gilmore, which is held by Joanna Gash; and Fadden, a neighbouring seat to mine, which is held by David Jull. Even Mr Jull, whom I have known for many years, must have felt ashamed at the sort of propaganda that the government were putting out, and decided to edit the brochure and remove a lot of the offensive material and distribute it in a more civilised fashion. Whilst the pamphlet basically says the same thing, at least he was not as crass as what’s-his-name—some goose in your electorate by the name of Peter Dutton. Is that his name?

Ms Kernot interjecting—

Mr SCIACCA—I want to say a few things about Peter Dutton. He should be mentioned. I want to mention what these pamphlets say. This is for a lot of people out there in the electorate, like those in the Northern Territory for instance, who do not like parties flirting with the likes of One Nation. There is no way in the world that this can be said to be anything but a sop to people who like support from time to time. This pamphlet is headed: Protecting our borders. Combating people smuggling. Helping those who genuinely need help. And at the back it says, ‘Peter Dutton, your Liberal candidate for Dickson, printed and authorised by and with the compliments,’ et cetera.

Mr Ruddock—What is wrong with that?

Mr SCIACCA—Just wait and I will tell you. The whole idea of this is simply to somehow try to wedge the Labor Party by saying that Labor is soft on illegal immigrants. That is what it says: ‘Labor is soft on illegal immigrants’. Then, of course, there is a little bit of skite in here. It refers to Alan Wood. I do not think Alan Wood is exactly a member of the Labor Party or one of our greatest supporters, but the pamphlet goes on to say that

... a significant achievement of Philip Ruddock’s term as Immigration Minister has been to restore integrity to an immigration program.

And then he finds the only two possible things he can say in terms of trying to prove or to show the Australian public, in a dishonourable way, that we are supposedly soft on illegal immigrants. He says:

Labor has opposed the Government’s amendments to streamline the appeals process in the courts—a process many illegal immigrants use to delay being deported. Yet at the same time Labor claim they want to speed up the processing time. I presume that he is talking about the judicial review legislation which I think has just been introduced in the Senate. I do not think the minister has even brought it up for debate yet. It has not even come to this House yet. All we have said is that we will not support that bill because we believe that it will not get through the High Court. We have made that clear. The minister knows that and he has that advice. He knows that everyone, every law society and every NGO, says that they will take that on.

There are other ways of speeding up the appeals process, but, as soon as we make any sort of suggestion, the Minister for Immigration and Multicultural Affairs pooh-poohs it, gets up here in parliament, and tries to make some political capital out of it; but he is not serious. The reality is that he wants to have something there to try to somehow put blame on the opposition, to deflect blame away from himself. We know that this is a difficult issue and that it will be a difficult issue for successive governments. However, by the same token, it is fairly crass to allow your member for Gilmore, Joanna Gash, and your candidate in the seat of Dickson, to put out stuff like this. You know full well that, in respect of the legislation that you have introduced in this House—and there has been a raft of it—you have received support from the Labor Party for almost all of it. You
know that to be true because every time you say, ‘I’m bringing this in and the test will be on the Labor Party; let’s see if they support it,’ and if we do not support it that will mean that a lot more people are going to come in. Whether it was border protection legislation, screening or character testing, increasing fines for people involved in people-smuggling, giving more powers to the guards at ACM for strip searching or in respect of manufacturing weapons, the minister received approval and bipartisan support from us. Nevertheless, every bill he brings forward becomes a test on the Labor Party. It is not a test on the government’s methods or the way they are handling the problem; it is a test on the Labor Party.

I can tell the minister that that did not work in the Northern Territory. Wedge politics did not work there and it is not going to work this time, either. I get sick and tired of it, particularly because I did the figures yesterday. I found that over the last 10 years, according to figures from the department of immigration—and the member for Dickson will not be surprised to hear this—about 12,846 people have come here. The figure is probably a bit higher than that because I am told that they found some more people on that last boat. The figure went from 100, to 230 and I now hear that as many as 340 might have been on it. That is what I saw in the press. Let us say that approximately 13,000 people have arrived in the last 10 years. Something like 10,500 of them have arrived since these turkeys have been in power. Some 10,500 have arrived in the last five years.

Mr Ruddock interjecting—

Mr SCIACCA—I know the problem is difficult; I am not blaming the minister for these people coming here, but every time he puts a bill or any form of legislation before this House it becomes a test on the Labor Party. For example, in November 1999, the minister brought in some legislation, with our support, that created what they called temporary protection visas. It was supposed to be the answer. It was supposed to create a disincentive for people smugglers to bring anybody out here. Since that legislation was passed by parliament with the support of the opposition, over 6,000 people have arrived.

When are the government and the minister going to realise that it does not matter how many bits of domestic legislation they put in, that is obviously not the way to solve the problem? I do not say that we have the answers, although I think that things like coast-guards, and the possibility of running around the world trying to come up with an international solution instead of going around the world saying how good we are at keeping people in detention, might be a start. However, the answer certainly does not lie in the government continually bringing legislation before this parliament and trying to blame everybody else but themselves, because the problem just seems to keep going and people still seem to keep coming. The point is that we have supported the minister’s legislation.

Mr Ruddock interjecting—

Mr SCIACCA—Mr Deputy Speaker, you know full well that that was when the minister was talking about whole Middle Eastern villages setting up and all the rest of it and how they were going to be coming over in the next couple of months; but that did not happen.

Can I go back for a moment, if the member for Dickson does not mind. It seems that somewhere along the line—without the member for Dickson’s knowledge, I am sure—there were some pamphlets put out in the seat of Dickson by an organisation called the Refugee Action Collective. It seems that they got stuck into this Dutton character and then Dutton put out a press release, of which I have got a copy here. I have got no doubts that the member for Dickson will be returned with an increased majority at the next election, particularly if she has a turkey—with respect, Mr Deputy Speaker—like this Peter Dutton as the candidate against her. These are some of the claims he makes:

Racism claims wrong: A Labor Party front claiming to represent the needs of refugees has unnecessarily stirred the racism debate in Dickson ...

which of course he started—

The Refugee Action Collective distributed a leaflet throughout Dickson that seems to conform with every Labor policy ...
The Labor Party blocked Howard Government legislation in the Senate which was aimed at sending illegal immigrants home sooner. I can only presume he is talking about the judicial review legislation, which the minister has not even had debated in the Senate yet, let alone coming down—

Mr Ruddock—So you have changed your position?

Mr SCIACCA—You have not even listed it for debate yet, Minister, and this turkey says that we have knocked it back. He goes on to say:

The RAC is a ratbag front of the Labor Party.

I addressed a meeting only the other day in Canberra—you know, you got the 69-page transcript of it, Minister. I wonder how much a 69-page transcript costs. I wonder how much Media Monitors charge to get that sort of stuff. I wish we had the money to be able to do that. We could check every word the minister says. Not only do we have nothing to do with the Refugee Action Collective but wherever I go they are heckling me the same as they heckle you and they are getting into me probably as much as they get into you, if not more. I do not know; they must think we are going to win the next election or something and they are into us all the time. I was even called Ruddock’s twin the other day—Ruddock’s twin! And yet this goose, Peter Dutton, says the RAC is a front for the Labor Party.

Perhaps the Minister for Immigration and Multicultural Affairs might do me the favour of contacting this fellow Dutton, who obviously has no idea, and let him know that it is simply not true that it is a front at all. Here we go: the Minister for Immigration and Multicultural Affairs, Mr Ruddock, was advertised as guest speaker at a Liberal dinner, a fundraiser for Mr Dutton, the week that the pamphlets went out.

It is one thing to have legitimate political debate; it is one thing to say, ‘We don’t agree with the opposition.’ But to suggest, as the minister does all the time, that somehow the Labor Party is soft on illegal immigration he knows is simply not true.

The second reason Mr Dutton gives in his pamphlet that shows we are supposedly soft on illegal immigration is as follows:

Labor wants to water down restrictions on temporary protection visa holders to give them access to the same level of services legal immigrants receive.

He knows that is not true either. I will repeat what we have said: people on temporary protection visas will not be entitled to family reunion; they will not be entitled to travel rights. But what we have said is that it is like cutting off your nose to spite your face to dump these people, who under our system have been given refugee status and who in most cases anyway—unless there are changes with the Taliban in Afghanistan or Saddam Hussein in Iraq—will end up being given permanent protection visas. I would expect that to be the case; I am sure the minister would agree. The reality is that they get no English language courses when they get out. They are dumped onto the welfare organisations and onto the states and they get no support apart from some social security. The reality is, and I make no qualms about this, that we do not want to end up making a subclass of people: people who are in abeyance and who may well end up in either crime or the black economy just to survive. The reality is that we will make sure that they get some services to make sure—

Mr Ruddock—So you are watering it down?

Mr SCIACCA—You can call it watering it down, but the fact is, which Mr Dutton does not say in there, that there will still be a very big difference; that is, they will not have family reunion and they will not have travel rights. If that is supposedly soft on illegal immigrants—when nine out of 10 bills the minister has put in here we have supported—I do not know.

In any event, it is crass and it is wedge politics at its worst to be using this sort of issue to try to pick up a few cheap political votes. I think it is disgusting. Frankly, this minister should be above that. I do not know who is talking to him—he is under orders. He has got to be because I think he is a better person than that, but he is certainly not showing it. When I saw these, I said, ‘No,
that is not the Philip Ruddock that has been in this parliament since 1969 or so.' Then I thought that he has obviously undergone a massive conversion on the road to Damascus, only he has taken the wrong turn. All I can say is that if the Minister for Immigration and Multicultural Affairs thinks that he is going to be able to use refugee issues and immigration issues for the purpose of wedging the Labor Party and he is only going to be able to come up with excuses like this then he is just not going to succeed. Again I mention the example of the Northern Territory, where people obviously were not prepared to accept wedge politics from the conservatives. They must be getting desperate when they resort to this sort of stuff.

I will make sure that every ethnic organisation—the Chinese community and all the other communities who deplore this sort of stuff: the fanning of the fires of racism and xenophobia around Australia—know that the Liberal Party and this minister obviously are condoning the issue of these pamphlets. If he is not, let him make a public statement to the effect that he does not agree with it and that these candidates are doing it against his own wishes. But I doubt that he will do that.

In the end, the people of this country elect a government, which they did in 1996 and again in 1998, and it is that government’s watch—it is the conservative government’s watch; it is their problem. We have been able to show, and that table that I have already read from shows clearly, that the vast majority of the unauthorised arrivals have arrived in the last five years. Irrespective of all the legislation this minister has brought forward, they still keep coming. In the end, we obviously need some sort of different approach. People say to me, ‘What you going to do?’ Whatever it is we are going to do, it cannot be any worse than what this mob are doing, because in the end they still keep coming. And whose fault is it? Everybody’s but the minister’s; everybody’s but the government’s. It is everybody else’s fault. I think people are starting to wake up to that, Minister—through you, Mr Deputy Speaker.

The opposition supports this legislation subject, of course, to the amendments I have mentioned, which will be moved later. We believe that they will make sure that the appropriate safeguards are there. Changes can be made to the system to ensure that, whilst we maintain the integrity of the programs, steps can be taken to diffuse the volatility that currently exists, and we can regain control of the situation.

The government have now blamed everyone and anything for their abysmal failure in managing the problems in the detention centres. They have blamed the opposition, the courts, refugee advocates, the refugees themselves, former ACM managers that have been removed, the people smugglers, greedy lawyers and even the rain that fell in Woomera that loosened the dirt, allowing detainees to dig their way out. In the end, the buck stops with the government. They have the resources and the money and they have the problem. It is time to stop blaming and to start thinking, accepting responsibility and trying to fix the problem. What Labor can do from opposition is to acknowledge the gravity of the situation within detention centres and provide constructive suggestions, criticism and support. But, ultimately, it is up to the government not to bury their head in the sand and dismiss, ridicule and belittle the suggestions of credible and hard-working committees, as we have seen recently.

The measures before the House today will be passed because they go some way towards ensuring one aspect of the problem is corrected. However, these measures will not fix the problem, because the issues are far more complex than a few knives made of perspex, a toothbrush with disposable razor blades melted into it or the ability to strip search a few asylum seekers every year. Again, the opposition have shown that we are fair dinkum when it comes to supporting the government on reasonable measures in relation to the mandatory detention system, which we do support. We think people can be treated more humanely, but we support the detention system. This government like to use these issues for purely venal political purposes. I hope that they stop. Perhaps the minister and I can have another discussion about this, because I do not think anyone should ever use immigration and refugees as political tools. Subject to the amendments
being moved, the opposition will support these measures.

Mrs MAY (McPherson) (7.02 p.m.)—As Chairman of the Joint Standing Committee on Migration, I rise to support the Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001 and its amendments which amend the Migration Act 1958. The purpose of this bill is to provide a regime for a screening procedure and the strip searching of immigration detainees. These amendments have been motivated by incidents of continued escapes, demonstrations and antisocial and violent behaviour at our six detention centres: Maribyrnong, the Perth and the Villawood immigration detention centres and the Woomera, Curtin and Port Hedland immigration reception and processing centres.

Before I continue on the bill I will quote a magistrate in the Court of Petty Sessions in Broome, because I think this has some relevance to these amendments. He stated:
The riots on the 4th and 5th of April 2001 must be one of the most serious that one can visualise. I am extremely surprised that there were no injured people or for that matter, no deaths. The measures in this bill seek to address the increasing incidents of weapons and other objects being found in immigration detention facilities. The words from the magistrate in the Court of Petty Sessions certainly indicate that there is a problem.

This bill will enable a screening procedure and/or strip searching to reveal weapons concealed on a person which are too small to have been picked up by metal detectors or other means. Frequently, detainees have items hidden. Some examples are razor blades melted into toothbrushes, a mirror shard attached to a piece of wood to make a knife and a ballpoint pen with a needle fastened to its centre. These items are hidden in the detainee’s clothing or on his or her person and have later being used for self-harm, to injure others or to attempt an escape. The bill is an important part of the government’s strategy designed to ensure that immigration detention centres are safe for all persons within them. An amendment introduces a power to conduct a screening procedure, without a warrant, by an authorised officer in relation to a detainee to find out whether there is a weapon hidden on that person, or some object capable of inflicting bodily injury or helping an escape from an immigration detention centre. In certain circumstances, the frisk search of detainees is allowed.

I now turn to the strip searching of immigration detainees. But before talking on the matter any further I stress that strip searches will not be the norm; they are something that will be undertaken only in exceptional circumstances. Before a strip search is undertaken, a number of requirements need to be met. Strip searches can only be conducted—I stress, can only be conducted—if an officer suspects on reasonable grounds that a weapon is hidden on the detainee and if that same officer suspects on reasonable grounds that it is necessary to conduct a strip search to recover that weapon. The basis for the officer forming the suspicion may arise from the frisk search, the screening procedure and any other information the officer may have.

Where a detainee is at least 18, a strip search can be authorised only by the secretary or a senior executive band 3 employee in the Department of Immigration and Multicultural Affairs, and only once that employee is satisfied that there are reasonable grounds for the suspicions put forward by the officer. For immigration detainees aged at least 10, but under 18, the strip search must be authorised by a magistrate. Once the application and authorisation requirements are met, a strip search may be conducted by an authorised officer. Administrative requirements need to be met in relation to the authorisation.

The bill outlines some general rules for conducting a strip search which provide safeguards against the misuse of the new powers. Some of the general rules are that a strip search must not subject the detainee to more indignity than is reasonably necessary, it must be conducted in a private area, it must not involve a search of the detainee’s body cavities, it must not involve the removal of more clothing or more visual inspection than is reasonably necessary and it must not be conducted with greater force than is reasonably necessary. An additional
requirement of the bill is that a strip search must be conducted in the presence of a nominee of the detainee if that person is readily available. As I mentioned, these measures provide safeguards against the misuse of the new powers.

The bill also contains special rules relating to minors, incapable persons and gender. With regard to minors and incapable persons, the strip search must be conducted in the presence of a detainee’s parent or guardian or another person who is independent and able to represent the detainee’s interest and who is acceptable to the detainee. Strip searches are prohibited on children under 10 years of age. The gender provision provides that, with certain exceptions, a strip search must be conducted by an authorised officer who is the same sex as the detainee. There is a requirement for a detainee to be provided with adequate clothing if his or her garments are damaged, destroyed or retained as a result of the strip search. Items found in the course of a search are to be retained if they provide evidence of the commission of an offence against the Migration Act or if they are forfeitable to the Commonwealth.

The bill also makes provision for the search of a detainee held in immigration detention in a prison or a remand centre of a state or territory. For example, any laws of the relevant state or territory relating to personal searches apply to that detainee. It is anticipated that the new powers I have just talked about will stem some of the violent protests, burning of buildings, assaults on officers and other detainees, and mass escapes. Implicit in concealed weapons is the intent of causing harm and trouble.

In my concluding remarks, I reiterate that the bill’s intent is to provide a safer environment within detention centres by providing the ability to undertake screening procedures and a strip search to determine whether a detainee has a hidden weapon or object which is capable of inflicting bodily injury or assisting an escape. The provisions in the bill provide a fair balance between preserving a detainee’s dignity and providing a safe environment for detainees, staff, visitors of detention centres and the Australian community by helping to maintain the rule of law. I commend the bill to the House.

Mr PRICE (Chifley) (7.10 p.m.)—I rise in this debate on the Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001 as a member of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which recently delivered to the House its report on visits to immigration detention centres. I say to the honourable member for McPherson that the report was delivered some time after the report of the Joint Committee on Migration, Not the Hilton. I do not want to be overly critical, but I confess that I was a little disappointed with that report.

Much is made of the fact—and it is a fact—that people-smuggling is a big business. But it is also true to say that people have been assisted to exit countries for quite some time. I should also disclose that, had my grandfather not paid to get the family out of Austria after the Anschluss, I probably would not be in this House and would have finished up like so many of my relatives—in a concentration camp. So I do have a personal and, in some ways, vested interest in this, but my views have been fashioned by the experience of going around to detention centres.

As our shadow minister said, the Labor Party supports this legislation. I have always made the point that I do not support riots or violence at detention centres, but my general experience is that they usually occur for a reason. Again, let me say that I in no way condone such violence and that it is appropriate that we do have an acceptable regime by which to search people in detention centres. But that support is qualified by a number of points. I very much appreciate the contribution of the shadow minister. Both the minister and the shadow minister have a difficult portfolio. Kim Beazley and the Labor Party have announced that they will hold a commission of inquiry into detention centres. This is not because we think that they are some form of luxury hotel in the desert of Australia; it is in response to quite a number of disturbing incidents that have occurred in detention centres. A number of reports have been critical of detention centres, and these
include the Flood report, commissioned by the government; the Ombudsman’s report; and the report of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. I believe the Ombudsman will be bringing down some more reports. Clearly the Labor Party, whilst supporting mandatory detention, has concerns about the operation of the policy, and I think those concerns are well grounded.

It is interesting that the minister has criticised the committee, particularly coalition members who participated. I want to again place on the record that there was a lot of intense discussion before the committee arrived at its recommendations. I cannot claim that I was 100 per cent successful in getting the things that I particularly wanted in the recommendations. There was a degree of give and take, but, at the end of the day, it was a unanimous report of all parties represented in this parliament—to their credit.

The Human Rights Subcommittee did exactly what you would expect a parliamentary committee to do: we went out and visited the detention centres and, unlike the migration committee, we talked to the detainees. We were briefed by the immigration business manager at each detention centre, we were briefed by representatives of ACM, and then we spoke to detainees on our own. We allowed them to tell us what their experiences had been, and we kept a H.ansard transcript of that—which has not been released. We repeated that process at every detention centre.

The minister, in attacking committee members, said that we did not do the hard yards. We were briefed by the department prior to embarking on these visits; we were also briefed by ACM. When we had finished visiting the detention centres, we had eight hours of transcripts of the committee questioning the department and ACM. In fact, when the estimates of the department of immigration were being debated in the Main Committee, I asked the minister, ‘Would you like us to release these transcripts? They will show the hard work that the committee members have put in, the rigour of the process.’ I got no response, so I wrote to the minister and asked if he would care to have the transcripts released. Today I have a response to that. The minister talks about my interest in seeking permission to have the transcripts released, but he does not add his approval. He does not disapprove of it; all he says is that the department ought to be given the opportunity to delete some of the material.

I want to put on the record that I sought permission from the Chairman of the Human Rights Subcommittee, the late Peter Nugent, to stop having these meetings in camera but to have them on the public record. I think it would have assisted the process. Clearly the minister would have been the person who would have been most assisted, because he would never have made the fallacious statement that we had not done our hard work. I will also put a new fact onto the public record. Minister Ruddock appeared before the subcommittee after the visits, and we had the benefit of his views. I thank him for his generosity and courtesy, but I find this extraordinary attack—particularly on coalition members of the committee—to be without precedent. As a balancing factor, I have been associated with a report as a chairman and a Labor minister attacked the report—but, I have to say, he subsequently implemented every recommendation without ever giving the committee credit. The point I am trying to make is that we were doing what the people of Australia expect a parliamentary committee to do: we got out there, had a look, used the two most important faculties a politician has—eyes and ears—came back to the parliament, and brought down a report.

What did we say about detention centres in the report? We did not recommend the abolition of mandatory detention. You might have thought the Human Rights Subcommittee would have done that, but we did not. We supported it. We suggested that there should be a high security detention centre, because there are, unfortunately, asylum seekers who have been in detention centres, have been convicted, put in jail, completed their sentence in jail, and are still in jail. I think that is horrific and unacceptable. Again, I thought the Human Rights Sub-
committee was being very realistic and practical.

We put some other recommendations down, and I do not think that they were unreasonable. We said that there should be a target by which the department processes these applications. Golly gosh—the Department of Finance and Administration finances the very same department to process them within a certain period of time. That is hardly radical and new, but we put it in a recommendation. We said there should be a target. We also said, in relation to asylum seekers who arrive by boat—and this was following the appearance of the Director-General of ASIO—that ASIO should develop a risk security profile to enable us to readily identify detainees about whom there are questions from a security point of view so that they can be separated out.

Last but not least, we said that migration is generally about sponsorship. So if someone is detained beyond the targeted period, and if a community group or a religious organisation is prepared to sponsor that person or family, they should be allowed out of the detention centre. I think that is a good recommendation, and I do not know why the minister was so aggrieved about it. There are three things: one, ASIO agreeing that they could develop a risk security profile; two, setting a target time for processing people in detention centres; and, three, if a person who is beyond the target time is not a security risk, putting it out to see if they could be sponsored. If they are not sponsored, they are not out.

Members of the committee wanted to move much further than the recommendations in this report for families. But we were persuaded, I might say, by a couple of coalition members who said, 'Look, the minister is prepared to undertake a pilot; we should encourage that. We should support it.' And indeed we did. But we did say that the condition of families was a priority for the committee. I know you may criticise us for being too radical on the issue, but the committee took the view that families actually represent both parents and the children, not half the parents and the children. But we held back on recommending further on that.

Again, I think the minister quite wrongly attacked the committee. One of the great ironies about the situation of the people who broke out from Villawood is that it is saving the Australian taxpayers thousands of dollars. There are 45 of them running around the country and—

Mr McGauran—That is ridiculous.

Mr PRICE—It is $104 a day.

Ms Gambaro—You are advocating it.

Mr PRICE—Of course I am not advocating it, but I point out—

Mr DEPUTY SPEAKER (Mr Nehl)—The member for Chifley will direct his remarks through the chair and ignore his colleagues on my right.

Mr PRICE—Mr Deputy Speaker, I guess the point that I need to make is that the cost of detention centres is a gold-plated policy. We are spending a bomb of taxpayers’ money on what is a very harsh policy ruthlessly applied. We could actually save quite a bit of money with a different approach. If you were to ask me what I would like to see money spent on, I would say that it should be spent on health, education and giving young people a helping hand. They would be some of my priorities, rather than spending it on those other things.

I understand that I have to finish fairly quickly and I will do that. The minister constantly says, ‘What about the messages we are sending back?’ The biggest problem we have is the 58,000 visitor visa overstayers. Australia has a relatively minuscule number of asylum seekers compared with world standards. Last but not least, in the United States there are 11 million people who do not have proper immigration papers as at their 2000 census, and I have to say that America is not collapsing under that burden. Australia is not collapsing because we have 58,000 visitor visa overstayers. (Quorum formed)

Ms GAMBARO (Petrie) (7.28 p.m.)—In the very short time available to me I want to speak on the Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001. I am happy to support it. The bill will introduce additional powers to strip search immigration detainees and to apply strip search powers as exist in state and territory
legislation to immigration detainees held in state and territory prisons or remand centres. The purpose of the strip search is to determine if a detainee has one of a number of hidden items that can be used either to inflict bodily injury or to assist in an escape. A warrant is required to conduct such searches; however, there are a number of safeguards in place that will ensure that a detainee’s privacy and safety are maintained.

Debate interrupted.

ADJOURNMENT

Mr SPEAKER—Order! It being 7.30 p.m., I propose the question:

That the House do now adjourn.

Veterans: Prisoners of War

Mr QUICK (Franklin) (7.30 p.m.)—In the adjournment debate this evening I want to raise yet again the plight of those ex-servicemen who were incarcerated in Europe during World War II and the surviving widows of those servicemen. Like many things that occur in this place, legislative changes blaze briefly, then dim and are soon forgotten. During the debate on the recent appropriation bill, I spoke of the need for this government to extend its generosity to all POWs when making the ex gratia payment, not just confine it to those POWs incarcerated by the Japanese. The minister implied that the mistreatment, brutality and hardship experienced by Japanese POWs could somehow be quantified as greater collectively than that experienced by the German and Italian POWs. While I readily acknowledge the treatment of POWs of the Japanese, I am amazed that there has been little or no thought given to compensation for this other group. I would like to read a letter into Hansard to highlight just one case to support my claim. The letter reads:

My mother has cried and I have felt anger each time we have heard in the media during the past week that the Japanese POWs were treated far more severely than others were. Our feelings had nothing to do with the money or other compensation, but what gives John Howard the right to judge the suffering of one POW against any other?

My father wrote of his WW2 experiences before he died:

‘Joseph Henry Turner TX 75.
Joined the AIF in October 1939 and was in Tobruk during the siege in 1941. Taken prisoner by the Germans on May 5th and handed over to the Italians as it had been an Italian campaign.
First POW Camp at Tahuna
We were on starvation rations—a very small loaf of bread between the four men and the stew was water with a few pieces of macaroni floating in it. The majority of us had dysentery pretty badly. I, like most of the others, was too weak to walk and used to crawl to the latrine. I was down to about 6 stone. We had some deaths from typhoid and berri-berri. We were all carrying body lice. The Ities used to cut the water off each day and turn it on again at any hour of the night or morning so we had to have watchers who woke up the huts and we had a mad scramble to get water. This was one of the Ities little jokes. There was not much to say about this camp except hunger and thirst.
Next shipped to Taranto in Italy on an steamer, packed into the hold like sheep. Put on to cattle trucks when took them to a camp called Capua in Naples. All that camp had was lots of flies, fleas, lice and dust. I was taken ill there and they diagnosed rheumatic fever.
From Naples taken in cattle trucks to a big camp in Udine. Had two and a half years in this camp 57.
We were put into huts about 80 to a hut. There were three decker bunks and cramped that close together you could hardly move about. For the first week they gave us a full loaf of bread each (about the size of a bread roll) and a reasonable amount of soup. That was the first week—after that things got pretty tough and we had the hunger again. We used to be hungry all day, go to bed hungry, dream of food and wake up hungry. The weather in Northern Italy was terrible. In the winter the ice and snow really knocked us out. We had no decent clothes or footwear and went to bed with every piece of clothing we had, even our boots.
I volunteered for a work camp—more chance of making an escape from a small camp. Received 10 days in cells for refusing to work because of a small amount of food given. After punishment, waiting my chance to escape, which I did. Recaptured because of Mussolini’s Black Shirt Youths spotting me. Got beaten up by the Carabinieri and 32 days solitary on bread and water. On being released had 10 days in camp hospital; waited my chance and took off again the same way out I took the first time.’
My father told me there wasn’t a blade of grass to be seen in the compound—they had eaten it all—
and to catch a rat was like having Christmas dinner.
At one stage he was forced to keep working after just breaking two ribs.
On arriving home after 12 months internment in Switzerland, dad had 3 months convalescence at Lady Clark Home. His nerves were in a bad state and he was sent to Milbrook Rise (psychiatric) for two months. For the rest of his life he worked hard for his wife and family despite severe bouts of depression and equally severe gastric problems. (He was never able to eat a normal meal.)
He had a complete nervous breakdown and spent three months at Royal Derwent Hospital (psychiatric) before being put on a TPI pension at 65 years old. He spent his last years debilitated by left sided heart failure and died in 1986.
My mother, Lucy Turner, who lives at Moonah could add to these remembrances.
Jennifer Wheatley
This is the story of one of many Italian and German POWs who I think deserve exactly the same ex gratia payment as the Japanese POWs. (Time expired)

Quarantine: Fire Blight Disease

Mr SCHULTZ (Hume) (7.35 p.m.)—Recently I was compelled to rise again in this place to talk about the plight of sheep producers adversely affected by the policies of various agricultural departments as a result of their ovine Johne’s disease strategies. Today I rise because of another threat, and yet again the problem can be traced directly to the policies of bureaucratic ideologues with little consideration for the men and women whose policies they affect. The threat I am talking about is fire blight. At the moment Australia is free of fire blight, but the importation of New Zealand apples, which are not free of fire blight, would bring this virulent disease to Australia and devastate our apple and pear industry.

Recently, the apple and pear industry was thrown a lifeline when Biosecurity Australia established a new risk assessment panel to complete its investigation into the possible importation of New Zealand apples. But the question we should be asking is: why is Australia even considering importing a disease? There are also grave concerns based on the past performance of Biosecurity Australia when dealing with fire blight. Australian Apple and Pear Growers Association Fire Blight Task Force Chair John Corboy has highlighted problems with the way Biosecurity Australia approaches scientific investigation and whether Biosecurity Australia even follows its own guidelines. Mr Corboy said:

From past experience over two-and-a-half years, the industry realises that the devil is in the detail. The only reasonable approach for us is to ask Biosecurity Australia to fill in the gaps.

And there are many gaps to fill. There is the lack of detail Biosecurity Australia has provided the industry, the failure of Biosecurity Australia to follow its own guidelines, the doubt over Biosecurity Australia’s process of investigation and what areas it will focus on, and confusion over the role independent scientists will play in the study or whether they will be ambushed by Biosecurity Australia.

It would be nice to think that Biosecurity Australia is on the side of Australian producers. I can assure the House that the scientific data to date has supported the caution of Australian apple and pear growers. In March of this year I drew attention to the fact that the processes of Biosecurity Australia were flawed, and the concerns remain to this day. On 8 March I wrote:

I am also dismayed by the fact that Biosecurity Australia’s work was always flawed on scientific grounds, which Liberal backbenchers and Senators have consistently told the Minister. While our protestations have finally resulted in the ban on importing New Zealand apples, it is outrageous that he has taken so long to act. The question needs to be asked: why was the industry, and Members of Parliament, such as myself, ignored for so long?

The good news is that the Minister and Biosecurity Australia appear to be reacting to the compelling arguments from the apple and pear producers, and have also begun to take note of the weight of scientific evidence; however, the crunch will come when they review this decision again after the latest scientific paper is presented. The Minister can be assured the industry will not stop fighting against the importation of Kiwi apples which could destroy the apple and pear industry.

It appears that in the five months since I expressed the fears of the industry not much has been done except to launch another in-
quiry by the same mob, which has no respect for the industry. Through all of this I am compelled to ask: to whom does Biosecurity Australia owe its allegiance? I doubt it is to biosecurity, and we now know it is not to Australia.

I would like to take this opportunity to thank the Senate committee for the magnificent contribution they made in their report on fire blight, and for the 14 recommendations which should be undertaken as a matter of urgency and which they included in that report. I thank the House for this opportunity to once again speak on an issue which is very important to the producers of this country.

Rockhampton: Government Services

Ms LIVERMORE (Capricornia) (7.40 p.m.)—One of the first things the Howard Government did after taking office in 1996 was to close the tax office in Rockhampton. This was well before the Nyngan declaration and the flashing red light the Prime Minister promised would go off in his office in the event that a service in regional or rural Australia was withdrawn. That red light must have run out of batteries before it ever got going, because the Prime Minister obviously has not seen it, judging by the way his government has allowed services in regional communities to deteriorate. When our tax office closed in Rocky, the consolation prize was the tax help scheme. Volunteers—many of them the former tax office employees, I believe—worked out of community based organisations to help people complete their tax returns. This proved to be a very popular service. It is a little tip for the government that useful and accessible services usually are popular.

I have now been told by a tax help co-ordinator in Rockhampton that the tax help unit in the tax office in Townsville is going to be closed down this Friday. Leeanne Kippen, the co-ordinator of the tax help scheme at the Central Queensland University, tells me that support for the program in Rockhampton will no longer be available from Townsville. Previously it was the team in the Townsville unit who provided the three-day training course each year for the volunteers and then handled the inquiries from the tax help volunteers in Rocky. As an example, the Central Queensland University team has six trained volunteers available to help students with their tax forms and have helped dozens of students already this year. Tax help is available through other organisations, such as Lifeline.

I want an assurance from the government that the closure of the unit in Townsville will not mean a further reduction in services for people in Central Queensland. I ask that because we have seen all this before. The little bit of support we were getting from the Townsville office is getting ripped away, and we will just get thrown in to wait our turn on hold on the line to Brisbane. What I cannot understand is that the government has been on a pretty good wicket with this scheme: you close the tax office, then get all the former staff and other community minded people to go out and do the work as volunteers. But even now the government cannot stop chipping away and chipping away at a service that was put there in the first place to fill a gap that they had created by closing the tax office.

People in Central Queensland, as in the rest of central Australia, have had enough of being treated like second-class citizens. Does the government have any idea how frustrating it is to be without these sorts of services in the local community—to have to spend endless minutes waiting on the phone to get the simplest inquiry answered and then being put through three people before you get close to finding the right one, all the time repeating your story? We are still not happy in Central Queensland to be without a tax office, but the tax help scheme was better than nothing.

The danger now is that, without the proper support from the Townsville unit, the scheme in Rockhampton could be under threat. Will the comprehensive training sessions for volunteers still be held in Rockhampton each year? Will there be a prompt answer to queries when volunteers call the help line to Brisbane instead of the unit in Townsville they had grown used to? If the same level of support cannot be guaranteed from Brisbane, if the unit in Brisbane is not to be expanded but rather have extra work from regional Queensland centres foisted upon it without increased staff and resources, we in Rock-
Hampton are in trouble. How can we expect volunteers to do this work for people without an adequate level of training and ongoing support?

I would love to be reassured by the government that this move will not mean a reduction in services available to the people in Central Queensland, but their track record is not good in this area. This is a good opportunity to put the picture in regional Queensland into perspective. Here tonight I am talking about the tax office in Rockhampton—one of the most basic services provided by government. If the commitment of the Howard government to regional Queensland cannot even get to the level of providing the most basic services, what hope have we got for them to understand their role in regional development?

There is so much potential in Central Queensland—not just the magnesium plant, although that is an exciting development, but also the growing reliance on Rockhampton to support the defence activity in Shoalwater Bay, the expansion at the meatworks, tourism and of course the growing profile of the Central Queensland University. Local and regional groups such as the Fitzroy Basin Association and the Institute for Sustainable Regional Development are in there building partnerships, identifying opportunities and developing strategies for maximising our region’s success in the future. All this is happening and the federal government either does not care enough about our region or just lacks the initiative to come in and work in partnership with our region in a constructive way. I am sure they will make big announcements before the election, but you cannot let regional Queensland languish for five years and then expect us to forget it all in three months.

Transport Safety: Seatbelts on School Buses

Mrs May (McPherson) (7.45 p.m.)—I am pleased to support tonight the member for Forde’s private member’s motion that was introduced into the House last Monday calling for the compulsory fitting of seatbelts on school buses. As we have heard, the compulsory fitting of seatbelts on school buses is not required by any of our state and territory governments, yet it is mandatory for coaches to be fitted with seatbelts. The arguments given for the requirement of seatbelts on coaches are the distances travelled, the higher speeds and driver fatigue. I agree that coach travel is undertaken over long distances, but total exposure for schoolchildren is also considerable because of their travelling to and from school five days a week. Some also travel daily on high-speed roads.

The other argument put forward for having mandatory seatbelts on coaches is that coach drivers may suffer from driver fatigue, but there are numerous countermeasures and strategies in place to combat driver fatigue. The same cannot be said for school bus travel. School bus drivers have to deal with stress rather than driver fatigue. Metropolitan bus driving is stressful, and a large number of studies bear this out. The studies show that bus drivers have the highest absenteeism rate, an indicator of not coping, for anyone in a like profession. Therefore, we have the likelihood of drivers not performing to their optimum. Bus drivers need to be alert and react quickly, but the very nature of the school bus environment inhibits this because of the competing demands, the distractions and the noise. The environment is far less controlled than that of a coach.

Since 1987, there have been 12 fatalities on school buses, eight in one accident. The students were killed in Queensland in 1987 when a bus went over a cliff edge and rolled over several times. From that same accident there were 23 hospitalisations. I cannot say whether more lives would have been saved if the students had been wearing seatbelts; what I can say is that the students who died would have had more chance if they had been wearing a seatbelt.

I well appreciate, as I am sure many parents appreciate, that the most risky time for a child on his or her way home from school is in the afternoon once the child alights from the bus and is crossing the road. Countermeasures have been put in place to address these incidents at peak risk times by better roads and reduced speed limits. While these countermeasures are working for part of a child’s journey, the other part of the child’s journey, the bus travel, needs to be made
The requirement for seatbelts on school buses would complement these other road safety strategies already put in place to protect our children. Not one passenger wearing a seatbelt has been killed on long distance coaches, yet we have a different standard for schoolchildren. I have to ask why. These are children who are too young to have even learned what position to adopt to lessen injury in case of an accident. I strongly urge the Queensland Beattie government to come on board and introduce legislation to make sure that the mandatory wearing of seatbelts on school buses becomes legislation and is enforced.

**Imports: Apple Juice**

Mr ANDREN (Calare) (7.48 p.m.)—I wish to draw the attention of the House to the answer provided by the Minister for Agriculture, Fisheries and Forestry to my question without notice yesterday in relation to the alleged dumping, mainly from China, of apple juice concentrate. I asked this question especially in light of the findings of a recent report, *The Australian Apple Industry Squeeze*, prepared for his department, which indicated that apple juice concentrate is indeed being dumped into the Australian market. This dumping is causing real economic harm to apple producers in Calare and other apple growing areas around the country.

I asked the minister to recommend a dumping inquiry to the relevant minister on behalf of the growers. In his answer, the minister—and I commend him for the attention he gave to his response—indicated that he had raised the issues with his colleague the Minister for Justice and Customs, Senator Ellison, and will continue to have discussions with him to see whether he may choose to use any discretionary powers he might have to launch such an inquiry.

This is not a new issue. On 22 June 2000 I asked the Minister for Trade what impact Chinese imports have had on the Australian apple industry. His reply was that the use of cheaper Chinese juice concentrates by processors forces second grade Australian apples which would otherwise be destined for processing onto the domestic fresh apple market, reducing buyer confidence and damaging consumer belief in the Australian product.

This answer does not take into account the additional fact that those processors who choose to use only Australian apples can only do so at reduced prices in order to compete with the non-Australian pure product, which again hits the growers hardest.

The growers are the ones who are sustaining material injury as a result of imports of cheap Chinese juice concentrate. On behalf of growers, I urge the minister to launch an inquiry into the dumping of apple juice concentrate. Under the Customs Act, apple processors must make an antidumping application as they are the industry defined under the act as most affected by dumping. However, the vast majority of this sector are just not interested in pursuing an application; they are quite happy to use the imported product—should I say dumped product—and they have little or no loyalty to Australian producers. Just today we see the country’s biggest fruit juice manufacturer, Berri Ltd, about to go to the Federal Court, facing claims that it has misled consumers in its product labelling. Berri promotes 11 of its products as containing Australian produce, but the ACCC alleges that the goods contain little or no Australian juice. Those affected by dumping, as the government pointed out last year, are the growers. The growers sustain the material injury that antidumping measures are meant to protect against, yet they are prevented from pursuing such measures by the narrow definition within the act.

In the US, a successful antidumping application was made against Chinese concentrated apple juice in July 1999. Their International Trade Commission agreed that the US apple industry was being economically injured by these below cost imports and imposed a 55 per cent tariff. The result of this, by March 2000, was increased prices for US growers and a greater volume of Chinese product seeking other dumping markets—surprise, surprise, Australia!

The volume of Chinese concentrate imported into Australia has increased markedly, from 922,000 litres in 1995 to over nine million litres in 1999. That is material injury. The Apple and Pear Growers Association appreciate the need to become more com-
petitive, to improve export performance. On the one hand, the US, with its critical production mass, can easily mount and win an antidumping case, but our producers, supplying fresh fruit and juice markets simultaneously, are not big enough to match supermarket muscle domestically or to counter cheap juice imports. As the apple and pear growers tell us, the growers are being told to improve their productivity and export performance so that they can take on the world. The reality is that no-one is able to take the world price—that is, not without heavy subsidy or protection.

So my growers, with an all Australian product of both fruit and juice, are caught in a triple whammy, with the big local processors happy to exploit both dumped imports and the totally inadequate labelling laws as well as an unfair market dominated by three major supermarkets and a Customs Act that appears to rule them out of mounting any antidumping action to protect themselves.

Regional Development: Government Programs

Tonight I want to talk about a press release that was issued in my electorate by the shadow minister for regional development, transport, infrastructure, regional services and population.

Mr Wakelin—What a mouthful.

Mr NEVILLE—Yes, it is a mouthful. What that shadow minister did was quote from a June 1997 regional development paper by the then parliamentary secretary, the member for Ballarat. That press release stated:

The introduction of a Dedicated Assistance to Depressed Regions Programme in July 1997 will provide funding to support strategies to improve the skills base of regions that are experiencing adjustment pressures, high levels of unemployment or are disadvantaged by their remoteness.

Mr Speaker, I thought that is what had happened. I think this shadow minister, who frequently sends press releases into my electorate, has a very poor grip on regional development. Before I got into this place I spent 20 years in regional development, so I know a little bit about it—and this government has gone a long way towards achieving many of those ends. A lot of the programs that we have put in place are all about structural adjustment. For example, we have put in place the $309 million Agriculture Advancing Australia program; the Dairy RAP program, of which there have been two tranches; the $25 million Regional Solutions program; the $70 million Rural Transaction Centres Program; and the $20 million Regional Assistance Program. In my own area, there has been Invest Wide Bay, a special program for ‘depressed regions’—to use the member for Ballarat’s particular words at that time—with ‘high levels of unemployment’ and ‘experiencing adjustment pressures’. Invest Wide Bay is receiving special funding because of its high unemployment and its depressed infrastructure—precisely those reasons.

The shadow minister goes on to boast about what a marvellous scheme the Labor Party has—and I remember that scheme well. There were some good points to it. The OLMA program was one—I would not deny that—and John Kerin’s regional centres program was another. The only thing wrong with John Kerin’s regional centres program was that, when we came down here and worked manfully amongst the regions on this thing for over six months and delivered our reports on 10 regions across Australia, nothing happened. It was a great report, a great study, there was great support from the minister getting it up, but nothing happened. It went into a pigeonhole, and there it stayed. Similarly, there have been a number of other programs. As we know, the last tranche of the New Work Opportunities program was costing up to $114,000 per client.

Mr Wakelin—Unbelievable.

Mr NEVILLE—Absolutely unbelievable. But we have put all these programs in place in addition to boosting the ACCs. One of the targets of the ACCs is to look at areas of unemployment, to look at the delivery of services and training and to look at structural adjustment.

But the thing I find most interesting is that this shadow minister proudly boasted that the previous government had spent $220 million across Australia in regional development—
note that figure: $220 million. Mr Speaker, in my electorate of Hinkler and just adjoining my electorate over the Capricornia boundary at a place called Stanwell, which will affect Mount Morgan in my electorate, let me tell you of some of the things that we have got: $276 million worth of government assistance, facilitation and promotion on things like Comalco, AMC, the Orafti chicory project, the Export Market Development Program and roads for infrastructure. In my electorate, more has been spent in the last couple of years or will be spent over the coming years than was spent by Labor over the whole of Australia in its last regional development program.

Social Welfare: Dependency

Mr WAKELIN (Grey) (7.57 p.m.)—Despite the good economic outcomes of this government, there is still great concern amongst small business, particularly in Whyalla, about the balance between welfare and the incentive for people to go and look for work. I had a small business person say to me only a few days ago that they were very concerned about the whole attitude, particularly of the opposition, in terms of the belief that somehow or other work is optional. Since this government came into office, many of the things that have challenged this passive welfare approach have been very worthwhile.

Nevertheless, I rise tonight to express the concern that my constituents have, particularly those in small business, about what the proper balance is when you have this long-time culture that for some people, sadly, it appears that work is optional. A particular person who comes to mind is the Deputy Leader of the Labor Party, Simon Crean; my constituents in the small business community seem to take strong exception to the member for Hotham’s approach to this. So tonight I advise the House that I believe this government has done a lot to try to move this whole debate forward and to make the point that honest toil, in whatever form, and challenging the notion of a welfare nation are very important to our future.

Question resolved in the affirmative.

House adjourned at 7.59 p.m.

NOTICES

The following notices were given:

Mr SPEAKER—to present a bill for an act to amend the Parliamentary Service Act 1999, and for related purposes.

Mr Reith—to present a bill for an act to amend the Royal Commissions Act 1902 and other legislation, and for related purposes.

Mr Ruddock—to present a bill for an act to amend the Migration Act 1958, and for other purposes.

Mr Ruddock—to present a bill for an act to amend the Australian Citizenship Act 1948, and for other purposes.

Mr Abbott—to present a bill for an act relating to the application of the Criminal Code to certain offences, and for related purposes.

Mr Hockey—to present a bill for an act to amend the Commonwealth Inscribed Stock Act 1911, and for related purposes.

Mr Albanese—to move:

That this House:

(1) acknowledges that the stand taken by the workers at Tristar in Marrackville was lawful and borne out of a legitimate concern for the protection of their accrued employee entitlements;

(2) condemns the Minister for Employment, Workplace Relations and Small Business for his comments towards the workers at Tristar in Marrickville labelling them as traitors and accusing them of treason;

(3) condemns the Minister for Employment, Workplace Relations and Small Business for attempting to prolong the industrial dispute at Tristar and placing at jeopardy the livelihoods of those workers; and

(4) calls on the Minister to retract his comments and issue a public apology to the workers at Tristar and their families for the crass and inflammatory comments he made towards them.
Mr DEPUTY SPEAKER (Mr Nehl) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Therapeutic Goods Amendment (Medical Devices) Bill 2001

Mr GRIFFIN (Bruce) (9.40 a.m.)—I rise today to speak on the Therapeutic Goods Amendment (Medical Devices) Bill 2001. This bill is currently before the parliament—it has been passed by the House of Representatives and is to be considered in the Senate, possibly later this day. The amendments which I sought to move in the House of Representatives, and which I hope will be considered in the Senate, relate to the question of establishing a register with respect to these particular medical devices.

There have been several reports in recent times of problems with implantable devices—for example, the St Jude’s heart pacemaker issue last year and recently the question of defective hip replacements. The amendments proposed by the Labor Party with respect to this particular issue are about establishing a register that will ensure that, when a recall is required, those involved will be able to be contacted quickly. The amendments are also about making sure that, if action needs to be taken, it is taken. To use the example of hip replacements, often people who require hip replacements are of quite a senior age, and often they may be in a situation where the chances of their being aware of a publicly notified recall may be quite small. The intention of the amendment is to ensure that the situation of a 75-year-old woman with Alzheimer’s, for example, who is therefore not aware of a recall of her hip replacement, will be taken into account.

We think it is quite a sensible measure. However, at this stage, the government is refusing to accept this proposal. The recommendation came out of the government’s Council for Safety and Quality in Healthcare last year. The council identified that such a system would be a good idea in terms of ensuring that there was greater safety within the system and therefore greater efficacy in terms of the operation of the system and the health of those involved. Since that time, the government has been unwilling to engage us on this issue. Despite numerous attempts by my office to have discussions—and initially there were some signs that there may be some hope of having some discussions—the Parliamentary Secretary to the Minister for Health and Aged Care and his office have been unable or unwilling to get back to us. I understand that Senator Tambling has had a bit on his plate recently, given the situation in the Northern Territory—although I understand from some reports that he was smiling quite broadly on election night, which is understandable given the recent issues within that branch. However, I hope that now that the matter is before the Senate he can find time to focus his mind on it and ensure that this matter is considered in the fullness of time and that it leads to a better health system for all Australians.

International Livestock Resources and Information Centre

Mr St CLAIR (New England) (9.43 a.m.)—I rise today to thank the Minister for Industry, Science and Resources and the government for the major national research facility program that has delivered for the city of Armidale and my electorate of New England the International Livestock Resources and Information Centre, with funding of some $4.5 million. I also congratulate those who were instrumental in making that application. We have a high number of agricultural and livestock science people in my electorate.

Among the nine groups that were involved in the program were: the University of New England, and particularly Graeme Dennehy and his team; the Australian Beef Industry Cooperative Research Centre; the Australian Sheep Cooperative Research Centre; the Animal Ge-
netics and Breeding Unit, which has just celebrated 25 years in existence; the Veterinary Health Research group; the Agricultural Business Research Institute and its Managing Director, Arthur Rickards, and his team; the Institute for Rural Futures; the Australian New Frontiers group; and the breed societies now based in Armidale, which total some 35. More and more breed societies are coming into the New England region and settling in the Armidale district because we are developing that area—and have done so for many years—as a centre of agricultural and livestock science excellence.

The proposed International Livestock Resources and Information Centre is a virtual research facility. The facility will operate as a high-speed communications centre and will provide a substantial livestock resource knowledge database. The objectives are to coordinate the activities of existing research and livestock industry organisations associated with the University of New England, to develop software to harvest large volumes of livestock data and install high-speed service and communication links to permit analysis of very large data sets, to enhance research aimed at doubling the rate of productivity improvements in the Australian livestock industries and to use the knowledge base of the ILRIC to provide modern business intelligence solutions via the Internet to livestock enterprises throughout Australia.

The facility itself will support research essential to maintain Australia’s leading position in the global marketplace in livestock industries. Research supported by the facility includes advanced genetic evaluation procedures to be applied across all livestock species, acceleration of discovery of gene markets for performance efficiency adaptation and product quality traits, use of vast international databases to identify elite genetic material, development of new animal health products, improved systems of livestock management and development of Internet systems for collecting and warehousing livestock data and delivering results via modern business intelligent solutions to increase profitability.

**Werriwa Electorate: Direct Internet Democracy**

Mr Latham (Werriwa) (9.46 a.m.)—I rise to update the House on further results in direct democracy ballots in the seat of Werriwa. On the controversial issue of stem cell research, 54 per cent of voters had no objection to the use of human embryos in the cloning process. COAG invited public opinion on this important issue. The majority opinion in my seat is to allow the stem cell research to proceed with the use of human embryos in the cloning process. Our next ballot on politicians’ entitlements—an issue of vast and enduring interest in this place—also gave an interesting result: 71 per cent of people were willing to support a higher up-front salary for members of parliament providing the other perks of office, such as superannuation and travel allowances, were brought into line with community standards. That is a significant result: the public is not opposed to a decent salary for members of parliament; it just wants our other entitlements to be brought into line with the proper public standard. I think that is a very reasonable outcome, and it gives further support to those who want lasting reform of our system of salaries and entitlements.

Our most recent result concerned gated housing estates, a new form of housing development that allows people to block off their neighbourhood from the rest of the community. With so much public concern about crime, only 37 per cent of voters were willing to ban gated estates. The message here for government is very clear: address the law and order problem or we can expect a growing number of Australians to gate themselves off with private security and exclusive facilities. This is a very clear trend in our society. People are not antisocial; they are just anti-crime, and they want maximum security and protection for their family—a very natural reaction. Currently, my web site is asking people to vote on the controversial issue of the National Crime Authority’s proposal for a heroin trial. This is a major national question on which people in my seat deserve to have their say. The ballot closes on
Friday week. Currently, the voting is running about 50/50, indicating split community opinion on this important issue of heroin trials.

Finally, I note some comments about this scheme in my electorate from the Minister for Communications, Information Technology and the Arts, Senator Alston. A while ago, he was asking the question, ‘What is Internet democracy?’ He now knows that from my trial in Werriga, but then he wrote to one of our local newspapers saying:

Take for example Labor’s so-called Internet savvy. Mr Latham, who has again exposed Labor’s complete understanding of new technologies said—

And he quotes me—

‘If you do not have access to the Internet please let me know by replying by email.’

The minister is just demonstrating his own ignorance about these new technologies. Many people have access to email but not necessarily the Internet. In the New South Wales police force, for example, every police officer has email but Internet access has been banned because of some abuse of pornographic sites. So the minister for communications in this place does not have a basic understanding of how the new information technologies work. No wonder the government is in so much trouble on issues like digital television. (Time expired)

Brisbane City Council: High Density Housing Development

Mr HARDGRAVE (Moreton) (9.49 a.m.)—I rise to report to the House on the parlous activities of the Brisbane City Council. Yet again, they are trying to turn parts of my electorate into another Coorparoo, with high density housing and flats and units now proposed for the Holland Park West and Tarragindi area around the Holland Park West Busway bus station. The Brisbane City Council simply have a philosophical hatred of backyards and with it the families that would like to play and maintain a reasonable traditional Australian lifestyle within them.

This is a real example of the Brisbane City Council being out of touch on this issue. They have written to some of the property owners in and around the Busway station and have told them that a change to the town plan will mean that they will be able to densify their housing site; in other words, sell their homes to developers, providing they have been built since 1946, and in their place developers can put up six packs of units, two- and three-storey brick monstrosities to replace wonderful suburban household living.

It is quite distressing to the residents to know that those on the other side of the road from those who received a letter from the Brisbane City Council were not even given the courtesy of any sort of notice about these matters. The Brisbane City Council and Lord Mayor Soorley, as the member for Fisher suggests, has an absolutely well-documented close relationship with developers. This is what it is all about: favoured treatment to some who of course contribute highly to the Labor Party’s campaign in city hall and other efforts. It is all about higher density and trying to devalue traditional Australian housing blocks in and around suburbs like Tarragindi and Holland Park. They do not understand that when there are two cars per household on average and you replace it with six households in a six-pack unit development you have got 12 cars but they only provide parking for six places. There might be three single people living in that place, so you might have 18 cars where there were once two in a certain area. Where do the extra cars go? Out on the streets, and parking is already a huge problem.

If the council wants to try and get more people on the Busway and it has got problems with car parking facilities, build a car park. That is what the local residents are saying to me: build a car park but do not ruin the backyard style living. Do not ruin the fact that local schools like Holland Park High, Wellers Hill State School and Marshall Road State School have been enjoying increasing numbers, not decreasing numbers. In other words, families are moving into
this area but the Brisbane City Council wants to drive them out. I will be working with local residents to make the point to ensure that pre-1946 homes do not just become museum pieces and the integrity of this area, with its lovely city views and its great family style suburban lifestyle, is preserved against the Soorley administration and their ‘pro-developer at all costs’ approach.

Paterson Electorate: Law and Order

Mr HORNE (Paterson) (9.52 a.m.)—I was interested to read an article in the *Sydney Morning Herald* today that the Liberal Party will be ignoring federal issues in the upcoming election and concentrating on muddying the water between state and local government issues, particularly law and order. Just note the previous speaker. We know that law and order is not a federal issue. Police are employed by state governments. Yet in the Paterson electorate in recent weeks we have had Kerry Chikarovski and the Liberal candidate and George Souris and the National Party candidate out there whipping up a storm of fear on law and order and claiming they will do something about it. There is a time when the federal government could do something about law and order and that is when the federal government owns the property that is being targeted for crime and by criminals. Today I want to mention a disgraceful act of neglect by the Howard government in allowing the Gan Gan army camp to fall into disrepair by withdrawing security services and by these actions encouraging vandalism and theft. On one occasion it was used to store stolen goods from another robbery.

I was contacted two weeks ago by Sergeant Paul Holland of Nelson Bay Police, who advised me of the problem that was being created. This problem can be avoided. All it needs is the federal government to accept its responsibility and restore security surveillance over this very valuable property. Defence has indicated Gan Gan is for sale. It is valuable, as I said. It is adjacent to Tomaree National Park. It is adjacent to Gan Gan wetlands. It is situated right on the main Nelson Bay Road. It is over the road from the Tomaree Sports Complex. The Salamander shopping centre is within walking distance and the Tomaree education centre, which is a kindergarten to TAFE institution, is just down the road. Buildings and infrastructure are extensive. There are tar sealed roads, curb and gutter, underground power, solid buildings, completely fitted mess halls, brand-new cool rooms, plenty of open space and a sports field. It has enormous potential as an education facility, an environmental centre and a whole lot of things that I cannot comprehend but I am sure experts could. But all this government can do is allow it to fall into disrepair before it sells it.

I believe that Minister Reith should be condemned for the obvious contempt he holds for the people of Port Stephens who have been very good friends and supporters of the Department of Defence over a long period. That friendship and support should be reciprocated by the Howard government; it certainly is not being reciprocated with respect to Gan Gan.

HMAS Brisbane

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.55 a.m.)—I take this opportunity to applaud the decision of the Howard government to have HMAS Brisbane sunk as a dive wreck off the Sunshine Coast in the event that the Queensland government is unable to raise funds to have the Brisbane as an above-water memorial. The future of the Brisbane—a 133-metre long Royal Australian Navy destroyer class ship—after it is decommissioned in October 2001 has been the subject of some conjecture. This ship has been in service for 34 years and is the only ship to have looked after our nation’s interests in two wars. The government initially has given a period of five to six weeks to enable proposals to be brought forward for the preservation of the Brisbane as an above-water memorial. I do not see this as being viable as the Queensland state government has indicated that it is not prepared to commit funds. When one looks at the sad and sorry rusting
plight of the *Diamantina* in the Brisbane River, it is pretty clear that to keep ships as above-water floating museums is an extraordinarily expensive proposition which, in the case of the *Brisbane*, is not viable. However, the government has given the option for that to occur.

I am hopeful that the *Brisbane* will be sunk off the Sunshine Coast as a memorial. It will last for 500 years as a dive wreck. It will create 70 new jobs and bring 10,000 to 12,000 tourists to the Sunshine Coast—the most desirable tourist destination in our nation. We have wonderful facilities there—tourist infrastructure, lots of accommodation and restaurants. The fact that 10,000 to 12,000 new people will be coming to our area will be a tremendous boost to the economy.

The only reason that HMAS *Brisbane* will be sunk as a dive site off the Sunshine Coast is that I, as the local member, went to see Minister Reith and Minister Scott and pointed out that it is very important that the ship not simply be given to the Queensland government for Premier Beattie to allocate as some sort of reward to his Labor mates. Initially, Premier Beattie supported the Sunshine Coast proposal but then reneged and wanted to sink it off Stradbroke Island. I support very strongly the bid to have the *Brisbane* sunk off the Sunshine Coast. The fact that we had an outstanding submission supported by local authorities, state government representatives and the private sector was persuasive. The decision by the government to give the ship, as a dive wreck, to the Sunshine Coast, in the event that it is not going to be an above-water memorial, is to be applauded and commended.

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

**RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001**

Second Reading

Debate resumed from 6 June, on motion by Mr Ruddock:

That the bill be now read a second time.

Mr ALBANESE (Grayndler) (9.58 a.m.)—The primary purpose of the Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001 is to revise criminal offence provisions in seven statutes in the Reconciliation and Aboriginal and Torres Strait Islander Affairs portfolio so that they harmonise with the principles of criminal responsibility found in chapter 2 of the Criminal Code. The amendments also remove gender-specific language in three of those statutes and replace it with gender-neutral language. The Australian Labor Party support this bill and take the opportunity today to put our concerns on record, not just about this bill but about the general direction of Aboriginal and Torres Strait Islander affairs under the Howard government.

We often debate, regarding the Reconciliation and Aboriginal and Torres Strait Islander portfolio, about indigenous-specific funding and about targeted programs, and which political party is, was or will be, spending more on what. There is no doubt that this is useful. Due to the discrimination against indigenous people in this nation, it is clear that there is a need for specific programs to try to alleviate the poverty and the social and economic conditions which Aboriginal and Torres Strait Islander people currently are forced to continue to endure.

What often gets missed from this debate is how mainstream programs offered either by the Howard government or a Beazley Labor government would affect indigenous people. There is a need to focus on that as well, because it is clear that indigenous people are missing out. This is an issue beyond party politics. We have been celebrating our Centenary of Federation this
year, but during its centenary the parliament has not had a great record in its treatment of indigenou

   This week we have had a debate about health and education. The health and education of indigenous people particularly need to be addressed, as well as housing and other basic issues. There is a crisis particularly in relation to indigenous housing. In a survey last year, it was found that one-third of all properties occupied by Aboriginal housing organisations were in need of major repair or replacement. Of the 348 communities throughout Australia with a population of 50 or more, 58 had failed water testing standards, 57 had 20 or more power interruptions in just one year and 204—that is over half—had sewage leaks or overflows. These figures are an indictment of government policy and programs and show the need for a concerted government response from whichever party comes to government at the end of this year.

   The Australian Bureau of Statistics did that survey. It was an independent survey. In my view, the federal government has not adequately responded to that survey at this point. In areas of health and education in Australia, this government’s vision and John Howard’s vision is a blank page. Over the past week, the Prime Minister has repeatedly asserted that he has done enough for health and education and his sole priority will be the mysterious on-again, off-again income tax cuts—unfunded, untargeted and unbelievable. It is difficult to see how income tax cuts will help the bulk of indigenous people who are, without a doubt, amongst the most disadvantaged members of our society.

   This is one of the differences that we see between the major political parties in this parliament. It is something that is deserving of debate. On one side of the House, the Howard government really get excited about tax. They only get excited when talking about income tax cuts—

   Mr Lloyd—Labor gets excited about increased taxes.

   Mr ALBANESE—Again, we hear fake rhetoric from the opposite side of the House alleging a scare campaign about taxes. But that is what they concentrate on—taxes and tax cutting. They do not focus on what taxes are for.

   Taxation is only a means to an end. Taxation is there to provide services to all Australians: health, education, housing. In particular, we need to be able to provide those basic services for the people who are most vulnerable. The essence of income tax is redistribution. The Labor Party, it is true, opposed the tax package which imposed a GST at a flat rate—and so taxed people not according to their incomes—and which in return gave income tax cuts primarily directed to benefiting the wealthier people in this country who got the most out of those tax cuts. That is the problem with the tax package which was put forward by the federal government. When we speak about the need for government programs and the need to address the severe needs of indigenous people, we are talking about what taxation is for. We need to look at service delivery, particularly the needs of health and education.

   Indigenous people have the poorest education outcome of any group in this country. Although indigenous tertiary participation rates rose between 1986 and 1996, it appears that they have subsequently plateaued and are now falling. According to the government’s own department, indigenous commencements and enrolments have fallen dramatically in the last year—by 15.2 per cent and 8.1 per cent respectively—to either below or just above what they were in 1996.

   In health there remains a threefold discrepancy between indigenous and non-indigenous mortality rates. To put this in context: the mortality rate for Australia’s indigenous population is approximately twice the Maori rate and 2.3 times that of the indigenous population of the
United States. While the indigenous mortality rate in Australia hardly fell in the two decades between the mid-1970s and the mid-1990s, the rate declined by 44 per cent in New Zealand and 30 per cent in the United States. Income tax cuts are not going to help government, or indigenous people on the ground, to deal with these problems. The only way to address these problems is through a commitment to delivering services.

To look again at government policy: the ACOSS report on breaching, which was released on Monday, 13 August, identified the most vulnerable people as being the most targeted and the most breached. Indigenous Australians are three times more likely to be breached than non-indigenous Australians. They literally go without income after the third breach. Penalties such as $1,300 for the third breach mean that indigenous people are then put into the situation, just as other vulnerable groups are, of having to get money by perhaps less legitimate means and going into a cycle of poverty and crime. That then helps to explain why there is such an atrocious level of incarceration amongst indigenous Australians, and why they are so over-represented in our jails and juvenile detention centres. We need a much more compassionate response than the ‘shoot first, ask questions later’ policy of the Minister for Family and Community Services. Centrelink’s official policy is now being imposed on these indigenous Australians.

Without a doubt, indigenous people as a group are amongst the most disadvantaged members of our society. I wonder, then, how the Prime Minister can say, as he was reported by the Sydney Morning Herald over the weekend as saying:

We make our commitment about income tax, claiming the next bite of the cherry off the back of having invested a lot of money already in public and social infrastructure.

If only that were true. For indigenous Australians it certainly is not the case, and we well recall that the first cut made by this government, upon coming to office in 1996, was to the ATSIC budget—a cut of some $450 million.

When it comes to a debate about the law and how it relates to indigenous people, yesterday we saw a great example of cooperation and consultation being used, rather than the court system being used, to resolve areas of potential conflict between indigenous and non-indigenous Australians. I want to take this opportunity to congratulate the Tjurabalan people and the Western Australian government for their negotiation of a consent agreement on native title, which settles some 26,000 kilometres in Western Australia as a result of the Tjurabalan native title claim. This is a very practical example of where dialogue, negotiation and settlement achieve a greater outcome and certainty for both indigenous and non-indigenous people rather than the old approach of conflict and expensive legal action—of which the only winners are the lawyers.

The Labor Party believes that the key to resolving these native title issues is through negotiation rather than through legal action and that the money which is being wasted on the courts in the legal process would be much better spent on reaching lasting agreements which enrich all of us, not just the people directly affected. Last night on the television we saw positive images of the Premier of Western Australia, Geoff Gallop, and the indigenous people of the Tjurabalan native title claim in Western Australia celebrating that cooperation. This is preferable to images of lawyers going in and out of court. That negotiation has been extremely successful in that it provides certainty. It gives them the right to live on their land; it gives them the right to make decisions about the land’s use and protects sites of cultural significance; and it gives certainty in terms of the mining community and the use of that land for all the participants.

I congratulate those people who have participated in that agreement and, once again, call upon the government to reject the approach, which is bad one economically in terms of legal
costs and a bad one socially in terms of producing conflict. I urge the government to move towards supporting a negotiation regime of native title. I commend the bill to the Main Committee.

Mr LIEBERMAN (Indi) (10.14 a.m.)—The Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001 amends offences and related provisions in a number of acts relevant to the Reconciliation and Aboriginal and Torres Strait Islander Affairs portfolio and provides for the application of the Criminal Code. The first thing I would like to say is that, despite my rather ominous brief description of what the bill says, the bill does not change the current law and does not create any new strict or absolute liability offences. Rather, it ensures the current law is maintained following the application of the Criminal Code in December this year. In fact, the Criminal Code is a significant step in the reform of our system of justice in this nation and in the harmonisation process which brings so great a consistency and clarity to Commonwealth criminal law.

I guess it is true to say that the respect of the Australian people for the Criminal Code and the criminal law is absolutely important to its success, so it is necessary to ensure that, from time to time when inconsistencies arise or acts of parliament of bygone years treat things differently, there is a harmonisation of the approach to the application of the Criminal Code for all Australian citizens. That will ensure that the criminal system of enforcement of offences is not undermined by the people losing confidence in it. I guess that is the basis of this legislation, which I support and which I recommend all members support in this House. I congratulate the minister, Philip Ruddock, and his colleague Daryl Williams, the Attorney-General, for their work across Australia in relation to that.

The bill gives me the opportunity it gave the previous speaker to make some general comments about our indigenous brothers and sisters in Australia. I would like briefly from time to time to refer to extracts of a very good speech by the Prime Minister, John Howard, which he gave on 13 December 2000 at the State Library of New South Wales on the topic of Australia and reconciliation today. I respect my colleague the member for Grayndler, who just spoke—he was a member of a committee that I chaired, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs—but I was a little sad to hear his approach. Not once did I hear him acknowledge the progress being made by the Howard government in respect of addressing the serious disadvantage our indigenous people still suffer in this country. Furthermore, I tuned in to the fact that the member spoke about the political issue of reducing taxes vis-a-vis some of the statements made by the Prime Minister, but he did not speak about the Prime Minister’s vision for Australia to give people confidence to invest, to work and to help the country prosper and grow, from which the government will obtain a source of revenue to enable it to improve services, especially for disadvantaged people. That is the context that I see it in.

Contrast that with the comments of the previous speaker. Whilst he was very heavy in his criticism of the Howard government’s approach to addressing the disadvantage of indigenous people, he did not say where his alternative government—and he is a senior member of the Labor Party in opposition—would get the money he appears to be promising. Furthermore, he did not acknowledge the fact that the states are primarily responsible, as they should be, for things such as housing and hospitals. I did not hear one acknowledgment from him at all that the states are now getting a reliable source of revenue, through the GST, which will grow over a period of years and thus enable the premiers of each state to improve services.

I was minister for health in Victoria for a while, and I know the frustrations of being in that sort of portfolio, having to beg every year through Premiers Conferences for funding and then having to introduce and rely on anti-employment type taxes such as payroll tax because the
state source of revenue to provide the basic services of health, police, emergency services, law and order and the like has not been adequate. I thought the member might have acknowledged in his heart the fact that, whether you like the GST or not, John Howard has now been able, despite a lot of opposition and difficulty, to introduce into Australia in the year of our celebration of the Centenary of Federation a financial arrangement whereby the states will get increasingly large sums of funds through the GST to expand and address these serious issues. I acknowledge the serious issue for indigenous people in housing, which is primarily a state responsibility but which the Commonwealth accepts that it has a leadership role in.

We hear not a word from the senior member of the opposition—offering himself to this nation as leader of an alternative government—in the context of debating questions of how we can do better to help indigenous people address the disadvantage. But the Prime Minister, in the speech I referred to, said that the government’s approach to policies affecting indigenous Australia is based on the belief that everyone should have a fair go, that all people should have equal opportunity and access to services provided by government, and that we can move forward together for a prosperous and good future for all Australians by being pragmatic yet being absolutely dedicated to achieving benefits and changes in the systems that have been trying to help indigenous people so that we can focus on practical outcomes. We all know the Prime Minister has dedicated his government and his ministers to this. If you look at them you will see some great work being done through the Howard government ministers in employment, education and training, health and small business, for example, to help indigenous people. By means of the Prime Minister’s approach—by being practical, dedicated and focused despite some systemic, cultural, entrenched opposition—the outcomes for indigenous people will be much better.

The Prime Minister, in his speech, referred to a speech that Evelyn Scott made about some of the problems of her people. Evelyn Scott is a great Australian and one whom I admire very much. She regards welfare dependency, which is one of the terrible things that have held back indigenous people in this country as ‘almost totally destroying Aboriginal culture’. Peter Yu, another well-known indigenous leader in Australia, asserts that communities are being ‘crushed with the weight of the welfare economy’. Noel Pearson argues very persuasively:… the scale and nature of indigenous problems changed dramatically after passive welfare became the economic foundation of their communities.

Pearson went on to say, as the Prime Minister noted in his speech:
… there is a causal connection between the change in their economy and their social relationships … it is passive welfare combined with substance abuse that threatens to disrupt traditional values—values which the Prime Minister says had previously mandated reciprocity and responsibility. The Prime Minister, whilst acknowledging that there is a heck of a lot of work to be done by all Australians—let us not doubt that—commented that we are making progress. The previous federal government, the Keating and Hawke government, also was making progress. I would like to place that on record. More politicians should be acknowledging the good work of each of us, pointing out the failures or weakness of each of us but working together to overcome them. The Prime Minister, in his speech, said:
I have looked at the level of progress made over the past 20 years and while no one denies that as a nation we need to do better than we have in the past, there are examples of real achievements in the Aboriginal and Torres Strait Islander communities.

And so there are. I admire the Aboriginal people who are having a go and really showing great things for their people and for Australia. The Prime Minister continued:
I don’t agree with those that say that the community has little to show for what is now some 30 years of effort. This criticism, that nothing is getting better, is common to both extremes of the debate—those
who would abolish all such special programmes, and to those who say that nothing less than a legally enforceable treaty and special Constitutional rights will 'solve the problem'.

As the Prime Minister wisely said:

Neither view is correct, nor is the underlying premise that things haven’t been improving. There is in fact indisputable evidence of long-term improvement in many Aboriginal socio-economic indicators.

For example, the proportion of indigenous Australians who own their own home has increased from 1 in 4 to 1 in 3 since the 1970s.

I would like to see us aim, in the next decade, to get it to be equal to that of non-indigenous Australians. Why not? There has been that progress.

The proportion of indigenous students completing high school has quadrupled over the same period, but I am not satisfied with the number who have not completed high school. Particularly, I am not satisfied with the number who appear to have completed year 12 but who still cannot speak or read English and who, therefore, cannot get employment—and I observed this some years ago in the Northern Territory. So that is a problem. I know that former Labor Senator Collins did a great report on that and I recommend reading it, because it has some good ideas in it. The Prime Minister went on and said that the infant mortality rate has been cut from up to 20 times the non-Aboriginal rate to four times the national rate. It is still too high and it is frightening; but there has been that improvement.

Aboriginal enrolments in higher education increased by 60 per cent in the 1990s. The Keating government and the Howard government have been able to get that increase under way. There is a lot more to be done; we have still got Aboriginal kids not going to school. The truancy rate is frightening in some areas of Australia. There are lots of reasons for it. Some of these kids have parents who have never been to school before. So you have to understand the huge differences. I have seen some great leaders and good teachers talking about an outreach program where they, with volunteers, actually go to the homes, talk to the parents and bring the children themselves into the school over a period of time. Over a few months with that sort of assistance and support the children are coming to school because they want to come to school, and the parents, who unfortunately may not have understood the reason for their children going to school, are starting to see the benefits also.

So, by working together and by being both quite sensible and practical, good progress is being made, but there is a lot more to be done. In this wide-ranging speech I have also strayed a little from the technicality of the Criminal Code. I want to put on the record that there is a lot to be done for reconciliation and for our Aboriginal people. We must not rest. We are on the right track. John Howard, the Prime Minister, has allocated $2.3 billion in his budget for special indigenous programs across this country. I am not gloating about it, but it is a record amount—there has never been that amount in the history of federal governments in Australia. The challenge is to make those dollars work better.

**A division having been called in the House of Representatives—**

**Sitting suspended from 10.28 a.m. to 10.40 a.m.**

**Mr LIEBERMAN**—It is good to see you in the chair, Mr Deputy Speaker Quick, as you are the deputy chair of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. I would like to thank you very much for your enormous contribution in that committee to the interests of indigenous people in Australia. I would also like to thank you for being a good colleague and friend in that committee.

In conclusion, I think that the challenges for reconciliation in overcoming the huge disadvantages of our indigenous people are pretty well identified now. I think the measure of success for all parliamentarians, now and in the future, is probably going to be their ability to get
everyone to work together—that is, to maximise the enormous goodwill and talent that exists throughout Australia, throughout the community, to achieve the sorts of things that so obviously will, if they are achieved, give to indigenous people and improve for them equal opportunity and help them overcome disadvantage. With those sorts of concepts—partnership, mutual respect, goodwill, recognising the job ahead without deluding ourselves but remaining dedicated to practical policies to improve health, education and training, to address unemployment and to improve housing and all those things—if we just say, ‘Nothing is going to stop us from working to that end,’ there is no way we can miss. We can get good systems going, such as some of the ideas that the Deputy Speaker and I have shared in a committee and which we cannot talk about now, although I wish we could.

There are some great things happening out there. As a student of indigenous affairs—and I do not know enough about it, although I think it is fascinating—I obtain the greatest happiness from the number of indigenous people who are taking the initiative themselves to get the management skills to lead the issues, to develop programs from the bottom up, to argue the case for their people to be equal citizens with bureaucrats and members of government throughout Australia, to remain focused on the need to address disadvantage and to have the courage to stand up to some of the stars of the past who for too long have dominated the debate because they have managed to capture the media. Not enough attention has been given to the good people on the ground who will actually do it. They will without a doubt deliver, provided we all remain very fixed, determined and objective about our strategies.

Mr LATHAM (Werriwa) (10.43 a.m.)—This legislation, the Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001, impacts across the Aboriginal and Torres Strait Islander Affairs portfolio through its application of the Criminal Code. As previous speakers have found, it is an opportunity to discuss a number of social justice issues in indigenous communities. My comments are heavily influenced by a recent visit to Cape York Peninsula and, in particular, by the work of Noel Pearson and his Cape York partnerships project. Noel Pearson has reached a conclusion which I believe is set to fundamentally change the nature of the debate in this country about Aboriginal issues. In the past, problems with alcohol and drugs in Aboriginal communities were seen as a by-product of centuries of dispossession and racism, but the problem is now so widespread, in Pearson’s eyes—and I think, to any independent observer, we are talking about a problem of epidemic proportions—that it can no longer be regarded as just a by-product. It goes to the heart of the integrity, stability and even the survival of Aboriginal communities in this country. Therefore, we must fundamentally change the way in which we tackle questions of Aboriginal disadvantage. We have to change the way in which we think about these problems and the role of this parliament. We must change all our attitudes and policies in this absolutely vital area of social justice. I would like to quote at length from Noel Pearson himself. He has made a very powerful statement. He says:

The prevailing analysis is that substance abuse and addiction is a symptom of underlying social and personal problems ... According to this theory we must address the “underlying issues” if we are to abolish substance abuse. The severe substance abuse in Aboriginal communities is said to have been caused by immense ingrained trauma, trans-generational grief, racism, dispossession, unemployment, poverty et cetera.

But the symptom theory of substance abuse is wrong. Addiction is a condition in its own right, not a symptom ...

Of course substance abuse originally got a foothold in our communities because many people were bruised by history and likely to break social norms. The grog and drug epidemics could break out because personal background and underlying factors made people susceptible to trying addictive substances. But when a young person (or an older non-addict) is recruited to the grog and drug coteries

[Continues]
today the decisive factor is the existence of these epidemics themselves, not his or her personal back-
ground.

Pearson continues:
For those who did begin using an addictive substance as an escape from a shattered life and from our 
history, treating those original causes will do little (if indeed you can do anything about those original 
causes). The addiction is *in itself* a much stronger force than any variation in the circumstances of the 
addict.

... at this advanced stage of the grog and drug epidemics it is not a breach of social norms to begin with 
substance abuse. It follows that we cannot *divert* young people away from substance abuse. No matter 
how much money and effort we spend on alternative activities, drug free activities can never compete 
with the more exciting drug-induced experiences for young people’s attention, because all hesitation 
about the appropriateness of an abusive lifestyle is long since gone.

Pearson is talking about a fundamental breakdown and disintegration of social norms and 
standards. He writes:

When abusive behaviour is deeply entrenched in our communities it is not the material destitution, the 
social ills and historical legacy that fuel the abuse epidemics. *It is the epidemics that perpetuate them-

selves.*

Put it this way: today people begin abusing grog and drugs in our communities because other people do. 
And if “underlying issues” make somebody start drinking or using drugs, the most important “underly-
ing issue” today is the chaos caused by the grog and drug epidemics. And addiction is not a symptom of 
bad or chaotic circumstances anyway; removing them will not cure addiction, and hence not stop abu-
sive behaviour.

The problem is so widespread that conventional diversionary and health care strategies will 
not work. This is what the evidence is showing on the Cape York Peninsula. These epidemics 
have worked their way into the social norms of communities. During my recent visit, Noel 
Pearson told the story of a drug and alcohol diversion strategy in the Aboriginal community at 
Aurukun. The government paid $25,000 to bring in a consultant from the bureaucracy to de-
velop an alcohol diversion strategy. His recommendation was to purchase a minibus to take 
the drinkers away from the canteen, to remove them from the location that was causing so 
much damage.

For outsiders and for many in the bureaucracy I am sure it looks like a logical thing to buy 
a minibus. This ended up being a $100,000 strategy to take the drinkers away from the can-
teen. What was the practical reality? The grandmothers and the children trying to get a decent 
sleep at night in the community did not want the disruptive drinkers to come back and wreck 
their night, so they said, ‘Get back on the minibus and go back to the canteen.’ That was the 
practical reality in Aurukun. Over time, the minibus—this do-good consultancy strategy—
became a taxi service to get people to the canteen. The government was paying money 
through this consultant for a bad purpose, for a bad outcome in practice. It was a theory gone 
wrong; a theory that did not match up to the views and practices of the Aboriginal community 
at Aurukun. This is the sort of woolly-headed thinking that we try to combat. It is an example 
of wrong-headed thinking in public policy. I have seen some of these problems in my own 
electorate, particularly in public housing estates. These are problems that not just affect Abo-
rigina l communities but stretch right across our society.

After decades of poverty, the problems are inevitably passed on from one generation to the 
next. This is the cruelty, the tragedy, of intergenerational poverty. It is not just an economic 
problem; it is an intensely social problem. It unglues the normal habits of neighbourhoods. It 
 unglues the trust and cooperation between people. It unglues social norms in a sense of social
responsibility. It unglues the regular habits of work and community. It unglues the most important capital of all: social capital, the bonds between people. The prevailing analysis of poverty positions it as an economic condition. The conventional approach to welfare treats it as a form of economic compensation for poverty. Both these positions ignore the socially corrosive impact of long-term poverty. What starts out as a form of economic disadvantage over time becomes a debilitating social condition and causes a breakdown in the relationships between people. Ultimately the social impact of intergenerational poverty is more damaging than its economic impact.

The loss of moral norms and responsibility is passed on from one generation to the next. Infants and adolescents are deprived of a normal social environment, an environment that teaches them the difference between right and wrong, an environment that teaches them about restraint and responsibility. Well before they can ever access the economic advantages of work and a regular income, well before they can ever join the real economy, at this young and tender age they develop significant social problems and disadvantages. Ultimately the social impact of poverty is more damaging than its economic consequences. These social problems act as an obstacle. Very often it is an insurmountable barrier to economic participation. Noel Pearson understands this point well. He states:

It is clear that the problem is social. Surely the solution must also be social.

When you look at a drinking circle you see people who are socialising around grog ... Everyone involved in the drinking is obliged to contribute resources—money—for the purchase of grog. Everyone is obliged to share the money and the grog.

These social and cultural obligations are invoked at every turn by members of the drinking circle. These invocations are very heavy indeed and they most often draw upon real obligations and relationships under Aboriginal laws and customs ... Outside of this drinking circle are the women and the children and the old people and the non-drinkers. The resources of these non-drinkers are used to feed the families—including those who have spent most or all of their money on grog, when they are hungry. But more than that, these non-drinkers are placed under tremendous social and cultural pressure to contribute resources to the drinking circle for buying grog. So the drinking circle becomes the suction hole for the family's resources. Wives and girlfriends, parents and grandparents, are placed under tremendous pressure—social and cultural, ultimately through physical violence ... to contribute to these pathological behaviours.

There is a major problem and we need to recognise the proper role for government. Government is good at many things but community development is not one of them. Governments have worked out how to run open and efficient economies. With the end of the Cold War, it is no secret that market economics is here to stay. By and large, governments have worked out how to promote technological progress and the wonders of the information age. So too the welfare state is highly skilled in the mass production of entitlements and services. The downside of all this success by government has been on the social front. Bureaucratic organisations are more likely to destroy social capital than to create it. The mass production of services inevitably leads to the depersonalisation of service delivery. Big companies and big governments share a common methodology. They rely on standardised rules that deliver a standardised product to a large number of individual clients. This process unfortunately leaves little room for the development of personal relationships—the mutualism and cooperation upon which a good society relies. Big government bureaucracy leaves little room for the development of the thing we call community.

Governments, and to some extent the welfare sector, have adopted a dispensary model of governance. They dispense services to a waiting public without first ensuring that these services can be used effectively by the intended recipients. It is not enough to dispense services.
You have to make sure that the services can be well used by the people to which they are directed. We can provide top-class schools, for instance, but they are not likely to be of any use to a boy with severe behavioural problems and troubles at home. We can provide advanced health services, but they are not likely to be of any use to people rutted into socially pervasive addictions. Governments can provide an army of consultants, studies and reports in disadvantaged communities, but they are not likely to be of any use to people lacking self-esteem and confidence, which is the basis of social capital. This, of course, is Noel Pearson’s point in the Cape York Peninsula.

The mainstream debate in Aboriginal affairs is concentrated on questions of native title, education, health, housing and even parliamentary apologies. In reality, these are second or third order issues. The threshold question concerns the problem with alcohol and drugs. Unless in practical terms Aboriginal people can access and make good use of native title, schools and health centres, these basic human rights are entirely abstract. They make no difference in practice. Abstract rights need to be converted to practical outcomes, but that will only happen if the recipients of rights and services are in a position to make good use of the benefits of government. As Pearson puts it:

Almost all of our other social and health problems are derivative of our grog and drug problem: we solve grog and drugs, we solve everything else.

- “harm reduction”, “clinical care”, “public education programs—dynamic poster workshops!”—

There is one: dynamic poster workshops—

“family violence strategies”, “school attendance strategies”, “life promotion programs”, “economic development strategies”—these are all either (i) diversions from what really needs to be tackled or (ii) they are totally futile or (iii) will only have marginal and temporary success as long as we don’t confront the grog and drug epidemic amongst our people.

Another big mistake has been in our analysis of Aboriginal health. In the prevailing debates, poor health is automatically seen as a product of Aboriginal disadvantage. But our material circumstances have improved greatly at the same time as our life expectancy has decreased.

Pearson also says:

What our people need more urgently than an expansion of the health care system, is an immediate dismantling of the passive welfare paradigm and an end to permissive thinking about grog and drug policy, because it is those factors that generate the endless flow of Aboriginal injuries, neglected children and unnecessarily sick people to the clinics.

Pearson concludes:

Aboriginal people don’t have health problems that can be solved with medical treatment; they have passive welfare injuries inflicted upon them.

Unfortunately, government is aiding this process. What sort of system pays money to a pregnant girl to drink at the canteen all day, passing on foetal alcohol syndrome to her unborn child? It is a social tragedy when these things happen. It is evidence of the rights agenda gone mad. The right to receive welfare payments needs to be matched by the exercise of personal responsibility, and there can be no greater responsibility in our society than that of a mother to an unborn child. The grog epidemic in Cape York is a social problem which requires an intensely social solution. The answers do not lie with government agencies, consultancies and reports. The proper role for government is to back community led solutions, to act as a junior partner to the leadership of people such as Noel Pearson—a great and inspiring leader of people such as Noel Pearson.

As a first step we need to face up to the truth. It is no longer sufficient to regard the grog problem as a by-product of dispossession and racism. It is a problem in its own right and needs to be treated as such. It is no longer sufficient to regard long-term poverty as primarily
an economic condition. Its roots are fundamentally social and it needs to be treated as such. Most importantly, it is no longer sufficient to explain away the epidemic in terms of Aboriginal culture. The Aboriginal tradition of sharing resources can be no excuse for the sharing of money and alcohol within drinking circles. Pearson makes this point most powerfully indeed. We need to be frank about the problem and fanatical about the solution.

Four strategies can make a difference. The first concerns community responsibility: backing the indigenous leaders who want to take direct responsibility and action in response to the drug and alcohol epidemic. Welfare rights need to be matched by social responsibility. I once more quote Noel Pearson:

The community strategy must be aimed at creating an environment which makes it more uncomfortable for substance abusers to continue with the abuse than to quit. There must be no more unconditional support if people don’t change (ie. there must be a material cost). And, very importantly, there must be an immediate rejection of abusive behaviour by the environment (ie. there must be a social and emotional cost).

The other main element of the strategy must be enforced treatment, because we need a cure for the current epidemic. The absolute intolerance of illicit drugs, absolute enforcement of social order, and enforced treatment is the core of the strategy. In order to cure an epidemic there must be involuntary, mandatory and humane treatment of people who are engaged in abuse. Everything that the addicts encounter must be designed to force them into that treatment. Every law, every social norm, every action by government—

and community organisations—

every word the addicts hear must be consciously designed with this purpose in mind.

Pearson is serious indeed about community leadership and community solutions. The justice system also needs to support rather than hinder these acts of public responsibility. The female elder, for instance, who rips out a fuse box to close down an all-night drinking party is not a vandal; she is in fact a community leader who deserves the support of the law. So too the grandmother who confiscates drinking money is not a thief; she is the sort of person who needs to be backed by the police and encouraged by government to lead her community out of its troubles.

A second strategy involves breaking the supply line for alcohol. Once a community takes a democratic decision to crack down on drinking, that decision needs to be enforced by the community itself by drying up the supply of alcohol, with the support of the legal agencies. The third strategy involves diverting into socially useful and responsible purposes the welfare payments that currently resource the drinking circles. I am not saying end welfare payments; I am saying redirect them to better areas of social need and social purpose. For instance, Noel Pearson has said that welfare payments in Aboriginal communities should be paid into a trust administered by elders—an act of Aboriginal self-determination—and that funds would only be released once the recipients demonstrate proper social behaviour and responsibility.

We could also look at the introduction of smartcards that do not allow the purchase of alcohol—that is, the payment of welfare support through smartcards—restricting use of those cards to socially responsible activities. We could also ensure that transfer payments are made into education accounts, food accounts or housing accounts that are released for these specific purposes. We need to divert government and welfare resources into socially useful and responsible activities.

The fourth and final strategy that I put before the House—thankfully in the presence of the minister—involves backing the work of social entrepreneurs. Social entrepreneurs are special people who combine the best of social practice, bringing together social cooperation and trust, with the best of business practice, building an entrepreneurial and risk-taking culture. In my
recent visit to Cape York Peninsula, I had the absolute pleasure and joy of learning about the wonderful work of Milton Jameses—a real social entrepreneur. He has undertaken a tremendous program called Boys from the Bush, which is designed to teach young Aboriginal offenders about moral leadership and decent social standards, ultimately turning them into young business entrepreneurs. This is a behaviour modification program for young indigenous offenders which uses the distillation and sale of eucalyptus tree oils—they call it bush medicine—that sell well in the markets of Cairns on any day or night of the week. We need to back people like this. We need to back the Milton Jameses who are not content with putting people in a holding pattern but are looking for new innovative solutions. We need to back these people, whether they are found in churches, community organisations or within the middle management of bureaucracy. We also need to use the police—a wasted resource—for these social entrepreneurial processes. Solutions can be found, once we face up to the reality and start to think with commonsense and logic about the great things that need to be done by and for our Aboriginal citizens.

Mr WAKELIN (Grey) (11.03 a.m.)—The Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001, as we know, is simply designed to line this legislation up with the standardisation across various pieces of legislation in our federal system. I want to compliment the member for Werriwa on his comments. In the last fortnight, I have come back from the Pitjantjatjara lands, which are in my electorate. I drove through those lands on the Stuart Highway—from one side through to the Western Australian border—and whenever I do that I am always absorbed by my feelings of frustration, fascination and absolute amazement at the contrast that I see. All that the member for Werriwa talked about is there in the Pitjantjatjara lands.

When I drive through one of the communities at dusk on a newly prepared bitumen road—which is there to keep the dust down—I have to carefully avoid the petrol sniffers who are walking down the road. When I listen to people who have to endure the violence, the absolute chaos of the results of substance abuse and many other difficulties that those in those lands experience, I look for another way. In fact, it is fair to say that when I return home and go back to what would be regarded as a more normal Australian life, it takes me a week or two to actually get my own life back into some kind of balance, such is the impact on my own psyche.

In the Pitjantjatjara lands, currently we have what I would regard as a welfare abyss. We have $50 million to $100 million of Commonwealth and state government funding going into well-intentioned programs in most cases, but the community is still left with profound difficulties without, I would suggest, great solutions being offered. The whole problem is entrenched. To highlight that, I raise the real issue surrounding law and order, which I briefly mentioned earlier, and that is that we have no police presence. We have community police officers, but effectively we have no police. So imagine a society which has intentions of law and order and general respect for it within the community but with a very limited capacity to do anything about it. Indeed, they have to call the Marla police, who are up to 500 or 600 kilometres away. The Marla police might do a fortnightly or monthly round just to check how the community is going. It is little surprise that we see people with scant regard for normal community practice.

In terms of the general structure of the lands, a South Australian act some 20 years ago was brought in with all the confidence and positive attitudes of land rights for Aboriginal people. With all the discussion about the Northern Territory land rights legislation and native title over the last decade, let us remember that the AP lands legislation in this part of my electorate in South Australia was the first land rights granted in Australia. Yet, as the member for Wer-
riwa has described, it is exactly the same situation as we see in Cape York. So we have a long journey to travel to even try to get some kind of sense and balance to give people a reasonable approach and a reasonable outlook on life.

Once again looking at my own electorate, the Pitjantjatjara is a closed society. It takes up a very large area of South Australia—about 20 per cent, or whatever it is—and it is supposed to be a dry community, but I can assure you that it is far from dry. The issue, once again, comes back to how you implement basic respect for the law without the presence of those people to uphold the law. Of course, there are a whole lot of other issues around that. I was quite surprised by the member for Werriwa’s comments. It was not at all what I expected, so I guess I have framed my comments around the future, and I will stay with the Pitjantjatjara lands. I have talked about the welfare abyss that is there and the fact that there does not seem to have been any progress; in fact, they are probably going backwards.

If we were to bring in ‘involuntary mandatory action’—to quote the member for Werriwa—which would no doubt be highly controversial, I do not know how we would strike the balance between responsibilities and rights and the welfare gone mad situation. The way we are going at the moment is clearly not balanced. I will just paint a picture of what I would like to see a generation in the future. I would like to see Pitjantjatjara land open to the community; I would like to see that community in charge of its own destiny and with the confidence to work together and focus on serious issues for their young and for what they would like to do to have some—in the old legal term—‘quiet enjoyment of their land and their way of life’.

If I can be bold, and even no doubt be accused of being patronising, I think we have some of the best pastoral country in Australia, so the opportunities for pastoralism with the beef cattle industry are very strong. There is just a modest base of the arts. Aboriginal art is quite strong and I see no reason why that could not be greatly developed. It does provide a useful and quite satisfying outlet for particularly many of the women in the Pitjantjatjara lands.

In terms of tourism, this country is absolutely magnificent. It is the most beautiful country. Coming from the Stuart Highway through the Pitjantjatjara lands into Yulara and to Ayers Rock, you can imagine the potential that could be managed and negotiated working with the Aboriginal people. It is just one of the great journeys through Australia. I would very much like to see that sort of thing happening.

Mining certainly is very much untapped, but that is a more difficult area. You get into the whole issue around sacred sites and the general respect for the lands of Aboriginal people. Nevertheless, sensible management and the taking of a very practical view by the legal profession in considering the wellbeing of the people and community, particularly in the Pitjantjatjara lands, would very much enhance the prospects for some mining agreement for some future benefit. There are a whole lot of very positive things that this part of Australia could do, but at the moment it is locked into a dependence on welfare.

I will conclude by reminding us all that the community of Ernabella really only became a community, in whitefella terms, back in the late 1940s and early 1950s. Remember that these people were nomadic. We have created five or six communities in whitefella style and have expected people to live in these sorts of structures. I find it quite remarkable that we have thought that we could impose this sort of structure on people and expect it to work. I have seen an old military photograph of Ernabella with about six or 10 buildings. As a farmer, I could make out the shearing shed and the layout of the yards, including the forcing pens, et cetera. Think of the Ernabella of 55 years ago and the Ernabella of today, which probably has 100 to 200 buildings and a whole lot of white people and white civilisation imposed solutions. It just struck me as stark. To expect people to adapt to that and then appreciate it is, in the very least, to be totally optimistic.
This morning gave me an opportunity to hear a surprising but absolutely welcome contribution from the member for Werriwa. If we are going to have any hope in this place of doing useful things for the Aboriginal people, in terms of our own and their wellbeing, these are the sorts of things we really need to tackle, and tackle in a much more innovative way than we have in the past.

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural Affairs and Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs) (11.14 a.m.)—in reply—I will not detain the committee long. I would like to thank the members for Grayndler, Indi, Werriwa and Grey for their contributions on this bill, the Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001. It is fascinating because I have listened to the debate and I have not heard the bill mentioned once. The bill amends certain provisions of the provisions of the Reconciliation and Aboriginal and Torres Strait Islander Affairs portfolio to provide for the application of the Criminal Code. It is similar to other Criminal Code harmonisation bills that are being introduced by other portfolios. The effect of this bill is to maintain the status quo.

I could sit down now and say that they are the comments relevant to the bill, but please excuse me if I divert for a moment to some of the comments that have been made by my colleagues. The contrast could not have been greater. I was not here for the member for Grayndler’s speech, but it was typical. It said that we need more specific programs for indigenous people to alleviate disadvantage, that there is a housing crisis, that in the health area there are high infant mortality rates, that in the education area enrolment levels are inadequate, that there was an ACOSS report critical of indigenous disadvantage, and then there were some comments about Western Australian native title. What do I want to contrast that with? I want to contrast it with the speech of the member for Werriwa, because he focused very clearly on the crisis that indigenous people are telling us they face. He focused on the solutions that they face. It was an extraordinarily comprehensive speech that drew heavily upon the comments of Noel Pearson. It addressed many of what I would call the orthodoxies—the orthodoxy that brought us to the view that you should dismantle the employment arrangements for indigenous people in a quest to ensure that all people were rewarded on exactly the same basis, rather than over time to maintain that employment and develop new opportunities but to leave people with some dignity and self-esteem. In time we might look back at those efforts in relation to giving people reward that we thought was appropriate by our standards but which deprived them of much of the self-esteem that they had.

The member for Werriwa spoke about welfare. We have a view that all people are entitled to welfare if they are in need. But say you have not had the experience to be able to develop the capacity to manage the funds that are given to you, or if they are given in the form of what some people euphemistically refer to as ‘sit down money’, where you have none of the commitments that often utilise the funds that people on welfare in the broader community have to meet—no rates, no insurance, no life assurance payments. If you run through the sorts of things that people commit themselves to, then you find people with large amounts of disposable income that could be used in ways which for them have not proven to be desirable.

I listened to the comments for the member for Werriwa because I think they are very challenging comments. He linked the right to receive welfare with a need for responsibility. He talked about the need to embrace and back indigenous leaders who are prepared to work in these areas. He talked about the need for enforced treatment for people who are suffering substance abuse. He talked about the supply lines by which people are able to access alcohol. But I might say what you find with supply lines is that there is very often somebody who is exploiting another’s vulnerability.
He also talked about the ways in which we might be able to direct welfare payments to a social purpose. Let me just say, in relation to the latter matter, that that is an issue that Senator Vanstone, my colleague, is looking at in terms of Noel Pearson’s proposals for family income management and, at an appropriate time, will have something to say about. We will look at whether or not a trial, with appropriate monitoring arrangements, might be useful here.

Noel Pearson was recently at a meeting of Commonwealth and state and territory ministers for Aboriginal and Torres Strait Islander affairs, which is called MCATSIA. What was regrettable was that Noel Pearson spoke to about half the Aboriginal affairs ministers, because the ministers from New South Wales, Tasmania, the Australian Capital Territory, South Australia and the Northern Territory were not there. Certainly, we had the minister from Queensland, the minister from Western Australia and the minister from Victoria. So some of us heard what Noel had to say.

Noel made these same requests. He emphasised the urgency of addressing substance abuse and a need for changed attitudes. He made it very clear that it was not sufficient to say that this is a problem which is there because we as a community, as a society, have not done enough in terms of housing, welfare, health and education programs, and employment. He was saying that you can move to cure all those matters but if people are hooked on drugs, in one form or another, and are dependent upon substances then the problem will remain and it is of endemic proportions.

Part of the reason for that is that people have never had to develop the social controls in indigenous Australia to manage alcohol. It was made freely available in circumstances in which we did not try to develop those social controls. I think the member for Werriwa has done us all a public service by putting those arguments in the public arena. It was a very constructive speech and it was welcomed by my colleague the member for Grey and the member for Indi. There needs to be a place in which people with constructive ideas can contribute.

This is not a matter that the Commonwealth is going to be able to address alone. It may be able to do something in relation to the way in which income payments are managed, but what happens in communities is an area in which the state governments have a direct responsibility. Licensing outlets and the way in which people access them are matters of state responsibility. This is an area in which we are going to have to work together, in which we are going to have to put aside some of the orthodoxies and in which we are going to have to stop trying to score—and forgive me for saying this—the cheap points.

I am brought back to the speech of the honourable member for Grayndler, who spoke for the opposition. He is in a sense part of the problem and not part of the solution. If his views are being advanced as the opposition’s alternative, it indicates that there is no solution there. Somebody like the member for Werriwa really has to be given an opportunity to develop some of those solutions.

There is an enormous amount being done to alleviate disadvantage. The symptoms can be alleviated through increased levels of funding—as the member for Indi said, today it is $2.3 billion, which is a record—and increased housing and infrastructure, and you heard the member for Grey’s comments about that. Infrastructure has changed. I have been going to indigenous communities for over 28 years, and the infrastructure I see today is totally different to the infrastructure I witnessed decades ago. There has been enormous change. There is still some way to go, but the infrastructure has changed. Even this year there was increased funding of $75 million for housing and infrastructure. We have seen a situation in which indigenous home ownership is increasing very significantly and where few communities today do not have access to adequate water and electricity services. We have seen a situation in which
the infant mortality rates have declined from 20 times worse to three times worse, I think. There is still a way to go but it is a significant change.

In my remarks I would like to pick up the comments that were made about native title. Native title is part of the rights agenda, which the member for Werriwa has told us is really not the main game, but let’s assume that it is important to make some adjustments. The adjustments were made. The adjustments that were designed to produce non-litigated outcomes were made by the government. In fact, 26 indigenous land use agreements have been registered with the Native Title Tribunal and a further 13 have been lodged for registration. The tribunal estimates that there are a further 105 indigenous land use negotiations under way. If everything had to be negotiated, that would be fine. But what you find is that sometimes people negotiate and they do not get the outcomes they want. Then what happens? I can tell you what happens: they litigate. There is an idea that you can stop people litigating, that you can say to indigenous Australians who are anxious to pursue native title claims, ‘If you have not negotiated an outcome in good faith, you can’t litigate.’ There is an idea that you are able to achieve that outcome.

I guess that is what the opposition shadow minister, Mr McMullan, is saying. He has been arguing that there need to be negotiated outcomes. I think he was not aware that there was a capacity for negotiation. I do not think he was aware of how much negotiation had actually occurred, but he was holding out this view that the government is in some way stubbornly committed to long and expensive court cases to resolve native title claims. He says that John Howard should open his eyes to the progress that has been made through negotiation rather than litigation. If one is serious about getting out of litigation, there are only two ways: you negotiate to give people everything they want—or I suppose if you have unlimited resources you might be able to do that—or you eliminate people’s entitlement to litigate.

I have heard some interesting propositions recently, and I would like to put them on the record in the Main Committee. I have heard in relation to separated children, for instance, where there are claims that are being made for some recompense, that you might be able to establish a tribunal to deal with those claims and thereby avoid litigation. It is said that those claims can be pursued without people having to give evidence and experience the hurt and trauma of saying what has happened to them. I do not know how tribunals would make decisions if you did not get some evidence, but that seems to be the view. My experience has generally been that if people do not get what they want out of negotiation they resort to litigation.

So the idea that in the native title area you can avoid litigation, or that in relation to separated children you could set up a tribunal and avoid litigation, is dependent on being able to remove the opportunity for judicial review. How would you remove the opportunity for judicial review for a tribunal that was going to deal with compensation issues? It would be by what is known as a privative clause, which would boost the final decision of the tribunal to final and conclusive—in the same way as we did with our industrial tribunals, in the same way as was done in New South Wales with casino tribunal decisions.

Yet this is the same Labor Party which, wearing another cap, tells me that one should not reduce access to our courts for people who come from abroad and are not satisfied with tribunal outcomes. In other words, there is the view that if you come from abroad you should still, as a matter of justice, have access to our courts, but if you are an Australian—an indigenous Australian—we can set up negotiation arrangements in which we could get the lawyers out; the money is being wasted on lawyers in the courts. Or we could set up a tribunal to deal with compensation issues, and so avoid litigation. The only way in which you could do it would be to limit access to judicial review. I find it extraordinary that we are talking about limiting access by Australians to judicial review at the same time as we defend the entitlements of those who come from abroad to unlimited access to our courts.
While I welcomed the speeches of all of my colleagues, I particularly commend the member for Werriwa and the members for Indi and Grey for their very sensitive, thoughtful and constructive contributions. I have to say that the opposition might do well to look elsewhere for some constructive ideas and to ensure that in future when we are debating matters of this sort we have some contributions by which we can see that the opposition is part of the solution and not part of the problem.

Question resolved in the affirmative.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

HEALTH AND AGED CARE LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

Second Reading

Debate resumed from 8 August, on motion by Mr Anthony:

That the bill be now read a second time.

Mr GRIFFIN (Bruce) (11.33 a.m.)—The Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001 makes a series of amendments to 15 pieces of legislation in the Health and Aged Care portfolio. Like several similar bills for other portfolios, the purpose of the bill is to harmonise a number of offence creating and related provisions with the general principles of criminal responsibility, as codified in chapter 2 of the Criminal Code.

The Criminal Code, which is contained in the schedules to the Criminal Code Act 1995, will alter the way in which Commonwealth criminal offence provisions are interpreted regarding offences contained in the legislation in the Health and Aged Care portfolio. If the legislation containing offence provisions is not amended by the end of this year to conform with chapter 2 of the code, the code may alter the interpretation of existing offence provisions. The opposition supports the concept of applying a standard test of criminal responsibility across similar legislation, and therefore supports the general intent of this measure.

Expressed simply, it means that it will be necessary to show both the physical element of the offence and the fault element. In situations where there is a strict liability, it is not necessary to show the fault element, and the defendant has the defence of being able to show they acted under a reasonable but mistaken belief about certain facts. These are not obscure legal points, but important questions in the growing area of medical litigation. Patients have every right to expect that they get quality health care, in whatever setting they seek treatment. We have known since 1996 that the rate of medical injuries in Australia is at very high levels by international comparisons and that much needs to be done to improve the quality and safety of medical practice.

It is a matter of regret that the current minister has wasted five years before taking action on these issues. He recently boasted about the newly established Council on Safety and Quality in Health Care and the National Institute on Clinical Effectiveness, but if he had not been so slow these organisations could now be celebrating their fifth birthday instead of just starting out. Labor will actively drive the health quality agenda through our proposed national health commission and we will tackle the root causes of medical injuries.

I think everyone involved in this issue would prefer that Australia does not go down the American road, where every event in a hospital runs the risk of ending up in a courtroom. The TV dramas ER and The Practice are entertaining, but they demonstrate to Australians why we are much better off here than in the USA. We should focus on ensuring that medical injuries are minimised and that doctors do not live in fear of having to justify every action in a crimi-
nial court. This bill will set a standard that has an appropriate balance between ensuring that doctors are accountable for criminal negligence and that they have appropriate defences for actions which are taken on reasonable grounds. Labor want Australia to enjoy quality medicine and to do this we need to establish the right mechanism for accountability and to ensure there are not perverse incentives for excessively defensive medicine.

In closing, I would like to mention another area where Labor has adopted groundbreaking policy that will encourage better quality medical practice and actions within the profession to reduce the frequency of adverse events. Medical indemnity insurance has been spinning out of control in recent years because the current government has been unwilling to tackle the underlying pressures which are making professional indemnity insurance unaffordable for many doctors—in particular, obstetricians and GPs in rural areas. Recently the Leader of the Opposition and the member for Jagajaga released a detailed package of reforms which is intended to restore stability to insurance premiums, increase the security for patients that they will be covered by insurance should they suffer a medical injury and make clearer to doctors what they need to do to ensure they are practising in accordance with the best current medical practices.

Labor’s reform package for medical indemnity will: reduce the frequency of medical injuries by setting national benchmarks and guidelines, and promoting the use of information technologies to help doctors decide on the best treatment and avoid misdiagnosis or incorrect treatment; promote structured settlements by changing the tax treatment of periodic payments to ensure injured patients have adequate regular payments to cover their health care costs for the rest of their lives; establish a national database on health care litigation to target the problem areas and to ensure that adequate support mechanisms are in place; seek consistent state reforms to legislation covering court procedures, the calculation of damages and the regulation of medical indemnity organisations; tighten the prudential regulation of medical indemnity insurance to ensure that all funds operate soundly and have transparent accounts, while the open discretion held by some medical defence mutuals to decline coverage will be removed; require all doctors to hold the appropriate insurance for the work they undertake, while red tape will be reduced by harmonising requirements for doctor registration; improve risk management by medical indemnity funds, including working with the royal colleges to reduce the rate of medical injuries and provide incentives for quality practice; and seek to refer the current problems with indemnity insurance for midwives to the Senate inquiry into nursing to look at options to ensure that home births remain an option for expectant mothers. The bottom line is that patients must have confidence that when they seek medical treatment they will get the best quality care with minimal risk of something going wrong. They also must be confident that, if they suffer through negligence, they will be properly cared for.

Labor supports the bill, which will put in place another element in the broad picture of the legal framework under which people in the health sector will work. I hope the government will make suitable arrangements to implement the changes and to educate people about the implications of the changes and the test of proof of criminal negligence as part of the necessary broader education of health professionals about the legal implications of their actions in delivering services to the Australian public.

Dr SOUTHCOTT (Boothby) (11.38 a.m.)—The Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001 is a technical bill and it applies the Criminal Code across Commonwealth legislation in the health and aged care area. It has been occurring in other portfolio areas, and this bill harmonises health and aged care legislation with the Criminal Code. This bill amends 15 statutes in the Health and Aged Care portfolio.
The Criminal Code, which was created by the Criminal Code Act 1995, codifies the most serious offences against Commonwealth law and establishes a cohesive set of general principles of criminal responsibility. From 1 January 1997, the Criminal Code applied to all new Commonwealth offences. Now this legislation is to ensure as part of this agreement that, from 15 December 2001, the Criminal Code will apply to pre-existing Commonwealth offences. In order to meet this deadline, the Commonwealth has been reviewing the pre-existing provisions. Similar amendments, as I said, have been made to other Commonwealth legislation containing criminal offence provisions.

The bill applies the Criminal Code to all offence creating and related provisions in acts within the Health and Aged Care portfolio. It makes amendments to these provisions to ensure compliance and consistency with the Criminal Code general principles. Further, the bill ensures provisions of the code are interpreted as they are intended.

While a majority of offences in the Health and Aged Care portfolio will operate as they previously have, without amendment, there are some that require amendment. One of the most important amendments is the express application of strict liability to some offence creating provisions. These offences must be expressly identified and then the prosecution does not have to find fault elements. At present most strict liability criminal offences under Commonwealth law do not expressly state they are offences of strict liability and a judge decides their interpretation. This bill amends each existing strict liability offence provision to expressly state that the offence is one of strict liability. In addition, the bill amends provisions to expressly apply strict liability to individual physical elements of offences where that is appropriate.

The bill will also improve the prosecution of offences by clarifying the physical elements, correcting inappropriate fault elements and by clarifying provisions relating to proof of criminal responsibility. Where there is an offence, first of all the code establishes that there is a physical element, which covers the conduct, circumstances or result under which the criminal offence occurred. There is also a fault element, which covers intention, knowledge, recklessness and negligence.

Several provisions in health and aged care legislation require a defendant to bear an onus of proof where they have to prove beyond reasonable doubt. This is unnecessarily demanding and inconsistent with the Criminal Code. The bill amends the health and aged care legislation so that where an evidential burden is placed on the defendant it must be discharged on the balance of probabilities. Where a provision in the Health and Aged Care portfolio is duplicated in the Criminal Code, the bill will repeal the provision in the portfolio legislation. If relevant offences are not revised as set out in the bill, many will become more difficult for the prosecution to prove and therefore reduce the protection which was intended by parliament for the people against criminal acts within health and aged care.

The bill covers key amendments: strict and absolute liability; correcting inappropriate fault elements; substituting equivalent Criminal Code fault elements; lawful authority and lawful excuse defences; better identifying defences and exceptions; clarifying physical elements in offences; and implementing the Criminal Code ancillary provisions. It also retains, within the health and aged care legislation, corporate criminal responsibility. There is one exception where it has been applied to ANZFA. It also codifies defences such as reasonable excuse or inability to comply with the statutory requirement. Ancillary offences have been moved from the Crimes Act to the Criminal Code. False and misleading statements are removed from the health and aged care legislation, and part 7.4 of the Criminal Code applies instead.

This bill raises a number of issues. The bill overall is a technical application of the Criminal Code to health and aged care legislation. There are some questions that have been raised.
For example, why are there some penalties in dollar values and not penalty units? Dollar values do not keep their value over time. For example, with the Health Insurance Act, you have in one section 19CC one penalty unit for an offence and a penalty against subsection 19D(2) of $100. There are some inconsistencies within the act. Some penalties are less than one penalty unit.

In the area of strict liability, another question that has been raised is why ‘failing’ or ‘refusing’ are included in strict liability offences. ‘Refusing’ implies that there is some fault, which is not necessary to prove with a strict liability offence. When the legislation covering Prime Minister and Cabinet was debated, refusal was deleted as it was inconsistent with strict liability. That having been said, this is a technical bill that applies the Criminal Code to health and aged care legislation. It is hard to see what immediate implications there will be from this bill. It is more just harmonising the bill across all Commonwealth portfolios.

**Ms ELLIS (Canberra) (11.45 a.m.)—**I value the opportunity today to briefly contribute to this debate on the Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001, which, as we have heard from previous speakers, covers a very broad range of subjects within the health and aged care legislation and brings into conformity many aspects of that legislation. It is also fair to say that the subject of aged care generally is a big and growing concern among many in my community and among others elsewhere in Australia. Governments have a vital role to play in ensuring appropriate levels of care for older folk who require special care in a particular facility or within their own homes. No matter who is in government, the role of the Commonwealth government is integral to that service provision.

Canberra has a statistically smaller percentage of older folk than the national average, given the nature of the ACT and its history. Nevertheless, the numbers are increasing and, proportionally, the demands on services and the demands on systems are growing. It has been sad in recent times to see residents requiring what we now term psychogeriatric services, for want of a better term. People who have pretty severe dementia and Alzheimer’s disease reach a point where they need very special care. Unfortunately, at the moment in Canberra we do not have that facility. I am very anxious to see that we do something about that, given the level of stress and distress that is caused to the individual and to the families involved in situations like that.

I have heard—and I give credit to the ACT government in this instance—that a small number of beds may be opening very shortly which will begin to address the psychogeriatric problem in Canberra. If that is the case, as I am led to believe it might be, I welcome that initiative, especially given the enormous social and family problems that face some of these folk. However, it would be nice if we did not have to have a crisis before we had a result—and I do not think I am being unfair in saying that. I hope we can track it a bit better in the future. The same could be applied to the area of respite care. Everything I am saying probably impacts on every member of the House who shares my concerns on behalf of their communities.

Respite care is a very severe problem in many communities. We have a wonderful respite care facility in my electorate which performs a terrific service. That facility is so good that it is usually booked out 12 months or more in advance. That facility is booked out by families whose older folk are being cared for at home. The families are in a position of having to plan holidays or medical needs or whatever in advance. They can therefore appropriately lodge their needs for respite care, but if there is an urgent need for respite care—and that could be because of illness of the carer, a crisis for the person requiring the respite care, or another family emergency of some kind—it is really needed right there and then. I do not necessarily have the answer to this problem, but it is something that we need to consider very carefully.
When that sort of emergency occurs, it is more than distressing to the family to know that they cannot get assistance when they require it.

I would like to think that, no matter who is in government and no matter who is in charge of or debating the issues relating to aged care, we can somehow highlight—and I am taking the advantage of doing that here this morning—this very important social need within our communities. We should not have a pot luck sort of attitude to this that you happen to get the help if you are lucky. I know that the families that have come to me in my electorate in recent times have not felt lucky at all. They are not critical in a political sense; they are just critical of a system that does not seem able to respond to their need when they have it. We have actually had distressing photos on the front page of the local paper of old people being shipped interstate, to Goulburn and elsewhere, because they have not been able to receive the service they need here. I think that any one of us would not like to see that happening within any of our communities, and we probably all have at different times seen it happen. I just think we need to take the time to highlight that and to do what we can collectively to try and address it.

The other very brief point I want to make is in relation to people awaiting access to a permanent place, be it low level or high level, within aged facilities. Some of them are in hospitals. Some of them are at home. Many of those who are in hospitals may be fortunate enough to go on to rehab services and return to their homes but some of them may not. Some of them are actually sitting there awaiting the allocation of a place with their family waiting with them. While we have stresses within our hospital systems, I do not think it is helpful, on that level of the debate, to have those places occupied in this way. I think more importantly the care that that older person requires should not be serviced by sitting in a ward bed in a hospital when they really need that very careful, nurturing love and care that these facilities are able to provide for them. I think we need to have a very clear picture and a very honest look at where the pressures and the priorities are and attempt as much as we can collectively to address them in the best way that we can.

The last thing that I would want to do would be to play with this in some political fashion. That is not my intent. My intent is to try and have an honest discussion about where the requirements are, where those pressures are, where people in our communities need that sort of help and how we, as a federal parliament, can assist in that. I would doubt very much that anyone in the parliament would disagree with the sentiments that I am expressing here today.

In concluding my brief remarks, I would just say that the overwhelming majority of those people who are out there working in the aged care sector—and some of the ramifications of this bill will come across them in different ways—approach their work in an incredibly honest fashion. They dedicate themselves to the task at hand. They are in a sector that I believe professionally for them is undervalued in comparison to other nursing or care sectors. Yet when any one of us Australians is surveyed to give a view as to how we believe we ought to treat the older people in our communities we say we would not wish in any sense at all to have them in a sector which is serviced in an undervalued way.

I think that the other part of this debate is for us to somehow build into our systems a way of financially and socially gearing those services and the people within them to meet on an equal level the expectations that we all have in terms of the care of our older people. If we could gain nothing else but that within the federal parliamentary system I think we would be doing an extremely good service, let alone the other things I have talked about this morning which are far more monetarily geared than in the sense of the workers within the aged care sector to which I have to pay absolute due homage.

I am now in a position of personally experiencing this sector and I can say, without any equivocation whatsoever, that I have not met one person in this sector who is not dedicated to
Mr ALLAN MORRIS (Newcastle) (11.55 a.m.)—The Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001 is a very small bill, but it does contain some interesting aspects. It shifts the responsibility for false and misleading statements into the area of the Criminal Code and other parts of the law. What is interesting in this bill is that people applying to the government or the minister for funds can now be seen to be in breach of the code if they make false or misleading statements. On the other hand, if the minister makes remarks about the people applying which are false and misleading, the minister will be applauded by the government. There seem to be two sides to justice here.

The example I want to refer to is St Catherine’s of Siena at Waratah, which is a nursing home run by Catholic Care of the Aged. It is an excellent facility but has announced that it has been forced to close. The minister, in response to questioning from the Newcastle media, said that it was due to bad management, that it is all their fault. If you look at the organisation and its figures, the actual operating costs have come down in the last year but then, of course, so did the grant. The Commonwealth subsidy was reduced by $150,000 between last year and this year. The minister says that the government have actually given the nursing home more money when, in fact, they have given them less money.

The minister then says that the government gave this nursing home some money for extensions in 1997. The government might have paid the bill, but the money was not given by this minister. The money was given by the previous government back in 1995 from a capital grants program, which was wiped out in 1996. But because the commitment was made, the government was forced to pay it. The constant use of false and misleading information by this Minister for Aged Care is criminal. I would have thought it would be nice to have the code apply both ways. If St Catherine’s were to apply and put false information in their application, they would be charged with an offence, yet the minister publicly and constantly makes false and misleading statements about the organisation and its funding and gets applauded by her backbench.

People need to understand that back in 1996 this government did a series of things which it now wants to forget about. It cut huge amounts of money from a number of different programs. The government cut $500 million from the residential aged care program—half a billion dollars was chopped out of that program over the following four years. The government then starts quoting figures about how much it spent, but it is always after that time. The government does not want to make the link between the years.

The wiping out of the capital grants program for nursing homes has been an absolute disaster. The complete change in funding for nursing homes has been a disaster. We are seeing nursing homes now falling over and collapsing, not through bad management but because the government has totally changed the system to a model that does not work anymore; it is not a workable model. The $12 a day for capital replacement is non-viable; it does not work. The minister is blaming the victim. This is an incredible government for blaming the victim. If anything goes wrong, it is the victim’s fault; it is the fault of the person complaining or suffering. We hear that almost daily. We are hearing it now about the doctors as well. It is quite fascinating to hear the Minister for Health and Aged Care blaming the doctors for the medical
problems. For years we listened to him blaming us in government for the medical problems which doctors face; now he is blaming the victim.

The government cut half a billion dollars from the nursing home budget and then spent it. The government did not put the money away and save it; the government spent it. The $12 billion in tax cuts last year did not come from the GST; they came from health, aged care, and home and community care. In 1996, $18 million was cut from HACC. This program, which we desperately needed to expand, was actually reduced. They spent all the money from the dental care program and all the other programs that were cut in 1996. It is not as if we can find the money and then restore the program or as if the government can say, ‘We made a mistake,’ and then correct that. We cannot do that because the money has been spent. It was spent on tax cuts, half of which went to the top 20 per cent of income earners. The tax cuts were so biased towards the wealthy, yet it was the poor who were paying. Those who suffered from those cuts were predominantly people on low incomes, people with difficulties, people in nursing homes, people seeking health care, people seeking home and community care, and people seeking education. The cuts were targeted to one group and the benefits went to the other group. So the people who benefited were not the people who were hurt the most by the cuts. Then this government wants to boast about the money that is spent on aged care.

I understand the problems of the government backbench, and I do not doubt that privately many of them have the same anxieties and the same concerns that I have when watching this system now spiralling towards collapse. This is not because of the organisations. Catholic Care of the Aged and St Catherine’s in Newcastle are managed by Mr Ralph Watson. Ralph Watson has been an impeccable operator. He has worked in health care and aged care for 15 to 20 years. His record is unmatched as a decent, competent and capable citizen. He has now been accused of being incompetent and his nursing home has closed. That is an absolute slur on his reputation and on his ability. The poor man has said, ‘Come and look at my figures.’

The subsidy has gone down and there were changes to the assessment scale back in 1997. The government said that we have to take into account dementia and behavioural problems in nursing homes because it has now become a major problem. So, rather than creating a new category for those, they just took over the old category. St Catherine’s in particular suffered because suddenly behavioural problems became a key part of the assessment process to receive maximum funding. They could not take people with behavioural problems. Most of their people are bedridden but do not have behavioural problems. So they get less support than if they had behavioural problems.

The change to the classification scale in 1997 cost them $200,000 a year. Bang! Chop! The minister said, ‘You can afford to do it for $200,000 a year less.’ What a nonsense! We all understand that what has been happening with medicine has been wonderful and what has been happening with medical care has been great because people are living longer. This has meant that nursing homes have residents who are more dependent for longer periods. People are not dying as early as they used to in nursing homes. But there is a cost to this.

Nursing home costs are going up. The government says, ‘You do not need to have nurses anymore,’ so we now have nursing homes where for parts of the day they do not have any nurses. Why? Because the only way they can cope is by cutting down the staffing costs and by getting rid of professional staff. There is going to be a scandal one day. I do not doubt it will be very long until somebody dies when the person on duty was not a nurse and where the care they got was not adequate. There will be a major scandal. The government will say, ‘It’s all their own fault; they did that.’ Of course they did not do it.

The government is actually forcing deskilling in nursing homes. It is forcing them to lower their standards. Every day the minister boasts about its standards, but the same minister
changed the laws and the rules that required nursing homes to have nurses on duty 24 hours a day. That used to be a fundamental requirement of a nursing home. What is a nursing home without a nurse? I wonder what that is called. It is not a nursing home if there are no nurses there. Not to have professional staff on duty 24 hours a day is not just unreasonable, it is dangerous.

Then we have this bill talking about harmonising false and misleading statements—not by the minister but by everybody else—in the Criminal Code. I do not doubt that within the next few months we will see some more nursing homes fail. I have talked to some around the countryside. I once chaired a parliamentary inquiry into home and community care. I do have a lot of contacts in the field, and the feedback I am getting is that it is disastrous. These are not people lobbying or pleading a political issue; these are people asking what on earth they should do. They say, ‘Nobody is listening to us. The minister tells us it is our fault and we do not know where to turn.’

There is a problem now with corporate law—if they trade when they might be insolvent, it is dangerous. Charities cannot raise money anymore, because people are not giving in the same way. So we are seeing organisations relying on chook raffles to maintain their nursing homes, being forced to deskill their organisations by not having professional staff on duty because that is the only way they can save money, and being faced with the decision to keep going or close.

I guarantee that more nursing homes will announce their closure before the next election. I also guarantee that the minister will blame them. The government will blame everybody else and say, ‘We’ve got a wonderful system. We all think that. It’s just tough if no-one else agrees with it.’ The arrogance of that position is unbelievable. The government and the minister changed the system. They did not consult the industry. They did not ask people what the best thing was. They did not have an inquiry and work out a better model. Those changes came out of thin air. Someone in the Department of Finance and Administration said, ‘You can save a bucket of money here. Here is half a billion dollars, Treasurer; chop half a billion dollars out of nursing homes—they are all overprovided for.’ And they did. In 1996, Finance had a field day. The government fell for it like you would not believe and the backbench went along with it.

Those chickens are coming home to roost. The cuts made by Finance officers who did not know what they were talking about, who did not know the industry, who did not know the organisations, are now coming back to haunt them. It has been five years and the wind-down has been continual. Every year it has gotten worse and worse. Before the year is out, before the election comes, nursing homes will be announcing that they can no longer survive. I am appealing to the government backbench, because I know that in every government member’s electorate there are nursing homes in difficulty. At least one nursing home in each electorate is facing real problems. We either take the minister’s point of view and blame the nursing homes or we try and find an answer. We need an answer. We need to solve the problem, not blame the victim.

The tragedy was that those Finance cuts were savage. The dental care program, the HACC program, the aged care residential program and the state health programs were all cut. You may think it was for the good of the country, but it was not. All those programs and a bit more went when the tax cuts were introduced last year to pay for the GST. The GST did not pay for those tax cuts; they were paid for by the poor people in this country who need services. The suffering that those people have gone through and are still going through will stay until such time as someone recognises what the real issue is.
This is one of the last chances I will have in this place to speak about aged care and nursing homes. I am sorry that I am coming to this particular debate so angry, but I am at my wit’s end. I know of six or seven people in a nursing home which they love—in many cases that nursing home has been their home for many years—who are being forced to leave. There is nowhere for them to go. Their families are distraught. They are distraught. I have not got an answer. The minister says that it is their own fault. I say, ‘Minister, it is not their fault. They did not change the rules.’ The minister changed the rules. The minister changed the funding. Unless somebody in the government faces up to the problem, we are going to have people all over this country in the same boat as the people at St Catherine’s. I implore the government backbenchers to make this minister face reality, because eventually she is going to have to.

Mr NEVILLE (Hinkler) (12.08 p.m.)—I did not intend to speak today; I am not listed to speak. However, as you allowed the previous speaker to range very widely outside the terms of reference of the Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001, which is about the Criminal Code, and to use the opportunity to denigrate the government and its health and aged care programs, I will take the opportunity to speak. I will just make a few comments. This government has spent more on aged care than any other Australian government. The previous speaker talked about St Catherine’s, capital costs and so on. When this government came to power it found that the Labor Party had reduced capital spending on nursing homes by 75 per cent over the previous four years. Why would the member for Newcastle come in here today, talk about St Catherine’s and cry crocodile tears?

He also talked about health care and dental care. Dental care is very interesting. Mr Horne interjecting—

Mr NEVILLE—The honourable member opposite would know very well, because he was here at the time, that for 96 years of Australia’s 100 years, dental health has been the responsibility of the states. The Keating government—and it was quite clear on this—introduced a four-year catch up program for the states. It was cobbled together in the dying stages—I may stand corrected—of 1992 in the lead-up to the 1993 election. It was made very clear to the states what it was for. It was to be a catch-up program.

When we came to office that program had not been completed, and we completed it. It is hypocrisy to say that we terminated dental care, because in your own forward estimates you had made no provision to continue it for another four years. And you perpetuate this untruth in every forum by saying that this dreadful coalition government cut out dental health. That is untrue, and it was never your intention when in government to continue it for any more than four years.

When it comes to nursing homes, I make a big thing about nursing homes. I visit them regularly and I am familiar with the improvements to nursing homes. It is interesting that, if it is so difficult to run nursing homes and they cannot be made to meet their costs, how is it that when there is a new allocation of beds in both regions covered by my electorate there are any number of existing and new bidders who want to take up those 20 or 40 places or whatever the number might be? In fact, there is quite intense competition for them. So I just find that view about difficulties a little bit hard to take.

Nor did we do anything unjust when we altered the scales from seven to eight. All it did was distribute the load over eight categories instead of over seven. So obviously some would come down a bit and some would go up a bit, depending on where you slotted in. We introduced the system of the ACAP team assessing people to make sure they fitted into the right categories. I do not have the figures here at my fingertips, but for a level 1 patient, the government’s contribution is over $30,000 a year, and levels 2, 3 and 4 are also quite generous.
Nursing homes that are well run not only operate well but some of the commercial ones make a profit.

I know that a number of nursing homes in Australia—I am not familiar with the full circumstances of St Catherine’s—and some of them are big old two-storey buildings, have had a lot of difficulty in converting to units that can be modernised and made to work effectively for old people. That is part of the problem. It is not so much the amount of funding from the government but rather that some nursing homes have difficulty with their capital costs.

The previous government did leave nursing home care in a parlous state. When we came to office we found also that the previous government left us 10,000 places short on their own benchmarks. They went out of office 10,000 nursing home places short of what they benchmarked for themselves. That is a huge catch-up for any government to make in five years, but we have made a real effort to do it.

The member for Newcastle complained about the difficulty in getting nurses. That is interesting. I am a Queenslander and I take a lot of interest, as I said, in nursing home care. For many years the Keating and Hawke governments perpetuated a program that saw nursing homes receive less funding in Queensland, and to a lesser extent in South Australia, than the other states—appallingly so. I did some rough figures one day and I saw that there would be a difference of up to half a million dollars a year for some nursing homes because the daily rates were paid differently for each state, and Queensland in particular—and to a lesser extent South Australia—received less. So we introduced a system of coalescence where over seven years, without reducing the level of funding to states like Victoria, New South Wales and Tasmania, the other states were brought up—and I might again stand corrected, I am not speaking from notes—but we are about four years into that seven-year process which will deliver greater equity to those states. Of course, in delivering equity you allow the homes a better opportunity to be able to fund the nursing component of the care of aged people.

Regions need to have strategic plans for aged care in place. I have two ACCs in my electorate. The Central Queensland ACC, in the northern part of my electorate, in looking at employment generally, very generously funded a scheme to look at aged care needs in the northern part of my electorate. The scheme cost over $50,000 but it gave us great data that resulted in Gladstone getting 40 nursing home beds within 12 months.

Mr Horne—Nursing home or hostel?

Mr NEVILLE—Nursing home—40 high care beds. I then approached the Wide Bay ACC, which is in the southern end of my electorate, and we are now going to have a $120,000 program, covering parts of the Wide Bay and Hinkler electorates, to enable us to strategically place high care and low care beds.

The member for Newcastle had a few free hits at the government, most of them quite unjustified. It is true that we cut back in a number of departments in the year we came to office. There is no secret about that. You all know the reason: when we came to office we found a $10.3 billion black hole—that fact has never been contested—which had to be addressed by all departments. Had we continued, year after year, to do what the member for Newcastle said, he would have some grounds for criticism. But from the 1995-96 financial year through to the 2001-02 financial year, our funding of residential aged care increased from $2.5 billion to $4.2 billion. That far exceeds any increase by any Labor government. You might argue that needs have increased—but that increase is well ahead of inflation and well ahead of the ageing of the population.

We had to bring in tougher rules for nursing homes because, as I said, when we came to power 13 per cent of nursing homes did not meet relevant fire standards, 11 per cent did not
meet health authority standards and 70 per cent did not meet outcomes standards. In 51 per cent of nursing homes people were in wards of three or more beds. That was not quality of care, and that was the other thing we had to address. We set up new standards, as you know. At the last count I saw, 137 nursing homes have been closed or relocated. That shows a fair amount of commitment. Those homes are subject to spot checking. There has been a difficult situation with a home in my electorate, and I know just how well the department supervises these things. Yet when Labor was in power only one, I think, was ever closed.

A lot of the problems that we are encountering are because there were no standards in place. It is like maintenance of property: if you do not keep your maintenance standards up over a period of time on anything—whether it is a public building or facility or a theatre—there comes a point when you have a huge bill and have to scrap everything and totally renovate. In nursing homes that maintenance was not happening because they were totally and utterly neglected during the term of the previous government. I found the presentation of the member for Newcastle to be a little bit self-serving. I understand his concern about St Catherine’s. As I said, I am not fully aware of the circumstances, but I suspect that it is one of those older homes that need major renovation from the ground up or perhaps it needs relocation.

It is also interesting to know that, in the two years to June 2000, $1.4 billion throughout Australia was committed by the industry to capital works. In other words, there has been a commitment—because of the new standards we set—to building better and more acceptable aged care facilities. Twelve per cent of all aged care homes in Australia have been either newly built or rebuilt. Considering that we had a year to do the assessment, a year to find out that the previous government had fallen 10,000 places short of its own targets, we have virtually had only about 4½ years to get where we are now. I think we have done a pretty good job.

Mr Horne—You don’t want another 4½?

Mr NEVILLE—I think if we were given another three-year term you would find that many of these things would really zing along. I apologise for intruding into the debate, but I found that the member for Newcastle misused this debate and I felt that some of the matters that he raised were worthy of rebuttal.

Mr HORNE (Paterson) (12.21 p.m.)—I must admit that I was going to restrict myself to the specifics of the debate on the Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001, but having listened to the member for Hinkler I think I have a certain licence to range wide and far. I would like to point out that, with the closure of St Catherine of Siena and St Joseph’s at Lochinvar, two of the Catholic Care of the Aged facilities in the Hunter region, we lose 88 high care beds. Last year the Hunter region was allocated a total of two high care beds.

Mr Neville—They’re transferable, though.

Mr HORNE—That is the thing that has to be determined. All we know is that, at this stage, 88 have the potential to disappear and we had only two allocated last year for the whole of the Hunter region. So, as they close, even if they are transferable, it will require the building of a facility to house the beds to accommodate the people.

I may be a cynic, but when a debate on health and aged care is relegated to the Main Committee I wonder what the government has to hide, and where its priorities are. For the Labor Party, health and aged care are right on top. We are a party with a proud tradition of extending health services to all Australians, first through Medibank and then through Medicare. We were the party, when in government, that introduced quality, affordable aged care.
Just to refer to comments made by the member for Hinkler, all I can do is talk about experiences in my own electorate. When I think of my first term as member for Paterson, between 1993 and 1996 I certainly remember Mount Carmel nursing home being opened in Maitland, the Tanilba Bay facility—a 40-bed hostel—being opened and the expansion of Harbourside Haven. These were all brand-new facilities. I remember the Dungog nursing home being opened; it was 20 beds nursing home and 20 beds hostel. I must be quite specific there. These are the sorts of things that I remember in a three-year period. In the five years since we lost government, I am not aware of a single facility opening.

Madam DEPUTY SPEAKER (Mrs De-Anne Kelly)—Order! I feel I must correct something the member for Paterson has said. I apologise for interrupting your address. Earlier you said that it was a decision for the government to refer bills to the Main Committee. It is a consultation between the opposition and government, and always a matter for both. My apologies for the interruption, but I felt it was important to clarify the point.

Mr HORNE—Thank you, Madam Deputy Speaker. Despite the posturing by the Prime Minister and Ministers Wooldridge and Bishop, no-one can deny the disastrous state of affairs in health services in Australia today. I do not mind what sector of the health service the government wants to refer to, it is in crisis.

Let us start with public hospitals. Despite the Prime Minister’s rhetoric in question time this week, waiting lists have blown out. Services have diminished and nurses have fled a system where their labour has been exploited. They have been used to prop up a failing system that is struggling for funds. The Prime Minister may be correct in saying that more money is being devoted to health, but what he conveniently omits is that the cost of services in the health industry has escalated at a greater rate than the increase in funding. In other words, services have contracted.

In areas I represent, whole communities—and some of them are quite large, being in excess of 10,000 people—do not have access to publicly funded hospital beds, which is something that we on this side of the House would consider a basic right of all Australians. That access is denied to tens of thousands of residents in the Paterson electorate. What magnifies the problem for my constituents is that many of them are retirees with the relatively greater need for access to health services, yet these are the very sorts of communities that are denied even basic services. I talk about communities such as Tomaree, which includes a whole host of smaller communities like Nelson Bay, Shoal Bay, Salamander Bay, Fingal Bay, Corlette, Anna Bay, in excess of 20,000 people. There is no public hospital. There is a clinic where you can be stabilised and prepared for transfer to Newcastle 30-odd kilometres away. I talk about communities like Foster and Tuncurry with another 14,000 people. They have a private hospital but no public beds. Those people have to go to Manning Base Hospital 25 kilometres away and with very limited transport connections. The irony is that because of its growth the Foster-Tuncurry area will be bigger than Taree in less than a decade. Yet it is the Howard government that is hell-bent on expanding the private health sector at the expense of the public sector.

We have already mentioned aged care. The member for Newcastle elaborated over a crisis that is eventuating in the Hunter region over high care beds. Again, let us talk about a convenience that this government uses of confusing the issue between high care and low care beds. High care beds, obviously, are at an enormous shortage in our area. I refer to one of my constituents whose case I highlighted in the media only a few weeks ago. Mr Carmody, a multiple stroke victim, waited in the Mater Hospital for 20 weeks. We heard the minister in question time yesterday talk about stabilising people and trying to get people to see whether they could go back home. This man waited 20 weeks in a hospital bed and we wonder why...
there are waiting lists in public hospitals. One of the reasons is that thousands of people are waiting for access to aged care facilities and they are taking up bed spaces in hospitals.

We also know of bed licences that were allocated two years ago but have not been put in place at this stage. I just wonder where these bed licences count. Do they count as bed places? They are not there yet; they were allocated but they have not been built. This is in areas that are growing rapidly. It is a retirement area; the demand is greater. That was certainly shown in the report that was sent to members that was recalled. I used the information to show that the demand in Paterson for aged care was far greater than the average yet the provision of facilities was far less.

Let us move on to bulk-billing. Again, I have communities that cannot access a medical practice that bulk-bills. For pensioners this is tragic. If they have to go to a medical practice that does not bulk-bill it means they are confronted with an upfront charge and they then have to apply for a Medicare rebate. But they live in communities where there is no Medicare office. Communities like Tomaree and Foster and Tuncurry do not have Medicare offices. Of course, people can go to the easy care claim, or whatever you call it, at the local pharmacy where they have to wait for up to 20 working days to get a rebate of their upfront cost from Medicare. To a pensioner, that is money out of their pocket for the 20 days that they have to wait. We need a far better system. The immediate rebate of upfront costs has to be a priority, particularly for pensioners.

Concerning doctors: I have communities like Medowie which has 8,000 people and one and one-third general practitioners. It is a rapidly growing community with lots of young families. Why can that community not get doctors? Again, we could go to the RRMA classification because next door to Medowie are two very similar communities—Tanilba Bay and Lemon Tree Passage—with similar numbers of people. The point is that Lemon Tree Passage and Tanilba Bay are classified as rural and they have four medical practices, two of them with two practitioners. So we can see that communities that are very similar but have different classifications are certainly treated very differently.

Hawks Nest and Tea Gardens are fairly well known because the Prime Minister used to go there for his holidays. I hope he did not get sick when he got there, because the only general practitioner in Hawks Nest is a formerly retired doctor. He retired to Hawks Nest and decided, when he got there, that the need was so great that he would take up practice again. Actually, we had two of them, but a month ago Dr Everett decided that he would call it a day. We have a community like Karuah, situated right on the Pacific Highway, with one part-time doctor who is not very well and practises only part time. There is a pharmacy in Karuah associated with that practice. If that doctor simply withdraws his services, that community will also lose its pharmacy because anyone who has to go into Raymond Terrace or beyond to access medical services will obviously get their prescription made up there. So the whole health service in that community is under threat.

Look at a town like Bulahdelah. Bulahdelah has a hospital, a 60-bed nursing home and one doctor. Before Christmas last year, that doctor had a major heart attack and had to have a stent put into his aorta. He now works for only half a day each day. Yet this town is situated right on the very busiest section of the Pacific Highway. Bulahdelah is fairly well known for quite horrific and fatal accidents and the demands for a doctor are great. Yet there is only one doctor—that is quite tragic.

If the Howard government wants to rest on its laurels over the way it treats health, so be it. If the Prime Minister wants to jump up at question time and posture about expenditure on health and aged care, obviously that is his prerogative. I represent a regional and rural electorate. People out there know the truth: they are being denied access to the sorts of health serv-
ices that they used to have, and they want to know why. As we approach the election, I am sure they will be asking: why have health services, in whatever category, been reduced, restricted and cut back? We all know they certainly have been.

Mrs BRONWYN BISHOP (Mackellar—Minister for Aged Care) (12.34 p.m.)—I had intended to say a few words of thanks to the people who contributed to the work on the Criminal Code and the harmonisation of offence creating and related provisions in health and aged care, but, in light of the speech I have just heard, I will preface those thanks with a few other remarks. I understand that the member for Newcastle, as well as the member for Paterson, made some remarks concerning St Catherine’s of Siena, which is in the Hunter region, and St Joseph’s at Lochinvar.

St Catherine’s of Sienna is one of 10 homes which are managed by Catholic Care of the Aged in the Hunter region. They have received for the management of those homes some 82 per cent increase in funding as a group since this government came to office. The expenditure in 1995-96 was something in the vicinity of $4 million and the income that those homes only have received in this last financial year was in excess of $7 million.

I make this point because there has been a business decision by Catholic Care of the Aged, which manage those homes on behalf of the Roman Catholic Diocese of Maitland and Newcastle, to close St Catherine’s. It is housed in an old heritage building, which has three floors. They have made a business decision that they wish to close that facility. It has 67 beds and they will not be lost to the region. They will stay in the Hunter region and I understand that Catholic Care of the Aged, although they have not made a final decision, will probably want to redistribute those beds around the other homes that they already operate.

With regard to St Joseph’s at Lochinvar, this is a home owned by the Sisters of St Joseph and they have also had Catholic Care of the Aged manage that home for them at Lochinvar. They are intending to move those new beds to Swansea, still within the region, where they believe they will have a better operational group once those beds are transferred there. They will also be able to bring on in a quite speedy manner 10 new beds that were allocated to them fairly recently. That is a good outcome for that. They will also be able to bring on in a quite speedy manner 10 new beds that were allocated to them fairly recently. They are also in discussions about changing the group that manages their home for them from Catholic Care of the Aged to another group. I understand that has not been finalised, only discussions are occurring.

In the Hunter region, between 1 November 1998 and 31 December 2001, 461 new beds will become fully operational. It will include five brand new aged care homes and seven which have had large and considerable extensions. They are five new homes, seven extended homes and 461 brand new operational beds, which will come into effect in the Hunter region. Among those will be a very significant facility called the Warabrook Centre for Aged Care, which is operated by Baptist Community Services. This is the first teaching aged care home in the country. It is about absolute excellence in every way. I add that Baptist Community Services were the winners of my award for excellence in development of staff for the delivery of aged care services.

In replying to those remarks of the member for Paterson, allocation of places is made in accordance with aged care planning regions, not electorates or postcodes or any other definition. They are done in accordance with aged care planning regions of which the Hunter region covers, as its name would suggest, the Hunter. He also mentioned the need for high care and I would say that, in those lists of places—and they are all beds in homes that are being opened—a number of them are high care places.

In addition to that, we also have now Ageing in Place and that means that as people move from low care to having high care needs—that we used to call nursing home need—those people can remain in that place so long as the management brings in the right staff mix, in-
including registered nurses as required under the act to ensure that proper care is given. I think Mr Morris said there were no requirements to have nurses in nursing homes. First, they are all called aged care homes now because we have united hostels and nursing homes and 85 per cent of all our homes have a mixture of high and low care. Second, the act specifies when registered nurses must be present and so his statement is quite wrong.

It was also mentioned that the John Hunter Hospital had people who were waiting in hospital beds simply to be moved out into aged care beds. I would point out the very important fact that older Australians have the right to go to hospital just as much as anybody else. Because older people will often have a multiple number of co-morbidities and will have complex needs, their need to remain in hospital will very often be much longer than the 5.6 days that state hospitals like to keep people over the age of 70, or 3.6 days if you are under the age of 70.

It may well be that the gentleman whom the member for Paterson cited as being in hospital for 20 weeks required to be there. He may have needed rehabilitation or he may have needed a whole range of services which are actually provided for in the health agreements with the states. Those health agreements provide money from the Commonwealth—the $6 billion that we provide, which is 43 per cent of all their funding. They are obliged to provide proper rehabilitation and discharge policies, and yet if you look at the statistics, as published by the Australian Institute of Health and Welfare, you will see that it is only a minute percentage of patients who are receiving that required rehabilitation treatment. That is why I have put on the table my proposal for having some transitional arrangements for people going from hospital to home or to their correct level of care if it is in a residential setting, but the states must pay for the rehabilitation treatment that they are entitled to have.

I might say in the Hunter, at the John Hunter Hospital, we indeed have in situ in that hospital a transitional unit where people who are chosen as suitable are given rehabilitation to get them to go home, or at least to a level of care that would be less than they otherwise would have been seeking, and that again is conducted by Baptist Community Services. It is a pilot program and is already up and working, but there is a most worrying attitude from hospitals to older people: they just want to get them out. They will mark their files ‘acopia’, cannot cope at home.

I said yesterday there were 2,056 people who were identified across all Australian hospitals, and I might say that all public hospitals right across Australia have been reducing the number of beds they have. Indeed, in the last 12 months right across Australia, state and territory governments have reduced the number of beds in public hospitals by a further thousand. So we have gone from something like 77,000 beds in the mid-1980s or, say, 1987 across Australia in public hospitals down to 52,000. They have been closing them at the most disgraceful rate, and I am appalled to say that last year New South Wales underspent its health budget. Can you believe that? It underspent its health budget.

Quite clearly, there is a need to be looking at, from my point of view, whether older Australians are getting correct treatment and the respect and proper attention that they deserve. I have established a committee, headed by Dr Michael Murray from St Vincent’s in Melbourne, of consumers, including, for instance, the president of the Council on the Ageing, which is looking at this question and at the horrendous stories of the way that older people are treated in hospital and thrown out of hospital. They have pressure put upon them. They are discharged in the middle of the night, with no underwear on, just one of those dreadful nighties tied up at the neck, without proper contact with GPs, families, carers or anything. There are horrendous stories and they have got to stop. We fund these hospitals to carry out proper dis-
charge policies and it is not being done. So we have to have the data. We have to look at these things so that something can be done about it.

Looking at the question of aged care means looking at so many aspects of the way in which older people are cared for. I said that whereas in public hospitals state governments have been shutting hospital beds at a rate of 23 per cent over the last dozen years, in the same period in aged care we have opened an additional 24 per cent of beds. The statistics are these: we have 3,000 aged care homes in Australia; we have 143,000 beds in those homes, in which we have a 96 per cent average occupancy.

On the other hand, there are now only 748 public hospitals in Australia, with 52,000 beds. The really interesting statistic is that in the last 12 months the number of patients treated in public hospitals—there were 3.8 million episodes—increased by only 0.3 per cent. In other words, in a year they only took another 12,000 patients, whereas private hospitals, because of our reforms to private health insurance, had an eight per cent increase, treating an additional 150,000 patients. I think that says something about whether or not the states are meeting their obligations.

I would like to sum up debate on the bill, on behalf of Dr Wooldridge, and say that the Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001 advances the government’s program to harmonise offence creating and related provisions in Commonwealth legislation with the Criminal Code. The Criminal Code will codify the most serious offences against Commonwealth law and establish a cohesive set of general principles of criminal responsibility. This harmonisation of offence creating and related offences in health and aged care legislation with the Criminal Code is an important step in the government’s program of legislative reform that will achieve greater consistency with Commonwealth criminal law. I thank the honourable members for their contribution to this debate and their support for this bill. I commend the bill.

Question resolved in the affirmative.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 2) 2001

Cognate bill:

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 3) 2001

Second Reading

Debate resumed from 5 April, on motion by Mr Hockey:

That the bill be now read a second time.

The No. 3 Bill amends the Corporations Act, the Insurance Contracts Act and the Commonwealth Places (Mirror Taxes) Act to reflect the application of the Criminal Code to existing offence provisions in those acts. It also amends the Treasury Legislation (Application of Criminal Code) Act (No. 1) 2001 to remove a non Criminal Code definition of recklessness that was inserted into the Insurance Act, the Life Insurance Act, the Retirement Savings Accounts Act and the Superannuation Industry Supervision Act by that act. The Financial Sector Shareholdings Act is also amended to remove a non Criminal Code definition of recklessness. These bills do not seek to change the current law but rather seek to ensure that the current law is maintained following application of the Criminal Code to the legislation. If offences in the legislation are not harmonised with the Criminal Code by 15 December the Criminal Code will operate to apply default mental elements to all physical elements of an offence that do not otherwise contain a mental element.

We have not had any submissions concerning either of these bills. We assume that they are not controversial. They are essentially technical amendments in nature. They arise from the requirement to recognise the application of the code, specify whether an offence is one of absolute liability, that is to say an offence for which intent does not need to be proved, or strict liability, that is to say an offence for which intent does not need to be proved but a defence of an honest and reasonable mistake of fact will be available. The amendments also clarify the physical elements of the offences and the corresponding fault elements, especially where those fault elements vary from those specified by the Criminal Code. The amendments also separate defences from offences and identify the evidential burden in relation to a defence, replace references to provisions in the Crimes Act 1914 with references to corresponding provisions in the code and convert penalties in dollar amounts into penalty units. Under the Criminal Code, all strict or absolute liability offences must be specifically identified as such. Without specific amendments, all offences that currently apply a strict liability or absolute liability will attract the default mental elements in the Criminal Code and would cease to apply strictly or absolutely.

In relation to the Corporations Law, which is amended by the No. 3 bill, Treasury has advised us that, in general, offences attracting a penalty of less than six months imprisonment or 25 penalty units and offences of omission attracting a penalty of less than 12 months imprisonment or 50 penalty units have been made strict liability offences. Accordingly, the types of provisions which attract strict liability include the lodgment of certain documents with ASIC, the obtaining of consents to act as a director or landlord, consents if a leased premise is the registered company office, complying with directions from ASIC, the maintenance of company registers and financial records, the giving of certain notices to shareholders and allowing a reasonable opportunity for questions at an annual general meeting. The types of provisions which attract absolute liability include where it is necessary merely to prove that a fact occurred—for example, that a company incurred a debt. According to the explanatory memorandum, these bills have no financial implications and the opposition supports them.

Ms JULIE BISHOP (Curtin) (12.52 p.m.)—At first glance, the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001 and the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001 might not excite the attention of the followers of parliamentary debates. In fact, it is going to be hard not to make this sound like a tutorial in Criminal Law 1. There is a very serious purpose and intent behind the bills, and I am aware that the amendments to the legislation to which these bills refer will be poured over by criminal law practitioners, both defence and prosecution, and others within the criminal law system of justice. There are some fundamental changes contained in the bills as part of a revision of criminal offences in legislation administered by the Treasurer. In the case of Treasury legislation amendment bill No. 2, it relates essentially to a range of taxation legisla-
tion, and in the case of Treasury legislation amendment bill No. 3, it relates to legislation also administered by the Treasury portfolio, specifically the Corporations Act and others. These amendments are being revised in the light of the principles of criminal responsibility contained in chapter 2 of the Criminal Code Act 1995.

When I was at law school back in the 1970s, criminal law was a first-year subject. If you could come to terms with the principles of criminal responsibility, then you could come to terms with just about any legal concept. At common law, there was the traditional division of criminal offences, the elements: actus rea, meaning guilty act and mens rea, meaning guilty mind. We learned that the physical elements of the offence were matters such as conduct, the circumstances in which the conduct occurred or the results of that conduct. We learned that the fault elements related to a person’s state of mind, intention, knowledge, recklessness and negligence. Every law student learned that for each physical element of a criminal offence, the prosecution had to prove beyond reasonable doubt that the defendant had the requisite fault element.

The issue of criminal responsibility as it related to Commonwealth criminal offences came under scrutiny in the 1980s when the Gibbs committee was established to review the Commonwealth criminal law generally. Its terms of reference included the need for provisions relating to criminal responsibility to be contained in a future act consolidating the criminal laws of the Commonwealth. When the committee reported in 1990—it was an interim report—it observed that the methods then used to adopt principles of criminal responsibility for Commonwealth offences had led to obscurity and inconsistency. I think this was caused in the main by the fact that, in relation to offences under the Commonwealth Crimes Act 1914, the common law principles of criminal responsibility applied but, as we are aware, the greater number of Commonwealth criminal offences were contained in other statutes.

We had the scenario relating to these other offences that a court, exercising federal jurisdiction under a Commonwealth criminal law other than the Crimes Act, determined issues of criminal responsibility according to the law of that particular state or territory. A court in a common law jurisdiction, Western Australia or New South Wales, would apply common law principles and in Queensland, a code state, the code principles would be applied. So there was an anomalous situation relating to Commonwealth offences so that, if they were brought under the Crimes Act, the common law applied and, if they were offences contained in other statutes, it depended upon the particular state court in which the offence was to be prosecuted.

Ultimately, the Gibbs committee recommended that there be a Commonwealth law enacted to codify all relevant principles of criminal responsibility, and it was said at that time, in 1990, that this was needed to achieve uniformity of principles throughout Australia in Commonwealth criminal trials and to give certainty and clarity to the principles. This led to the development of the uniform Criminal Code. In the development of the Model Criminal Code, one of the fundamental chapters was chapter 2 on the principles of criminal responsibility. This now forms a substantive part of the Criminal Code Act 1995. In essence, chapter 2 sets out the fundamentals for Commonwealth criminal law. Generally, it adopted a common law approach to criminal responsibility based on subjective fault elements.

We have had a staged process of implementation, but all the while it has been intended to avoid a situation where there might be just three sets of principles in existence during the implementation or transitional stage. You have got the code principles, the Crimes Act based on common law and then the application of different state and territory law in relation to offences other than those under the Crimes Act. Since 1995, the Commonwealth has been examining all the offences in all of the statute books to ensure that there is harmony with chapter 2 so that the principles of criminal responsibility are revised and simplified for Commonwealth

REPRESENTATIVES MAIN COMMITTEE
criminal law purposes. Chapter 2 applies to all offences against the Criminal Code. From 1997, it applied to all new Commonwealth offences, and from December this year it will apply to pre-existing Commonwealth offences.

Turning to the bill, I will take an example of how chapter 2 is going to apply to give an indication of the sort of technical application we are talking about. The Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001 seeks to amend the Superannuation (Resolution of Complaints) Act 1993. Under a subsection of that act, it is an offence for a superannuation provider to intentionally refuse or fail to provide documents to the Superannuation Complaints Tribunal that are considered by the tribunal to be relevant to the offence. This bill—and this is just an example—will remove the word ‘intentionally’, because the Criminal Code specifies that the default element in respect of prescribed conduct is intention and, therefore, you do not need the word ‘intentionally’ in the legislation for that offence. Mr Deputy Speaker, I could go through the various pieces of legislation, but you will get the picture.

Ms JULIE BISHOP—You do get the picture. These amendments are of enormous significance to criminal lawyers and practitioners in the criminal law system, where the elements of an offence and the defences available under the Criminal Code are examined in the greatest detail—much akin to using a surgeon’s scalpel. In closing, as this group of bills amends legislation administered by the Treasury portfolio as part of the attempt to harmonise criminal offences within these statutes with the general principles of criminal responsibilities set out in chapter 2 of the Commonwealth code—thus leading to greater certainty, clarity and precision in the application of Commonwealth criminal laws—I commend these bills to the chamber.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (12.59 p.m.)—in reply—I thank the member for Curtin for her erudite and persuasive treatise on the important legislation before the chamber. I know that time is limited, so I will sum up by saying that the government’s amendments to the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001 make minor technical corrections to the amendments to sections 8N and 8Q of the Taxation Administration Act to resolve ambiguities that developed out of the drafting process. The amendments moved by the government to the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001 make a technical amendment to the penalties for contravention of the consumer protection provisions in the Trade Practices Act. The amendments do not change the status of the offences but simply ensure that penalties that currently apply will continue to apply following the application of the Criminal Code.

These bills do not change the criminal law. Rather, they ensure that the current law is maintained following the application of the Criminal Code to Commonwealth legislation. I commend the bill to the Main Committee and will be moving some amendments when we go into committee.

Question resolved in the affirmative.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (1.01 p.m.)—I present a supplementary explanatory memorandum to the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001. I seek leave to move government amendments (1) to (3) together.
Leave granted.

Mr HOCKEY—I move:

(1) Schedule 3, item 49, page 19 (lines 23 to 26), omit paragraph (b), substitute:

(b) the statement:
   (i) is false or misleading in a material particular; or
   (ii) omits any matter or thing without which the statement is misleading in a material particular; and

(c) the person is reckless as to whether the statement:
   (i) is false or misleading in a material particular; or
   (ii) omits any matter or thing without which the statement is misleading in a material particular.

(2) Schedule 3, item 51, page 20 (after line 7), after paragraph (1)(b), insert:

   (ba) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate; and

(3) Schedule 3, item 51, page 20 (after line 15), after paragraph (2)(b), insert:

   (ba) the record does not correctly record the matter, transaction, act or operation; and

Question resolved in the affirmative.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 3) 2001

Second Reading

Debate resumed from 28 June, on motion by Mr Hockey:

That the bill be now read a second time.

Question resolved in the affirmative.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr HOCKEY (North Sydney—Minister for Financial Services and Regulation) (1.02 p.m.)—I present a supplementary explanatory memorandum to the bill. Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001. I seek leave to move government amendments (1) and (2) together.

Leave granted.

Mr HOCKEY—I move:

(1) Clause 2, page 2 (line 6), omit “is”, substitute “and Part 4 of Schedule 3 are”.

(2) Schedule 3, page 61 (after line 7), at the end of the Schedule, add:

Part 4—Trade Practices Act 1974

16 Subsection 6(6)

Omit “400”, substitute “2,000”.

17 Subsection 75AZC(1) (penalty)

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
18 Subsection 75AZD(1) (penalty)

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

19 Subsection 75AZD(2)

Omit "2,000", substitute "10,000".

20 At the end of subsection 75AZD(2)

Add:

Note 1: The penalty specified in subsection (2) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (2) to a person other than a corporation (and the corresponding penalty), see section 6.

21 Subsection 75AZD(3)

Omit "2,000", substitute "10,000".

22 At the end of subsection 75AZD(3)

Add:

Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (3) to a person other than a corporation (and the corresponding penalty), see section 6.

23 Subsection 75AZE(1) (penalty)

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

24 Subsection 75AZF(1) (penalty)

Repeal the penalty, substitute:

Penalty: 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

25 Subsection 75AZG(1)

Omit "2,000", substitute "10,000".

26 At the end of subsection 75AZG(1)

Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

**27 Subsection 75AZH(1) (penalty)**

Repeal the penalty, substitute:

**Penalty:** 2,000 penalty units.

Note: If a corporation is convicted of an offence under this subsection, subsection 4B(3) of the Crimes Act 1914 allows the Court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the Court on an individual convicted of the offence.

**28 Subsection 75AZI(1) (penalty)**

Repeal the penalty, substitute:

**Penalty:** 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

**29 Subsection 75AZJ(1) (penalty)**

Repeal the penalty, substitute:

**Penalty:** 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

**30 Subsection 75AZJ(2) (penalty)**

Repeal the penalty, substitute:

**Penalty:** 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

**31 Subsection 75AZK(1) (penalty)**

Repeal the penalty, substitute:

**Penalty:** 10,000 penalty units.

Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

**32 Subsection 75AZL(1)**

Omit “2,000”, substitute “10,000”.

**33 At the end of subsection 75AZL(1)**

Add:

Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (1) to a person other than a corpora-
tion (and the corresponding penalty), see section 6.

34 Subsection 75AZL(3)
Omit “2,000”, substitute “10,000”.

35 At the end of subsection 75AZL(3)
Add:
Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed 
on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply. 
Note 2: For the application of the offence in subsection (3) to a person other than a corpora-
tion (and the corresponding penalty), see section 6.

36 Subsection 75AZM(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corpo-
ratio: subsection 4B(3) of the Crimes Act 1914 does not apply. 
Note 2: For the application of this offence to a person other than a corporation (and the corre-
sponding penalty), see section 6.

37 Subsection 75AZM(2) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corpo-
ratio: subsection 4B(3) of the Crimes Act 1914 does not apply. 
Note 2: For the application of this offence to a person other than a corporation (and the corre-
sponding penalty), see section 6.

38 Subsection 75AZN(1)
Omit “2,000”, substitute “10,000”.

39 At the end of subsection 75AZN(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed 
on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply. 
Note 2: For the application of the offence in subsection (1) to a person other than a corpora-
tion (and the corresponding penalty), see section 6.

40 Subsection 75AZO(1)
Omit “2,000”, substitute “10,000”.

41 At the end of subsection 75AZO(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed 
on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply. 
Note 2: For the application of the offence in subsection (1) to a person other than a corpora-
tion (and the corresponding penalty), see section 6.

42 Subsection 75AZO(2)
Omit “2,000”, substitute “10,000”.

43 At the end of subsection 75AZO(2)
Add:
Note 1: The penalty specified in subsection (2) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.

Note 2: For the application of the offence in subsection (2) to a person other than a corporation (and the corresponding penalty), see section 6.

44 Subsection 75AZO(3)
Omit “2,000”, substitute “10,000”.

45 At the end of subsection 75AZO(3)
Add:
Note 1: The penalty specified in subsection (3) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (3) to a person other than a corporation (and the corresponding penalty), see section 6.

46 Subsection 75AZP(1) (penalty)
Repeal the penalty, substitute:
Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

47 Subsection 75AZP(5) (penalty)
Repeal the penalty, substitute:
Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

48 Subsection 75AZQ(1) (penalty)
Repeal the penalty, substitute:
Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

49 Subsection 75AZQ(4) (penalty)
Repeal the penalty, substitute:
Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

50 Subsection 75AZS(1)
Omit “2,000”, substitute “10,000”.

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51 At the end of subsection 75AZS(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

52 Subsection 75AZS(3) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

53 Subsection 75AZT(1)
Omit “2,000”, substitute “10,000”.

54 At the end of subsection 75AZT(1)
Add:
Note 1: The penalty specified in subsection (1) is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of the offence in subsection (1) to a person other than a corporation (and the corresponding penalty), see section 6.

55 Subsection 75AZU(1) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

56 Subsection 75AZU(2) (penalty)
Repeal the penalty, substitute:

Penalty: 10,000 penalty units.
Note 1: The penalty specified above is the maximum penalty that may be imposed on a corporation: subsection 4B(3) of the Crimes Act 1914 does not apply.
Note 2: For the application of this offence to a person other than a corporation (and the corresponding penalty), see section 6.

Amendments agreed to.
Bill, as amended, agreed to.
Ordered that the bill be reported to the House with amendments.

Main Committee adjourned at 1.03 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aviation: Pilot Briefing Services
(Question No. 2263)

Mr Martin Ferguson asked the Minister for Transport and Regional Services, upon notice, on 6 February 2001:

(1) With respect to Airservices Australia’s new charging regime for pilot briefing services, what is the total cost to a pilot to access the briefing services under the respective access options.

(2) Is the information only accessible if the relevant fees are paid.

(3) Is the information necessary for safe flight and which parts of the service are mandatory for a pilot.

(4) Are there any systems in place to monitor how many pilots are choosing to not access the services due to either cost or principle.

(5) Is he able to say whether pilots are charged for this information and service in other countries, including the USA, Canada, UK, France, South Africa, Greece, Germany, Italy, Indonesia, Singapore.

(6) Is he also able to say whether pilots with internet access can obtain the relevant Australian information without cost from US internet sites.

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

I am advised by Airservices Australia that:

(1) Current costs for the respective access options for each of the pilot briefing services are tabulated below:

<table>
<thead>
<tr>
<th>Access Option</th>
<th>Implemented Pilot Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airservices Internet Pilot Briefing – via ISP Access</td>
<td>Cost of ISP connection</td>
</tr>
<tr>
<td>Airservices NAIPS Pilot Briefing via Direct Dial – In Access</td>
<td>Local Call</td>
</tr>
<tr>
<td>Airservices Pilot Briefing Voice Submit Plan – via Airservices/ $0.50</td>
<td></td>
</tr>
<tr>
<td>Telstra PhoneAway</td>
<td>$0.50</td>
</tr>
<tr>
<td>Airservices Pilot Briefing Fax Submit Plan – via Airservices/ $0.50 Telstra PhoneAway</td>
<td></td>
</tr>
<tr>
<td>Airservices Pilot Briefing Check/Change Plan – via Airservices/ $0.50 Telstra PhoneAway</td>
<td></td>
</tr>
<tr>
<td>Airservices Pilot Briefing Fax Back (AVFAX) – via Airservices / $0.50 Telstra PhoneAway</td>
<td></td>
</tr>
<tr>
<td>Airservices Pilot Briefing IVR (DECTALK) – via Airservices / $0.50 Telstra PhoneAway</td>
<td></td>
</tr>
</tbody>
</table>

Total cost to pilots will depend on which combination of the above services is used. Many pilots use Internet pilot briefing, however the following are alternative examples using the Airservices/Telstra PhoneAway system.

Example A is for a visual flight rules (VFR) pilot accessing pilot briefing information via AVFAX, submitting a SARTIME flight notification by facsimile and checking with the briefing office that it has been received in a legible state. Example B is for an instrument flight rules (IFR) pilot accessing pilot briefing information by facsimile and activating a stored flight notification.

<table>
<thead>
<tr>
<th>Example</th>
<th>Using access options (as above):</th>
<th>Total Cost @ $0.50 per item</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>6 – AVFAX 4 – FAX</td>
<td>$1.50</td>
</tr>
<tr>
<td></td>
<td>5 – CHECK</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>6 – AVFAX</td>
<td>$1.00</td>
</tr>
<tr>
<td></td>
<td>3 – Voice</td>
<td></td>
</tr>
</tbody>
</table>

(2) No. When the information is accessed via options 1 & 2 above then it is available free of Airservices charges – pilots are still required to pay for their own connection costs. Pilots having unusual access difficulties can contact the Airservices’ helpdesk free of charge for connection with the briefing office to gain access to the information. Further, in urgent situations, pilots can still access information by radio for which there is no charge.
Yes, weather forecasts and Notices to Airmen (NOTAM) information are necessary for safe flight, and for certain mandatory operations. Aeronautical information Publication (AIP) ENR 1.10, 1.1 refers:

“Before beginning a flight, a pilot in command must study all available information appropriate to the intended operation and, in the cases of flights away from the vicinity of an aerodrome and all Instrument Flight Rules (IFR) flights, must make a careful study of:

(a) current weather reports and forecasts for the route to be flown and the aerodromes to be used;
(b) the airways facilities available on the route to be flown and the condition of those facilities;
(c) the condition of aerodromes to be used and their suitability for the aircraft to be used;
(d) the Air Traffic Control rules and procedures appertaining to the particular flight; and
(e) all Head Office and Flight Information Region (FIR) NOTAM applicable to the en route phase of flight, and location-specific NOTAM for aerodromes.

The pilot must then plan the flight in relation to the information obtained.”

Airservices continues to monitor changes in user access preference since electronic briefing services became available early last year. The data shows that the total number of clients accessing pilot briefing by all means, and the number of pilots using electronic mechanisms, both increased during last year. This data together with the PhoneAway card sales indicates that pilots are not opting out of the briefing systems but are, in fact, becoming more discerning about how they access pre-flight information. The data also indicates that the new technology is being well accepted and adopted by the industry.

Airservices’ research has revealed that pilot briefing services are provided without charge in the United States and Canada. It would also appear that there are no specific charges levied for pilot briefing services in the United States, Canada, Japan, South Africa, or Europe.

The extent to which the “free of charge” service applies is not clear without a detailed understanding of the elements of that pricing structure. This ensures a comparison of like with like. The United States Federal Aviation Administration (FAA) for example, is funded by appropriation and taxes and does not charge user fees. It is therefore inappropriate to compare it with self-funding organisations operating under the ‘user pays’ principle.

Further, research has been unable to rule out other mechanisms that might be in place in these countries to fund pilot briefing services, eg whether or not pilot briefing services are funded from general revenue, through en-route charges (and hence cross-subsidisation) or through some other form of revenue collection such as a general charge to the pilot for a range of related services.

Charges for pilot briefing services are recovered through enroute charges in Europe for IFR operations. Eurocontrol levies charges for the en-route phase of flight and distributes the revenue to the different member States. The rate for the charges is negotiated on an annual basis. In the case of Spain for example, this includes the costs for the Aeronautical Information Services and costs for pre-flight briefings. A similar situation exists in Japan where pilots are not charged a specific fee to obtain pre-flight briefing services, nor are they charged to submit a flight plan into the ATC system. However, pilots are charged user fees for aerodrome and air navigation facilities that are classified as being for public use.

In the United Kingdom, NOTAMs (Notices to Airmen) are available without charge, but pilot access to weather information attracts a specific fee from the UK Meteorology Office (“DialMet”).

Airservices does not have any information on briefing service charges in either Singapore or Indonesia.

Airservices cannot be certain whether pilots with Internet access can obtain Australian information without cost from US Internet sites. However, pilots from Australia, the USA or anywhere else in the world can register and then obtain information without cost (other than connection (ISP) costs) directly from the Airservices Australia Internet World Wide Web Pilot Briefing site or via linked services from various pilot associations (eg AOPA). Airservices’ pilot briefing is accessible at - http://www.airservices.gov.au/brief/.
Aviation: Fire Services
(Question No. 2695)

Mr Martin Ferguson asked the Minister for Transport and Regional Services, upon notice, on 18 June 2001:

(1) Does the Civil Aviation Safety Authority (CASA) conduct quality and safety audits on the aviation fire services provided by Airservices Australia; if so, how many audits have been conducted at each airport in each of the past five years; if not, why not.

(2) Does CASA conduct quality and safety audits on the aviation fire services provided by the RAAF at RAAF airports and bases; if so how many audits have been conducted at each airport or base in each of the past five years; if not, why not.

(3) Does CASA conduct quality and safety audits on the aviation fire services provided by private sector providers at RAAF airports and bases; if so how many audits have been conducted at each airport or base in each of the past five years; if not, why not.

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

The Civil Aviation Safety Authority (CASA) has advised the following:

(1) Yes. CASA does audit the Aerodrome Rescue and Fire Fighting Services (ARFFS) provided by Airservices Australia. In the last five years, one (1) audit has been carried out at each of the following airports: Alice Springs, Hobart, Karratha, Launceston, Mackay, Port Hedland and Rockhampton.

In the last five years two (2) audits have been carried out at each of the following airports: Adelaide, Brisbane, Cairns, Canberra, Coolangatta, Darwin, Melbourne, Perth and Sydney.

(2) Yes. CASA does audit the ARFFS at Royal Australian Air Force (RAAF) bases provided that those RAAF bases have significant movements of civil passenger carrying aircraft. Other RAAF bases are only audited by the RAAF. In the last five years one (1) audit has been conducted at each of Townsville, Williamtown and Tindal RAAF bases.

(3) CASA does not audit ARFFS provided for military purposes at bases that do not have a significant number of civil passenger movements.

It should be noted that CASA does audit ARFFS provided for civil purposes by private service providers such as at Norfolk Island and Broome Airports and previously at Avalon Airport (1 audit has been conducted at each airport, in the last five years).

Lowe Electorate: Aged Care Facilities
(Question No. 2699)

Mr Murphy asked the Minister for Aged Care, upon notice, on 19 June 2001:

(1) How many spot checks of aged care facilities have been undertaken by her department and the Aged Care Standards and Accreditation Agency in the electoral division of Lowe between 7 September 2000 and 17 June 2001.

(2) On what dates were the checks made.

(3) Will she appoint an Aged Care Ombudsman to investigate complaints against aged care facilities if not, why not.

Mrs Bronwyn Bishop—The answer to the honourable member’s question, in accordance with advice provided to me, is as follows:

(1) As at 16 June, 1334 spot checks have been undertaken. A number of these have been in the electorate of Lowe.

(2) This information is protected information under the Aged Care Act 1997.

(3) The Aged Care Complaints Resolution Scheme was established in 1997 and provides a free and accessible complaints resolution mechanism to resolve complaints about Government funded aged care services.

I established the position of the Commissioner for Complaints (Committee Amendment Principles 2000 (No 1) signed on 31 August 2000) to oversee the operation of the Aged Care Complaints Resolution Scheme. To have called the Commissioner, an Aged Care Ombudsman, would have
confused his role with that of the Commonwealth Ombudsman who remains competent to act in
the area of aged care at all times.

The Commissioner’s role and responsibilities are as stated in Item 5 of the Committee Amend-
ment Principles 2000 (No 1) which inserts s.10.34A to the Committee Principles.

Aged Care: Ethnic Aged Care Framework
(Question No. 2749)

Mr Martin Ferguson asked the Minister for Aged Care, upon notice, on 26 July 2001:

(1) Further to the answer to question No. 2284 (Hansard, 25 June 2001, page 28540) concerning the
withdrawal of funding under the Community Services Settlement Scheme, in considering requests
for funding from the Australian Greek Welfare Society and Co., VictoriaAs.It, did she or her office
receive requests for such funding from the Prime Minister, his office or any other member of the
Government; if so, who made such requests and on what dates were those requests made.

(2) As the Turkish Association of Victoria lost funding under the Government’s Community Settle-
ment Services Scheme at the same time as the Australian Greek Welfare Society and Co.As.It,
were any requests made at the same time for funding assistance under the Ethnic Aged Care
Framework.

Mrs Bronwyn Bishop—The answer to the honourable member’s question, in accordance
with advice provided to me, is as follows:

(1) Discussions took place with the Minister for Immigration and Multicultural Affairs, Hon Philip
Ruddock as per our joint Press Release dated 31 August 2000.

(2) No.

Illegal Immigration: Port Hedland Detention Centre
(Question No. 2839)

Mr Sciacca asked the Minister for Immigration and Multicultural Affairs, upon notice, on
8 August 2001:

(1) What was the projected cost of the security fence recently constructed around Port Hedland immi-
gration processing centre.

(2) What was the actual cost of the construction.

Mr Ruddock—The answer to the honourable member’s question is as follows:
The Department of Finance and Administration has advised that:

(1) The original cost estimate for the construction of the new fence and associated security works at
the Port Hedland Immigration Reception and Processing Centre was $3.1 million.

(2) As the works are not yet complete, the actual cost of the construction cannot yet be confirmed.
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