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Wednesday, 26 June 2002

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

WORKPLACE RELATIONS AMENDMENT (IMPROVED REMEDIES FOR UNPROTECTED ACTION) BILL 2002

First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.31 a.m.)—I move:

That this bill be now read a second time.

The Workplace Relations Act 1996 provides certain immunities for employees and their organisations and for employers undertaking protected industrial action during the bargaining process.

Strikes cost jobs. Protected industrial action is a privilege, statutorily conferred once certain requirements have been fulfilled. When an industrial organisation refuses or fails to comply with those requirements and unprotected industrial action results, then that organisation must quickly be called to account. Industrial parties are not exempt from acceptable standards of behaviour and should not be able to avoid the rule of law.

This bill will ensure that applications for orders to prevent unprotected industrial action are dealt with quickly and that, in dealing with applications, the Australian Industrial Relations Commission takes into account the undesirability of unprotected action.

Section 127 of the Workplace Relations Act 1996 was intended to provide a timely remedy for parties affected by unprotected industrial action. It empowers the commission to make orders to stop or prevent industrial action. Whilst section 127 has generally proved to be an effective mechanism, delays in making or enforcing section 127 orders have sometimes extended the period during which enterprises and their workers are exposed to unprotected industrial action.

The proposed amendments will require the commission to deal with section 127 applications within 48 hours of their lodgment, if at all practicable. If an application for an order cannot be determined within 48 hours, the commission will have the discretion to issue an interim order to stop or prevent industrial action. The commission, exercising its discretion, will have to consider factors such as the damage that would be caused to the industry and whether the industrial action forms part of a sequence of related industrial action.

The commission will also be required to take into account whether a person or organisation engaging in industrial action is bound by a certified agreement that has not yet reached its nominal expiry date, as well as the undesirability of unprotected industrial action.

I commend the bill to the House and present a copy of the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

WORKPLACE RELATIONS AMENDMENT (SIMPLIFYING AGREEMENT-MAKING) BILL 2002

First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.34 a.m.)—I move:

That this bill be now read a second time.

Workplace bargaining has benefited Australia economically, socially and industrially.

The Workplace Relations Act 1996 provides a wide range of bargaining options, recognising that different workplace arrangements will suit different employers and different employees.

This government will continue to strive for a simpler and more accessible workplace relations system which focuses on workers and their jobs rather than the needs of the system itself.
The government desires to simplify further the processes for making and approving collective and individually negotiated agreements so that employers and employees at each workplace can make these agreements with minimum technical requirements and cost.

This bill proposes amendments which are for the most part procedural and technical in nature but which will, nonetheless, significantly simplify making agreements in the federal system. The bill also enhances protections for employees who choose to make Australian Workplace Agreements (AWAs) with their employers.

Certified agreements

The proposed amendments to the procedures for making certified agreements are intended to:

- make agreement making at the workplace level easier and more widely accessible;
- reduce the delays, formality and cost involved in making a certified agreement;
- prevent unwarranted interference by third parties in agreement making; and
- remove barriers to the effective exercise of agreement making choices.

The amendments specify that the 14-day consideration period for a proposed certified agreement does not recommence if a new employee begins work during this period.

Where an agreement is made directly with employees and the proposed agreement is undergoing minor changes before the formal agreement process, the commission will gain discretion to waive the requirement to recommence the consideration period with each variation to the proposed agreement, provided the commission is satisfied that this would not be detrimental to the employees whose employment would be covered by the agreement.

Employers and employer organisations have expressed concerns that a union which has elected to be bound by an agreement made directly with employees may effectively prevent the variation, extension or termination of the agreement, even if the variation has majority employee support. This bill allows organisations bound to a certified agreement made directly with employees the opportunity to make submissions regarding any proposed extension, variation or termination, but removes their right to veto such proposals.

There is no statutory requirement for the commission to hold formal hearings for certification of agreements, but it has become standard practice. Unnecessary formal hearings cause disruption and additional cost. In most cases, an application for certification (or variation, extension or termination) of a certified agreement could be dealt with expeditiously and with minimal cost on the basis of written applications only. The legislation will explicitly allow the approval, variation, extension or termination of a certified agreement without a formal hearing. Hearings will only be required where the employer or an employee has requested one and the commission is satisfied that there are reasonable grounds for the request.

Australian workplace agreements

There is no doubt that AWAs have found significant support among employers and employees. However, time consuming, costly, complex and formal procedures for making an AWA have reduced their accessibility. Some parties, particularly small and medium businesses without in-house human resource experts, are reluctant to use AWAs.

Existing filing and approval requirements will be consolidated into a one-step process. As is currently the case, the Employment Advocate will approve AWAs, with provision for referral to the Australian Industrial Relations Commission where there is doubt about whether an AWA passes the no-disadvantage test.

At present, AWAs cannot come into effect immediately the parties have reached agreement. This should be an option for parties who wish to implement their new arrangements immediately. The bill will enable AWAs to take effect from the day of signing, unless the parties specify a later date.

The bill will allow employees to sign AWAs at any time after receiving from the Employment Advocate an information
statement and an explanation of the effect of the AWA. As an additional protection, an employee party to an AWA will be able to withdraw consent to the AWA within a cooling-off period, which will be five days from the date of signing for new employees and 14 days for existing employees.

An employer is required to satisfy the Employment Advocate that the employer did not act unfairly or unreasonably in failing to offer AWAs in the same terms to comparable employees. This obligation is incompatible with the concept of individual agreement making and will be removed by this bill.

The current scope of the Employment Advocate’s powers to reconsider or revoke AWA decisions is unclear. The bill will remove this uncertainty by giving the Employment Advocate an express power to revoke AWA decisions. This power will only be able to be exercised with prospective effect. The Employment Advocate will also be empowered to recover a shortfall in entitlements on behalf of employees in circumstances where an AWA or related agreement is revoked or stops operating in certain circumstances.

These will be important enhancements to the protections for employees and reflect the government’s commitment to a balance between flexibility and protection for employees. I commend the bill to the House and present a copy of the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

WORKPLACE RELATIONS LEGISLATION AMENDMENT BILL 2002
First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.41 a.m.)—I move:

That this bill be now read a second time.

This bill makes a number of minor and technical amendments to Commonwealth workers compensation legislation.

Workplace health and safety is an important responsibility of the Commonwealth, and promotion of injury prevention and good occupational health and safety practice is a key focus of this government. The Commonwealth is responsible for two workers compensation and occupational health and safety schemes. The purpose of this bill is to make amendments which will support the effective operation of both schemes.


The purpose of the main amendments in the bill is to relocate administrative and operational support for the Seacare scheme from the department to Comcare. Comcare is the major provider of occupational health and safety advice and expertise to the Commonwealth, while Seacare provides a specialist service to the small industry specific scheme for seafarers. These amendments will therefore provide the Seacare Authority with the benefit of Comcare’s skills and expertise. But the Seacare scheme will continue to remain autonomous.

The amendments will require Comcare to provide assistance to the Seacare Authority in the form of secretarial and other resources, including staff, to enable Seacare to undertake its responsibilities to seafarers. The bill also proposes related technical amendments,
including changes in relation to delegations under the seafarers act.

Consequential amendments to reflect that the Seacare scheme will be administered by Comcare are also proposed to the Seafarers Rehabilitation and Compensation Levy Collection Act 1992.

Some other minor amendments to the Safety, Rehabilitation and Compensation Act are also included in this bill.

One amendment, for instance, will remove the requirement for ministerial approval of contracts involving the payment or receipt by Comcare of an amount exceeding $500,000. The government considers that this requirement is no longer necessary.

Another amendment corrects a drafting error which occurred as a result of amendments to the act last year. The amendment will restore the original intention of those amendments—that is, that the Chief of the Defence Force may delegate his or her powers and functions as a rehabilitation authority under the act in the same way as the principal officer of a department may delegate his or her powers.

I should also foreshadow that I anticipate introducing amendments to this bill in the spring sittings, to make some further technical and minor amendments to legislation in my portfolio. I commend the bill to the House, and I present a copy of the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 2002

First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.46 a.m.)—I move:

That this bill be now read a second time.

The amendments in this bill will provide enhanced protections for Commonwealth employees at work and reflect the government’s commitment to achieving safer workplaces.

Safe and healthy workplaces is an important issue for all Australians. At the May 2002 meeting of the Workplace Relations Ministers Council, ministers from the Commonwealth and all state and territory jurisdictions endorsed a landmark new national occupational health and safety strategy which envisages workplaces free from work related death, injury and disease. For the first time all Australian governments have set national targets to improve occupational health and safety. The Commonwealth is fully committed to this initiative and the amendments in this bill will contribute to the implementation of this national OH&S strategy.

This bill proposes to amend the Occupational Health and Safety (Commonwealth Employment) Act 1991, which is the legislative basis for the protection of the health and safety at work of Commonwealth employees in departments, statutory authorities and government business enterprises.

This bill is similar to a 2000 bill which lapsed when parliament was prorogued last year. This bill includes some additional changes to provide further protections for employees. Some amendments are also included to strengthen the compliance provisions.

The amendments in this bill will shift the focus of occupational health and safety regulation in Commonwealth employment away from imposing solutions and towards enabling those in the workplace to work together to make informed decisions about workplace safety. While this will give employers and employees added flexibility in meeting their obligations, the new compliance provisions will ensure that such flexibility is subject to a strong and effective enforcement regime if obligations are not met.

The key amendments proposed in this bill relate to the employer’s duty of care, workplace arrangements and compliance.
This bill amends section 16 of the OH&S Act to replace current prescriptive elements requiring an employer to develop an occupational health and safety policy in consultation with unions. Instead section 16 will be more outcomes focused because of the new requirement for employers to develop, in consultation with their employees, safety management arrangements that will apply at the workplace.

This should ensure a more integrated and focused approach at the workplace level. Safety management arrangements will be tailor-made to the needs of particular enterprises. If employers do not develop adequate safety management arrangements to protect their employees, they will be in breach of their duty of care under the act.

The term ‘safety management arrangements’ describes a wide range of matters which could or should be addressed at the workplace level. To assist employers and employees understand the types of matters which could be included in these arrangements, this bill includes a new provision setting out a non-mandatory and non-exclusive list of matters which may be appropriate to be adopted in safety management arrangements, such as a health and safety policy, risk identification and assessment, training and agreements between employers, employees and their representatives.

To further assist the development of safety management arrangements, the Safety, Rehabilitation and Compensation Commission is gaining the power to advise on matters to be included, and employers will be required to heed such advice in developing safety management arrangements.

This bill will enhance consultation between employers and employees by facilitating a more direct relationship between them. The current prerogative role of unions, which limits the ability of employees to fully participate in workplace health and safety arrangements, is being removed. Unions will, however, still be able to participate in the development of workplace safety management arrangements where employees request it. Unions will also retain their current enforcement roles where employees request it. New amendments in this bill give employees a wider choice as to who may represent them—namely, another employee, a registered organisation or an association of employees which has a principal purpose of protecting and promoting the employees’ interests in matters concerning their employment.

A health and safety representative will be elected for each designated work group, as is currently the case. However, current restrictions on the ability of employees to become health and safety representatives are being removed. Currently, where there is an involved union, only employees nominated by the union can be candidates for election as health and safety representatives. This limits an individual worker’s rights. So this bill provides that all employees can be candidates for election as health and safety representatives of employees in a designated work group. As in the 2000 bill, this bill requires employers to conduct elections for health and safety representatives at the employers’ expense. This bill contains a further amendment to provide an alternative election option, which will enable employees to request that the election be conducted in accordance with regulations if requested by a majority of the employees in the designated work group or 100 employees, whichever is the less.

As in the 2000 bill, this bill also contains amendments in relation to health and safety committees.

This bill includes the amendments to encourage compliance, which were previously part of the 2000 bill. In particular, new remedies of enforceable undertakings, injunctions and remedial orders are included, which will enable Comcare, the regulatory body under the act, to work with employers and others to remove risks to the health and safety of employees before an injury occurs.

This bill also includes the amendments in the 2000 bill which will substantially increase the levels of penalties in the OH&S Act and will make provision for the imposition of civil as well as criminal penalties. A new feature in this bill is the extension of liability for the imposition of civil pecuniary penalties to Commonwealth employers.
I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

NATIONAL ENVIRONMENT PROTECTION COUNCIL AMENDMENT BILL 2002

First Reading

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

Second Reading

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (9.52 a.m.)—I move:

That this bill be now read a second time.

This bill will amend the National Environment Protection Council Act 1994:

- to provide a simplified process for making minor variations to national environment protection measures;
- to require five-yearly reviews of the National Environment Protection Council Act 1994; and
- to allow the NEPC Service Corporation to provide support and assistance to other ministerial councils.

When the National Environment Protection Council Act 1994 was enacted, it was an important landmark in the history of environment protection in Australia, marking the commitment of the Commonwealth and the states and territories to work cooperatively to develop national environment protection standards or ‘national environment protection measures’, as they are called in the act. Each of the states and territories introduced mirror legislation to the National Environment Protection Council Act 1994 to ensure a seamless legal jurisdiction for making national environment protection measures.

In 2000-01 the Commonwealth, state and territory acts were reviewed as required by section 64 of the act. In responding to the review, the National Environment Protection Council concluded that it had made significant progress on matters of national priority in environment protection and noted that the five national environment protection measures in place at the time were making a real contribution to providing equivalent protection from pollution for all Australians.

The Howard government has put in place six national environment protection measures. These are for ambient air quality, made in July 1998; the movement of controlled waste between states and territories, made in July 1998; a national pollutant inventory, made in July 1998; the assessment of site contamination, made in December 1999; used packaging materials, made in July 1999; and diesel vehicle emissions, made in June 2001.

Since 1998, the contribution of these measures to environmental protection in Australia has been considerable.

- The national pollutant inventory has 2,350 facilities reporting in the third year of operation—nearly double those of the first year. There are now more than 150 major industry sectors reporting, and estimates are available of emissions from non-industry sources, such as from motor vehicles, for 30 airshed areas and 24 water catchments.
- All states and territories now have approved air quality monitoring plans that enable soundly based and consistent reporting on performance against the ambient air measure. Preliminary monitoring results indicate that in most cases the NEPM goal is being met.
- There is now a national scheme under the controlled waste measure to ensure that controlled wastes are moved from one Australian jurisdiction to another only if they are transported and disposed of safely, and with the consent of all state and territory authorities.
- The used packaging materials NEPM requires brand owners who are not signatories to the national packaging covenant to take back and reuse a percentage of their packaging. There is strong evidence the NEPM is working well, as there are now over 500 signatories to the covenant, covering major food, beverage, paint and supermarket brands, and including key packaging supply chain companies.
The diesel vehicle emissions measure is already reducing emissions of particles, oxides of nitrogen and smoke from in-service diesel vehicles. Along with smoky vehicle programs in every state, a major testing and repair program on Sydney’s buses is now under way, with other projects to follow shortly.

A further measure on air toxics is due to be completed in April 2003.

Two of the amendments to the act put into effect recommendations arising from the 2000–01 review.

The first is that council should be able to make minor variations (such as corrections or technical updates to standards) to a national environment protection measure by using a process that is more streamlined than the existing process in section 20.

The second is that there should be provision for the act to be reviewed at further five-yearly intervals.

The third amendment follows from the review of ministerial councils by the Council of Australian Governments that resulted in the holding of joint meetings between the National Environment Protection Council, which remains a statutory body, and the new Environment Protection and Heritage Council. The new council also deals with environment protection and heritage issues previously dealt with by the Australian and New Zealand Environment and Conservation Council (ANZECC) and the heritage ministers meeting.

Under the current act, the National Environment Protection Council Service Corporation, which provides secretariat services and project management for the National Environment Protection Council, is unable to extend its support and assistance to the new Environment Protection and Heritage Council. The bill will amend the National Environment Protection Council Act 1994 to allow this to occur. I commend the bill to the House and I table the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING BILL 2002

First Reading

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

Second Reading

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.58 a.m.)—I move:

That this bill be now read a second time.

This bill will enable new levies and charges to be paid to Plant Health Australia Limited (PHA) through the normal appropriation from consolidated revenue. The bill also provides a mechanism for moneys collected in excess of a plant industry’s liability to PHA to be appropriated for research and development activities.

PHA was established in April 2000 as a Corporations Law company responsible for coordinating national plant health matters. The Commonwealth, all states and territories and a number of plant industries are members. PHA’s running costs of approximately $1.5 million per annum are shared between its members. The purpose of the bill is to help plant industries fund their share of PHA’s costs.

Industry members of PHA cover the grains, cotton, vegetable and potato, sugar, wine grape, nursery, apple and pear, rice, banana, fresh stone fruit, nut, honey and strawberry industries.

To date, as an interim measure pending the development of these new arrangements, industry members of PHA have been funding their share of PHA’s costs either directly from industry association moneys or through their industry’s research and development corporation. When these arrangements are in place, industry funding of PHA using research and development funds will no longer be necessary.

Plant industries’ share of PHA’s costs is approximately $500,000 per annum. Under PHA’s constitution, these costs are shared between its plant industry members based in part on the value of production of the various crops.
The legislative mechanism was developed in consultation with PHA plant industry members. It is designed to limit the appropriation made to PHA to exactly that of each plant industry member’s share of PHA’s annual costs.

Given seasonal variations in crop production levels and revenue from sales, it is impossible to set operative levy and charge rates that will collect a fixed sum of money, whereby the levy and charge burden is shared equitably by levy and charge payers.

Accordingly, once an industry’s share of its annual contributions to PHA have been met, the bill provides for moneys collected in excess of this amount to be redirected to that industry’s R&D corporation and be deemed to be an R&D levy or charge. This R&D component will be matched by the Commonwealth, as is currently the case. The new PHA levies and charges component will not be matched.

Clearly, the benefit of returning any excess levy contributions to research activities is that the industries will benefit from the government’s matching dollar for dollar research and development funding.

The bill also contains measures that will enable a plant industry member to raise additional funds for special projects that the member wishes to undertake by PHA on its behalf. In accordance with PHA’s constitution, PHA’s members have to agree to these before the start of the year.

While the plant industries have sought to pay for their yearly contribution to PHA from a new PHA levy and charge, there will be no increase in the overall levy and charge burden on industry members. This is because the proposed operative rate of PHA levy or charge for initial participants will be exactly offset by a corresponding decrease in that industry’s existing R&D levy and charge rate.

In addition, the impact on business will be minimised as existing levy and charge collection arrangements are to be used with no change to the paperwork required of businesses/producers already paying levies and charges.

This legislation has the full support of industry groups and producers. It establishes arrangements for the long-term funding of PHA’s plant health activities. It facilitates plant industry members of PHA contributing to the development of an internationally outstanding plant health management system that enhances Australia’s plant health status and the profitability and sustainability of plant industries.

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

Debate (on motion by Mr Cox) adjourned.

**MEDICAL INDEMNITY AGREEMENT (FINANCIAL ASSISTANCE—BINDING COMMONWEALTH OBLIGATIONS) BILL 2002**

**First Reading**

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

**Second Reading**

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.04 a.m.)—I move:

That this bill be now read a second time.

On 3 May this year, a provisional liquidator was appointed to United Medical Protection and its subsidiary, Australasian Medical Insurance Ltd—the UMP Group. This followed a resolution of the boards of the UMP Group on 29 April this year to make an application for the appointment of a provisional liquidator.

On 29 April this year, the government announced that it would provide a short-term indemnity to the UMP Group to allow the members of the UMP Group on 29 April this year to make an application for the appointment of a provisional liquidator.

The purpose of the Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) Bill 2002 is to appropriate funds for payments in accordance with an indemnity agreement between the Commonwealth and the UMP Group. The bill also confirms the commitments of the government under the indemnity agreement.

On 29 April this year, the government announced that it would provide a short-term indemnity to the UMP Group to allow the members of the UMP Group to continue practicing.

On 1 May this year, the Minister for Health and Ageing wrote to medical practi-
tioners stating that the Commonwealth would guarantee to the provisional liquidator the obligations of the UMP Group to pay any amount properly payable in the period 29 April to 30 June 2002 for claims under a current or past policy. Interim arrangements for the payment of some claims were entered into on 22 May 2002 and approved by the Supreme Court of New South Wales on 24 May 2002.

The Commonwealth also committed to providing a guarantee to the provisional liquidator or to any subsequently appointed liquidator to enable the provision of cover in respect of valid claims that arise at any time for:

- holders of a current policy for events that occur between 29 April and 30 June 2002; and
- holders of a policy that expires and is renewed by the provisional liquidator before 30 June 2002 for events that occur between 29 April and 30 June 2002.

On Friday 31 May 2002, the Prime Minister announced an extension of the guarantee to 31 December 2002 on modified terms. These arrangements allow the provisional liquidator to:

- meet claims notified in the period 29 April to 31 December 2002 under an existing (or renewed) claims made policy;
- renew policies on a claims made basis for the period until 31 December 2002; and
- continue to meet claims that were notified before 29 April 2002 and are properly payable in the period 1 July 2002 to 31 December 2002.

The Prime Minister also announced on 31 May 2002 that the Commonwealth would introduce a levy to fund any liability incurred by the Commonwealth under a medical indemnity agreement as a result of the extension of the guarantee on modified terms. This levy would be part of broader levy arrangements to meet the unfunded incurred but not reported liabilities (IBNRs) of medical defence organisations. Separate legislation for the levy on certain medical practitio-
There are a large number of amendments to the Banking Act 1959 (Banking Act) largely reflecting that it has not been updated for some time. Amendments to the Banking Act include provision for the application of a ‘fit and proper’ test to directors and senior managers of authorised deposit taking institutions (ADIs) and authorised non-operating holding companies (NOHCs). Currently, there is no formal test of expertise and integrity of directors and senior management. This amendment will make Australia compliant with the requirement for a ‘fit and proper’ test as specified by the Basel committee which prescribes the international benchmark for banking regulation. This amendment will also reduce the risk exposure faced by depositors arising from mismanagement.

Further amendments to the Banking Act will make the provisions in the Banking Act which deal with auditors consistent with the auditor provisions in the Insurance Act 1973 (Insurance Act). The amendments will provide APRA with the means to remove auditors who fail to perform adequately and properly. This is essential for APRA to receive accurate information in carrying out its prudential regulation.

Amendments to the Banking Act also include the requirement for an authorised deposit taking institution, authorised non-operating holding companies of an ADI and their subsidiaries, to notify APRA immediately of any breaches of prudential requirements and any material adverse developments. This will enable APRA to more effectively monitor the position of potentially troubled organisations in order to seek earlier remedial action and will assist in protecting depositor interests. Given APRA’s conglomerate policy framework, any remedial reporting actions will cover an ADI on a stand-alone basis and also on a conglomerate basis. Penalties have been specified for breaches of this requirement. It will also improve compliance with the Basel core principles dealing with regular banking supervision.

Another amendment to the Banking Act will allow APRA to apply prudential standards on a consolidated group basis. This is consistent with APRA’s own conglomerate policy and also with the Basel core principles which require that supervision of a banking group be on a consolidated basis. Consultation with industry was undertaken by APRA.

The Banking Act will also be amended to provide additional grounds for APRA to revoke the authority granted to an ADI or non-operating holding company where the application for the authority contained false or misleading information. Currently, APRA must rely on uncertain national interest provisions. This amendment will remove the uncertainty. This is also a requirement of the Basel core principles.

The final amendment to the Banking Act will correct a discrepancy between the indemnity provisions of the Banking Act and the Australian Prudential Regulation Authority Act 1998. The discrepancy relates to the extent of protection available to APRA officers under these acts and will ensure that Australia is in compliance with the Basel core principles which require that legal protection should be afforded to the supervisory agency and its staff against lawsuits when they have acted in good faith.

Amendments to the Insurance Act are required to allow APRA to discuss submissions, from a director or senior manager who is being removed, with third parties. This would mean that APRA can test the veracity of any material notwithstanding privacy or confidentiality concerns. This is a vital part of APRA’s ability to apply the ‘fit and proper’ test to management.

A further amendment under the Insurance Act is the requirement that an insurance company must notify APRA of any breach of prudential standards, including any material developments which are detrimental to its financial position. This will allow APRA to deal earlier with potentially troubled institutions.

Another amendment deals with the incorrect specification of penalties. The penalty provisions need to be increased so that the penalty units applying to a body corporate are appropriate and consistent with penalty provisions specified in the Crimes Act 1914 applying to bodies corporate.
Amendments to the Superannuation (Resolution of Complaints) Act 1993 (SRC Act) introduce flexibility in the time limits relating to complaints about disability benefits which acknowledge the difficulty in assessing medical conditions over time and which give the Superannuation Complaints Tribunal discretion in dealing with time limits which are currently fixed.

Another amendment to the SRC Act will act to strengthen, modernise and improve the conciliation powers of the Superannuation Complaints Tribunal. This will enable the tribunal to require parties to attend conciliation instead of the current voluntary system. There will also be penalties for non-compliance. These amendments will make the use of conciliation consistent with other administrative tribunals.

A further amendment to the SRC Act is required to remove redundant powers which deal with arbitration. There will also be further minor technical amendments which will have the effect of streamlining the application of the SRC Act.

Amendments to the Superannuation Industry (Supervision) Act 1993 will allow the recognition of awards, which are still in force, given under arbitration agreements, even though the arbitration power has been removed.

Amendments to the Australian Securities and Investments Commission Act 2001, the Corporations Act 2001 and the Corporations (Repeals, Consequentials and Transitonals) Act 2001 correct minor errors, grammatical mistakes and erroneous cross-references and remove obsolete provisions. The Ministerial Council for Corporations has been consulted about the amendments and has approved them.

This bill builds on the financial sector reforms already undertaken, and they emphasise the commitment to ongoing reforms which will ensure that Australia is at the forefront of international best practice in financial regulation.

The financial sector is a key driver in the economy. The benefits that these amendments will provide include increased efficiency of the financial industry and will improve the operation of the acts to assist the regulators in improving the regulatory environment. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.18 a.m.)—I move:

That this bill be now read a second time.

This bill is designed to put the entitlements of former senators and members on a standardised basis, to enhance the integrity of the scheme, to apply limits to those entitlements which have previously been uncapped and to provide that a former senator or member who, because of a conviction for a corruption offence, is required to forfeit his or her superannuation benefits must also forgo the entitlement to travel at taxpayers’ expense.

To fully appreciate the desirability for a bill of this nature it is important to recognise that the life gold pass entitlement, including the entitlement for widows and widowers to travel at Commonwealth expense, has in the past been provided under different authorities, including under different determinations of the Remuneration Tribunal. As a result, differing arrangements apply for entitlees depending on when they retired from the parliament or when they first met the qualifying periods to establish eligibility for the pass.

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To fully appreciate the desirability for a bill of this nature it is important to recognise that the life gold pass entitlement, including the entitlement for widows and widowers to travel at Commonwealth expense, has in the past been provided under different authorities, including under different determinations of the Remuneration Tribunal. As a result, differing arrangements apply for entitlees depending on when they retired from the parliament or when they first met the qualifying periods to establish eligibility for the pass.

The bill sets forward an overall systematic framework to sensibly and fairly accommodate the various classes of entitlees and the entitlements which have applied to them up to this time.

That said, the basic arrangements put forward in the bill are those set out by the Prime Minister in his statement of 27 September 2001 on parliamentary entitlements. In that statement, in which the Prime Minister foreshadowed this legislation, he said that the
government had decided that the unlimited access to domestic travel at Commonwealth expense by former prime ministers and other former senators and members was not consistent with community standards. In future there would be limits on the number of trips which could be undertaken by entitlees, and those limits would in general be 40 trips per year for former prime ministers and 25 trips per year for former senators and members.

The bill also limits the travel entitlement of spouses in the same way as for life gold pass holders and makes a provision for widows and widowers which is more sympathetic to the circumstances of bereavement.

In future it is intended that widows and widowers, instead of being provided with unlimited travel for one year following the death of the life gold pass holder, will be entitled to two years of travel. However, consistent with the intention to apply appropriate constraints, there will be limits on such travel—10 return trips in the first year and five return trips in the second year.

The bill also provides a sensible flexibility which has not applied under the uncapped arrangements. In future a spouse may travel with or to join the life gold pass holder even when the holder has travelled without using the entitlement. For example, the pass holder may privately drive to a destination and then the spouse may fly or travel by train to join the pass holder. This would be a count against the fixed limit entitlement of 25 trips per annum for the spouse. There is a range of other situations which may arise, including when a pass holder travels at Commonwealth expense to serve on a government body and the travel costs are met by that body. Under the new scheme, in such circumstances, the spouses could travel with the life gold pass holder.

There is a small group of widows of members who retired from the parliament prior to 1 June 1976—the date of effect of the first determination of the Remuneration Tribunal which dealt with the life gold pass issue. Those widows have been provided with unlimited travel indefinitely. It is intended that in future a limit (10 return trips per year for five years and five return trips per year thereafter) be placed on that travel. This is the same entitlement that will apply to the widows of all former and future prime ministers.

The bill clarifies or puts beyond doubt a number of aspects of the scheme which have led to questions in the past; for example, travel may not be undertaken for commercial purposes and these are defined. Similarly, rules are provided for handling trips involving multiple destinations.

The bill contains numerous machinery measures—for example, pro rata adjustments for a person who becomes entitled to travel part way through a financial year—this covers not just retirement from the parliament but when a sitting member meets the qualifying period (for spouse travel to Canberra) or on marriage or indeed on the death of the pass holder for the widow or widower.

The bill also includes a substantial section covering the transitional period, which will be from 28 days after royal assent to the end of the financial year. As would be anticipated by my opening comments on the variety of existing arrangements in place at present, the transitional arrangements need to be especially tailored to meet all possible individual circumstances.

As recent unhappy events have made plain, a major gap in the current scheme is that there is no mechanism which allows the government to withdraw a benefit to travel at Commonwealth expense from a person convicted of a ‘corruption offence’ within the meaning of the Crimes (Superannuation Benefits) Act 1989. It is quite inappropriate that a person who, in the course of carrying out his or her duties as a member of the parliament, commits an offence which results in the forfeiture of the superannuation benefits provided by the Commonwealth should be able to retain, on release from imprisonment, the benefit of travel at taxpayers’ expense.

Consequently, the bill contains forfeiture provisions in relation to both life gold pass and severance travel benefits. These provisions will have effect from the day the bill receives royal assent. Essentially, if a court issues an order under the Crimes (Superannuation Benefits) Act 1989 that withdraws the superannuation benefit then withdrawal
of the life gold pass and severance travel benefits will follow automatically. There are, of course, provisions which provide for the restoration of the benefit in the event of the revocation of the superannuation order—for example, because the original corruption conviction was quashed on appeal.

The bill recognises the important role played by the Remuneration Tribunal, as an independent body, in setting the entitlements of senators and members. The tribunal will continue to be responsible for setting the qualifying periods for establishing eligibility for the life gold pass.

It is only, however, by legislation that an overall comprehensive framework applying to all entitlees may be established. With the passing of the bill, that will be in place.

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

Debate (on motion by Mr Cox) adjourned.

TARIFF PROPOSALS

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.26 a.m.)—I move:

Excise Tariff Proposal No. 3 (2002)
Customs Tariff Proposal No. 2 (2002)

The excise and customs tariff proposals that I have just tabled contain alterations to the Excise Tariff Act 1921 and the Customs Tariff Act 1995.

Excise Tariff Proposal No. 3 (2002) and Customs Tariff Proposal No. 2 (2002) formally place before parliament changes to the acts to introduce new rates of excise and customs duty for certain beer. The changes affect both local and imported beer and commence on 1 July 2002.

The new rates will give effect to the government’s decision to implement a national excise scheme for low-alcohol beer. The key feature of this scheme is the cessation of state subsidies for low alcohol beer, with assistance now to be delivered through lower excise rates. Equivalent duty rate changes will also be made in the customs tariff for imported beer.

The scheme will:

- replace a range of existing state subsidy schemes with a nationally uniform and administratively efficient concession in the rate of excise duty on low-alcohol beer;
- eliminate the requirement for wholesalers to lodge a claim for a rebate;
- reduce compliance costs for industry; and
- eliminate administration costs for the states.

The introduction of this scheme also provides an opportunity to remove an anomaly in the current excise rates that allows manufacturers to reduce their excise liability. Beer manufacturers have been able to reduce the amount of excise payable on locally produced beer by marginally increasing the alcohol content of the beer from 3.5 per cent to 3.6 per cent alcohol by volume. Reducing the excise duty rate of mid-strength packaged beer from $38.59 to $33.22 per litre of alcohol will counter this anomaly.

Equivalent duty rate changes will also be made in the customs tariff.

The scheme will result in a variety of pricing outcomes across the states with the price of low-alcohol beer expected to fall by up to eight per cent in some states. However, prices may increase marginally in some market segments. These increases are not expected to be significant for consumers as the price increase will be negligible or the market share of the affected products is quite small.

A summary of the alterations contained in these proposals has been prepared and is being circulated.

I commend the proposals to the House.

Debate (on motion by Mr Cox) adjourned.

WORKPLACE RELATIONS AMENDMENT (GENUINE BARGAINING) BILL 2002

Second Reading

Debate resumed from 24 June, on motion by Mr Abbott:

That this bill be now read a second time.
upon which Mr McClelland moved by way of amendment:

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

“...whilst not denying the bill a second reading, the House condemns the Government for:

(1) unreasonably emasculating the powers of the AIRC to resolve industrial disputes in the interests of the parties;

(2) interfering with the AIRC’s discretion to deal with industrial disputes in the most appropriate way; and

(3) failing to put forward constructive proposals to enable the Commission to direct parties to bargain in good faith.”

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (10.29 a.m.)—In summing up this debate on the Workplace Relations Amendment (Genuine Bargaining) Bill 2002 for the government, I should thank all members for their participation. I probably should go a little bit further than thanking the member for Barton: I really should commend him for what was a fine presentation of his argument, which also made some good and necessary points about the progress of enterprise bargaining in Australia. As the member for Barton rightly said, throughout the 1990s the productivity of Australian workers has very significantly improved. It has improved faster under this government than under the previous government, but it is probably churlish to dwell on that, given that productivity improvements of very significant size and nature have taken place under both governments. It is not the proper role of the commission, other than in its expressed mediation role, to decide how the game should be played by the industrial organisations that are involved. One of the problems in the way Australian workplaces were managed until the 1990s was an undue tendency to hand over management decisions to courts and commissions. We have, at times painfully and at times with difficulty, broken that culture, and the last thing we ought to do is go back to the bad old days when important workplace decisions were not made, by and large, by the people in the workplace but were made by people wearing the metaphorical equivalent of wigs and gowns in court and commission rooms in our capital cities.

The member for Barton, in his contribution, referred to the recent dispute at BHP’s Western Port plant. I think that the member for Barton would have more realistically described the resolution of that dispute if he had acknowledged that it was resolved once the parties went to the commission seeking section 166 declarations. As a result of those declarations, the union in question was liable to damages orders. That probably was instrumental in the resolution of that dispute, not the mere involvement of the commission. I should also point out that the breaking of the picket line by the Victorian police may have had something to do with it. I am not normally part of the Victorian government’s cheer squad, but in fairness to the Victorian government I ought to commend the gov-
ernment and the Victorian police for their action in respect of this picket, an action which enabled ordinary people to go about their daily business without let or hindrance.

This bill is designed to ensure that bargaining is genuine and that what is colloquially referred to as pattern bargaining is not permitted. We are attempting to do so by enshrining in legislation the principles enunciated by Justice Munro in his Campaign 2000 judgment. We believe that the Munro decision should become the norm. We believe that it is a decision which should be taken into account by all future decision makers. We do not believe that this most excellent decision should simply be part of a mass of case law: in fact, we would like fewer cases to go to the commission and be argued out with all the inevitable delays and possibilities of confusion. We would like the rules to be much clearer, and that is why we want to enshrine the Munro decision in law.

The member for Barton made the point in his speech in the second reading debate that sometimes in the Australian Public Service the government does not always practise what it preaches. I think that there is a significant difference between setting parameters within which we want bargaining to take place and enshrining pattern bargaining. I think that parameters do not equal patterns. Nevertheless, I would certainly concede the point that bargaining in the Public Service has not been nearly as flexible in the past as it ought to be in the future, and I am determined over time to ensure that bargaining patterns in the Public Service are freer and more flexible.

Finally, the bill is trying to ensure that the commission has more power, particularly that the commission has an explicit power towards a cooling-off period in the event of intractable industrial disputes. In so doing, we are doing what the Australian Industry Group and others—those in the motor industry in particular—have asked for. In so doing, I would argue that we are doing precisely that for which the opposition have been calling for several years. The cooling-off-period provisions of this bill certainly should command the support of the opposition. I think they really do support these provisions, but for all sorts of reasons they cannot afford to say so—because to say that they support these provisions would be to concede some reason, some balance and some rationality to a government which on this particular issue they are all too keen to demonise. I think this is a good bill. Again, I would congratulate the member for Barton for the excellent presentation of his case. I thank all members for their contributions, and I commend the bill to the House.

The DEPUTY SPEAKER (Mr Jenkins)—The original question was that this bill be now read a second time. To this the honourable member for Barton has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr McCLELLAND (Barton) (10.38 a.m.)—by leave—I move opposition amendments (1) and (2):

(1) Schedule 1, item 1, page 3 (lines 5-34), omit the item, substitute:

1  After section 170MK

Insert:

170MKA Good faith bargaining

(1) A negotiating party to a proposed agreement must take part in negotiations and must negotiate in good faith and genuinely try to reach agreement with the other negotiating parties.

Note: The issue of whether a negotiating party is genuinely trying to reach agreement with the other negotiating parties was considered by Justice Munro in Australian Industry Group v Automotive, Food, Metals, Engineering,
(2) This section is not to be taken to require a negotiating party to:
   (a) agree on any matter for inclusion in an agreement; or
   (b) enter into an agreement.

(3) For the purpose of subsection (1) "negotiating in good faith" includes:
   (a) agreeing to meet face-to-face at reasonable times proposed by another party;
   (b) attending meetings that the party had agreed to attend;
   (c) complying with negotiating procedures agreed to by the parties;
   (d) disclosing relevant information, subject to appropriate undertakings as to confidentiality, for the purposes of negotiations;
   (e) stating a position on matters at issue, and explaining that position;
   (f) considering and responding to proposals made by another negotiating party;
   (g) adhering to commitments given to another negotiating party or parties in respect of meetings and responses to matters raised during negotiations;
   (h) dedicating sufficient resources and personnel to ensure genuine bargaining;

(4) For the purpose of subsection (1) a party must not:
   (a) capriciously add or withdraw items for negotiation;
   (b) refuse or fail to negotiate with one or more of the parties;
   (c) in or in connection with the negotiations, refuse or fail to negotiate with a person who is entitled under this Part to represent an employee, or with a person who is a representative chosen by a negotiating party to represent it in the negotiations; and
   (d) in or in connection with the negotiations, bargain with, attempt to bargain with or make offers to persons other than another negotiating party, about matters which are the subject of the negotiations.

170MKB Management of good faith bargaining

(1) For the purposes of section 170MKA, the Commission may make orders to:
   (a) ensure that a negotiating party negotiates with another negotiating party;
   (b) ensure that negotiating parties to a proposed agreement negotiate in good faith;
   (c) promote the efficient conduct of negotiations for a proposed agreement; or
   (d) otherwise facilitate the making of an agreement.

(2) In determining what orders (if any) to make, the Commission:
   (a) must consider whether a negotiating party has negotiated in good faith pursuant to the obligations imposed by section 170MKA; and
   (b) may consider:
      (i) proposed conduct of any of the parties (including proposed conduct of a kind referred to in paragraph (a)); and
      (ii) any other relevant matter.

(3) Without limiting the generality of subsection (1), the Commission may make orders that a negotiating party take, or refrain from taking, specified action, including:
   (a) requiring a negotiating party to adhere to commitments given to another negotiating party or parties in respect of meeting and responses to matters raised during negotiations;
   (b) setting time limits for the completion of negotiations in respect of a proposed agreement.

(4) The Commission may not make an order which will:
   (a) prevent a negotiating party from trying to reach an agreement with another negotiating party;
   (b) require a negotiating party to:
      (i) agree on any matter for inclusion in an agreement; or
      (ii) enter into an agreement.
(2) Schedule 1, item 2, page 4 (line 1) to page 5 (line 2) omit the item, substitute:

2 At the end of subsection 170MW(2)

Note: The issue of whether a negotiating party is genuinely trying to reach agreement with the other negotiating parties was considered by Justice Munro in Australian Industry Group v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, Print T1982.

I note the minister’s conclusion of the second reading debate, and it may well be that the government could in fact look at our amendment (2)—I will take them out of order. All that amendment proposes is to add at the end of subsection 170MW(2) the following words:

Note: The issue of whether a negotiating party is genuinely trying to reach agreement with the other negotiating parties was considered by Justice Munro in Australian Industry Group v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, Print T1982.

We agree that that case was significant but, again, we see significance because the commission notes its ability to determine when there is or is not genuine bargaining occurring. Again, we say that the commission needs to be empowered. Addressing the argument raised by the minister, we say the commission should be empowered as a facilitator in respect of enterprise bargaining, not as a prescriber of outcomes. I understand the argument presented by the government that the industrial relations framework has moved on through enterprise bargaining to a situation where outcomes are being tailored to workplaces. There is certainly an argument that the old arbitration procedures, where the commission was entrusted with the role of settling disputes, took the outcome of necessity. Its job was to settle disputes by working out what each party would accept, and as quickly as possible, without necessarily having the expertise required to judge whether the outcome of its efforts—and, if necessary, the arbitrated order or award—would enhance the productivity or the organisation of the business and so forth.

I think it is fair to say that all sides of politics have moved on in the enterprise bargaining debate. We all recognise the significance of enterprise bargaining, but we say the commission could have and should have an ongoing role as a facilitator; in particular, to ensure that the parties bargain in good faith. The difficulty we have with the cooling-off period as proposed by the government—and indeed a similar model proposed by the Australian Industry Group—is that during that period it actually prevents the commission from compelling parties to come before it or, indeed, from compelling parties to abide by a program for the negotiations.

Our proposal is simply to empower the commission, during all phases, to direct the parties to negotiate in good faith. Indeed, our proposed amendments give the commission very broad powers to give such directions and make such orders as are necessary to facilitate that. For instance, we foreshadow giving the commission the specific ability of ensuring that the parties agree to meet face to face at reasonable times; that they agree to attend meetings that have been foreshadowed; that they comply with negotiating procedures; that, subject to confidentiality, they disclose relevant information to assist informed debate; that they require the parties to state a position on matters at issue and explain that position; that the parties are required to consider and respond to proposals made by another negotiating party; that they adhere to commitments given to another negotiating party; and, of course, that they are in a position to dedicate sufficient resources and personnel to ensure genuine bargaining.

That final issue is very relevant to this concept of pattern bargaining, to use the expression that the government has used. (Extension of time granted) Requiring that the negotiating party have the capacity to actually negotiate obviously militates against serving, in a scatter-gun approach, demands over a countless number of employers when there is no hope of getting an organiser in the door of those premises to undertake the negotiations. All these factors would empower
the commission to control the process. Irrespective of whether it was called pattern bargaining or whatever was occurring, as we saw in that decision of Justice Munro the commission was well and truly able to make that assessment as to when there was genuine bargaining. The commission needs to be given the capacity to do something about it when the parties are not negotiating.

In summary, as we read the government’s legislation and indeed the Australian Industry Group proposal, the cooling-off period is necessarily preconditioned on actual stoppage occurring—which we agree is undesirable. If you can achieve enterprise outcomes without any stoppage, clearly workers and their families are not prejudiced by losing pay for a few days or even longer, in circumstances where there is an incredible burden of mortgage commitments, credit card commitments and so forth. Workers would not lose pay. Productivity would not be lost and indeed the profitability of the business would continue. That is why we think it is quite clearly better if the commission is empowered to get amongst the process early in the piece if there are difficulties and, indeed, to control the process and give such orders and directions as it thinks are appropriate to ensure that the bargaining continues in good faith. I have gone through the reasoning of our amendments. I think that reasoning is sound. Again, we are talking about enabling the commission to be a facilitator rather than a prescriber.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (10.48 a.m.)—Again I thank the member for Barton for his contribution to the debate. At one level there seems to be some commonality between the government and the opposition here, but I suspect that there is nevertheless a fundamental difference of approach. I suspect that at heart the opposition still wish to see the commission micromanaging disputes which really should be left, as far as is reasonably possible, to the parties. No-one understands the reality of any business—its needs, its threats, its opportunities, its challenges—better than the workers and managers in that particular business. As far as is humanly possible they should be allowed to work out their differences and to try to come to the best possible arrangements with each other. Yes, sometimes they will not be able to do that and under those circumstances, yes, it is necessary that we have a body such as the commission to help and to try to make the best of a bad situation. But the commission should be the last resort and not the first resort. That is the government’s firm intention. That is the philosophy that the government brings to all of these workplace relations debates.

I want to see the commission given power to compel the parties not so much to come before the commission as to come before each other. That is precisely what the government’s suspension model, with its cooling-off period provisions, is designed to achieve. The more prescription you fit in, the more detail you put into the bill—as the opposition wishes to put in—the more the commission will end up going back to the old ways of micromanaging everything. In particular, I would be concerned by any provision which allowed the commission to order specific individuals in organisations to do this, that or something else. That is really something which people ought to be able to do for themselves. Notwithstanding the benevolence and good sense which the member for Barton generally brings to these issues, I suspect that on the opposition side there is still an instinct for control. By contrast, on the government side there is an instinct for freedom. Nevertheless, having said that, I will carefully study the opposition’s amendments and if there is anything that the government can usefully adopt that might be done in another place.

Question put:

That the amendments (Mr McClelland’s) be agreed to.

The House divided. [10.54 a.m.]

(The Deputy Speaker—Mr Jenkins)

| Ayes | 61 |
| Noes | 76 |
| Majority | 15 |
AYES

Adams, D.G.H.
Andren, P.J.
Bevis, A.R.
Byrne, A.M.
Crosio, J.A.
Edwards, G.J.
Emerson, C.A.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Grierson, S.I.
Hall, J.G.
Hoare, K.J.
Jackson, S.M.
King, C.F.
Lawrence, C.M.
Macklin, J.L.
McClelland, R.B.
McLeay, L.B.
Melham, D.
Murphy, J. P.
O’Connor, G.M.
Quick, H.V. *
Roxon, N.L.
Sciaccia, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Vanvakinou, M.
Zahra, C.J.

NOES

Abbott, A.J.
Anthony, L.J.
Baird, B.G.
Barresi, P.A.
Billson, B.F.
Bishop, J.J.
Cadman, A.G.
Causley, I.R.
Ciobo, S.M.
Costello, P.H.
Draper, P.
Elson, K.S.
Forrest, J.A. *
Gambino, T.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Hull, K.E.
Johnson, M.A.
Kelly, D.M.
Ley, S.P.
Lloyd, J.E.
May, M.A.
McGauran, P.J.
Nairn, G. R.
Neville, P.C.
Pearce, C.J.
Pyne, C.
Ruddock, P.M.
Scott, B.C.
Slipper, P.N.
Somlyay, A.M.
Stone, S.N.
Ticehurst, K.V.
Truss, W.E.
Vaile, M.A.J.
Washer, M.J.
Windsor, A.H.C.

McArthur, S. *
Moylan, J. E.
Nelson, B.J.
Panopoulos, S.
Prosser, G.D.
Randall, D.J.
Schultz, A.
Secker, P.D.
Smith, A.D.H.
Southcott, A.J.
Thompson, C.P.
Tollner, D.W.
Tuckey, C.W.
Wakelin, B.H.
Williams, D.R.
Worth, P.M.

* denotes teller

Question negatived.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (11.01 a.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (3):

(1) Schedule 1, page 3 (before line 5), before item 1, insert:

1A  Subsection 170MI(1) (note)
Omit “170MW(10)”, substitute “170MW(9A) and (10)”.

(2) Schedule 1, page 3 (after line 34), after item 1, insert:

2A After subsection 170MW(8)
Insert:

(8A) An application may be made to the Commission for an order under this section for the suspension or termination of whatever bargaining periods apply to:

(a) a specified business, or any part of that business; or

(b) a specified part of a specified business;

without specifically identifying the bargaining periods. The application has effect as if it were an application for the suspension or termination of the bargaining period, or each of the bargaining periods, that applies to the specified business (or any part of it), or to the specified part of the business, as the case requires.
Note: The other requirements of this section must still be complied with in relation to the application.

(8B) If subsection (8A) applies to an application, the Commission must satisfy itself as to which bargaining periods the application has effect in relation to.

2B After subsection 170MW(9)

Insert:

(9A) An order under subsection (1) suspending the bargaining period may, if the Commission considers it to be in the public interest, contain a declaration that, during some or all of the period while the suspension has effect, a specified negotiating party or employee of the employer:

(a) is not allowed to initiate a new bargaining period in relation to specified matters that are dealt with by the proposed agreement; or

(b) may initiate such a bargaining period only on conditions specified in the declaration.

(3) Schedule 1, page 6 (before line 3), before item 3, insert:

3A Application of items 1A, 2A and 2B

The amendments made by items 1A, 2A and 2B apply in relation to a bargaining period that began before, at or after the commencement of those items, even if proceedings for the suspension or termination of the bargaining period were started (but not determined) before that commencement.

These are fairly technical amendments and they essentially do two things. The first purpose of these amendments is to enable the commission to overcome the particular problem that some people had in reacting to the Campaign 2000 situation. Applicants will be able to apply, under the act as the government proposes to amend it, for suspension or termination of any or all bargaining periods applying to a specified business or parts of a business without having to identify the bargaining periods. My understanding is that in responding to Campaign 2000 it was very difficult, in practice, to identify those bargaining periods. This is designed to get around that.

The second purpose of these amendments is to allow the commission, when it suspends a bargaining period, to declare that a specified negotiating party or employee is not allowed to initiate a new bargaining period in relation to specified matters that have been dealt with by the proposed agreement following the suspension of the bargaining period. Again, it is designed to get around the practical difficulty that arose in the Campaign 2000 case, where the union in question sought to get around a suspension by initiating a series of further bargaining periods. I commend the amendments to the House.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (11.04 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

MIGRATION LEGISLATION AMENDMENT (PROCEDURAL FAIRNESS) BILL 2002

Second Reading

Debate resumed from 13 March, on motion by Mr Ruddock:

That this bill be now read a second time.

Ms GILLARD (Lalor) (11.05 a.m.)—In addressing the Migration Legislation Amendment (Procedural Fairness) Bill 2002, I would like first of all to deal in some technical way with the subject matter of the bill, because I think it is important that people understand the ambit of the bill. I will then speak about some of the broader policy questions that are raised in the second reading amendment. This is, properly viewed, quite a narrowly confined piece of legislation, and I think it is worth spending some time dealing with its terms, because there appears to me to have been some misunderstanding about the breadth and effect of this bill.
As I think we are aware—those of us who take an interest in migration matters—there has been a longstanding tension between the need by decision makers for fast and certain decision making in the immigration area and the courts' view that matters ought to be subject to judicial review. If one chases through the various rounds of amending that there have been to the Migration Act over the years, many of the rounds of amending have arisen because of that tension and the way in which it has played out.

This bill relates back to one of those rounds of amending; in particular, to a round of amending engaged in by former minister Gerry Hand when he was minister for immigration in 1992 in the Keating Labor government. Minister Hand sought at that time to introduce a complete code to guide immigration decision makers. The aim was to give immigration decision makers certain rules that they needed to follow to make a valid decision. It is clear from Minister Hand's second reading speech that his and parliament's view was that they were, in that round of amending, creating an exhaustive code. However, in the High Court case referred to as Miah—although I suppose it would be appropriate to give it its full title of Re Minister for Immigration and Multicultural Affairs; Ex parte Miah, a High Court case that was decided last year—the view was taken by the court that, if in 1992 parliament thought that it was introducing an exhaustive code to guide immigration decision makers. The aim was to give immigration decision makers certain rules that they needed to follow to make a valid decision. It is clear from Minister Hand's second reading speech that his and parliament's view was that they were, in that round of amending, creating an exhaustive code.

However, in the High Court case referred to as Miah—although I suppose it would be appropriate to give it its full title of Re Minister for Immigration and Multicultural Affairs; Ex parte Miah, a High Court case that was decided last year—the view was taken by the court that, if in 1992 parliament thought that it was introducing an exhaustive code to guide decision makers in the immigration area, it had failed in that endeavour and, in particular, it had failed to exclude the common law natural justice hearing rule. Indeed, when one looks at the High Court case, one can say the High Court effectively invited parliament to relegislate and clarify the matter if it really was parliament's intention to create a clear and exhaustive code for immigration decision makers. It is in part in response to that invitation that the bill is before this House, subsequently to be dealt with by the Senate.

I say that is not the end of the bill, because there is also an issue about how the common law natural justice hearing rule relates not only to decision making at first instance but also to the question of what is a valid appeal. If you had the view you were creating an exhaustive code which excluded the common law natural justice hearing rule, then you would necessarily be taking the view that a breach of the common law natural justice hearing rule could not be a foundation for a further appeal. The bill seeks to make that clear by dealing with that particular point—whether or not a breach of the common law natural justice hearing rule can be the foundation of an appeal—through what we all refer to in this place and is referred to generally as the privative clause, which was introduced into the Migration Act last year.

This is a relevant point—the question of whether or not a breach of the common law natural justice hearing rule can be the foundation of an appeal despite the adoption by this parliament of the privative clause—because that very issue has been raised in a number of cases that have been dealt with by single judges of the Federal Court since the adoption of the privative clause. We know from those cases that various Federal Court judges have taken different views on this. Without trying to delay the House too much on this area of law—which might not be viewed as the most interesting matter by some—I want to say that there is a complex legal debate about what appeals survive in the face of the privative clause. That complex legal debate is normally resolved by reference to what is known as the Hickman principle, a principle developed and first laid down by Justice Dixon of the High Court in a case involving a person called Hickman.

The Hickman principle basically tells us that a privative clause will prevent a whole lot of appeals, provided that they fall within the three limbs of the principle. Justice Dixon went through those three limbs in the case. He said that the three limbs were that the tribunal making the decision had to be engaged in a bona fide attempt to exercise its power, that the decision made by the tribunal had to relate to the subject matter of the legislation and that the decision had to be reasonably capable of reference to the power given to the tribunal. Effectively, the Hickman principle tells us that, if a decision maker acts within the ambit of his or her lawful authority and there is a privative
clause in place, no appeal will lie. If a decision maker goes so badly wrong that he or she is no longer exercising lawful authority then, despite the privative clause, an appeal will lie. This relates to the subject matter of this bill because, as I have said, there have been a number of Federal Court cases dealt with by single judges of the Federal Court where the issue has been squarely raised as to whether or not a breach of the common law natural justice hearing rule is caught by the Hickman principle—that is, whether a breach of the common law natural justice hearing rule would enable you to found a legal appeal or whether a breach of this rule does not lead to the kind of invalidity which would then enable an appeal to lie, in the face of the privative clause.

We also know that those cases have been collected up by the Federal Court because various judges have made different decisions. The Federal Court has effectively said, ‘Let’s look at this area of law again and make an authoritative statement on it.’ We know that a special bench of the full Federal Court has been convened to hear these cases—five of them—where judges have made different decisions about whether or not an appeal can be founded in the face of the privative clause on the basis that there has been a breach of the common law natural justice hearing rule. That full court sat to commence this appeal on 3 June. Probably that full bench got more publicity than it otherwise would have as a result of Minister Ruddock’s exchange with the full bench, a lot of which was reported in the media. I am not sure that otherwise immigration cases on a matter as arcane to most as the Hickman principle would necessarily have been in the pages of our newspapers, but of course this full bench got a fair bit of publicity because of Minister Ruddock’s exchange with the court. But we will not go into the details of that matter now; I think they are well known.

Looking at the sweep of this legislation, it is largely a technical bill. It relates to codification of decision making powers. The codification of decision making powers of decision makers in the immigration area was a Labor idea, the codification being introduced by Minister Hand. There is some legal uncertainty as a result of the Miah case, as parliament obviously thought that it was legislating an exhaustive code and then the High Court effectively told parliament that, if that is what it thought it was doing, it had not achieved that result. Then we have the further intersection with which appeals survive post the adoption of the privative clause, and we have the law in a fluid state around that as the full bench of the Federal Court grapples with the matter.

Where does that leave parliament in dealing with this bill? Labor are not opposed to this bill passing the House today, and we are not opposed to it being dealt with in the Senate this week. But we do believe that in rushing the bill through—particularly at the Senate stage—the government is making an error. Properly viewed, there is nothing particularly urgent about this bill. Indeed, there is nothing urgent about it at all. Prudent decision making and prudent legislating would lead you to the conclusion that the best thing to do would be to wait until the full court of the Federal Court has made its decision and clarified the law in this area. Then, with the benefit of that guidance from the full court of the Federal Court, parliament could act knowing what the law was as enunciated by the court. It could then determine whether or not it was satisfied with the state of that law. If it were not satisfied with the state of that law, it could legislate in a certain fashion to achieve whatever result it wanted.

Our great fear—and this is expressed in the second reading amendment—is that by acting in this rushed manner prior to the decision of the full Federal Court we could all be involved in a fool’s errand. On the one hand, depending on how the full Federal Court goes, this piece of legislation could be wholly unnecessary. If the full Federal Court decided that a breach of the common law natural justice hearing rule did not give rise to an appeal because it was a matter excluded effectively from appeal as a result of the operation of the privative clause then, insofar as this legislation deals with that question, it would be wholly unnecessary. It is not a good practice—one can describe it as a belts and braces approach, and I think it was described like that by the department
when this matter was dealt with in a Senate committee—for parliament to be engaged in unnecessary law making. As I think we are all aware, the Migration Act is complex enough, heavy enough and difficult enough to deal with now without amending it if it does not require amendment. If the court went another way then a bill like this might be required. But it would be better to draft the terms of that bill when it was absolutely clear what the court had said it thought the current legislation meant. As the terms of the second reading amendment which has been circulated in my name outline, we think the best approach in this area would be to not further proceed with this bill at this time, to wait for the full Federal Court decision and then deal with what that decision specifies.

On the previous legislative timetable, we may have had the full Federal Court decision before this matter was dealt with by the Senate. During the life of this legislation, it was never marked as urgent or viewed as a priority until this week. It was introduced into this House on 13 March. It then went to the Senate Legal and Constitutional Legislation Committee and was dealt with there. The committee, because of a very high workload, sought an extended reporting date, which was granted without any trouble. The bill was marked for passage through this House as a non-priority matter. On all of the normal rules about timetabling of legislation, the bill would not have been dealt with by the Senate until sometime in August, possibly September. If we had allowed the ordinary legislative timetable to flow, the full court decision to which I refer might well have been available prior to this bill being dealt with by the Senate. If it appeared that sections of the bill had become wholly unnecessary, amending could have taken place. Or if it had become clear that sections of the bill were not appropriately drafted in view of the full court decision then the amendments to make it appropriately drafted could have taken place.

But suddenly and without explanation this bill has become urgent. One wonders why that is. I suspect I know the answer. As everybody in this place knows, this parliament has been engaged in a fairly robust debate about the excision of 3,000 islands off Australia’s mainland. That was made firstly by regulation, which was subsequently disallowed by the Senate. Now there is a bill which deals with the excision of those 3,000 islands. That bill has been dealt with in this House and now is in the Senate. I suspect that the only urgency surrounding this bill is that the government are of the view that migration matters are generally good electoral politics. Having dealt with the excision bill in this place, they wanted to bowl this one up more urgently to see if it would give them some more good electoral politics to play in the migration area.

We on this side—and we made this clear during the excision debate—do not think that migration, border security or anything that is so important to the national interest should become playthings in the political arena or should be toyed with. By rushing this bill in a completely unnecessary way the government yet again is trying to toy with these very important issues. That is wholly inappropriate. We are saying to the government: there is not electoral capital to be made out of this bill, so you can steady on a bit. This is all about prudent legislating and prudent decision making. You would be better to slow down, wait for the full Federal Court decision and get this right. The real risk that this parliament is running now is that it is involved in a patch-up job on a piece of legislation arising from single judge decisions in the Federal Court. Depending on what the full Federal Court says, the patch-up job might be wholly unnecessary. I make that point very strongly: do not play politics with this bill. Let us see what the full Federal Court says and, when this parliament legislates, let us get it right.

Having said that, I would like to make some broader comments. These relate to the second reading amendment, the issue of immigration processing as it is dealt with by this bill and in particular the question of processing asylum seeker claims. In speaking to this bill, I think I have made it perfectly clear that in dealing with pieces of legislation like this Labor will not be guided by the politics involved; Labor will be guided by what is good decision making in the area.
We think good decision making in this area is to have fast and fair processing. And to achieve fast and fair processing, codification of the obligations of decision makers is a good thing. Former Minister Hand, in a Labor government, thought that it was a good thing and Labor’s view on that question is unchanged. Obviously, from time to time what is in the code and how the code is expressed need to be revisited but, as a statement of principle, Labor support codification of the obligations of decision makers to achieve fast and fair decision making in this area.

We also support there being restrictions on how many times someone can go through the process. We believe that it is in no-one’s interests to have endless rounds of judicial review. We think that fast and fair processing means that review structures need to be curtailed—but they need to be quality review structures. We are therefore not opposed, as a matter of principle, to dealing with appeal issues as they are raised in the courts. If it is necessary to re legislate to ensure that fast and fair decision making occurs, then we will deal with those propositions on their merits. We do not believe it is in anybody’s interests to have longwinded rounds of appeal for no reason. They are the principles that are guiding us.

If you brought those principles to bear on the asylum seeker area, you could say that the government is engaging in the so-called Pacific solution, with all of its costs and all of its instability, for one reason. When you strip away all of the layers of hype, rhetoric and carry-on, there is only one reason that the government is engaging in the so-called Pacific solution: it gives it an ability to engage in a truncated processing arrangement for the claims of asylum seekers. For those persons who are being processed in Nauru and PNG, the department has a two-stage internal process. The asylum seeker’s claim is processed by the department and, if they are unhappy with the decision, they have the opportunity to appeal to a higher level of the department—but that is it. We know that if an asylum seeker’s claim is processed on Australian soil, having engaged Australia’s protection obligations, the asylum seeker has their claim processed by the department; they get a primary decision by the department and, if they are unhappy with the primary decision, they may go to the Refugee Review Tribunal. As I have discussed, subject to what happens with the litigation that is in train now, it may be that there are some further appeals lying around the privative clause. We do not know the answer to that yet, but that is not impossible.

Minister Ruddock constantly stands in this place and says that he needs the so-called Pacific solution because he wants to avoid what he variously refers to as the ‘bells and whistles processing in Australia’, ‘convention plus’ or—perhaps most colourfully—‘the sugar’. If the real reason—stripped of all of the hype, rhetoric and carry-on—that the government is engaging in the so-called Pacific solution is to get the benefits of truncated processing as perceived by the government, then why don’t we have a real debate and a real exchange about getting a better processing system in Australia?

I am sure government members will roll their eyes about that because they like to pretend that there is only one way forward in this area—and that is the government’s way. There is not one way forward; there is a multiplicity of ways forward. We need to consider, in a measured way—stripped of all the political tomfoolery that goes on in this area—what would be the best processing arrangements in Australia. If we could make those arrangements fast and fair—and if they actually worked—we would not need the so-called Pacific solution. So we would save the hundreds of millions of dollars that are being wasted on the so-called Pacific solution and we would have a long-term sustainable arrangement that would be durable for the next 10, 20 or 50 years. I do not think that anybody in this place—including government members—could come into this place and say with any degree of credibility that they believe the so-called Pacific solution is going to last for 10, 20 or 50 years.

Instead of engaging in an unsustainable sideshow, which is what the so-called Pacific solution is, why don’t we fix the thing that is really the problem? The thing that is really the problem is the Australian processing ar-
rangement. If Minister Ruddock believes, as he seems to believe, that he cannot have asylum seekers processed in Australia because he does not have Australian processing arrangements under control, then we have a standing offer to say that we will work with him to fix them. We will work with the government to get a better way. The government will need our cooperation because they will need to get it through the Senate. We will cooperate in creating a better onshore processing arrangement which meets the tests of being fast and fair.

That offer remains open to the government. I made it when I spoke in this place to the excision bill, because we know that the true purpose of excision is for it to be one of the cornerstones of the so-called Pacific solution, which is ultimately unsustainable. I made that offer when I spoke to the excision bill, and I make it again now: if the government really wants to deal with the perceived problems in Australian processing arrangements, we will work with you to achieve that result, provided that it meets the test of being fast. We are happy to engage in all sorts of lateral thinking to get the process as fast as possible, because we actually think that being fast is the compassionate and moral position. The thing that ultimately destroys asylum seekers in detention is that they are there for so long and are in such a state of uncertainty. If it passes the test of being fast—as fast as you like—we will cooperate with that because we think that is the compassionate approach, and we think it is the practical approach from the point of view of Australia.

Of course, we also want it to be fair. I would have thought that government members would acknowledge that asylum seeker processing should be fair because, in dealing with asylum seekers, we are balancing the needs to assess claims and to remove people who do not have legitimate claims against our obligations as a nation to genuinely assist those people who face real persecution. I think the Australian community would say, ‘That is right. We do want to genuinely assist people who face real persecution. We do want to assist people who are genuine refugees. We do want the test to work out who is a genuine refugee and who is not to be as fast and as fair as possible, so that people who are genuine refugees can then proceed as quickly as possible with some certainty about their lives, and people who are not genuine refugees can be removed as quickly as possible from Australia.’ Everybody wins from a fast and fair processing regime.

I reiterate what I said on the excision bill: we stand ready to work with the government to achieve such a processing regime. Our cooperation will be required because of the situation in the Senate, and we will deal with that, measured by the test of fast and fair. If the government is not up to meeting that challenge, then Labor through its policy development process will meet that challenge for the government, and we will announce a fast and fair processing regime. We will then say to the government, ‘It is time you enacted it.’ If the government wants to act now, then we stand ready to work with the government to achieve that regime.

In conclusion, I say once again that we support codification of the obligations of decision makers. We do not think that there should be endless appeal rights. We understand why the government wants to clarify the question of whether or not the common law hearing rule survives outside the codification of the obligations of decision makers in the immigration area. We understand why the government would be viewing with some concern the fact that various single judges in the Federal Court have announced different versions of the law in this area; that is not a desirable result. In that respect, we think that prudent and better decision making lies in waiting until the full Federal Court decision is available, so that we know whether or not this legislation is needed and whether or not it is in an appropriate form. Again, there is nothing genuinely urgent about this piece of legislation. The only urgency was the government’s hope that it would be able to milk a bit more political advantage out of the migration area before parliament packed it in for the winter recess. With those words, 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 notes that:

(1) Labor supports immigration matters being determined in a fast and fair manner;
(2) a five person Full Court of the Federal Court commenced hearing on 3 June appeals from five decisions of single judges and that these appeals will determine a central issue dealt with in this Bill;
(3) the Department of Immigration, Multicultural and Indigenous Affairs has conceded that it is not certain that the Bill is needed to achieve its end of ensuring that the common law natural justice hearing rule is excluded from immigration decision making; and
(4) the passage of this Bill prior to the Federal Court decision may confuse the law in this area and cause more delays and uncertainty; and therefore calls on the Government to delay final enactment of this Bill until the outcome of the Court case is known.

(Time expired)

The DEPUTY SPEAKER (Mr Hawker)—Is the amendment seconded?

Dr Emerson—I second the amendment and reserve my right to speak.

Mr King (Wentworth) (11.35 a.m.)—The rules of natural justice are a commonsense statement in legal language of basic rules of fairness. The first is that every decision affecting another should not be governed, or even appear to be governed, by bias; and the second is that the decision maker should hear both sides before making a decision. These principles are set out in a number of leading cases in the common law courts of the world. In Australia they were most recently stated in a decision which examined the important question of whether a complaint that a Commonwealth decision maker had failed to comply with these basic principles founded a constitutional right for the plaintiff to obtain a prerogative writ vitiating that decision. That was the case of Re Review Refugee Tribunal; Ex parte Mansour Aala, which was reported in the Australian Law Journal in 2000 on page 52 of volume 75. It was a decision of all seven justices. That case, in which I appeared, confirmed that such a decision was unlawful and could be set aside, and in that case the decision was set aside and the matter went back for further consideration. Interestingly, last week Mr Aala was successful in obtaining an order in his favour in matter No. N1206 of 2001. Apart from the basic legal principles which the case expounds, it illustrates that Australia does enjoy a fair system of justice which is accessible to all, even to those who are not its citizens and who claim to be entitled to basic rights in determining whether or not they have any rights at all.

It is against this background that the present legislation should be viewed. In 1992, the former Labor administration set out to provide in the context of visa applications—including protection visas extended to those who claim the status of refugee under the convention relating to the status of refugees, as amended by the 1967 protocol—a code of practice in disposing of those applications that was fair and expeditious. The purpose of the proposed law now before the House is, in fact, to reinvigorate Labor’s policy of prescribing limits to the reach of the common law rules of natural justice, consistent with general considerations of policy. This bill takes into account legal developments since 1992 and assists in clarifying the law in that regard.

Before I deal with the detail of the bill, it is important that its provisions are put into context. I do this, having regard for the importance of legislators making clear to those for whose benefit they legislate—namely, the whole Australian people, including judges called on to administer the laws passed—the policy intended to be reflected by the public expression of the will of the parliament contained in the bill. There is, as the Chief Justice said recently in his address in Launceston entitled ‘Public confidence in the judiciary’, an essential imperative for judges to remain independent and to keep themselves unsullied for the judicial task. In my view, they cannot perform that task or remain unsullied in the sense I have mentioned unless they focus entirely on the task of administration of justice. The rather more waffly Guide to Judicial Conduct, which was issued last month, does not deal principally with the issue that annoys legislators, administrators and the public alike—namely, judges in office independent of every communal tie, who rely on policies as conceived by them in the
heat of the courtroom debate as the universal for the decisive enthymeme, instead of legally correct decision making, and who make ex cathedra pronouncements on the public interest when, as has often been acknowledged, judges have no training in and, frequently, little knowledge of that public interest.

The purpose of this legislation, in both its original form and as currently proposed, is to stipulate that the codes of procedure set out in the 1992 legislation propounded by the then Labor government are conclusive of the rights of procedural fairness in deciding applications for protection visas. Before I turn to consider whether those statutory standards conform to the ordinary understanding of what is fair—which for legal purposes, and subject to a comment I make later on, is irrelevant—it is important to place this legislation in the overall context of the Migration Act and the government’s policy on these matters generally. The Migration Act sets out the statutory terms upon which, and the circumstances in which, foreign citizens are admitted to Australia and are permitted to become citizens of our nation. It is essentially bipartisan legislation.

The recent debate has been complicated by the determination of some who, in seeking entry into Australia, use boats plying empty northern seas to reach our vast coastline and then, without obtaining visas under the Migration Act, disappear into the Australian population. Refugees have long been welcome in Australia, so long as they apply through the UNHCR or to established Australian entry points at embassies abroad. Indeed, my electoral office has assisted many through these avenues. But incursions along our northern coastline, in particular, have meant that the issue of processing protection visas expediently has become quite rightly part of the question of border security. In this context, it is obviously important that migration authorities in Australia, when faced with applications from persons in custody who have entered the country illegally, should be able to follow a system of visa processing that is both quick and fair. That is the balance sought by the legislation first put forward by the Labor Party in 1992 and with which the coalition then broadly concurred. It remains the balance and the aim of this legislation to ensure that clear guidelines set out the process for all officers to follow and that, if they do follow them, their decisions will be effective.

Let me now turn to the provisions of the proposed legislation. In dealing with the proposition, I contend that we do have a fair migration program in terms of dealing with visa applications. Prior to 1992, some administrators and others suggested that the courts had moved to a position where the rules of procedural fairness applied to every class of migration decision. The Migration Reform Act 1992 intended to exclude procedural fairness as a ground of judicial review in two ways. Firstly, it prescribed in detail the procedures which administrative decision makers and tribunals must follow in making decisions on visa applications. These statutory procedures were intended not only to exhaustively catalogue the content of the requirement to provide a fair hearing but also to exclude the courts implying any additional requirements. That observation is confirmed by the Hansard record of the second reading speech of the then Minister for Immigration and Ethnic Affairs, Mr Gerry Hand, who, amongst other things, said:

Judicial review will only be possible after the applicant has pursued all merits review rights or where merits review is not available.

Further, he said:

These procedures will replace the somewhat open-ended doctrines of natural justice and unreasonableness.

Secondly, natural justice was specifically excluded as a ground for applying judicial review of migration applications before the court. That provision, contained in section 476 of the act, was considered more recently by the High Court. In the case of Eshetu, the High Court upheld the exclusion of natural justice as a ground of review before the Federal Court, despite the attempts of that court to find other ways to import the requirement. In the more recent cases of Miah and Aala, the questions that were posed before the courts in dealing with these matters were slightly different. The decision in Miah came shortly after the decision in Aala. In that
case, all members of the court were unanimous in finding that the Refugee Review Tribunal had breached the fair hearing rule by preventing an applicant for a refugee visa from putting his case. He had been informed that the tribunal had all papers in front of it and had read them when, in fact, significant material that was part of his case was not before the tribunal. No requirement in the act specified how the applicant would place his material before the tribunal, although the act did set out in some detail the procedures the tribunal was bound to follow. The court found that the requirements for procedural fairness had not been followed.

To a similar effect was the more recent case of Miah, which was referred to earlier in the debate. The bill will reverse the decision in the case of Miah by providing a clear statement of intention to exclude the common law rules of procedural fairness. It expressly states that the procedures set out for the making of and review of decisions on visas under the act are exhaustive and that there is no further room for the importation of common law notions of procedural fairness; thus it will restore the situation which was intended by the Migration Reform Act 1992.

It is unnecessary for me to go to the precise language of each of the amending provisions. They generally use a formula to the effect that certain provisions are an ‘exhaustive statement of the requirements of the natural justice hearing rule’. That provision is inserted in relation to decisions of the minister or a delegate to grant or refuse a visa, to cancel a visa, to cancel a visa for non-compliance with conditions or because of changed circumstances or other reasons, and to rule whether an applicant is in or outside Australia in relation to decisions of the Migration Review Tribunal and the Refugee Review Tribunal.

As I mentioned, the decision in the case of Aala recognised inter alia that the rules of natural justice applied to a decision of the Refugee Review Tribunal. The decision in Miah took the view that in respect of the 1992 legislation there were additional protections not found in the statute for applicants for a visa. But that decision was reached by a narrow majority of three to two. It is interesting to reflect briefly upon the considerations of both views, as it helps to determine and identify the significance and importance of the legislative provisions in the current bill. In paragraph 34 in the joint decision of the Chief Justice and Justice Hayne handed down on 3 May 2001, their Honours noted that subdivision AB of part 2, Division 3 of the Migration Act was described in its heading as a ‘code of procedure for dealing fairly, efficiently and quickly with visa application’. They went on:

The expression “code” is not conclusive of the present issue; but it is not to be disregarded as an indication of legislative intention.

In paragraph 35 they said:

In the present case, the Act does not dispense with requirements of fairness. On the contrary, it specifies procedures to be adopted in the interests of fairness, having regard also to what Parliament saw as the interests of efficiency and speed.

In paragraph 49 and the concluding part of their joint judgment, their honours pointed out that the provisions evinced:

... an intention ... to prescribe comprehensively the extent to which, and the circumstances in which, the Minister or delegate is to give an applicant an opportunity to make comments or submissions, or provide information, in addition to the information in the original application or any supplementary information furnished ... before a decision is made.

They took the view that the legislation evinced an intention in relation to dealing with applications before the Commonwealth. In paragraph 53 they commented:

The true construction of the statute will determine not only whether the rules of natural justice apply, but also what those rules require.

They continued:

The provisions of s 54(3), read subject to the presently irrelevant qualifications in ss 56 and 57, and read together with s 69, show a clear intention that the decision-maker is not required to invite submissions on a matter regarded as potentially adverse to an applicant’s case, whether the matter is based on a change in circumstances since the application or on any other relevant consideration.

They concluded:

The prosecutor has not shown that the exercise of the power to refuse to grant the visa was subject
to a condition that has not been fulfilled, or that the decision of the delegate was made in excess of jurisdiction.

Justice McHugh, whose views perhaps encapsulated those of the majority, took a different view on the construction of the legislation. In paragraph 128 His Honour said:

It is highly improbable that the legislature intended to exclude all the common law requirements of natural justice from subdiv AB. There are no clear words to that effect.

He expressed similar conclusions in respect of other provisions in the legislation. It is obvious from a review of that important recent judgment that the justices thought there was a fine line in determining whether or not the provisions of the act set out a sufficient code in relation to dealing with visa applications. Two distinguished judges said yes; three said no. But it is in that context and in the context of making those sorts of fine judgments that the legislation currently before the House should be viewed.

It is also significant to note that the cases of both Miah and Aala confirmed an important aspect of the legislative tension between constitutional restraints and policy imperatives. One view might have been that, because section 75 of the Constitution contains a limited constitutional right to procedural fairness in respect of the decisions of public office holders, no statute can cut down the right so found. The better view is that the conception of fairness is elastic and depends on the circumstances of the case and that, where there are provisions which provide on strong policy grounds for a quick and fair decision by the office holder and those provisions are duly followed, no right has been infringed, whatever the outcome of the decision. In the case of Miah, the majority took the view that the legislature did leave the door open to imply additional common law requirements for a valid decision. This legislation makes it clear—as the minority thought—that this was not the case. No-one has suggested that the scheme of the act as propounded or as conceived by the minority was so unfair as to be wholly invalid or otherwise subject to adverse comment or criticism.

There has been some adverse comment in relation to the proposals currently before the House. It has been suggested by the opposition that the proposal is unnecessary because of a recent full court consideration. I would respond that, having regard to the earlier decisions of the High Court and to the fact that only the High Court can give a conclusive decision regarding these matters, it is important for the government to proceed to ensure that its policy program is put in place, particularly having regard to the view—as referred to in the recent decisions of Aala and Miah—that the policy was not being administered as expressed in the statutes.

There has been another suggestion that there will be a lowering of administrative standards if this legislation is propounded. There is a range of mechanisms for quality control of administrative decision making under this legislation, including support by training and policy guidelines. In addition, we have the Public Service Code of Conduct and full tribunal merits review. Relief for decisions made in bad faith or under any of the other privative clause exceptions, as articulated in the Hickman case, would of course still also be available. That also goes for what are suggested to be blatant breaches of the code—those too are not excepted from the protection of the Federal Court or the High Court, if that is appropriate. Nor can it be suggested that there has been any dilution of the rule of law or the court’s authority through these proposals. Recently the Chief Justice, the Hon. Murray Gleeson, said in a speech delivered in November as part of the Melbourne University’s Rule of Law series:

Subject to the constitution, parliament in the exercise of its legislative power, is not obliged to maximise the area of potential justiciability of disputes between citizen and government … Subject to any constitutional limitations on their powers, it is for parliaments to decide what controversies are justiciable, and to create, and where appropriate limit, the facilities for the resolution of justiciable controversies. Parliaments regularly expand and contract the subjects of justiciable controversy. That is what much law making entails.

In conclusion, there are no adverse considerations which would countermand the passing of this legislation. It does ensure that
the fair and quick procedure, which for so long had been thought to be in place, will continue, and that it is appropriate. *(Time expired)*

Dr EMERSON *(Rankin)* (11.55 a.m.)—In many ways this is a very sad time in Australia’s history. It is fair to say that, at least in the postwar era, governments have not sought to use immigration for political purposes and to yield political dividends at the ballot box. When the *Tampa* arrived in Australian territorial waters, the present Prime Minister seized an opportunity. It was the 214th boat that had arrived in Australia under his watch. The first 213 got some publicity, but many of them got none at all. We need to remember the context of the *Tampa*: it arrived at a time when the now industry minister was very close to being forced to resign over the Groom GST scam. The government needed a diversion, and what a spectacular diversion it was!

Ever since that day in August last year, this government has persisted in seeking to use the issue of asylum seekers to yield for itself political dividends. In so doing, it is fracturing community support not only for a refugee program but for an immigration program in this country. Time after time, the immigration minister looks for ways to conjure up some new trick—some way of getting Labor to oppose what the government is doing. We saw it last week with the excision bill. He let the cat out of the bag the day before he introduced it. He said, ‘Tomorrow we are going to be introducing a bill to give you the opportunity to vote against it.’ We had already indicated that we were voting for the disallowance of a regulation. It was a completely redundant bill in policy terms but not in political terms. The government’s objective was to get us to vote against the excision bill. It was a ridiculous bill and we voted against it. We have no qualms about voting against bad policy.

We understand the objective of the *Migration Legislation Amendment (Procedural Fairness)* Bill 2002 before us today is to remove any doubt in relation to the code or set of rules made by Minister Hand in 1992. Since that time, the courts have indicated that they consider there to be some uncertainty about the set of rules that should be applied in assessing applications for asylum in this country. A logical and reasonable response to that is to legislate so that the courts have better information about the intent of the parliament. That is fair enough. But there are court cases pending that may well produce decisions in the winter recess period. As a matter of policy and proper parliamentary process, it would have been far more sensible for this bill to be brought into the parliament, debated and passed with the benefit of the decisions that are likely to be made in the intervening period.

The minister himself has indicated—or at least his department has—that there is no particular urgency with this bill. It is true in policy terms that there is no urgency, but for political reasons it has been made urgent because the minister was hoping that we would vote against this bill so that the government could run around for the next six to eight weeks saying, ‘You see, Labor is against fast and fair processing of asylum seekers.’ That is what they want to do, but they will be disappointed because we are not opposing the bill. The bill would be a better bill if it were drafted in the light of the decisions that will be made, but we understand the intent of the bill, which is to clarify or make more certain the rules that are applied to the processing of applications for asylum.

I am deeply concerned that community support for asylum seekers is being eroded by the Howard government’s characterisation of asylum seekers as some dark threat to Australia. This man has form. In 1988 I was proud to sit in the advisers box when then Prime Minister Bob Hawke came into the parliament and moved a motion calling for the restoration of bipartisan support for a non-discriminatory immigration program. The reason the Prime Minister did that was that John Howard had gone on the John Laws program and said he believed that there was too much Asian immigration; he sought to play the race card then for political purposes. Prime Minister Hawke moved that motion, and obviously it enjoyed the support of the then government. The motion called for the restoration of a non-discriminatory policy and bipartisanship, and it applauded
the Holt government for getting rid of the White Australia Policy, a discriminatory immigration policy. And who voted against that in the parliament? The current Prime Minister and most members of the Liberal and National parties voted against the restoration of a non-discriminatory immigration policy; they voted against applauding previous Prime Minister Harold Holt for bringing an end to the White Australia Policy. But we were joined on our side of the House by three members of parliament. There was the then member for Goldstein, Ian Macphee—and we saw what happened to him: he was knocked off in a preselection because he had too much compassion in his heart. There was the South Australian Steele Hall, who crossed the floor and voted with us. And who was the third? The current immigration minister, Philip Ruddock. That is when we were proud of him and when he was proud of himself; that is when he wore his Amnesty badge with pride. But since that time, becoming comfortable in the seat that he currently occupies, he has been progressively moving to a position where he conjures up reasons and tries to get bills into this place for political purposes.

As shadow industry and innovation minister, I am deeply concerned about the actions of the Howard government in that they are doing irreparable damage to the argument—and it is a correct argument—that Australia’s immigration program is too small and that within it the humanitarian program is too small to assure Australia’s future economic and social wellbeing. The great post-war immigration program has immeasurably increased national prosperity and the quality of Australian life. Almost six million immigrants have come to Australia since the Second World War, and I do not think it is well understood that 600,000 of those were refugees, that one in 10 migrants coming to Australia was a refugee, and that we welcomed those refugees. We welcomed the six million migrants and now we are a nation of people from 160 homelands. We are proud of our traditions of tolerance and of extending a helping hand to newly arrived migrants. We need an expanding immigration program for the future of this country, to offset declining domestic fertility rates. All the government policies in the world can have only a small impact on the trend decline in Australia’s fertility rates. What is needed is an expanding immigration program. Just last year, half of Australia’s population growth was from net migration—again a factor that is not well understood. Just last night the Governor of the Reserve Bank of Australia reinforced these arguments in a major speech in which he said:

Some people would discount our achievement by pointing out that a fair bit of our increase in share—of the world economy—was due to higher population growth resulting from higher levels of immigration. But that should be seen as a strength rather than a weakness if we are interested in which areas are growing and which are declining in relative importance. Also, it points to favourable developments in the future, as high-immigration countries are less susceptible to the strains imposed by an aging population.

So if we are serious about the Intergenerational Report and if we are serious about a future vision for this country, then we ought to be supporting a bigger immigration program for this country: it is vital to the Australian nation’s economic, social and cultural wellbeing. But it is naive to believe that Australia is an attractive location for skilled migrants. For skilled migrants there is very stiff global competition and, when I have raised this in the parliament before, the immigration minister has acknowledged it. It is very easy to say that we want only highly skilled migrants. Guess what! The United States, Canada and Western Europe are saying that they want highly skilled migrants—and we compete against those countries for highly skilled migrants.

But refugees make especially good migrants: typically, they are younger and they seek for themselves and their families a better life, and they are prepared to work hard for it. Australians will support immigration and they will support a substantial humanitarian program if it is fair and orderly. There are some 37,000 asylum seekers waiting offshore, hoping to be accepted into Australia. They are known to the Australian authorities, as they have made contact with those authorities and indicated that as asylum
seekers they would like to come to Australia. Surely, the moral position is one that is fair, that treats asylum seekers arriving in Australia with compassion while not discriminating against those who are stuck in refugee camps with no money to pay people smugglers for passage to Australia.

Of course, Australia has international obligations to give asylum to genuine refugees who arrive in Australian territory, and I support that wholeheartedly. Currently, though, the places taken by such onshore arrivals reduce the number of places allocated to asylum seekers in overseas refugee camps. So it is then not possible to give priority to asylum seekers living in squalid conditions in refugee camps when, under an international obligation, we must give priority to asylum seekers who arrive in Australian territory. Logically, then, effective border protection policies are essential for the restoration of community support for the humanitarian program. We need to be tough on border protection.

Asylum seekers typically arrive in Australia with no personal identification. Having arrived, they are detained by Australian authorities for the purposes of health, identity and security checks and while their claims are processed. Therefore, some form of mandatory detention will always be required. Some branches of the Australian Labor Party have called for an end to mandatory detention. What sort of signal is that sending to the broader community if we, as a party, and if this parliament were to adopt a position saying, ‘We no longer support mandatory detention’? The Australian community will support a strong immigration program and it will support a strong refugee or humanitarian program if it is fair and orderly, but they will not support a refugee program that does not involve mandatory detention. What sort of signal is that sending to the broader community if we, as a party, and if this parliament were to adopt a position saying, ‘We no longer support mandatory detention’? The Australian community will support a strong immigration program and it will support a strong refugee or humanitarian program if it is fair and orderly, but they will not support a refugee program that does not involve mandatory detention. Let us be quite clear about that. At the very least, asylum seekers need to be detained for health, identity and security checks. They must be detained for those purposes. When you talk to people in our party and in the refugee advocacy groups and so on, they all accept that. But the phrase ‘mandatory detention’ has become a negative one for progressive people, because they equate it with the Howard government’s approach to mandatory detention, which is a punitive approach; it is an approach that seeks to punish asylum seekers for trying to get into Australia by putting them into outback detention centres, such as Woomera, where living conditions can often be quite appalling and the duration of detention can be very great.

Lengthy detention in Australia in recent years can be traced to three factors: slow processing of applications for asylum, lengthy appeal processes and ongoing detention of asylum seekers who have been found not to be genuine refugees. When asylum seekers arrive in Australia with no personal identification, the processing of applications for asylum can take time. Identity checks need to be made, often including the use of linguists to test claims of country or region of origin, and security checking can take time too, but faster processing is feasible. My colleague the shadow immigration and population minister has just reiterated an offer here today to work with the government to reduce those processing times so that we can achieve the objective of fast and fair processing.

Appeal processes were truncated by legislation enacted in 2001. Asylum seekers arriving since that time are subject to appeal processes that are not as lengthy as those that previously applied. This will, of itself, reduce the duration of detention. Those who advocate the restoration of full appeal rights would be the first to complain about lengthy detention times for asylum seekers several times rejected as genuine refugees. This legislation goes to that very issue, and that is why we are not opposed to it. Labor support the minimisation of appeals and we support fast and fair processing of asylum seekers, but the government is acting prematurely in legislating now when it could legislate in the light of decisions that are expected during the period of the winter recess.

Detention of unsuccessful asylum seekers from countries with which Australia does not have repatriation arrangements will be the major ongoing cause of lengthy detention periods. Asylum seekers detained indefinitely following an unsuccessful application
are likely to be the most frustrated and to cause trouble in detention centres. Australia does not have repatriation agreements with countries like Iran and Iraq—in the case of Iraq, a repatriation agreement is unlikely in the foreseeable future, since we do not even have diplomatic relations with Iraq—but repatriation should occur where and when it is feasible for those asylum seekers who have been determined not to be genuine refugees.

Australian notions of a fair go should afford the same opportunity for migrants to be accepted in this country, irrespective of whether they have the money to pay people smugglers or are sitting dirt poor in refugee camps in the Sahara. I know that some of the refugees—maybe many—who arrive in Australia by boat have had to scrape that money together; they may have worked very hard to get that money together. We have heard cases of boys being sent out on their own because they are in grave danger. There was one case in Afghanistan where a boy was being used as a minesweeper, and that was not unusual. He arrived in Australia by boat. So I am not saying that everyone who arrives in Australia by boat is wealthy. That is not my point. My point is: many, and probably most, of those who arrive by boat are desperate people—I accept that—but let us not have a situation of ‘out of sight, out of mind’ for those asylum seekers who are sitting in refugee camps around the world and who have no financial capacity to get to this country by boat or by other means of transport. Let us not forget those; they do not get lengthy appeal processes. Surely this country deserves more than a Prime Minister who gains political dividends out of playing the race card and out of demonising asylum seekers. There is every possibility—most particularly through the shadow immigration minister, who has made the offer time and time again—for us to work collaboratively with the government to reduce the processing times for asylum seekers so that we can have a fast and fair processing system. Then we would not need this very costly and farcical Pacific solution. Let us get together as a parliament. Let us reunite this country. Let us stop putting Australians against Australians and Australians against asylum seekers, and let us get some harmony back into this nation. (Time expired)

Mr RANDALL (Canning) (12.16 p.m.)—I am pleased to speak today on the Migration Legislation Amendment (Procedural Fairness) Bill 2002 because it goes to serve this House and the courts in a very positive way. The amendment to the Migration Act 1958 is to exclude the common-law rules of procedural fairness, to make it explicit that the procedures set down in the statute are all that decision makers must comply with. I want to give a little bit of background before I go into some further detail. The opportunity to have cases reviewed is set out in the Australian statutes, in Australian law. This is the proper function of judicial review: that they supervise administrative decisions of public officials, whether they be government ministers or officials, and that they examine the laws that we give them. I want to give a little bit of background before I go into some further detail. The opportunity to have cases reviewed is set out in the Australian statutes, in Australian law. This is the proper function of judicial review: that they supervise administrative decisions of public officials, whether they be government ministers or officials, and that they examine the laws that we give them. The courts supervise these functions to make sure that the executive does not act ultra vires or, in other words, go beyond its intended power. Such judicial scrutiny is not concerned with the merits of a particular administrative decision but whether it has actually breached the power that it is entitled to.
That sets out where we are heading with this bill about judicial review. We are talking here about judicial review of migration decisions. Judicial review is a constitutionally entrenched mechanism in Australian law, set down by the Commonwealth in 1901 under section 75(v). It was created to simplify remedies and statutory grounds of review etcetera, and the Federal Court has been given the opportunity to examine these matters. But, as other speakers have already alluded to, in terms of the Migration Reform Act 1992, this was a Labor reform.

Ms Gillard—Under a great minister.

Mr RANDALL—We were happy to be quite bipartisan on it, as the shadow spokesman indicates. In fact, I am pleased to see that the opposition have already indicated that in principle they support this bill. There are elements of it that they do not support. The previous member speaking went on a fishing expedition about illegal migrants, but I will try and stick to the bill.

What we are endeavouring to do is to examine the purpose of the bill, which is that of procedural fairness—or, in other words, the natural law of justice—and to see how it applies in terms of migration law. The fact of the matter is that procedural fairness is one of the most frequently evoked grounds upon which judicial review for administrative decisions is sought. The problem with that—and I will go further into this later—is the activism shown by some jurisdictions in the courts in Australia. Notably, the Federal Court of Australia has been a sort of native in the woodpile on this matter, and I will be mentioning a few of those cases shortly. As has been explained—and I must also make sure it is understood in my contribution—the Migration Reform Act 1992 did intend to exclude procedural fairness as a ground of judicial review because of its great opportunity to interpret and its ability to allow certain decision makers in jurisdictions to have a laissez-faire approach to their decisions and to interpret some of their own political activism into the decisions they make.

Gerry Hand said, and I need to reconfirm this, that, under the reforms, decision making processes will be codified. And this is what this bill aims to do: to set out under the common-law parameters of this country exactly what is required of a review before the courts, rather than allow them to wander off into their own little agendas. Judicial review will only be possible after the applicants have pursued all merits review rights or where merit review is not available. Grounds for review will include failure to follow the codified decision making process set out in the act.

As has also been alluded to in this House, there are a number of relevant cases, but one of the main causes that has brought this legislation to the House was the uncertainty that the Aala case and particularly the Miah case created before the High Court of Australia. The five judges sitting there were Gaudron, McHugh, Kirby, Gleeson and Hayne. It was a very close, majority decision, 3-2, that found in favour in the Miah case. The very important point that comes from the Miah case is that basically the High Court was screaming out for some guidance on this matter. Until this case, which was unique, they had consistently ruled against Federal Court decisions, which allowed procedural fairness and the elements of that procedural fairness to be upheld.

It was not until the case of Miah that uncertainty came into the decision. The narrow majority of the court in this case held that the code of procedure relating to visa applications had not clearly and explicitly excluded common-law natural justice requirements. A consequence of this case was that uncertainty arose about the procedure which decision makers are required to follow to make a decision. If the bill is passed—and I believe it will be, given the commitment from the other side—the codification of the bill will exhaustively set out, in clear steps, the processes involved in visa applications and cancellations in the visa decision making process. It is intended that this will make the process of decision making fair, efficient and quick. Apart from general clarification, the clarity, fairness and equity proposals of this amendment are really what both sides of the House and, as it turns out, the legal fraternity, are seeking from this bill.

I want to concentrate on certain matters that have come before the courts in which
judicial activism has been painted by individual judges. Coincidentally, today in the *Australian* newspaper, under the heading of ‘Death to democracy’, an article by Janet Albrechtsen is headlined ‘Arrogant judges are damaging the rule of law here and in the US’. The article then sets out the detail of who decides what is morally acceptable etcetera in democracies like Australia and the US. As has been alluded to by the member for Wentworth, last week we saw the publication of guidelines aimed at advising judges in Australia on how to avoid political controversies. The member for Wentworth described those guidelines as ‘a bit of a wet rag’ or some similar term. Ms Albrechtsen goes on to say:

If judges genuinely want to avoid political controversy, they’d do well to start with what Scalia said—

Scalia was a judge a case in America where the judges decided that those who were mentally retarded were not subject to the death penalty. In raising this article in the House, I want to raise the point that judicial activism in this country is alive and well, and much of the bill endeavours to stop this behaviour. I refer, for example, to Justice North of the Federal Court in the famous case, which Mr Ruddock has commented on, where Justice North thwarted a premature government plan to deport two Kenyan illegal immigrants. They were already on the plane and in the air on a commercial flight from Sydney to Singapore when North threatened to grant an injunction to stop the plane from leaving Australia. Mr Ruddock was forced to give an undertaking that the government would pay for the Kenyans to return from Singapore on the next available flight to pursue their claims for asylum. This has been used as an example of a case which demonstrates why the ability of the courts to interfere in immigration decisions should be limited.

We were lucky enough to get Justice North off the waiting list in regard to the 1,400 members of the Maritime Union of Australia in the maritime dispute, where he ruled in favour of the Maritime Union; and, on appeal to the High Court, his decision in the Federal Court was overturned.

the judge who was involved in the recent immigration case involving the *Tampa* and the appeal taken by certain people in Melbourne. Again, his decision was appealed to the High Court and the appeal was upheld.

People such as Justice North are the sort of people that we need to address in the codification of the rules, so that the interfering functions of activist members of the judiciary in certain fora of this country are not allowed to continue. There are sources of tension between the parliament and the courts with regard to migration decisions, and the irony lies in the fact that the judicial review of migration decisions is likely to rest with the High Court in most cases—and, as I said, the High Court has called out for greater clarification.

I would like to go to a couple of cases to illustrate the problems we will have, unless we have greater certainty and direction from the codes that will be implemented through this bill, when the courts come into conflict with the decision making process or the migration law of this country. I refer first to the Sarrazola case, which went before the Refugee Review Tribunal and was the subject of proceedings in the Federal Court on two occasions. This was a case where a Colombian who owed an illegal debt of $40,000 to members of the underworld from a drug transaction was murdered. The underground pursued the murdered man’s family, and the family fled to Australia. The Colombian government abandoned the family and told them to disappear and resolve the problem for themselves. The Federal Court in Australia upheld the decision to allow them to be granted visas. The case really did not fit the tenor of the migration law as it stood, because they did not belong to a particular social group as required by the convention. They were not ordinary refugees, but the court saw fit to twice uphold their decision.

In another case a Mr Jia had been refused special entry on the grounds that he was not of good character; in fact, he had a criminal record. He sought to come to Australia and the immigration minister exercised his power and decided to cancel his visa. The minister was accused of bias because he had made certain comments in the media about the case
and the comments were taken as grounds for appeal. It was patently ridiculous that someone like Mr Jia could be found of good character when he had recent convictions for serious crimes, and it really did go to Australia’s ability to maintain a proper migration system when, on character grounds, for example, the minister could not proceed with the law as it stood. The minister was accused of bias, and the Federal Court upheld the appeal by Mr Jia, but—and here is the rub—the High Court overturned the finding by a majority of four to one and rejected the application under the Australian Constitution.

In the Cassim case, Justice McHugh rejected an argument that the Refugee Review Tribunal had denied an applicant natural justice because the action prevented him from being properly and adequately advised and represented at the hearing. The relevant subsection states that a person appearing before the tribunal is not entitled to be represented or to examine or cross-examine witnesses. His Honour held that the common law rules of natural justice cannot prevail against legislative declaration.

The case of Eshetu involved the 1992 Migration Act, which was amended to provide that it was not grounds for judicial review by the Federal Court of decisions of the Refugee Review Tribunal that there was a breach of natural justice which had occurred in connection with the making of decisions if the decision involved an exercise of power that was so unreasonable that no reasonable person could have exercised the power. The same amendment rendered immune from judicial review in the Federal Court a decision of the Refugee Review Tribunal which was made in bad faith. This caused Sackville J, the judge of first instance in Eshetu v. Minister for Immigration, to say:

… so zealously does the Australian Parliament desire to implement its United Nations Treaty obligations to assist refugees that it has enacted legislation specifically to ensure that it is acceptable for a decision on refugee status to be made … which not merely denies natural justice to an applicant but also is so unreasonable that no reasonable decision-maker could ever have made it.

The Full Bench of the Federal Court subsequently decided that, because natural justice was a basic common law right and should not be taken to be excluded without the words ‘natural justice’, it could be grounds for review because the tribunal had not observed procedures in connection with the making of its decision which the act required to be observed, it being a requirement of the legislation that the tribunal act in accordance with the substantial justice and merits of the case. On appeal to the High Court, however, the decision of the Federal Court was overturned. The High Court found that the legislation excluded the jurisdiction of the Federal Court to set aside a decision of the Refugee Review Tribunal which had denied an applicant procedural fairness or was so unreasonable that no reasonable decision maker could arrive at it. These are cases which outline the fact that judicial activism in the Federal Court in particular needs to be tidied up by giving greater direction and codification in law. (Time expired)

Mr LAURIE FERGUSON (Reid) (12.36 p.m.)—At the outset, I congratulate two MRCs which assist my electorate. That might seem somewhat extraneous to the matter we are discussing today, but I congratulate the Auburn MRC—Amrit Versha and her coworkers. In a vote of confidence by this government, they recently took up three of the four municipalities that lost MRC access through the collapse of the Inner West Migrant Resource Centre. I also congratulate Melissa Monteiro and the Parramatta MRC. The reason I do that is to recognise the very real work they are doing with regard to settlement. They are not into grandstanding at the rallies, taking up photo opportunities at the detention centres, or offering to put refugees up in their houses or to put them up in churches; they are concerned with the day-to-day realities of refugee humanitarian settlement in Western Sydney.

Today I want to reiterate the figures. I can take them over three years, one year or five years. I will be kind to other areas of Sydney by citing those figures most favourable to them as to five-year refugee humanitarian settlement in Sydney. I note that the three municipalities that impinge on my electorate—Parramatta, Holroyd and Auburn—took 3,276 humanitarian refugees over a five-year
period. I note that in Leichhardt it was 17; in Marrickville, 191; in Woollahra, in the electorate of one of the previous speakers from the government side, 58; in South Sydney, 79; and in Waverley, 72. That is really not a major take-up of humanitarian refugees. Of course, this situation is not assisted by housing policies. People are struggling against public housing construction. People opposed to innovative reforms to reduce housing prices do not get humanitarian refugees. Areas like mine do. That is why I want to congratulate those services on the efforts they are making day to day.

I not only congratulate those services; I congratulate the ethnospecific organisations which deal with new arrivals. We know MRCs deal with small ethnic groups, most recent settlers who do not merit a full-time worker. In my area, these organisations have helped Somalis, Ethiopians, Eritreans, Kurds, Bangladeshis, Tamils and others. When you deal with these new arrivals, when you not only meet individual refugees who come to your office but you have intimate daily or weekly contact with the organisations that are out there fighting for genuine refugees, you obtain some recognition of the degree of fraud that is attempted in the Australian refugee processing system. These organisations—the same organisations which come to me for help to fight for people in detention that they believe merit support and have genuine cases—are the same organisations which often come to me questioning attempts to destroy the system, to launch fraudulent, long-term cases through our processing system.

I want to talk about two cases that recently have come to the attention of my electorate office. They really drive home why Labor are not only indicating today very strongly that we support the concept behind this legislation—and Gerry Hand, in codifying this area, sought the same general direction the government now seeks—but are saying that there are areas where we need to make sure that expedited hearings are available. The first case is that of a Fijian indigenous woman who recently came to my office. She has been fighting our legal system for 14 years. She readily admits to me, ‘I have no genuine refugee claims,’ but asks, ‘Can you help me?’ It is interesting to note that she and her husband have had four children over the 14 years. The first of the children, born here, has reached the age of 10. He will become a permanent resident. Another child is seven. If they can draw this case out for another three years—making 17 years of protracted legal litigation—that child will also get permanent residence and the parents will essentially have a claim.

The other case is that of a person who is a Tamil Muslim. For those people who do not follow the intricacies of Sri Lankan politics, although they are Tamils the Muslims have historically until very recently tended to line up with the Sinhalese against the Tamil Hindus. It is a bit like Fiji: there is the same pattern of Muslims in Fiji lining up with the indigenous people. This person readily admits, as does the person in the first case, that he has no claim. I put a question on notice to the government, because what concerns me is that it seems that a high proportion of couples applying to the Colombo post get visitors visas to Australia, when many other Australian posts essentially hold one partner hostage in their homeland so that the visit is genuine. But the post in Colombo seems to let in for visits whole families. Having come here eight years ago, the person in this particular case is fighting the system and, once again, the case is rather pathetic. There are no real grounds for refugee status. The family is going to be allowed to stay here under a different rule. The children who came in with the parents have now lived their formative years in this country. So once again we find that people are able to come here, launch fraudulent claims and eventually gain admittance through protracted hearings. So I, for one, have no feeling of remorse when governments of either stripe try to do something to ensure that this kind of practice is stopped.

Over the years, whether Labor was in government or whether the coalition was, we have seen people utilising refugee processing to essentially buy time. People who have a different view on this forget one thing: ex-
cept for corporations that are trying to bankrupt their opponents in litigation, most people want speedy decisions. In most parts of the legal system, people want their cases settled quickly. But in immigration, a vast number of people actually desire and work for protracted, drawn-out decision making, because they hope that during the period they are here they will meet somebody down at the coffee shop in Auburn, become engaged and marry or that they will find other grounds for staying in Australia. They might claim that one of their distant relations is ill and needs them. Historically, they have launched claims around their qualifications. They also argue, as we have seen over a period of time, that their connection with Australia is so great that it would be unfair and inhumane to send them back. Other claims are that their children have been educated here, that they themselves are in employment around the place or that their wife—or their husband—has many friends et cetera. The reality in the immigration litigation area is that people want to delay processing. They want to appeal forever, under every technicality possible. They want to go to the minister of the day with the same case, over and over, on the same grounds for ministerial intervention.

People forget that this is a very significant problem that the country faces. People talk to us about Europe. I will not specify the many problems with processing and the many human rights abuses in Sweden, Ireland or Spain, to give three good examples. People cannot deny that historically in this country our system of appeal has been quite strong compared with the systems of appeal of most of our European counterparts. People might say that the systems of appeal in those countries are better because 200,000 or 100,000 people are running around those countries and are no longer part of the processing system. People might say that that is great and that we should copy those countries because, basically, they allow people freedom. The people saying these things do not mind that these people might have totally fraudulent claims. But historically Australia has had a very lengthy process to give people their place in the sun.

I, for one, am always mindful of instances such as the one where a Congolese refugee claimant in the UK, under the Thatcher government, was sent back and gunned down at Kinshasa airport. I remember seeing a film based on a true and very notable case of a Turkish refugee claimant in Germany, who was sheltered by a woman on a farm after having been attacked by racists in Germany. At the end of the day the refugee was sent back to Turkey and murdered as a political opponent of the government. I am very mindful of that. Yes, we must ensure that people as far as possible get justice and that people who have genuine claims are able to pursue them in a reasonable fashion. But we also must be aware that the system is subject to abuse.

Whatever you say about the 1951 convention and the 1967 protocol—that they are outdated, that they are not really dealing with the problems et cetera—the fact of life is that 23 million people around the world would be perceived by the UNHCR and ourselves to have reasonably strong claims. It is morally reprehensible that people seek to encourage and help others who do not even fit within that 23 million—and that is quite a few people—to get as much opportunity as possible to push in front of those claimants. I see cries for humanity, with people saying that we should look after claimants et cetera. But I have been to Palestinian camps in Beirut and to Burmese camps on the Thai border, and so I am slightly more concerned for those people, who will not get the opportunity to land on our shores and for many years pursue claims.

The last figure for people who are currently in our offshore refugee humanitarian claims system was about 35,000. These people do not get years of access to a court system nor sometimes pro bono assistance or even legal aid so that they can live nicely in suburbs of Sydney and Melbourne, in far better conditions than the people in the camps have. We do not give people in the camps appeal rights in a First World country for years on end. They basically get an application at the embassy. Most times they do not get an interview, because Australia does not have the resources to give everyone an
interview. I hear some people say occasion-
ally in debates that they should get the same
appeal rights. How ridiculous it would be if
35,000 more people had that kind of access
to our legal system! But the reality is that
they do not but that people here do.

Our system is very much subject to assault
by people who do not have valid claims.
From my experience in parliament, 85 to 90
per cent of the work in my electorate office
is immigration related. In that time I have
seen people come into my office and say,
‘My sister-in-law was at a Syrian post on the
Lebanese border and a soldier pulled her
scapular off her neck.’ A scapular is a reli-
gious instrument. They said that she should
live in Australia with her whole family for
the next 20 or 30 years because one day a
soldier pulled her scapular. I have seen peo-
ple in northern Lebanon claiming to be ho-
mosexuals—when they are definitely not—and
that they are persecuted in their villages.
Women from remote villages of Turkey—
who do not even know what a lesbian is—
claim to be lesbians, because as such they
might be persecuted.

We have people saying that Tonga is a pa-
triarhal society and that every woman in
Tonga should have the right to live in this
country on the basis of our refugee policy.
We have people saying that they are Kurdish
when they are clearly Turkish. We have Sun-
nis from Turkey saying that they are Alevi,
a persecuted minority. As many people are
probably more aware, we have a situation
with the Afghan intake where people are
saying that they are Hazaras, historically the
most persecuted group because of both their
Mongol background and their religion. We
have Pashtuns saying that they are of that
background when they are not.

As I said at the beginning, I have very
constant interface about these matters with
the ethnic community leaders and—more
importantly than the leaders—the actual
people on the ground, the actual residents of
my electorate. I am constantly approached,
although not by the Refugee Council. I re-
spect some of the matters that they have
raised, particularly their call for a greater
foreign aid effort by this country, which is
now reduced to 0.25 per cent of GDP. That
has reduced help to the UNHCR, which in
turn means that countries like Iran, which
looks after 2,500,000 people, are getting
peanuts for that effort. The Refugee Council
on some fronts is doing a very good job, and
I very much appreciate their efforts and their
sympathy for genuine claimants.

However, unlike them, the organisations
in my electorate put a higher priority on
making sure that genuine people are the ones
that get the help. They are fed up to the back
teeth, as I have said on many occasions, with
people who pretend to have certain religious
backgrounds, political beliefs, political ac-
tivities or ethnicity. In the real world—not
some dream fantasy land where we are going
to take a million refugees in this country—
whether Labor or the Liberals are in govern-
ment, there is a limit. They know—and I am
not saying that this would happen in a mil-
lion years—that if Labor were faced with a
very large intake of European proportions, I
really doubt that a Labor government would
not look at the interface of offshore and on-
shore. There is a limit to how many people
we can take. It just cannot be an open-ended
offer. They want the people in their commu-
nities who are genuine to get the rights.

In regard to these matters, I have to agree
with the shadow spokesperson that there
would seem to be a lot of political manipula-
tion in the timing of these attempts by the
government. They have come after recent
attempts by the government to again put the
refugee-Islam-migration issue out there in
centrefold, to ensure that the government
’s
popularity is retained around those issues.
The initiative in this legislation is traceable
back to March, and the government, the
minister and the coalition have been sitting
on their backsides in regard to this legisla-
tion. They allowed an extension to the Sen-
ate committee’s reporting date. There was no
urgency back then. There was no immediate
need to finalise this matter in five minutes
time. There was no sense of one minute to
midnight. But all of a sudden this week it
seems to have become rather urgent.

I totally support the way in which the op-
position have articulated our position: that
we want to see genuine processing; we do
not want to see people manipulate the system
for no good purpose at the expense of genuine claimants. Despite that view, there is a degree of sense and intelligence in saying to the government that we should wait to see what comes out of this court case. I like the phrase of the shadow minister for immigration, Ms Gillard, who said it could be ‘a fool’s errand’. It certainly could be. We could pass legislation which is out of sync with what the courts decide. We could have very unwieldy legislation.

Everyone who follows these issues knows the state of the laws: pages and pages, and cross-qualifications. It is a mess already. I am not saying that that is necessarily the total fault of either political party that has handled the portfolio. The government is trying to rectify this at an early point, before we know the impact in regard to breaches of common-law rules of natural justice. The Minister for Immigration and Multicultural and Indigenous Affairs has dallied; he has been uninterested, distracted and unconcerned and has allowed the matter to drift on. Now, all of a sudden, for pretty obvious reasons of a political nature, he is trying to manipulate opposition to this bill for the sake of opposition, as he would argue. I heard an earlier speaker challenging the opposition to vote against it. The minister is not attempting to solve the problem—no, never in a million years. He will not take up the opposition’s offer here today to negotiate, discuss and try to get a solution. There is no attempt to do that. The government is attempting to create a wedge in the context of this issue—an issue which is important to the people of Western Sydney and regional Australia.

I want to conclude with the Refugee Council. I have great respect for many of their efforts but I want to mention their response of May 2002 which said:

It is important to point out that it is not just ... the issue of duration. That is in contention. So too is the quality of some of the decision making.

I am not denying that: it is important to have quality; it is important to give people justice. But if you only emphasise the quality of the decision making, and if you do not become part of the negotiating process to make sure that we have a system which does give people genuine rights and access but which does not lead to abuse, then unfortunately you are going to be out of that negotiating process. I say to the Refugee Council that, in addition to the many commendable efforts they make, they have to focus on the needs of genuine refugee claimants to make sure that their cases are not undermined by a loss of public confidence and by the exploitation of racism and separateness. They should join this discussion to make sure that we get a system which fills all those requirements.

Once again, the government is challenged today to seek discussions with the opposition to try to get a compromise and a sensible approach to this matter. Otherwise, as the shadow spokesman said, it will be Labor who will be announcing a position which is fair and fast.

Mrs ELSON (Forde) (12.56 p.m.)—I am very pleased to rise in support of the Migration Legislation Amendment (Procedural Fairness) Bill 2002. This is a bill which aims to further codify the procedures involved in decision making in relation to visa applications and cancellations. It builds on the codes that were introduced in the Migration Reform Act in 1992 under the former Labor government. The codes were intended to replace uncertain common-law requirements of the natural justice hearing rule, which had previously applied to decision makers, with clear and fixed procedures that are based on those principles. These codes were further enhanced in 1999 when our government codified decision making procedures for the Refugee Review Tribunal and the Migration Review Tribunal.

The intention of the codes is to provide certainty for applicants and decision makers alike. It is a very sensible premise and one that minimises the avenues for judicial appeal and therefore lengthy delays and uncertainty. The bill further codifies the somewhat nebulous and highly interpretive concept of procedural fairness in relation to migration decisions. This move is necessary following the High Court decision in the Miah case, which held that the rules of procedural fairness apply unless they are excluded by clear words or by necessary implication, and there was no such clear intention in the Migration Act.
In essence, the intention to fully codify procedure in relation to visa decisions has not been fulfilled in the earlier act, and this bill today attempts to address those deficiencies and provide clarity and certainty. Clarity and certainty are absolutely essential when it comes to Australia’s Migration Act. We all want a fair system where applications are considered in a uniform way and decisions are reached based on clear guidelines set out by the parliament, which reflects the will of the Australian people. The tendency to seek judicial review of decisions has meant lengthy delays, costly court cases and a perception in the community that the migration assessment system does not work as effectively as it should.

This bill seeks to make the migration assessment process work more efficiently and effectively, while at the same time ensuring fairness and flexibility. This bill has faced the scrutiny of the Senate Committee for the Scrutiny of Bills and has also been the subject of an inquiry by the Senate Legal and Constitutional Legislation Committee. The inquiry rejected concerns that were raised in relation to the effect on the quality of decision making as a result of the exclusion of judicial supervision. It also rejected claims that the bill was contrary to Australia’s international obligations or contrary to the constitutional separation of powers. In short, the inquiry found that this bill would help to more fully achieve the intent of the original 1992 bill, which I again remind the House was introduced by the former Labor government.

But have we seen full support from the Labor Party on this bill? No. Once again, we have a clear-cut case of Labor playing politics with a very important issue, as intimated earlier by the member for Lalor. We see more evidence each day in this House that this is the least constructive opposition that any Australian government has ever had to work with. They are constantly opposing for the sake of opposition and display little regard for what is in the national interest.

When they were in government, they knew that it was right to codify decision making in relation to visa applications. They knew that it was in the national interest to provide certainty on these matters. They introduced the original bill in response to the huge numbers of applications bogged down in lengthy and costly court proceedings. Now Labor are saying they will oppose this bill in the Senate if we do not do it their way. They have been critical of this bill when they ought to be wholeheartedly endorsing it. We saw exactly the same thing earlier this week when they opposed the government’s measures to excise further islands from the Australian migration zone. Last year before the election, they voted to allow ministerial decisions in respect of excise; now they say it will not work. Our strong stand last year certainly did work and we have seen that in the first half of this year there has been not one unauthorised boat arrival in Australia.

Labor are endeavouring to send the wrong message to people smugglers and those who are deliberately planning to enter our country illegally. Why have they done this backflip? Why have they gone against the national interest once again? Why are they wanting to change this bill we are currently debating which will bring further certainty to the migration process? Why? Because Labor are doing the bidding for the noisy special interest groups, as they did when they were in government. Labor did not fill an obligation to act in the national interest.

Labor do not consider that they have a duty to fulfil the will of the vast majority of Australian people who support the government’s strong stand on illegal entrants. Their loyalty, duty and concerns lie with the special interest groups and noisy minorities that commanded them when they were in government. Labor did not fill an obligation to act in the national interest.

Labor do not consider that they have a duty to fulfil the will of the vast majority of Australian people who support the government’s strong stand on illegal entrants. Their loyalty, duty and concerns lie with the special interest groups and noisy minorities that commanded them when they were in government. It is no wonder that Barry Jones has declared that Labor have lost their way. The truth is they lost it during the 13 years when they were in government, and they have had great difficulties in finding it since. They refused to learn the lessons of the 1996, 1998 and 2001 elections. The basic truth of all those elections was that the Australian people wanted a government prepared to listen to the majority and to put the national interest first. That is exactly what the Howard government is doing. But Labor just do not get it, and that is why they fight this government tooth and nail in every decision it
makes in relation to migrants and illegal entrants.

This bill ought to be a very simple matter. It is about making the decision making process in relation to visa applications more clear and more certain. That is a simple view of a very complex framework but that essentially is what this bill does. I think it is important to remember that the government does have a right and a responsibility to exercise its legislative powers in respect of these matters. It must also be remembered that the courts are not the supreme decision making forum in the land. The parliament represents the people, and the laws devised by the parliament aim to reflect the will of the people. It is not the role of the courts to overturn legislation. The Chief Justice of the High Court of Australia, the Hon. Murray Gleeson, said recently in a speech as part of Melbourne University’s Rule of Law series:

Subject to the Constitution, the Parliament, in the exercise of its legislative power, is not obliged to maximise the area of potential justiciability of disputes between citizens and government.

He went on to say:

Subject to any constitutional limitations on their powers, it is for parliaments to decide what controversies are justiciable, and to create, and, where appropriate, limit, the facilities for the resolution of justiciable controversies. Parliaments regularly expand and contract the subjects of justiciable controversy. That is what much law-making entails.

It is very essential. It is not an infringement of fairness or justice to set out clear codes that decision makers are bound by and which by their clear nature negate the need for interpretation by the courts. I am not a lawyer and I think this place has more than its fair share of them. I am someone who believes in a fair go and who believes that the legislation we debate in this House ought to reflect the will of the Australian people. In my view, this legislation fits the bill, so to speak, on both counts. The Australian people—and most definitely the many hardworking people I am proud to represent—want to see our migration system work more effectively. This legislation will help the process and I commend it to the House.

I take this opportunity to congratulate and encourage the Minister for Immigration and Multicultural and Indigenous Affairs on the tremendous job he is doing. As I meet people throughout my electorate, they frequently ask me to pass on their congratulations to Philip Ruddock on doing such a fine job. This bill is further evidence of that and I am pleased to lend my support to the bill and commend it to the House.

Dr LAWRENCE (Fremantle) (1.04 p.m.)—I rise to speak on the Migration Legislation Amendment (Procedural Fairness) Bill 2002. It might not be obvious in the rhetoric of the government but, by signing the United Nations Convention on the Status of Refugees, Australia has voluntarily undertaken to offer protection to people who come to Australia and who satisfy the definition of a refugee. We were not forced into this agreement. Indeed, we played a pivotal role in the design and development of the relevant conventions promoting human rights generally, as well as those relating to the treatment of refugees—but you would not always understand that from listening to the government. Out of the horrors of the Holocaust and the displacement of millions of people after World War II, as a nation, we along with many others signed conventions committing us, firstly, to providing free access to our courts for refugees and providing the same treatment as to Australians, including legal assistance; and, secondly, to acting so that all persons are equal before courts and tribunals and have access to fair and public hearings by a competent, independent and impartial tribunal established by law. We have made those commitments voluntarily. These commitments are repeated and amplified in various conventions to which we are signatory—I will not go through them today. But the importance of it is that these were not imposed on us; we volunteered.

Sadly, these commitments are being systematically diluted and even abandoned by successive governments, including this legislation which seeks to reduce the rights of people—and I underline this—facing potentially severe risks to their lives and physical safety. These are not trivial decisions. We
have committed ourselves to extend protection to people who seek asylum here and who can establish under Australian law that they face a real chance of persecution by reason of their civil or political status. For many, this is a life and death decision. The legal complexities of refugee law already make this decision a difficult one for the decision makers, even for those with expertise in the field. The Australian Law Reform Commission remarked that Australian migration law—in the time before this legislation—was infinitely more complex than the British or Canadian equivalents and almost as complex as the United States, which has the dubious distinction of having the most complex of all migration law. They said:

We do not give a great deal of open-ended discretion in our migration law … and this reduces it even further—

It is important that, when you design a regulatory regime as complex as that, you also work on the assumption that people are going to have to get legal advice … it is certainly far too complex for the migrant applicants themselves.

Yet many are left without legal advice or with very poor legal advice. For those seeking protection—who do not know the intricacies of Australian law, who frequently speak a language other than English and who are unfamiliar with Australia’s culture and bureaucracy—this is a daunting process indeed, yet very often they know that their lives depend upon it. If the decision makers err and refuse refugee status, people may be deported to further persecution or, indeed, execution—that is how important these decision making processes are. But neither the Minister for Immigration and Multicultural and Indigenous Affairs nor the department takes any responsibility for those who are deported and are apparently indifferent to their fate, even when serious doubts have been expressed about their wellbeing.

In the context of this debate, I want to draw the attention of the House to a recent case involving a young man—whom I will simply call ‘N’—who received some publicity in my state; he needs to remain anonymous for the moment, for other reasons. N came to Australia, fleeing persecution following the Abadan uprising in Iran. Twenty-three people were shot dead and hundreds disappeared at the protest that he was part of. N escaped with his brother and a friend by hiding on a ship which brought them to Australia—not one of the leaky boats on the north-west coast but a cargo ship. N was denied refugee status, despite his claims of persecution, and was deported recently from Perth back to Iran.

With a fine sense of irony, the minister placed him on the same bulk cargo vessel, the very ship, upon which he arrived two years ago, the Iran Mazandaran—despite the fact that the ship is owned and operated by the Iranian government, and that it is common knowledge that all such ships have intelligence officers aboard. People who claim to have seen him in Esperance say that he was sitting up on deck in what looked like a cage. We cannot confirm that, but that is what they claim. It is not certain whether the minister specifically gained the consent of the Iranian government and the Iranian national shipping company to repatriate this man on board or took any steps to assure himself that N would not be mistreated either on the ship or upon arrival in Iran.

I have asked the minister those questions and am yet to receive a reply—in fairness, I have only just asked them. It is not clear whether N’s permission for the deportation was sought—in other words, whether it was voluntary, although that is doubtful under those circumstances—or whether he understood what was about to take place. The information available indeed indicates that he was suicidal and had been on a hunger strike for three days when the Iran Mazandaran docked in Esperance on 1 June 2002. I have asked the minister whether he has sought or received any advice on N’s mental and physical wellbeing before removing him or since he has been on the vessel.

I understand that, after the refusal of this young man’s refugee applications some time ago, he actually attempted to commit suicide and was in a very fragile state mentally. He was hospitalised at that time and either was not told or did not understand that he was entitled to appeal; he had no lawyer. This is the decision making process breaking down. Therefore, when his application date for an
appeal came and went, he was told, 'That's it; you've failed to lodge your application and now it is time to go.' It appears he was forcibly removed, even when it was known that his brother—who had also been refused refugee status—had disappeared when, after persuasion, he returned to Iran, by aeroplane, as far as I understand. He apparently never got beyond the airport and has never been seen or heard of since.

Why, under these circumstances, was N's case not reviewed on the grounds at least of a well-founded fear of persecution—given what appears to have happened to his brother—if he returned to Iran? Failing that, it is difficult to comprehend why efforts were not made to find a special humanitarian place. What investigation was there into finding a third safe country that might accept him? Sadly, there are many stories like this one, although this is an extreme case; this sort of deportation is very curious indeed.

Even when the outcomes are less drastic, prolonged detention or deportation may await the applicants. I would like to talk briefly about that prolonged detention. When your applications fail and you are a stateless person, you will be in detention indefinitely. Most members would be familiar with the case of Dr Aamer Sultan, who remains in detention in Villawood. Dr Sultan fled Saddam Hussein's regime in May 1999—you know, that 'axis of evil' fellow we like to talk about. He is a medical practitioner who fled persecution in Iraq after providing casualty medical care to Shiite Muslim rebels. Dr Sultan—at least as far as I know—is still in Villawood, and has been since 1999. He has worked assiduously with the people in that institution and indeed has published reports along with Australian medical practitioners about the mental health of people in Villawood, which someone actually described as ‘five star’ compared to the Woomera and Curtin detention centres.

Dr Sultan wrote a piece for the *Australian* some time ago. Incidentally, he was not allowed out even to receive an award from the Human Rights Commission. In his article, he stated:

Asylum seekers in Australia are caught in a vicious circle. The longer they stay in detention centres, the more emotional and mentally damaged they become. But the authorities seem indifferent to their fate and are in fact making it more difficult for people kept in detention, to the extent that they are denied the privileges and standards of ordinary life.

What is more, they are saying: ‘We don’t believe your claims, you are not telling the truth.’ And this has a very harmful and demoralising effect on those people.

When I came to apply for refugee status in Australia I turned myself in at the airport to the immigration officials there; I asked for protection as a refugee.

... ... ...

I am concerned that many detainees will end up either insane, psychotic, or in major depression.

This is something a lot of Australians do not want to hear, but it is fact. By the time asylum seekers are released into the community, they will have experienced a profound character change. Their only other choice is return or repatriation to the country from which they have tried to escape, but many would face torture, interrogation and death. This is not alarmist; this is happening every day in Australia, and I think it is important for all Australians to understand it.

The fact that serious injustice and injury may be done in the process of detention, when decision making fails, appears not to perturb the responsible minister or the government. They seem entirely satisfied with themselves. I must say I find it very difficult to understand that. In those circumstances, when you can be repatriated to a very dangerous situation—perhaps even to death—or detained indefinitely, it is vital that the decision making process is as accurate and fair as possible, taking account of all the facts, allowing applicants to present their cases as fully as possible and ensuring that any errors of fact or failures in procedure are corrected before any final, and sometimes drastic, action is taken. Decision makers, too, have to be accountable and open to scrutiny.

The proposals before us, sadly, do the opposite. They are part of a sustained campaign by the government to erode the human rights of asylum seekers. They are, according to the government, part of a strategy to use these
asylum seekers as examples to deter other people from coming to our shores. I agree with Tim Costello that human beings should never be used as objects for deterrence.

In the process, the government has systematically breached every principle of decency and humanity, judging that there is electoral advantage in vilifying and damaging people who are easily characterised as unlike us and unworthy of our assistance: ‘Queue jumpers; they are wealthy; they are illegals.’ All that language is designed to make people think these are not human beings with feelings and needs like ours. Despite a raft of reports, including that of Dr Sultan, which have demonstrated the serious harm that is being done to men, women and children in Australia’s now notorious detention centres, the government has set its face against taking actions to even ameliorate their conspicuous suffering. A little bit of dressing up was done when the UNHCR were here but aside from that there has been very little action.

I guess what sticks in my throat is that, while professing to be Christians and praying every morning in this House to bring the blessings of God upon our deliberations, they condemn their fellow human beings to prolonged incarceration without hope and in an atmosphere of what has been called institutionalised depression, characterised by high rates of self-harm and suicide. I draw attention to the cases of two women, one who died in Villawood and one who died in hospital out of Villawood—almost certainly examples of suicide—where the minister has taken no interest in trying to find out what is happening. There are coronial inquiries going on and I hope that in due course their stories will be told. But the minister likes to say that the rate of suicide is no higher in detention centres than in the rest of the community. All the data shows the opposite.

In addition to high rates of self-harm, suicide and attempted suicide we have seen hunger strikes, riots and other disruptions. The minister likes to say that these people are trying to embarrass us, trying to intimidate us. These are the actions of desperate, depressed people—people without hope. Any member of this House—indeed, any member of the Australian community—placed in the same position would behave in the same way. And I dare say many of them would behave even worse. There has been huge psychological damage to children and to vulnerable groups, such as families, pregnant women, women with children, the disabled and the already traumatised. Remember, these people come seeking asylum because many of them have already been persecuted and intimidated.

The specific purpose of this bill, we are told, is to exclude common law rules of procedural fairness; to make explicit that the procedures described are all that decision makers must comply with—in other words, to roll back rights even further. It is worth remembering that the Senate Legal and Constitutional Legislation Committee has examined this bill, albeit somewhat cursorily because there was only one week for people to put submissions in and that week included Easter. Obviously, it was meant to be a fast and furious job. Nonetheless, a significant number of submissions were made and the submissions presented were universally critical of the legislation.

There were four major groups of criticism. The first one was that the codes of procedure did not adequately replace the common law natural justice hearing rule. In other words, people were not being given a fair opportunity to have their cases heard. The second one was that the exclusion of judicial supervision would actually reduce the accountability of decision makers and lead to poor administration. Everyone was very concerned on that point. If you do not have a capacity for judicial review, decision making will deteriorate. The third one was that the exclusion of judicial supervision is contrary to Australia’s international obligations. As I said earlier in my opening remarks, we signed up to ensure fairness and equality before the law. Everyone was very concerned on that point. If you do not have a capacity for judicial review, decision making will deteriorate. The third one was that they were concerned that the exclusion of judicial supervision is contrary to Australia’s international obligations. As I said earlier in my opening remarks, we signed up to ensure fairness and equality before the law. We are now rolling that back. Several were also concerned that the exclusion of judicial supervision is contrary to the constitutional separation of powers—the so-called privative clause.

Several submissions questioned whether it was possible at all to adequately codify the
common law natural justice hearing rule, since delivering fairness requires flexibility and flexibility cannot be codified. You have to look at each case on its merits. Others argued that the codes of procedure laid down in the act fell far short of a systematic codification of the rules of procedural fairness, particularly in relation to information adverse to the applicant’s submission being made available. If the other side has matters that you should know about, they should be made available to you. It is a very simple principle.

DIMIA officials indeed confirmed that the codes of procedure only constituted a framework for decision makers and were not exhaustive. The severe limitation of judicial review, as I suggested, is also likely to make decision makers unaccountable. Most of the submissions pointed to the seriously flawed decisions which were already, they said, too commonplace. One said it invites arbitrary, discriminatory and unaccountable decision making, and this in Australia.

The Labor members of that committee were particularly concerned because there are several matters afoot. The courts are actually addressing these matters, particularly in relation to the common law natural justice hearing rule. So why are we rushing this through now? The Labor senators indicated that the bill should not proceed at this time because it was important to have the courts ruling on the question of the common law natural justice hearing rule and on the question of the constitutionality of some of the proposals in this bill. Unfortunately, the government have decided—one presumes for reasons involving their political campaign—to push this through before we have heard from the courts. In my view, that is a very stupid act because inevitably, should this bill go through the parliament, they will simply have to revisit the legislation and we will go through this process all over again.

Before I conclude, and I meant to do this earlier, I want to read into the Hansard the evidence of a nurse who worked at Woomera. This place remains a stain on our character, and many of the people who have failed the test of refugees, perhaps some of them accurately, are detained in circum-stances like this. This woman was a nurse there over two separate periods. She said she went there without very many expectations. She said:

I was met at the Roxby Downs airport by a prison guard, or detention officer as they prefer to be called ... We travelled the 80kms to Woomera slowly and arrived at this hot, dusty, arid, miserable cage in the desert. It was surreal, like being transported to the scene of a mad max movie. The zoo, full of men, women and children, mothers, fathers, sisters, brothers, grandparents, beseeching the guards that; “please, we are human, we are not animals, why do you treat us like this? This is what it is like in our country, but they don’t imprison children. We thought we would be safe but we walked ourselves to jail” The desperation and hopelessness permeated the very air and the longest any of those people had been there at that stage was 5 months.

Imagine what it is like now. She went on to state:

Some of those same people and their children, are still there! There were always people hovering around the perimeter of the fence, pleading with whoever went past. Waiting to see Mr Tony from DIMA to beg he help them. Often the detainees would come to the nurses asking us to intervene with DIMA on their behalf, not really believing that there was nothing we could do. I discovered that they did have the right to request an interview at any time and got the appropriate request form from DIMA. I photocopied loads of them and put them in the medical centre so we could use them whenever we were asked. One day in July, myself and another RN filled out 2 of these forms. Donna for a mother who had already tried to hang herself and myself for a 19 year old man from Afghanistan. He had fled the Taliban after they discovered he was volunteering his labour in an Aid Agency Vaccination clinic. He fled after someone got word to him that his home had been ransacked and they were waiting for him. I put these forms in the DIMA pigeon hole. Later in the day I had to follow up something in the DIMA office, there I noticed both request forms in the bin. Why have you thrown those out? Oh, they’ve been screened out at initial interview. Here they were, a mother and son, whose husband’s cut up dead body had been delivered to her in a box and a 19 year old beardless youth. They couldn’t speak any English, they had no legal representation and they had a line ruled through them in Darwin before they even made it to the detention centre and no one, no one was prepared to tell them anything. DIMA had known at that stage for 9 months that they had failed at initial interview.
and for that reason they saw no purpose in granting their request of an interview. What the hell is going on I wondered. I’ve seen and heard the guards laughing at the pain and suffering of the people imprisoned in Woomera. Singing to the Iraqis who have had a rejection. ‘I’m leaving on a jet plane, goin back to see saddam hussein.’

That is happening, according to this nurse’s testimony. She continues:

Witnessed the guard making a detainee beg for soap. No English did this woman speak, she had learnt the word soap from someone. To the guard she said, ‘soap.’ The soap was proffered and withdrawn when she reached for it, again and again until she said please. I watched these poor women in their purdahs, cringe in shame as we forced them to abandon every cultural sensitivity they had and attend a mixed clinic, sit in a room with men and then have to ask for sanitary products. They would stuff them under their purdahs or jumpers and scurry heads down and shame emanating, to the puerile little boxes we provided for them to sleep in.

That is Australia under the Howard government.

Mr MURPHY (Lowe) (1.24 p.m.)—I rise in this debate on the Migration Legislation Amendment (Procedural Fairness) Bill 2002 to support the amendment moved by the shadow minister for population and immigration. Moreover, it is my intention to demonstrate to the House that, in respect of certain elements of this bill which are still subject to a decision of the full court of the Federal Court and referred to in part (2) of the shadow minister’s amendment, the government has acted with the utmost impunity in demonstrating the most basic ignorance of legal cornerstones of our democratic institutions within the Commonwealth’s administrative and constitutional laws. This government has sought systematically to erode the most basic tenets of rights as understood by Australian citizens and it has pandered to vested and sectional interests or to mob rule.

I must declare that my electorate office in Burwood deals with a great number of complex immigration matters which consume about one-third of the entire resources of my electorate office. What I am about to address in respect of this bill is therefore based on the bitter experience of injustice for many appellants of decisions made by decision makers acting with delegated administrative powers of the executive through the Department of Immigration and Multicultural and Indigenous Affairs and ultimately in the hands of the various tribunals and courts that have jurisdiction to hear immigration appeals. Bills Digest 169 of 2001-02 notes:

The Bill is the subject of an Alert from the Senate Standing Committee for the Scrutiny of Bills, which expressed its concern over the Bill’s purpose, i.e. to exclude the common law rules of natural justice from hearing by tribunals under the Migration Act. The Committee comments that:

The rules of natural justice have been developed over many years to ensure fairness in the application of the law. They should not be lightly cast aside.

The Bills Digest cites page 35 of the Senate report. Members of this House should carefully note the words ‘natural justice’ because the Senate report does not say ‘procedural fairness’. I can only presume that the Senate is familiar with the fundamental distinction between the two terms, for the terms ‘procedural fairness’ and ‘natural justice’ are utterly distinct concepts. The Bills Digest does remark, with substantial references to judgments of the High Court, that whilst these two terms are used interchangeably it is certainly not true that these two terms are indeed synonymous. The Bills Digest notes at page 1 that the purpose of the bill is to:

... amend the Migration Act 1958 to exclude the common law rules of procedural fairness, and to make it explicit that the procedures set down in the statute are all that decision-makers must comply with.

However, this does not accord with the Senate’s view of the bill, which focuses on the impact of this law on natural justice issues. Let us be clear what the government’s intention is with this bill. Members of this House and the public must carefully note the comments of the Senate Scrutiny of Bills Committee as cited in Bills Digest 169 of 2001-02. I repeat:

The rules of natural justice have been developed over many years to ensure fairness in the application of the law. They should not be lightly cast aside.

So what is the government’s intent with this bill? The government’s intent is to confuse the public into believing that this bill, by its
title, will delimit and refine the procedural fairness provisions of the act, when in fact the bill is attempting to extinguish the rules of natural justice. Why is this distinction between procedural fairness and natural justice of such critical importance? In answer to that question I refer to the text entitled *Refugees, Natural Justice and Sovereignty: Fundamental or Substantial Justice?* by Dr Susan Kneebone of the Faculty of Law, Monash University. Dr Kneebone’s text is comprehensive and enlightening on the very subject matter of this bill. I hope that my paraphrasing of her comments will not prevent me from giving her full credit for every point that I wish to make in this speech, so substantial is her research on this matter of distinction.

What is procedural fairness? Dr Kneebone notes that in administrative law there is a dichotomy in statutory law making between substantive and procedural law. Dr Kneebone defines substantive law as concerning the substance of the law itself whilst procedural law may be looked upon as concerning the application of a law in a uniform, predictable and unbiased way.

Dr Kneebone notes the direction of the common law as seeing the natural justice principle as having nothing more than procedural or instrumental value. This view of natural justice is seen as the reason why natural justice has become synonymous with procedural fairness. Natural justice has been reduced to a mere procedural right and not considered part of the substantive law at all. This assertion is fundamentally flawed. It is prudent at this time to ask: what is natural justice? In answering this question, I first turn to the father of natural law and natural justice, St Thomas Aquinas, of whom Dr Kneebone says:

For Aquinas, the ‘father’ of natural law, law is discoverable by reason and inherent in humanity—it is ‘natural’ to the state of human kind. As evidence of the ‘naturalness’ and antiquity of natural justice, the story of Adam and Eve is often cited: of how they were provided with an opportunity to explain themselves before being expelled from the Garden of Eden. For Aquinas, and subsequent leading authors in jurisprudence such as Oxford University’s Professor John Finnis, natural justice is not derived from the state but from reason and is inherent in humanity. It is to Aquinas that we owe the very terms ‘common good’ and ‘public interest’, for these terms are not mere aphorisms, but are scientific terms that describe the common good that we all share, including our inherent natural rights and the natural justice that is within the discovery of reason and inherent in the nature of humanity itself.

To this government that would assert that natural justice is but a subset of procedural fairness, I say you are wrong. To this government that would assert that natural justice exists solely by the operation of the positive law, I say you are wrong. To this government that would assert that natural justice exists solely by the prerogative of the executive, I say you are wrong. To this government that would assert that natural justice exists solely by the operation of statutory instrument, I say you are wrong. Let this House hear these words and forever know its place, both as a house in its own right and as part of the parliament of Australia. No sovereign state has a right, as a legal personality, that is higher than the individuals that constitute it. No individual in this House or in the Senate, alone or collectively, has a right to extinguish or mitigate another person’s natural rights and access to the principles of natural justice.

It was the late Dr Woodbury of the Aquinas Academy who so rightly noted in his teaching texts that the state’s rights are mediate rights, not immediate rights. Every power the state holds, including the very power to legislate, it holds solely by virtue of its delegated power of the people. The state is in a real sense a personality in loco—that is, in the place of the people we represent here. We in this House are all here under universal suffrage; we are here as representatives of the individuals who have a lawful mandate to vote. That mandate is the only reason we are privileged to be here. The powers and privileges of this House are only as great as those of a natural person. We cannot make laws that seek to extinguish those natural rights of a person or group of persons. This is so, irre-
spective of whether those persons are citizens of Australia or non-citizens.

I make this distinction because many of those natural persons seeking to exercise their rights and avail themselves of their rights in natural justice within the jurisdiction of Australian immigration law are non-Australian citizens. Is a natural person therefore less of a natural person by virtue of the fact that they are not an Australian citizen? The answer is clearly no. So why does this government seek to extinguish or curtail their natural justice rights by subsuming them within this so-called procedural fairness bill? In my view, this bill seeks to deny the natural justice rights of any person that would otherwise be entitled to such rights, and not because a positive law says that they have no rights.

Adolf Hitler made speeches to the effect that man can do a thing therefore he must do a thing. Is this government to be truthful to itself and admit that it has reached a point in its rationalist and positivist thinking that it has power greater than the collective will of the people which it governs, and may limit or even extinguish the natural rights of a person? No government has ever had that right. No state that has attempted to extinguish or repeal the natural law has ever prevailed. It is a grave lesson of history. If it is ignored, this government will be doomed. In making laws of this kind, the government commits a double jeopardy. Not only does the government attempt to make positive law fundamentally inconsistent with natural law, but this government also falls foul of the jurisprudential error of moral relativism. This government asserts that it has the right to make positive law that would actively discriminate between one natural person and another natural person, deciding who is entitled to the principles of natural justice and who is not so entitled. It is as if this government has deemed itself to be above God in deciding when natural justice shall apply and when it shall not apply. In doing so, this government puts its name alongside other totalitarian regimes—fascism, communism and theocratic dictatorships—by asserting the very policies that have condemned those flawed regimes and ideologies for all history.

To those who are responsible for this bill, I ask you: can you repeal the law of gravity? Of course you cannot, therefore why do you think you can extinguish or limit the laws of natural justice? It is equally foolish to think you can. So why does the government attempt to do so? What happens to those legislators who attempt to make laws that violate the natural law and the principles of natural justice? Students of jurisprudence are invariably given the quintessential text on the moot point of the connection between law and morality. The moot text of ‘Kill all the blue-eyed babies’ is given as a clear indication of the existence of a positive law and its moral validity and the peril of those two laws diverging. The moral of the story is this: yes, you can make a law that says whatever you like but, if law denies the natural law and offends what exists in nature, it is no law at all, for nature itself opposes it. History teaches us that positive law must reflect the natural law, or it is no law at all.

In this case, the attempt to limit orextinguish the principles of natural justice from the courts and tribunals is folly, because it simply cannot be done, even if a statute says so. Enactment of this bill will bring ruin to Australia and force a legal correction. Nature always wins in the end. DIMIA may be an agency of the executive, but nature is an agency of reason—and I can tell you which of the two agencies is the stronger. The principles of natural justice prevail well beyond the mediate powers of the state, for they owe their foundations to the natural law, to 2,000 years of common law precedent and to philosophical and theological truths that transcend and underpin mere positive law—which is as a puddle of mud when compared to the broader foundations of those laws we call ‘prerogative powers’ of the executive.

It is the prerogative writs of mandamus, certiorari, prohibition and habeas corpus that are derived from ancient rights of an individual against the state, or delegate thereof, who would always be the subject of review whenever that public officer had allegedly gone beyond their powers (ultra vires) or misconstrued their powers (error of law). If ever we
were to lose such recognition of the ultimate accountability of public servants to the public, they would cease to be servants and would become masters. This is a situation we can never countenance, for on the day that happens Australia will have ceased to be a democracy and will have become a dictatorship of tyranny.

On this point, it is to the Senate committee’s alert that I must again refer. The Senate standing committee reflects no more than what I have already said. The bill will do all of the following. One, through the exclusion of judicial supervision, it will make decision makers unaccountable and lead to poor administration. Two, the bill’s exclusion of judicial supervision is contrary to Australia’s international obligations. Three, the bill’s exclusion of judicial supervision is contrary to the constitutional separation of powers. Four, the bill is unnecessary, having regard to the privative clause.

I bring this House’s attention to the substantive provisions of this bill, in particular the proposed amendment to the operation of section 474 of the act, also known as the privative clause. There are several amendments to existing provisions of the act, in particular clauses 51A, 97A, 118A and 127A. In addition, there are new clauses inserted, being 357A and 422B. These provisions are anathema to the operation of natural justice and the rule of law, effectively abrogating both. The various amendments seek to make explicit the exclusion of common law rules of natural justice, overturning the decision in the Minister for Immigration and Multicultural and Indigenous Affairs ex parte Miah [2001] HCA 22, in which is the authority for the proposition that the High Court:

... rejected the notion that the procedures mandated in the Act for departmental decision-makers making decisions on visa applications constitute a code of procedure and exclude an additional requirement to accord procedural fairness.

That quote is from page 3 of the Bills Digest. Dr Kneebone notes that the basis for this interchangeability and confusion between procedural fairness and natural justice is borne of the positivist legal perspective—that is, that the state is the:

... basis of the natural justice principle in the view that the right to natural justice derives from the relevant state.

This point is driven home when Dr Kneebone rightly points out:

Positivist lawyers tend to say that the principle is formal or instrumental in nature, that it is a principle of procedural fairness irrespective of whether it achieves fair outcomes.

This government is positivist in its perspective in that it seeks in one fell swoop to, one, assert that the principles of natural justice are but a subset of the principles of procedural fairness and, two, assert that the natural rights of people and the natural justice they are afforded are directly and solely derived from the positive law—that is, from the state alone.

In this bill, this government demonstrates that it seeks to do the following: one, fundamentally deny the natural rights of a person seeking judicial review to a relevant Commonwealth court or tribunal and, two, fundamentally deny the application of natural justice of such a person. It is incumbent on every member of this House to increase their consciousness of the distinction between procedural fairness and natural justice, for understanding this distinction is fundamental to our understanding of democracy and the jurisprudence that underlies it.

Finally, I refer to the opposition that this bill has engendered from the wider community. I note from the digest that there is widespread and comprehensive condemnation of this bill from noted and respected quarters of our community, and I cite the New South Wales Council for Civil Liberties, the Victorian Council for Civil Liberties, the Law Council of Australia, The Victorian Bar, the International Commission of Jurists, the Australian Council of Social Service, the Refugee and Immigration Legal Centre, the Refugee Council of Australia, Amnesty International and Associate Professor Arthur Glass of the University of New South Wales Faculty of Law. In addition, Mr Deputy Speaker, as you are aware, there is the dissenting report of the Labor senators. Senator the Hon. Barney Cooney offers the strongest warnings of what the digest notes are:
... the dangers of prejudicing the rule of law, arguing that the lack of curial oversight can jeopardise the proper behaviour of decision makers, and thereby jeopardise the rule of law.

The digest goes on to rightly note that Senator Cooney:

... called for an end to the erosion of rights and the legislative re-enactment of those already lost.

That is a call I fully endorse here today. Finally, this government, in its insatiable thirst for power, has closed its eyes to justice, to the rule of law and to natural justice. This government seeks to destroy the innate dignity of humanity and, if it continues to do so, nothing—no right at all—is sacred. It is only time before citizens' rights are further demolished, and not merely for those who would seek to avail themselves of natural rights and natural justice.

In concluding, in terms of my reservations concerning this bill, I am cognisant that it will not be dealt with by the Senate this week, and that it will be some weeks into the next sitting before the Senate deals with it. In the meantime, it is expected that the full Federal Court will have made its decision, at which time we on this side of the House will be reviewing the bill before we vote on it in the Senate.

Mr Mossfield (Greenway) (1.44 p.m.)—I am pleased to be following the member for Lowe. As he has indicated, our electoral offices do deal with a large volume of applications from migrants and refugees to become Australian citizens. It is a pleasure to be involved in that type of work, because you certainly get a great deal of satisfaction when refugee status is granted to one of your constituents. But the purpose of this Migration Legislation Amendment (Procedural Fairness) Bill 2002 is to amend the Migration Act 1958 to exclude the common law rules of procedural fairness and to make it explicit that the procedures set down in the statute are all that the decision makers must comply with.

Labor's position has always been to support fast and fair processing of immigration claims. Indeed, that was one of the reasons that the ALP opposed the government's legislation excising the islands off the northern coast of Australia last week. The principles that applied in that legislation are the same principles that apply in this legislation. They are that, firstly, we support fast and fair processing of immigration claims and, secondly, we support a bipartisan approach to immigration issues. However, we are concerned that, if this bill is proceeded with prior to knowing the outcome of a number of legal cases, this could create legal confusion and cause further delays and uncertainties in processing claims. Labor believes that to avoid legal confusion, the government should not proceed with this bill until the outcome of these court decisions are known.

There is little doubt that the border protection issue, as part of the immigration issue in general, is an extremely important issue in the minds of the Australian public. It is an issue that played a major part in the government's election victory last year, so it is an issue that the government is unlikely to let go of easily. We believe that that is one of the reasons this legislation is being introduced at this point of time. We believe that the government will not let go of it because it sees it as a perfect political weapon to hit the ALP over the head with. The government talks about bipartisanship, when bipartisanship is really the very last thing that it wants on this issue. That is what the ALP is calling for in this procedural fairness legislation.

Border protection should be a bipartisan issue, but bipartisanship needs to be an equal partnership. It needs to be negotiated between two rational groups but on this issue, sadly, we do not believe that the government is being rational. Take last week's bill on the excision of the islands off the north coast of Australia, for example. The debate was gagged and the legislation was rushed through without proper consultation or any attempt at bipartisanship. That legislation was over the top and completely unnecessary. For a start, many of the islands being excised are so close to the Australian mainland as to make excision pointless. A few years ago, there was a boatload of illegal immigrants travelling down the east coast of Australia as far as Wollongong. There was some suggestion that they may have been steelworkers. Maybe the government needs to excise that city from the migration zone as...
well. The government would certainly have to excise Lord Howe Island, Norfolk Island and all the other Whitsunday islands if its legislation were to be effective.

As I said, that debate last week was gagged before members were given an opportunity to speak on it. This government's whole approach to border protection and migration issues smacks of political opportunism without any real reference to positive solutions to the problems in a real and tangible policy sense. First there was the rabbit-proof fence. What next? The migrant-proof fence? We could build a fence right around the coastline of Australia or, better yet, what about a wall similar to the one built in Berlin after the Second World War? Talk about fortress Australia! There is little doubt that the government's approach to these issues is nothing more than a cynical political move rather than a serious attempt at preventing illegal boat arrivals and making possible the fast processing of immigration claims.

After the tragic events of September 11, the subsequent war in Afghanistan and the current troubles in the Middle East, Israel and Palestine, many people fear for their security. The so-called boat people crisis manufactured by this government is an easy scapegoat for people's fears about their security. It must be remembered, though, that the terrorists who perpetrated that outrage on September 11 arrived in the United States by plane and were there for many months before carrying out their horrendous crime. The boatloads of asylum seekers are not terrorists. Terrorists fly business class, carry briefcases and, in fact, would be more likely to have the means to take any adverse decision before the courts, paying for lawyers and so on.

Most of the government's migration legislation is all about cheap political point scoring—nothing more, nothing less. It is a chance to say that the Labor Party is soft on immigration issues. I believe in border protection. The Labor Party believes in border protection—sensible border protection. I do not believe in hysteria. I do not believe in trying to play on people's base fears. I also do not believe in ignorance, which is what this government tries its best to foster. The government's motto seems to be, 'Never let the facts get in the way of a good fear campaign'.

Far from showing leadership on this issue and far from being a statesman, the Prime Minister plays on people's fears rather than rising above and calming them. What we need is a negotiated agreement with countries like Indonesia to stop the flow of refugees and to process their claims for refugee status in the country of first asylum. Australia also needs a modern coastguard that specialises in stopping the drug runners and the people smugglers. This is not the Navy's job, and our defence forces are being misused in this process. If the government truly believed in bipartisanship, it would negotiate. Bipartisanship is not 'cop what we give you'. It is not dictatorial. It is not rushing a bill in with only a few hours to examine it and no time to debate its merits.

In fairness, the government does negotiate with the opposition on a whole range of important issues. It even negotiated on contentious bills like the anti-terrorism legislation. Why is it so hard to negotiate on immigration matters? The simple answer to that is that the government does not wish to cooperate on these particular matters. The people of Australia want the government to get on with the job of governing and not create the expectation of a double dissolution with another border protection campaign and large amounts of taxpayers' dollars spent on advertising the government's policies.

At issue here in this particular legislation is procedural fairness or, if you like, natural justice. How do we deal with the concept of natural justice in the context of migration decisions made by government bureaucrats? Quite frankly, this is an area of law that I am not very familiar with but, in layman's terms, at the nuts-and-bolts end of the spectrum we are talking about what grounds people have to appeal a decision of the Migration Review Tribunal or the refugee tribunal to the civil courts. We, as lawmakers, set down the procedures that an officer of the Commonwealth must follow before a decision is made. When these procedures are not followed the applicant has the right to appeal the adverse decision. Basically, this bill removes the 'but I
don’t get a chance to put my side of the argument’ reason for appealing a migration decision. It removes denial of natural justice as the grounds for a judicial review.

Codifying the procedures for migration decisions is not new. It was the Labor Party, under the then minister, Gerry Hand, that introduced the Migration Reform Bill 1992, which first codified migration procedures. As he stated in his second reading speech:

As the codified procedures will allow an applicant a fair opportunity to present his or her claims, failure to observe the rules of natural justice and unreasonableness will not be grounds for review.

Subsection 476(2) of the Migration Act 1958 specifically excludes natural justice as a ground for applying for a judicial review of migration applications before the Federal Court. The High Court has upheld that section of the act, but that is for the Federal Court and not the High Court. In 2001 the High Court heard a case called Minister for Immigration and Multicultural Affairs; Ex parte Miah—or simply ‘Miah’.

By a narrow majority it allowed the denial of natural justice or procedural fairness, or the ‘but I didn’t get a chance to have my say’ argument. Whatever way you want to put it, the judges who ruled this way held that, to constitute grounds for appealing a migration decision, the rules of procedural fairness apply unless they are excluded by clear words or by necessary implication and that there was no such clear intention in the act. In other words, they ruled that the code of procedure in the 1992 act was not a be-all and end-all exhaustive list. While procedural fairness was not listed, it was not expressly ruled out, so it could be counted in. This bill is a response to that decision.

This legislation rules a line at the bottom of the list of the code of procedures and makes it a be-all and end-all exhaustive list. It expressly rules out procedural fairness as the grounds for an appeal. But does it do what it sets out to do? Sadly, the answer is probably no. Will it create more confusion? The answer is probably yes. The government, in its rush to legislate, has ignored the opposition’s well-founded argument that this legislation is premature and creates more confusion than there currently is. What the ALP have said is that there are a number of cases before the court—we have clearly set this out in the amendment that has been moved by the member for Lalor—so let us see how they turn out. This bill may in fact be unnecessary. Changes were recently made to the Migration Legislation Amendment (Judicial Review) Act 2001. What we are saying is: let us see what the impact of that is upon the current cases. Any confusion or complication of the situation that this bill causes will slow the whole process down and cause unnecessary delays in processing claims, which is precisely what neither side of the House wants. It is certainly not what refugees want. We have heard previously that the thing that concerns them most is not knowing what the future holds for them.

The Labor Party are often accused of wanting to overlegislate, but this is a problem for the government far more than it is for the opposition with regard to this particular issue. The Labor Party support the codification of the procedures dealing with migration decisions—we introduced the original act. But this legislation may in fact not be necessary, so why complicate the situation? Why cause more delays? The Labor Party have asked the government to hold off for a short time to see if this bill is completely necessary. As I said, it may not be, given the changes made through the judicial review amendments passed earlier. Has the government listened? No. Does the government ever intend to listen? It seems not. So much for bipartisanship! It is far easier for the government to simply rush in legislation like this and then, when the Labor Party say, ‘Hang on, let’s take a look at this,’ to accuse us of being soft on the issue and of not being interested in cooperation. Labor want to work on these issues in a constructive manner, but we are being denied the opportunity by a government uninterested in seeking other views or ideas.

Some other arguments have been raised in the Bills Digest on this legislation that the government should take notice of and, I believe, even act upon. Firstly, as outlined in the Bills Digest, the Senate Standing Committee for the Scrutiny of Bills has expressed
its concern at the exclusion of common law rules of natural justice for hearing by tribunals under the Migration Act. The committee commented:

The rules of natural justice have been developed over many years to ensure fairness in the application of the law. They should not be lightly cast aside.

This bill has also been the subject of an inquiry by the Senate Legal and Constitutional Legislation Committee. While the government majority rejected a number of criticisms of the bill, these nevertheless are genuine concerns and need further scrutiny. The bill may, through the exclusion of judicial supervision, make decisions on matters unacceptable and lead to poor administration. The bill’s exclusion of judicial supervision is contrary to Australia’s international obligation; the bill’s exclusion of judicial supervision is contrary to the constitutional separation of powers. The bill is unnecessary, given the privative clauses introduced under the Migration Legislation Amendment (Judicial Review) Act 2001.

The SPEAKER—Order! It being 2.00 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour and, as the member for Greenway is aware, he will have leave to continue speaking when the debate is resumed.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.00 p.m.)—I inform the House that the Minister for Veterans’ Affairs will be absent from question time today. The minister is attending the Victorian RSL state congress in Melbourne. I take the liberty of remarking that that congress marks the retirement of Mr Bruce Ruxton as president of the Victorian division of the RSL. I record my admiration for the work that he has done on behalf of Australian veterans over many years. The Minister for Foreign Affairs will answer questions on behalf of the Minister for Veterans’ Affairs.

Mr CREAN (Hotham—Leader of the Opposition) (2.01 p.m.)—With your indulgence, Mr Speaker, I would like to join with the Prime Minister in wishing Mr Ruxton all the best in his retirement. I had the opportu-
and a desire to know that that processing is proceeding quickly and expeditiously.

As at 21 June, departmental records show that there are only 11 people held in detention who are awaiting a primary decision. That is in comparison to 1,559 in August 2001. As at 21 June, we have some 685 unauthorised boat arrivals still in detention. One might ask: if there are only 11 who are awaiting a primary decision, on what basis are the balance of them held? The basis is quite clear. First, there have been findings that they are not refugees. Notwithstanding the mantra that you hear quite frequently that we should free the refugees, there are no refugees held in detention in Australia. Of those unauthorised boat arrivals that we are holding, only 11 are awaiting a primary decision, and in those cases security and criminal record checks are primarily the reasons that those 11 people have not received decisions. Of the 685 detainees, 340 are awaiting removal from Australia. That is just short of half of the total number of unauthorised boat arrivals in Australia. The remainder are pursuing appeals in one form or another and, of those, 230 are pursuing judicial review.

We have had a very significant decrease in the number of people awaiting primary decisions. The reason can be put down to the effectiveness of government policy in curtailing unauthorised boat arrivals. The strategies are multifaceted. They involve us engaging countries at source. They involve transit, and they involve both multilateral and bilateral discussions with other countries that receive people. They involve law enforcement, including the arrest of known smugglers. They include an examination of our own legal framework here in Australia, of the way in which we deal with claims and of our endeavour to ensure that those issues are dealt with as quickly as possible. Efforts to obtain return agreements are also part of the strategy in which we are involved. We are working cooperatively with international agencies such as the International Organisation for Migration, as well as the United Nations High Commissioner for Refugees. I am sure all honourable members understand the importance of having strong domestic law to be able to deal with these issues, and that includes the ongoing provision of mandatory detention for people who arrive without lawful authority and who are required to be removed.

In relation to those people who are pursuing judicial review, one interesting statistic that I noted about people who escaped from Woomera over the Easter period was that none of them have presented subsequently, even though eight of them had matters before the courts. One might have expected that, if they were genuinely about pursuing justice for themselves, they would have come forward and arranged to ensure that the litigation which they were involved in was pursued, and pursued expeditiously.

Of course, we also have the return of unauthorised boat arrivals, where possible. We saw four vessels returned to Indonesia as part of Operation Relex, which had a very important impact. We have had the excisions of Christmas Island, the Cocos Islands and Ashmore Reef, which has ensured that those who did make it to Australia or to Australian waters by sabotaging vessels and the like were able to be processed offshore, with the gains that we have been able to obtain through that processing being more efficacious. It is disappointing to me that efforts to ensure the excision of other areas where we suspect that people might land and seek to access our migration zone were not allowed to proceed.

What did the opposition have to say when that matter was dealt with in the Senate? They came to us and said, 'This issue has to be dealt with quickly; it needs to be resolved.' They accused the government of dragging their feet, of lacking confidence in their own proposed solution and of not bringing the measures on for debate. What do we find in relation to these matters where they accuse us of delay? Let me say that there was no delay. We tabled the regulations and enabled debate to proceed, as we would be required to do under the forms of the parliament in any event—

Mr Crean interjecting—

Mr RUDDOCK—Yes, 15 days. Let me just make the point in relation to these matters that, when we have other legislation,
what do we see the opposition seeking to do? To delay and to frustrate. What they have sought to do in the Senate when they have been calling for these matters to be dealt with expeditiously is to send them off to a Senate committee so that we might see them in the ‘never-never dealt with’. Quite clearly, the opposition are about denying the parliament the opportunity to pass legislation that will reinforce the measures that we have sought to implement so as to have a comprehensive range of measures in place and operating. When given the opportunity to consider these matters a second time, the opposition are saying, ‘We are determined not to cooperate; we are determined to frustrate.’

Mr Crean—Where is the boat?

Mr Ruddock—The opposition leader says, ‘Where is the boat?’ His worst fear would be to see a boat arrive. And there we have it. Clearly, the opposition is about denying measures which will ensure that we are able to maintain a successful approach in dealing with these issues.

Mr Swan—Mr Speaker, I rise on a point of order. The minister has been speaking for something like 6½ minutes. If he wishes to make a ministerial statement, he can do it after question time.

The Speaker—The Manager of Opposition Business is aware that there is no point of order. There is no restriction under the standing orders, in spite of the desire by successive Speakers through successive parliaments to have such a restriction.

Aviation: Sydney (Kingsford Smith) Airport

Mr Martin Ferguson (2.11 p.m.)—My question without notice is to the Deputy Prime Minister, Leader of the National Party and Minister for Transport and Regional Services. I refer to the government’s sale of Sydney airport. Minister, do you recall telling the Australian Financial Review on 18 July 2000:

My view is the sale of Sydney airport could certainly help facilitate important projects high on the Government’s priority list such as local roads, Western Sydney Orbital and Speedrail.

Deputy Prime Minister, can you tell the House what happened to your plan for a cocktail of transport projects to be paid out of the proceeds from the sale of Sydney airport? Leader of the National Party, isn’t it a fact that you got rolled by the Liberal cabinet and cannot deliver for our future infrastructure needs or for regional Australia?

Mr Anderson—I thank the honourable member for his question. I do remember making those remarks. As a matter of fact, it was just prior to the cabinet deciding that, quite independently of the sale of Sydney airport, we could go ahead with Roads to Recovery. I do not actually regard that as being rolled. Indeed, the Western Sydney Orbital was also announced shortly after that. It is being built in full cooperation—I must say, much to my surprise—with the New South Wales Minister for Transport. When it comes to infrastructure, there are a number of areas where I think it ought to be remembered that the government are very active, and all of the projects have been made much more readily achievable through the process of restoring the nation’s books. That would include what we have been able to do in perhaps the most important bit of infrastructure of all for country people—telecommunications. Real resources are going into telecommunications.

In terms of our natural environment, there is the Natural Heritage Trust and the national action plan. Billions of dollars are going into securing the most basic infrastructure of all for the nation. In relation to Speedrail and the idea of linking our eastern cities by a high-speed passenger train network, it became obvious after some serious preliminary work that the cost to the taxpayer would be so enormous that no future government would be likely to contemplate it, and it was not right to perpetuate a false hope.

I think the member for Batman’s question simply highlights the fact that we have been able to deliver major infrastructure. When it comes to own goals, I do not profess for a moment to be able to match the member for Batman, who, as alluded to by the Treasurer yesterday, recently put out a leaflet in his own electorate called ‘Martin Ferguson’s green guide’. It was full of useful recycling hints. Of course, it had been recycled itself from the leaflets of some of his comrades in
Western Australia. It told the good burghers and others of Batman that they could save the environment while in transit. It also said:

Many Perth people have developed a very dangerous addiction to fossil fuel.

No doubt the good people of Batman have not developed an addiction to fossil fuel. It told the residents of Batman:

The City of Perth offers substantial parking discounts to people who car pool.

Then under the heading of ‘Saving Water’ it talks about how:

Perth has doubled its population in the last 20 years ...

And:

In Western Australia we have had an extensive media campaign ...

We are going on about the—

The SPEAKER—The minister will resume his seat.

Mr Swan interjecting—

The SPEAKER—I presume that the Manager of Opposition Business is seeking my attention on the basis of a point of order on relevance. I was presuming that the minister was dealing with infrastructure projects but I would appreciate him coming back to the question.

Mr ANDERSON—Mr Speaker, I conclude by saying that the member for Batman’s number is on the inside of the cover, but it says inside ‘Call my office’ on a different number. And when we called that number, as crikey.com will tell you—

The SPEAKER—I invited the minister to come back to the question. You will resume your seat.

Mr ANDERSON—the member for Swan’s office comes on the line.

The SPEAKER—Minister, resume your seat.

Mr Martin Ferguson—Mr Speaker, I refer to your precedent yesterday concerning the tabling of extracts from newspapers relating to the Minister for Education, Science and Training. I seek leave to table the Financial Review of 18 July 2000, which confirms beyond any doubt that the minister is not up to the infrastructure job.

Leave not granted.

Taxation: First Home Owners Scheme

Mr JOHN COBB (2.16 p.m.)—My question is addressed to the Treasurer. Would the Treasurer provide the House with an update on the uptake of the First Home Owners Scheme? How has the scheme assisted new home buyers to realise their dream of owning their own home?

Mr COSTELLO—I thank the honourable member for Parkes for his question. I remind him that in July 2000 the coalition government introduced the First Home Owners Scheme, which gave eligible home buyers a grant of $7,000 towards their first home. On 9 March 2001 the government announced an additional $7,000, taking the maximum up to $14,000 for first home buyers purchasing a new home. That additional scheme is coming to an end at the end of this month, 30 June, but the original grant of $7,000 continues.

I can inform the House that a total of 334,000 Australians have received the first home owners grant. Of those, 45,000 received the full grant of $14,000. This has enabled many Australians for the first time in their lives to buy a home and to have a stake in their own residence. For example—and the honourable member for Parkes probably saw the story—the Sydney Morning Herald reported on 24 June that Jacqui Hemsley of Broken Hill bought a three-bedroom house for $7,000 with the $7,000 grant. The whole of the purchase price of the house in Broken Hill was paid by the government’s First Home Owners Scheme. The Sydney Morning Herald reported on 4 March 2002 that every house in Incense Place, Casula in Sydney had been funded by the First Home Owners Scheme. The Sanchez family moved into No.19, and Ben Sanchez said:

We would not have been able to do this without the grant ... It has just helped us so much.

And that is what a coalition government is about: helping the people of Casula. But the Weekend Australian on 15 June reported probably the best story of the First Home Owners Scheme. It reported on Lloyd Davis, 84 years of age, in Wickepin in the electorate of O’Connor. Lloyd Davis bought his first
home at 84. The *Weekend Australian* reported:

For most of his 84 years, Lloyd Davis has been a rolling stone. A teenage runaway, he has been a swagman, a soldier in World War II and a demolition contractor around West Australia’s remote north. He never had time or inclination to buy his own home.

That is, until now.

Mr Lloyd Davis, who is 84 years old, was quoted:

‘I always managed to pay my way, but there was just never the right time to buy a house,’ he said yesterday. ‘Now I’m a happy vegemite.’

Coalition government is about helping the people of Casula, Broken Hill and Wickepen. This is a government which gets on with the business of helping people get into their own homes and have a stake in the future of Australia.

**Telstra: Services**

Mr Tanner—Mr Speaker, I seek leave to table a copy of the full transcript of the minister’s statements.

Leave granted.

**Parliamentary Standards**

Mr Waken—My question is addressed to the Minister for Employment and Workplace Relations in his capacity as Leader of the House. Would the minister inform the House of the government’s commitment to maintain high parliamentary standards and accountability? What obstacles exist that may prevent the parliament from achieving this objective?

Mr Abbott—I thank the member for Grey for his question. As every member of this House knows, sometimes some pretty hard things are said in the course of political debate. Some of those things are fair and some of those things are unfair. When anyone goes over the top, as sometimes happens, we should have the ordinary human decency to retract and apologise. As the House doubtless knows, the member for Werriwa has made a particularly vulgar statement about the Prime Minister. Even those who might agree with the member for Werriwa’s general position ought to accept that the language of the gutter should have no place at all in Australia’s public discourse. But the member for Werriwa went further than that.

Mr Albanese—Mr Speaker, I rise on a point of order going to relevance. As I understand it, the minister was asked the question in his capacity as Leader of the House. The statement he is referring to was made outside the House and therefore I ask you to rule the question out of order.

The Speaker—I was listening closely to the minister’s response. It is fair to say that the actions of people outside the House are not the business of the Speaker nor, I would have thought, of a minister. I am listening closely to the minister’s response and invite him to continue, but I ask him to bear in mind that the actions of people outside the House are not something over which I see any of us having direct responsibility.

Mr Abbott—I have been asked about the government’s commitment to maintaining the standards of public life. The member
for Werriwa went further than that. He said to the *Bulletin*, published earlier today:

I’m a hater. Part of the tribalness of politics is to really dislike the other side with intensity. And the more I see of them the more I hate them.

Mr Albanese—Mr Speaker, I rise on a point of order which goes to my previous comment. He has now indicated by his own words that he is talking about statements in the *Bulletin*. I wonder how his position as Leader of the House relates to his position as a reviewer of Packer publications.

The SPEAKER—I invite the minister to continue and to focus on parliamentary standards.

Mr Abbott—Let me just say that Australians often disagree with each other, we argue with each other and sometimes we even dislike each other, but we do not hate each other. The elevation of hatred to a principle of political life is the kind of thing that happens in other countries and is responsible for the tragedies that we see daily, alas, in the Middle East. One of the great strengths of Australian public life is the ability of members of this parliament to engage in furious debate but still to respect each other’s fundamental values and fundamental motives. I respectfully put it to the member for Werriwa that his comments do not reflect the true standards of Australian public life and they do not respect his own true standards. I respectfully put it to the member for Werriwa that he is better than that and that he would help himself and his leader if he apologised and retracted his statements to the *Bulletin* magazine.

Mr Ripoll—This is the guy who tried to punch a member of parliament!

Mr Martin Ferguson interjecting—

The SPEAKER—If the member for Batman or the member for Oxley want to discover who is actually prepared to reinforce parliamentary standards, they will continue that exchange.

Parliamentary Standards

Mr Swan (2.28 p.m.)—My question without notice is directed to the Prime Minister and it relates to conduct in this House and to the previous statement from the Leader of the House about the need for respect in this House. Prime Minister, isn’t it a fact that your Leader of the House is the only member to be ejected from this House for shaping up to the opposition?

Mr Hockey—that’s wrong!

Mr Crean—it’s true!

Mr Martin Ferguson—it’s true!

The SPEAKER—When the House has come to order! The Manager of Opposition Business may be aware that the chair is not being assisted—and neither is he—by the behaviour on either side of the House currently.

Mr Swan—Prime Minister, isn’t it also the case that the Leader of the House was at that stage a member of the outer ministry? Prime Minister, since that disgraceful incident, haven’t you promoted the member into your cabinet and put him in charge of all government business in this House?

Mr Howard—I would have to check the historical record.

Opposition members interjecting—

The SPEAKER—The Prime Minister will resume his seat. The behaviour of the member for Grayndler, the member for Hunter and other members in the House only illustrates what in fact has facilitated questions like this. The Prime Minister has the call, and he will be heard in silence.

Mr Howard—Given the energetic nature of the Australian character, if I could put it that way, I would be surprised, if you were to trawl right back through the record, if you might not find the odd example—and you are talking here of recorded examples, let alone unrecorded examples—of where people may have shaped up. But let me simply say this: I do not intend to dignify the remarks of the member for Werriwa with any kind of response myself.

Mr Fitzgibbon interjecting—

The SPEAKER—I warn the member for Hunter!

Mr Howard—I would simply say that I have every confidence in the integrity, the
ability, the decency and the good character of the Leader of the House.

Trade: United States

Mrs BRONWYN BISHOP (2.31 p.m.)—My question without notice is addressed to the Minister for Trade. Would the minister inform the House of what the government has done to advance the interests of Australian farmers in the international trading environment?

Mr VAILE—I thank the member for Mackellar for her question. Obviously, all members of the government are very interested in the contribution that the farm sector makes to our economy, particularly the wellbeing of our economy, and arguably there has never been an Australian government that has done more for the Australian farm community, particularly on the international scene. To start with, the policies of our government have created one of the most efficient and competitive domestic economic environments for our Australian farm community to export from. We have done that by creating a stable environment for low interest rates as well as—as you would well know in your constituency, Mr Speaker—removing $3½ billion worth of taxes that were maintained over the years by Labor governments on Australia’s exports. That has seen our overall export effort grow from $99 billion in 1996 to in excess of $154 billion today. As a part of that, Australian farm exports have continued to grow under our government: agricultural exports have grown from $22.65 billion in 1996 to more than $32.3 billion in 2001. That is an increase of 43 per cent in six years. As I say, we have created a much more efficient and competitive environment economically in Australia from which they can export.

One of the most important things we have achieved recently has been the launching of the next round of trade negotiations in the WTO, something that was pursued for a number of years and that we failed to achieve in Seattle but did achieve in Doha. This will provide us with the opportunity to seriously address the distortions in the global trade in agricultural products in terms of the levels of domestic support and the distortions that exist that allow countries like the United States of America to apply excessively high levels of domestic support, such as those that have been mandated through the farm bill.

If we can focus on that for a minute, let us not forget—and I remind the House—that the Australian Labor Party in government was the party that signed off or legitimised the levels of that support in the Uruguay Round. The Labor Party in government signed off and legitimised the United States being able to spend then $23 billion per annum, the Australian Labor Party legitimised Japan being able to spend $40 billion, the Australian Labor Party legitimised the European Union being able to spend $76 billion—and at the same time was able to negotiate levels of support for Australian agriculture of only $300 million.

So what have we been doing? We have aggressively pursued a trade policy agenda, on behalf of Australia’s farm community, in a number of different ways, and that is the fundamental area in which we are going to address those distortions. We expressed quite clearly our extreme dissatisfaction at the Bush administration’s endorsement of the farm bill. The Prime Minister, the Deputy Prime Minister, the Minister for Agriculture, Fisheries and Forestry and I all expressed our extreme concern at the farm bill and at what it would do as far as Australian agriculture was concerned. The Prime Minister, in his address to the Congress when he was recently in Washington, made that point very clear—crystal clear. We have taken that argument up to our American colleagues. Australia has a reputation as being an aggressive advocate of trade liberalisation for agriculture. We have the largest or strongest reputation for that; we always have. We continue to pursue that now, and we always will. We will pursue it in those ways whereby we can achieve results and have achieved results, much more than was the case when the Australian Labor Party was in office.

While I am on my feet, could I refer to another issue with regard to exports and the United States, and that is the issue of steel tariffs. I can inform the House that last week the Bush administration put Australia’s exclusion request for cold-rolled steel out for public consultation. Cold-rolled steel repre-
sents the bulk of the remaining 15 per cent of steel. I can inform the House that the Bush administration is seriously considering our exclusion request. I can also inform the House that in the last 24 hours a further exclusion has been granted to an Australian-produced steel product—galvanised, cold-rolled steel channels. That is clear evidence that you get results not by going to Washington lecturing people but by going to Washington with a balanced argument in pursuit of your objectives, of the policy we are running. That is being done by ministers of this government and it is being done by the Prime Minister leading this government and leading Australia. Any suggestion that this government is not absolutely aggressive in pursuit of the interests of Australia’s trade agenda, and particularly agricultural reform, is absolutely baseless.

Trade: Export Market Development Grants Scheme

Dr MARTIN (2.38 p.m.)—My question is to the Minister for Trade. I refer to the minister’s statement to the House on Monday that there will be some Export Market Development Grants Scheme applicants over a particular threshold who will get a percentage of their full claim paid, and also to advice from Austrade that 3,172 Australian businesses were accepted into the Export Market Development Grants Scheme in the current financial year. Minister, can you confirm that Austrade is now advising those Australian businesses with this letter that they will receive only 75.62 per cent of their second tranche entitlement, which means that they are being short-changed by a total of $11.21 million? Minister, what do you say to businesspeople such as Phillip Joseph, the Managing Director of Disk Brakes Australia and Manufacturer of the Year in 2001, who says:

The consequence of this under-funding and late notification will have an impact this year and will probably mean our company curtailing export expansion plans.

Minister, how is this approach to trade helping Australia’s trade exports?

Mr VAIL—I thank the honourable member for his question. The current year that is being referred to with the funding of Export Market Development Grants Scheme applications has been an astoundingly successful year for Australian exporters. We are increasing the number of exporters and we are increasing the level of exports out of Australia. It is well known that the Export Market Development Grants Scheme is a capped program. It is $150 million, and it was locked in as part of our election platform at the last election—$150 million spread across the applications that were to come in. In the last year we received some 3,200 applications for grants under the Export Market Development Grants Scheme. Around 72 per cent of these applicants have received their full grant entitlement in a single up-front payment. The average grant value was around $45,000. Due to the increased demand on the scheme, about 28 per cent of claimants received an initial payment of $60,000—and that was the figure I referred to in the answer earlier this week—and they are eligible for a second tranche payment of 75.62 cents in the dollar.

So the simple answer is that we are committed to spend $150 million on this program, and we have done that, but, because of the fantastic success as far as Australia’s exports are concerned and the number of people participating in exports, we have basically an oversubscription. The rules have always been quite clear in terms of the threshold figure. As I said, 72 per cent of applicants have received their full entitlement and 28 per cent have already received $60,000 towards the export market activities that they have claimed for, and they will receive the balance—the 75.62 cents in the dollar—in that second tranche payment.

I will take on notice the individual business that the member referred to in his question. For the member for Cunningham’s information, out of the six EMD grants that went to his electorate—claimants were paid a total of $185,448—only one is affected by this issue of the second tranche payment. That particular claimant claimed $60,236 and will receive $60,178—only $58 short of the full claim.

Aviation: Industrial Action

Mrs DE-ANNE KELLY (2.42 p.m.)—My question is addressed to the Deputy Prime
Minister and Minister for Transport and Regional Services. Will the Deputy Prime Minister inform the House of the impact the aviation unions' campaign to force non-union members to pay bargaining fees will have on the travelling public? Is the minister aware of any efforts to resolve this situation?

Mr ANDERSON—I thank the honourable member for her question and acknowledge her untiring efforts to ensure adequate aviation services to those very important tourism destinations in her electorate, particularly the Whitsundays. The union movement's targeting of Qantas as a prime target in its bargaining fees campaign is, it has to be said, as transparent as it is clumsy. It is a reflection of the class warfare mentality that still dominates Labor Party thinking, and it ought to be exposed as such. The union movement does not like Qantas because Qantas over the years has developed a relatively— I say relatively—efficient and productive work force that is not dominated by the union movement. The unions, of course, did like Ansett because they had a stranglehold over Ansett's work practices—the very work practices that made Ansett vulnerable and played a major role in destroying that airline.

Mr Edwards—Blame the workers!

Mr ANDERSON—No, I am not blaming the workers; I am blaming the unions. There is a very big difference. We are on the side of the workers, just as we are on the side of the wharfies, because they are productive people now, getting a good reward for professionalism. The unions now see the Federal Court's judgment of last week as the perfect opportunity to try and impose union control over Qantas's work practices. They want to entrench bargaining fees provisions in workplace agreements and that means that, in the end, companies will be forced to pay those fees.

This is compulsory unionism by default—by making it cheaper for a Qantas worker to join a union than to pay those totally unwarranted bargaining fees. That is what it is, nothing more and nothing less. Qantas and its non-union workers will quite rightly resist this union push. Despite that, unfortunately there can be little doubt that the Electrical Trades Union and the Australian Services Union will be quite prepared to use industrial action to pursue their cause. It has to be said that the timing is extremely unfortunate. Just as the airline and tourism industries and associated industries are recovering well from the events of last year and September 11 in particular, we see a deliberate campaign to weaken our national airline flag carrier. But that is exactly what the union movement is threatening.

The member asked whether I am aware of efforts to resolve this issue. The House will recall that the government have introduced legislation to ensure that the freedom of choice that currently exists to join or not join a union or industrial association is not compromised. We are seeking to resolve the matter. You would have thought that the opposition, as the alternative government, would have a clear policy position on this. One would have thought that the leadership would have demanded that they would have a position on this. We are seeing from the opposition is invective and abuse. That is what we are seeing. Hatred, the perpetuation of class warfare and personal abuse are no substitutes for leadership. They are not an adequate substitute for leadership.

As has been noted in this place, Australians have become rather too cynical about their public institutions and the people who fill them. The Leader of the Opposition himself acknowledged that in this place at the beginning of this parliament, when he committed himself to raising standards—

Mr Crean interjecting—

Mr ANDERSON—albeit with a smirk; but he did say it. More recently, on 29 May, he said, 'We've got to rebuild trust in parliament as an institution.' Yet he condones the very sort of disgraceful behaviour that fuels the sense of cynicism and frustration that we as party leaders in this place profess to be concerned about. Robust debate is one thing. This is the clearing house of policy ideas. People in this place ought to have strong views on what they think will deliver the best outcomes for the Australian people. But when we allow it to degenerate into personal abuse and into the politics of hatred it
is unacceptable. It fuels the very cynicism that the Leader of the Opposition says he is concerned about.

Opposition members interjecting—

Mr Martin Ferguson—Mr Speaker, I ask that the minister table the document that he read from, in full.

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

Mr ANDERSON—Yes.

The SPEAKER—The minister has indicated that the document to which he referred was confidential.

Liberal Party of Australia: Treasurer

Mrs CROSIO (2.48 p.m.)—My question is addressed to the Prime Minister. Prime Minister, are you aware of comments by your Leader of the House that Australian politics has always been marked by a degree of civility? Is that the same Tony Abbott who in 1997 described Malcolm Turnbull as ‘arrogant, rude, obnoxious— a filthy rich merchant banker out of touch with real Australians … the Gordon Gekko of Australian politics’? Prime Minister, do you share that view of the federal treasurer of your party? Is that the kind of ‘civility’ which you have rewarded by bringing the member for Warringah into your cabinet and putting him in charge of all government business in this House?

Opposition members interjecting—

The SPEAKER—I would have thought that any interjection would seem to be extraordinarily unusual at this point in time.

Mr HOWARD—Can I say to the member for Prospect that I will check whether the Leader of the House did say that.

Opposition members interjecting—

Mr HOWARD—I said I would check it. In fairness to the Leader of the House, and I know you would always want to be fair to the Leader of the House—

Honourable members interjecting—

Mr HOWARD—I think some opposite would like to be fair to the Leader of the House. I will check it, because he did say as I got up, in unmistakable terms, ‘Mate, I’ve been misrepresented.’

Opposition members interjecting—

Mr HOWARD—He did say that. But may I go to the substance?

Opposition members interjecting—

The SPEAKER—The obligation is for everyone to be heard in silence.

Mr HOWARD—I will go to the substance of the issue. Let me assume that you have put to me this proposition: do I agree or disagree with that as a description of the honourary federal treasurer? I make it clear that I have never said that of the honourary federal treasurer. I, in fact, have quite a warm regard for the honourary federal treasurer. It is a matter of public record that the honourary federal treasurer of the Liberal Party and I took strongly different views on the referendum for constitutional change. It is also a matter of public record—

Opposition members interjecting—

Mr HOWARD—Oh, forget it! There is no point in continuing.

Opposition members interjecting—

The SPEAKER—I have no doubt Australia will watch this exchange and draw its own conclusions.

Education: Values

Mr HUNT (2.51 p.m.)—My question is to the Minister for Education, Science and Training. I ask the minister his views on the fundamental importance of values at all levels of education. Is he aware of any alternative views regarding the importance of teaching basic values to Australian students?

Dr NELSON—I thank the member for Flinders both for his question and for his commitment to see that the highest standards are taught in Australian schools and, in particular, in the Western Port Secondary College in Hastings and the Rosebud Secondary College, amongst many other fine schools in his electorate.

This government has been concerned, since its election in 1996, to see that Australian parents can have confidence in the schools to which they send their children. My predecessor, the member for Goldstein, put an enormous amount of effort in on behalf of the government to see that literacy and numeracy were tested in Australian
schools, and now this government is committed to seeing that we report to parents the results of that testing. We are about to move into information and communication technology as well as science; and, of course, this government has also placed an enormous amount of importance on civics and democracy. Issues about which Australian parents are particularly concerned are not only the standards of teaching in literacy and numeracy but also the values based framework within which education is delivered. For example, you can open a newspaper in Australia on any day of the week in almost any part of the country and you can read these kinds of stories. The *Sun Herald* in Sydney, on Sunday, 23 June, published a story entitled ‘Schools call in playground police’. It said:

A special police unit will be formed to respond to violent clashes at NSW public schools and to improve security in school playgrounds.

This is something about which I think all Australians, and parents in particular, are especially concerned. They want to see that Australian governments and those in positions of leadership support security, safety and standards in Australian schools. This unit will respond to critical incidents as extreme as machete attacks.

It is interesting that in this same article, under the heading ‘Principals worn out by stress’ we are told that badly behaved students, staff problems and a lack of support from the New South Wales education department are the major causes of stress for school principals, according to two new surveys. The New South Wales Primary Principals Association, for example, said:

The biggest factors affecting primary principals were student behaviour, abusive parents, and the New South Wales education department.

I read the *Bulletin* this week and I saw that the member for Werriwa was quoted as saying:

Look, this idea that politics can be too rough and too personal is a bit rich. I can take you to any sports field any Saturday morning and show you parents getting stuck into it. Having a go at the ref, yelling abuse. It’s part of the Australian way. We’re not a namby-pamby nation that hides our feelings. I think we’re a nation that’s willing to call a spade a spade ...

He went on to say:

... if need be, to pick up the spade and whack someone over the head with it.

He went on further to say that he described himself as a ‘hater’.

Shortly, I will be announcing some initiatives to support parents who are concerned to see that appropriate values are taught in schools, alongside the kinds of things that are equally important in reading, writing and communication. For example, Hugh Dillon, a magistrate in Sydney, nominated values like politeness, courage, justice, generosity, compassion, mercy, gratitude, humility, tolerance and humour. The question I put to the member for Werriwa and to the Leader of the Opposition is: if we are to lead our children on the basis that hatred is an acceptable virtue, will it make it easier or harder for parents to raise their children to be the kind of adults that we want them all to be?

Mr Latham—I seek leave to answer the question that has been put by the minister for education.

The SPEAKER—The member for Werriwa will resume his seat; there is no such provision under the standing orders, as he is well is aware.

Minister for Regional Services, Territories and Local Government

Mr GAVAN O’CONNOR (2.57 p.m.)—My question is addressed to the Minister for Regional Services, Territories and Local Government. It follows a response that was just given by the Minister for Employment and Workplace Relations. Can the minister confirm that he recently used a speech to the Western Queensland Local Government Association to attack police for breathalysing drivers who were using a major bypass road in Dalwallin, in his electorate, just because he was officiating at a function nearby? Can he also confirm that he used the same speech to threaten to use an ‘iron bar’ on councils who will not toe the party line? Minister, why are you so soft on drink-driving but hard on councils which do not happen to agree with you?

Mr Zahra interjecting—

The SPEAKER—I warn the member for McMillan!
Mr TUCKEY—The comment that I made about a certain act of breathalysing on a major highway at 11 o’clock in the morning was made to draw attention to the fact that there were better things that a police force might do at 11 o’clock in the morning—like, for instance, protecting people whose houses get broken into. The reality is that at 11 o’clock in the morning on a major highway hundreds of miles from Perth it was most unlikely that police would be successful in using their resources to the best effect.

Mr Wilkie interjecting—
Mr Tanner interjecting—

The SPEAKER—The minister will resume his seat. I remind the member for Swan and the member for Melbourne that I required the minister to resume his seat for only one reason.

Mr Gibbons interjecting—

The SPEAKER—The minister will resume his seat. I remind the member for Lingiari, let me remind all members on my left that I do not intend to have the standards of the House abused. The minister has the call and he will be heard in silence.

Mr TUCKEY—I have been speaking throughout Australia, pointing out the lack of protection for the public—

Mr Bevis interjecting—

The SPEAKER—I warn the member for Bendigo! The easy option for the chair would be to issue a general warning. I have not done so but, in the presence of the member for Lingiari, let me remind all members on my left that I do not intend to have the standards of the House abused. The minister has the call and he will be heard in silence.

Mr TUCKEY—I have been speaking throughout Australia, pointing out the lack of protection for the public—

Mr Bevis interjecting—

The SPEAKER—I warn the member for Brisbane!

Mr TUCKEY—and the fact that many local authorities are spending millions of dollars on having to put security agents around their suburbs because of the fact that people are suffering home invasion and damage. In that regard, I thought my comment was quite appropriate.

Small Business: Employment

Mr BALDWIN (3.01 p.m.)—Mr Speaker—

Mrs Irwin interjecting—

The SPEAKER—The member for Fowler is warned!

Mr BALDWIN—My question is to the Minister for Small Business and Tourism. Can the minister inform the House of any barriers to small business creating employment opportunities, particularly in my electorate of Paterson? What changes to employment law will help small business employ more staff, and how does the make-up of this parliament influence any small business workplace relations changes?

Mr Latham—Mr Speaker, I rise on a point of order. I would ask you to rule out of order the second part of the question, which is absolutely identical to a question that was asked a few sitting days ago, about the composition of the parliament. That is clearly out of order under standing order 146.

The SPEAKER—I have checked all of the questions that have allegedly been asked on a previous day this week, and it is not true that any of them have. It is fair to say, as the member for Werriwa has pointed out, that the latter part of the question had been asked before. That does not make the question of itself out of order. In fact, under the standing orders, the minister has a question to answer.

Mr McMullan—Mr Speaker, I rise on a point of order. Just to clarify that ruling: are you ruling the second part of that question out of order? That is what you often do when questions are only partly in order. Are you ruling the second part of the question out of order? In that case will you insist that the minister answers only the first part?

Mr Albanese—Mr Speaker, I rise on a point of order. On Monday, you required that I reword the second part of a question because you ruled it out of order. I ask that you be consistent and treat those on that side of the House in the same way that I was treated on Monday.
The **SPEAKER**—The member for Grayndler will resume his seat or I will deal with him. The member for Grayndler is, if nothing else, well aware of the fact that I ruled out the second part of his question because it contained both imputations and inferences that were outside the standing orders. There is nothing outside the standing orders in the way this question has been asked. The question stands.

**Mr Stephen Smith**—Mr Speaker, I rise on a point of order. Firstly, with respect, in your response to the member for Fraser, you did not clarify for the House whether the second part of the question is being ruled out of order, so I ask you that again. Secondly, in your comments to the member for Fraser, you also said that ministers had from time to time repeated points that they had made in answers. That is not the point. The point is repeating the question. This question has been asked before and fully answered. It is clearly out of order, and you should rule that part out of order.

**The SPEAKER**—Standing order 146 says, for the illumination of all of those who may not have it at their fingertips, ‘A question fully answered cannot be renewed.’ Clearly the question has not been fully answered. It stands. The minister has the call.

**Mr Hockey**—Thank you, Mr Speaker, and I thank the member for Paterson for asking a question about jobs in small businesses in the electorate of Paterson. Small business operators right around this country are telling me and members on this side of the House that they are very nervous about the unfair dismissal laws. They believe that the laws discourage them from employing more people in their businesses. It was not so long ago that the member for Paterson, Senator Tierney and I visited the Tarro Pub. The Tarro Pub has previously been the strongest Labor booth in Paterson, over a number of elections. Until the last election, it was the strongest Labor booth in the seat of Paterson. The small business operators who were at the pub at the time, who had just finished work—the plumbers, the sparkies, all the building contractors and so on—pointed out to us that, without any doubt, the most significant issue for them was how they were being treated by the laws of the land in relation to unfair dismissal.

They also pointed out that they felt quite disconnected from the Labor Party; they felt that the Labor Party, which had traditionally represented their interests, was not about representing their interests anymore and seemed to be carried away with their own rhetoric. They said that they believed that the Liberal Party and the National Party represented the interests of the small business people and the workers in Tarro. Peter Switzer, the small business editor of the *Australian* newspaper, said this week on radio 3AK:

I think Simon Crean should be taking the Labor Party towards the small business constituency—

That is wishful thinking, isn’t it?

He’ll have to embrace such things as looking at changing unfair dismissals as it affects small business.

Peter Switzer is telling the Labor Party to change the laws, and 1.2 million Australian small businesses are telling the Labor Party to change the laws. Why can’t the Labor Party hear that Australian small business wants to employ more people but that the current unfair dismissal laws are a deterrent?

It might have something to do with the fact that, through the composition of this parliament, only one side of the House represents the interests of small businesses—and that is the Liberal and National parties’ side. For example, in just three years in parliament the member for Paterson has spoken in this House about small business on 17 occasions. Compare that, for example, with the member for Kingsford-Smith, who has been in politics for a very long time. He has been in this place for 12 years and he has mentioned small business three times. It is the 90-10 rule in the Labor Party: only 10 per cent of the Labor Party have ever had any extensive interaction with small business. So when it comes to a vote in the Senate on the unfair dismissal laws, when they have one senator, Senator Barney Cooney, who has ever had any association with small business, how can you expect the Labor Party to understand small business? They are going to do small business in the eye, they are going to do jobs in the eye and their last representative of
small business in the Senate is retiring in two days. You have 48 hours to get it right, Simon!

The SPEAKER—Minister!

Employment: Job Network

Mr COX (3.08 p.m.)—My question is to the Minister for Employment Services. Is the minister aware that the code of conduct for the current round of Job Network contracts requires providers to implement service standards that include:

- ensuring that job seekers in Intensive Assistance are provided with the assistance they need to overcome their barriers to employment (for example, training, fares, clothing, safety equipment, counselling, interpreting services and wage subsidies) ...

Why has this clause been deleted from the code of conduct for the next round of contracts contained in this document released by the minister? Minister, what are your priorities: giving taxpayer funded flat screen TVs and golf clubs to employers, or providing training to help the disadvantaged unemployed get real jobs?

Mr BROUGH—The first thing to say is that my priority and the priority of every member on this side of the House is to get the unemployed jobs. This government has created nearly one million jobs since we came to power in 1996. To answer your question directly, you have in front of you a discussion paper—

The SPEAKER—Minister!

Mr BROUGH—My apologies, Mr Speaker. You do not have it in front of you; the member for Kingston does. If you wish to make comment on this discussion paper, I would welcome those comments. I would also point out to the member opposite, since he raises the issue of the quality of service of Job Network, that I actually have with me an inquiry into Job Network and several other services. I would like to read to you some of the findings:

6.2 The committee finds that following the introduction of the Job Network in 1998 there has been a significant increase in the number of employment service providers in metropolitan Brisbane, regional centres and country Victoria.

6.3 The committee finds that the increased number of employment services has resulted in job seekers having a greater choice of providers, better access to employment services, with some suburbs and towns gaining employment services for the first time under the Job Network.

6.4 The committee finds the structural reform of the employment services has had a positive impact on the range of services and the mode of service delivery offered to job seekers by Centrelink in comparison to the Commonwealth Employment Service—

which of course was delivered by your leader. Is this a report that was commissioned by the Prime Minister? Is this a report of a standing committee of this House? No, this is a report of the Victorian government. This is a report that was commissioned by the Victorian Premier, Steve Bracks, and that has had unanimous support by both sides of the house in the Victorian—

Mr Cox—Mr Speaker, I rise on a point of order relating to standing order 145, relevance. This has absolutely nothing to do with why the minister deleted the relevant section of the code of conduct.

The SPEAKER—The member for Kingston asked a question about Job Network and service standards, and I am inviting the minister to respond to it.

Mr BROUGH—What is clear here is that this government is committed to an employment services regime which is delivering on the ground. When you take out of it the partisanship and the rhetoric and the hyperbole that you hear from those opposite you get down to the truth, which is that you have a bipartisan report of the Victorian parliament, led by the ALP, and you find that they actually agree that the Commonwealth’s employment services under Job Network are providing more improved services than the previous government were. It is time that those opposite—

Mr Griffin interjecting—

The SPEAKER—I warn the member for Bruce!

Mr BROUGH—spent more of their time developing policy and less time hating.

Mr Cox—I seek leave to table the two codes of conduct to demonstrate that the
The minister has deleted help for the disadvantaged.

Leave not granted.

**Environment: Conservation**

Mr BILLSON (3.13 p.m.)—My question is addressed to the Minister for Environment and Heritage. Can the minister advise the House of the steps taken by the Howard government to protect Australia’s coastal environment? Is he aware of any alternative policies?

Dr KEMP—I thank the honourable member for Dunkley for his question. I know that he has great pride in the beautiful coastal environment of his electorate of Dunkley. One of the greatest achievements of the $1.5 billion first phase of the Natural Heritage Trust has been its remarkable success in generating local volunteer community action to conserve and restore the environment. The backbone of the trust has in fact been an army of some 400,000 volunteers who have acted to protect and enhance Australia’s environment.

I have been asked particularly about the coast and coastal care. I inform the House that today some 2,000 groups and 60,000 volunteers are engaged in Coastcare, which is a vital force in the care of our wetlands, beaches, dunes and vegetation and a key element in the implementation of the national coastal policy which is currently being developed. Many high profile Australians have engaged in and supported these wonderful Coastcare activities. For World Environment Day this year, comedian Bob Downe and basketball legend Andrew Gaze lent their names to the Coastcare campaign against garden weeds which have invaded many of our sand dunes and shores. The campaign attracted strong publicity around the country, many working bees were held, and it stimulated new practices in countless Australian gardens.

The great success of the Natural Heritage Trust has been its capacity to put in place a framework to encourage volunteerism in our community. This has been constantly ridiculed by the Labor Party. The efforts of these 400,000 volunteers have been continually ridiculed as part of the achievement of the Natural Heritage Trust and yet volunteerism is one of the very great foundations of our community life. It shows that Australians will respond to a positive framework which is put in place. Political parties themselves benefit from volunteers, but to attract volunteers we need to be able to give them the message that there is respect in public life for their activities and for each other. Australians do not want their political leaders to be saying that hatred is an acceptable value in public life, that it is an acceptable motivation for political action.

Mr Kelvin Thomson—Mr Speaker, I rise on a point of order. The minister was asked about steps taken by the Howard government to protect the coastal environment. He is clearly not being relevant to the question he was asked.

The SPEAKER—I point out to the member for Wills that I had not earlier interrupted the minister because he was talking about volunteers and their impact on the environment. I invite the minister to come back to the question of volunteers and the protection of the environment.

Dr KEMP—Volunteers are a critical foundation of Australian community life. The government has been highly successful in mobilising these volunteers. But if we are to build on this Australian tradition of volunteerism—particularly to get people to volunteer in political life and be a part of our public life—then we have to create an environment in which they have respect and know that they will get respect for their participation. They do not want to hear leaders saying that gutter language is acceptable. They do not want to hear leaders saying that hatred is an acceptable motivation in political life. The Labor Party would not now be in the position that it is in in South Australia, as Senator Chris Schacht said on *Lateline* on Monday, where it is controlled by two people—

Mr McMullan—Mr Speaker, I rise also on a point of order which goes to relevance. The minister is straying a long way away in direct defiance of your correct ruling in response to the point of order from the member for Wills.
The SPEAKER—I indicate to the member for Fraser that the only reason I had not interrupted earlier was that I was not sure what Senator Schacht had said and whether it had any relevance to the environment. I invite the minister to wind up his remarks.

Dr KEMP—As Senator Schacht said on Monday night—

Mr McMullan—Mr Speaker, on the point of order: that is in direct defiance of your correct ruling.

The SPEAKER—The member for Fraser will resume his seat. I do not know what the comments of Senator Schacht were likely to have been. I will, however, of course, take action if they are out of order.

Dr KEMP—I am talking about the importance of volunteerism to our community life and our public life. That is exemplified by the success of the framework the government has put in place. Senator Chris Schacht on Monday night referred to the fact that the whole of the South Australian branch of the Labor Party is controlled by two union secretaries. That reveals the weakness of the Labor Party in stimulating community action—

The SPEAKER—Minister!

Mr Swan—Mr Speaker, on the point of order, the minister proceeded in defiance of your earlier ruling. He was—

The SPEAKER—The Manager of Opposition Business will resume his seat.

Mr Swan—Mr Speaker—

The SPEAKER—I have heard the Manager of Opposition Business.

Mr Swan—Mr Speaker—

The SPEAKER—The Manager of Opposition Business will resume his seat or I will deal with him.

Mr Swan—Mr Speaker—

The SPEAKER—The Manager of Opposition Business, my request to you to resume your seat was meant to be for longer than half a second. The Manager of Opposition Business will resume his seat! I interrupted the minister as soon as I was aware of the fact that his quote had little, if anything, to do with the environment and not much more to do with volunteers, and I required him to resume his seat.

Mr Swan—Further to that ruling, I would ask you to review the tape and the transcript of the minister’s answer and report back to us as to the amount of time that the minister was in defiance of your ruling.

The SPEAKER—Consistent with all other occupiers of the chair, I will do no such thing.

Mr Martin Ferguson—Mr Speaker, further to that point of order, I ask you to review why, when we are called to order, the microphone is turned off almost immediately yet on that side of the House it stays on to allow the government to put on the record what it wants to say.

Mr Downer interjecting—

The SPEAKER—The Minister for Foreign Affairs! Out of deference to the member for Batman I indicate that, as he must be well aware, the microphone is not switched off by me—although many think it is. It is switched off when the occupier of the chair requires the person at the dispatch box to resume his seat.

Mr Martin Ferguson—On the point of order, Mr Speaker: I did not suggest that you were in charge of the microphone. I think it is important that those who are in charge of the switch have regard to when you call people on that side of the House to order and immediately switch the microphone off.

The SPEAKER—More tolerance has been exercised by the chair to points of order than has normally been the case by occupiers of the chair. I have no personal concern about the level of independence and impartiality I am showing.

Aviation: Sydney Airport Corporation Ltd Sale

Mr WINDSOR (3.24 p.m.)—My question is to the Prime Minister. Will you consider setting aside two to three per cent of the sale proceeds of Sydney airport to establish an investment trust, the interest from which would be used to subsidise the country air routes that have been identified by commercial operators as unviable? Would you meet a delegation of country people to discuss such
a proposal, with a view to maintaining these essential services in country areas?

The SPEAKER—Before I call the Prime Minister, I remind the member for New England of the obligation everyone has to address questions and answers through the chair; therefore, reference to the word ‘you’ was not appropriate.

Mr HOWARD—I will take the second part of the question first. I am always happy to meet a delegation of people from country Australia. The Deputy Prime Minister, over quite a number of years, has brought many delegations to me representing the interests of country people. In the last couple of weeks, I have had two meetings with a sugar task force of members of the Liberal and National parties who have conveyed to me the concerns of the Australian sugar industry.

Mr Adams interjecting—

The SPEAKER—The member for Lyons, again!

Mr HOWARD—The question about the proceeds of the sale of Sydney airport gives me the opportunity to remind the parliament that the proceeds of that sale do not go into the revenue side of the budget. There is a common misapprehension in the Australian community—and I fear it is a misapprehension in this place, as well—that, if you get $5 billion or net $4.2 billion for the sale of Sydney airport, it is another $4.2 billion into the revenue side of the budget this year or next year; it is not. It does not go into the budget bottom line, and therefore any expenditure notionally sourced from the $4.2 billion is not offset by the receipt of that $4.2 billion. Therefore, it would represent an additional expenditure over and above the revenues that the government gets through its budget. As the Treasurer and others have indicated—and I re-indicate—the proceeds of that sale will be used to retire Labor’s debt.

However, let me make it clear that we continue to be willing to take initiatives to help country users of airlines. We have in place a number of arrangements in relation to the use of Sydney airport. In my 6½ years as Prime Minister, in all of the deliberations in which I have been involved in relation to the airport needs of the greater Sydney area, we have always given priority to the needs of regional commuters.

I remind the member for New England that, when the airline industry was convulsed in September last year with the double whammy of the Ansett collapse and the impact on the tourist industry of the terrorist attack, we were there to provide support for the regional airlines and a tourism rescue package, both of which were of great assistance to people in country areas. The member for New England gives me the opportunity to say to country commuters that nothing that we have done in relation to Sydney airport will hurt rural users of internal airline services in New South Wales or anywhere else in Australia. I can give an undertaking to the House that we will take whatever steps are necessary to protect fully and adequately the interests of rural users of airline services in this country.

Trade: Waterfront Reform

Mr FORREST (3.28 p.m.)—My question is addressed to the Minister for Trade. Would the minister inform the House how the coalition government’s waterfront reform has increased the reliability of Australian ports? What are the benefits for Australian exporters? Is the minister aware of any obstacles to further export growth?

Mr VAILE—I thank the honourable member for Mallee for his question. Obviously, representing a large part of rural Victoria, he was significantly interested in the reforms that we have undertaken on the waterfront. They have generated enormous efficiencies as far as Australia’s exports are concerned. As I mentioned earlier, we have seen Australia’s export effort grow from $99 billion to $154 billion, and in recent years that has been driven by greater efficiencies on Australia’s waterfront. Yesterday, in an answer to a question, the Deputy Prime Minister indicated the significant improvement that has taken place on the Australian waterfront.

Mr Tanner interjecting—

The SPEAKER—I warn the member for Melbourne!

Mr VAILE—We have seen the capacity of the waterfront increase from 16.9 con-
container movements per hour up to about 26.6 container movements per hour in March 2002. Unquestionably, this adds significantly to the efficiency and the competitiveness of Australia’s exporters. Mr Ian Donges, the former president of the NFF, said:

We believe the new level of productivity will enable more farmers to compete on an even keel for lucrative international markets.

It is a clear indication of the breadth of the effort that this government is putting into ensuring the future livelihoods of the Australian farm community. This goes right across the economic reforms I mentioned before: what we are doing on the international front in the pursuit of markets and trade liberalisation for our agricultural exports and what we can do here at home in generating a much more efficient domestic economy and getting our products over the wharves. That is what this government has done, and we have done that in the last six or seven years since we have been in office. It is worth noting that during that process of reform of the Australian waterfront we were opposed every inch of the way by the Australian Labor Party and its union masters.

**Health and Ageing: Ageing Population**

*Mr ALBANESE (3.31 p.m.)—My question is directed to the Minister for Ageing. I refer to the House of Representatives Standing Committee on Ageing. Can the minister confirm that he proposed a term of reference for an inquiry for the committee as follows:*

... inquire into and report on long term strategies to address the ageing of the Australian population over the next 40 years.

*Can the minister also confirm that just today the committee was advised that he had rejected a resolution from the committee moved by me and seconded by the member for Cowper and adopted unanimously that the reference be changed to read:*

To inquire into and report on the short, medium and long term strategies to address ageing in the Australian population for each Intergenerational Report period of five years and over the next 40 years.

*The SPEAKER—Member for Grayndler, I am forced to interrupt you because it seems to me highly out of order to bring to the House matters which have not been reported by a committee to the House. I am therefore having a great deal of difficulty with the structure of this question.*

*Mr ALBANESE—Mr Speaker, the question relates to the terms of reference for the inquiry—not to the report; to the terms of reference.*

*The SPEAKER—As the member for Grayndler would be aware, it is a matter of concern to the Clerk as well. This would be creating a precedent that has not been previously allowed in the House, because in fact what is the business of the committee remains the business of the committee, including its terms of reference, until such time as it reports to the House.*

*Mr ALBANESE—Mr Speaker, can I ask the Minister for Ageing: what is the motivation behind looking at the year 2042 in the Intergenerational Report but the minister not considering the immediate and short-term impact of policies on older Australians?*

*The SPEAKER—I believe that would be in order.*

*Mr Pyne—Mr Speaker, I was seeking your call for the next question, given your comments about the inappropriateness of the question from the member for Grayndler.*

*The SPEAKER—When the House has come to order!*

*Mr Melham interjecting—*

*The SPEAKER—Member for Banks! I appreciate the good-natured exchange, but it would be helpful if the member for Macar-
Mr FARMER (3.34 p.m.)—My question is addressed to the Minister for Ageing. Is the minister aware of any recent increases in subsidies for aged care homes which is contributing to increased access to quality care for our older Australians?

Mr ANDREWS—I thank the member for Macarthur for his question and commend him for his dedication and perseverance for the electors of his electorate in a way which he has shown in other activities in his life. Indeed, this is the sort of question one might expect from the opposition if they had any interest in aged care in Australia. But we have only had some nonsensical question from the member for Grayndler.

I inform the House that yesterday I announced the largest ever increase in residential funding subsidies to aged care in Australia. That announcement of a 4.5 per cent increase to aged care subsidies in Australia will take effect from 1 July this year. That includes a 4.8 per cent increase for nursing homes or high-level care, a four per cent increase for hostels or low-level care, also a 4.5 per cent increase for multipurpose services and a 3.3 per cent for community aged care packages. This is part of the delivery by the coalition government of its election commitment to increase the funding for aged care in Australia. In fact, this is part of a $211 million increase to aged care as part of this budget which was announced recently by the Treasurer, bringing the expenditure on aged care in Australia in the budget next year to some $4.3 billion.

The coalition has also recently announced an additional 8,231 aged care places, and I am pleased to note for the member for Macarthur that that includes some 120 new residential places to the planning region which includes his electorate and also additional numbers of community aged care packages. Since the year 2000 there has been an allocation of some 695 additional places to the member for Macarthur’s planning region. So this is good news for frail and older Australians as part of what this government is doing in delivering aged care services to all Australians.

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper. Through you, may I assure the member for Sturt that I think he will have a good chance of getting a question when we return.

The SPEAKER—May I indicate to the Prime Minister that the facility the member for Sturt has for getting a question will be determined by the Speaker.

PENDER, MR JIM: RETIREMENT

The SPEAKER (3.37 p.m.)—I am not preventing people from asking me questions or referring me to issues under standing order 150 or any of those matters, but there are two things that I thought ought to be dealt with while the House is assembled. The first of them is a matter I want to raise now, and the second is that the Leader of the House would like to report on the likely sitting pattern. I thought that should occur while everyone is here.

First, may I indicate to the House that Mr Jim Pender has indicated that he wishes to retire early next month. Today will be the last time that he sits at the table for question time. Mr Pender began with the Department of the House of Representatives as an assistant parliamentary officer in 1966, becoming Clerk Assistant in 1985. He has since headed the Table Office, the corporate area and the Committee Office. As well as making a great contribution to our own parliament, Jim has been a specialist in assisting other parliaments, including the newly established assembly in Papua New Guinea, the Norfolk Island Legislative Assembly, the ACT House of Assembly and the Nigerian national and state legislatures. The members and staff of those parliaments would have seen evidence of the many qualities we all recognise in Jim: professional expertise, commitment, dedication and great warmth and enthusiasm. On behalf of all members, I thank Jim for his great contribution and wish him and his wife, Jill, all the best for a happy and rewarding retirement.

Honourable members—Hear, hear!
BUSINESS

Days and Hours of Meeting

Mr ABBOTT (Warringah—Leader of the House) (3.39 p.m.)—It might assist members on both sides to know that it is highly likely that matters will not be coming back from the Senate until quite late tomorrow evening, so I regret to inform members that any hopes they might have had of catching a plane shortly after 6 p.m. tomorrow probably need to be put on hold. I think it is highly likely that we will be sitting quite late tomorrow night.

Opposition members—But not on Friday? What about Friday?

The SPEAKER—This is highly irregular, but I will allow the Leader of the House to continue in response to interjections.

Mr ABBOTT—Members opposite could probably assist all of us by their own conduct in the Senate. It is too early to say whether we will be back on Friday but it is almost certain that we will be sitting late on Thursday.

The SPEAKER—I call the Manager of Opposition Business, on indulgence.

Mr SWAN (Lilley) (3.40 p.m.)—Very briefly, I would just like to record the opposition’s dismay at the chaotic, disorganised and shambolic parliamentary program we have been served up.

QUESTIONS TO THE SPEAKER

Member for Page

Ms ROXON (3.40 p.m.)—My question to you, Mr Speaker, is about the conduct of the Deputy Speaker, the member for Page. Today, following a speech I made in the Main Committee regarding child sexual abuse, a personally offensive remark of a sexual nature was made to me by him. Not only was that remark entirely inappropriate and offensive to me but, given the content of my speech, I believe it was also totally demeaning of the important issue that was being debated. As this member is a member of the Speaker’s panel, I ask your assistance in advising me what action can be taken on this issue.

The SPEAKER—I will discuss this matter with the member for Page and with the member for Gellibrand.

Mr Leo McLeay—Would you be willing to report back to the House if the Deputy Speaker has made offensive remarks which are—

The SPEAKER—The member for Watson would be aware that I will do what I think is fit.

PERSONAL EXPLANATIONS

Mr ABBOTT (Warringah—Leader of the House) (3.41 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr ABBOTT—I do.

The SPEAKER—Please proceed.

Mr ABBOTT—I believe I have been misrepresented by the member for Prospect in the course of question time today. I certainly cannot recall making the comments that she attributed to me. I certainly never authorised anyone to make those comments, and I am not aware of anyone in my office or of anyone over whom I had any authority making those comments. I certainly would invite the member for Prospect, if she has some documentary evidence, to submit it. If I did make such comments, obviously I should not have and I do not think that they are true.

The SPEAKER—The Leader of the House is aware that he has indicated where he has been misrepresented. The leader may extend that invitation to the member for Prospect, but not as a matter of personal explanation.

Mrs CROSIO (Prospect) (3.42 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mrs CROSIO—I do, Mr Speaker, and by the Leader of the House at this moment. He has implied by the question he has just put forward to you and to me—and, yes, I have the documentation—that I in some way misled this House in the information I asked in that particular question. I can assure you, Mr Speaker, and the Leader of the House that
I did not mislead the House, and yes, you did say it.

The SPEAKER—This is irregular, but then so was my recognition of the member for Prospect, who was not misrepresented by the Leader of the House. I invite the Leader of the House, on indulgence, to make a comment, but I remind him that he is speaking on indulgence.

Mr Abbott—I appreciate that, Mr Speaker. I am happy to hear the comment of the member for Prospect, and I would invite her to table the relevant documentation.

Mrs Crosio interjecting—

The SPEAKER—The member for Prospect is, I think, indicating that she is happy to table it but does not have it in her possession.

Mrs Crosio—that’s right.

The SPEAKER—The member for Prospect may like to respond formally to my understanding that she is prepared to table the document but does not have it in her possession.

Mrs Crosio—I do not have it in my possession now. I will certainly make sure that we get it back to the honourable member so that he can reread what he said.

AUDITOR-GENERAL’S REPORTS

Report No. 62 of 2001-02

The SPEAKER—I present the Auditor-General’s Audit report No. 62 of 2001-02 entitled Information support services—benchmarking the finance function follow-on report—benchmarking study.

Ordered that the report be printed.

PAPERS

Mr ABBOTT (Warringah—Leader of the House) (3.44 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 and I move:

That the House take note of the following papers:

Department of Finance And Administration—Advance to the Finance Minister—May 2002 (24 May 2002 / 24 May 2002)

Department of Finance And Administration—Supporting Applications for Funds—Advance to the Finance Minister 2001-2002 (24 May 2002 / 24 May 2002)

Debate (on motion by Mr Swan) adjourned.

MATTERS OF PUBLIC IMPORTANCE

Telstra

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

The Government’s failure to address the serious problems in Australia’s telecommunications sector.

I call upon those members who approve of the proposed discussion to rise in their places.

More than the number of members required by the standing orders having risen in their places—

Mr TANNER (Melbourne) (3.45 p.m.)—Pretty soon a really big party will be thrown for the Treasurer by the bond dealers and the stockbrokers of Europe, because he proposes not only to sell Telstra but to use the proceeds to invest in stocks, shares and bonds of foreign countries. A few other parties will come along to join in the celebration. Australian bond dealers will thank the Treasurer for ratting on his promise to reduce the Commonwealth debt to zero and instead establishing a fund based on the proceeds of the sale of Telstra which will be invested in foreign shares and bonds.

The American currency dealers who took him for $5 billion will probably come along and be a part of the entertainment. The salaries of Telstra’s management—who stand to gain enormously from the privatisation of Telstra—will inevitably go up. Their ventures overseas will be assisted. Their dreams of expanding their monopoly power from telecommunications into the media sector as a private company will all be realised. The investment banks and the lawyers will pick up a cool $650 million merely for selling shares in a company that already has a substantial private shareholding. These people will come along to praise the Treasurer for his wisdom, for his vision and for his capac-
ity to ensure what they see as great public policy outcomes.

The difficulty is that there will be a number of key players who will not be invited and who, if they were, would not be too keen to be there. Consumers of telecommunications services will be the first group of people who will not be invited to the government’s party, and they would not be keen to be there if they were invited. People in regional Australia, who suffer second-class services and inadequate telecommunications services that are getting worse rather than better, will not be invited nor will the Telstra shareholders, who would like to get some decent dividends and who regard Telstra as a utility that is designed to deliver reasonable returns to its shareholders rather than some sort of dot com that is out there sailing the oceans of shareholders in order to reap some sort of glory for the people who are managing it.

Telstra workers, who have been sacked in their thousands by Telstra and are being pushed out the door still from areas like NDC, will not get a guernsey at this party. Telstra’s competitors will not get a chance to participate in all of the joy. It will be a pretty big party—it will be a wild affair, and there will be some pretty good things happening there—but the main item on the menu for the lawyers, the investment bankers and the bond dealers will be Telstra itself, sponsored by the ever generous, ever forgiving taxpayer under the Howard government.

We have serious problems to deal with in telecommunications in this country. The government has only one solution for those problems: to sell the rest of Telstra. The competition regime is failing. Telstra is totally dominant in all markets across our telecommunications sector. Instead of seeking to do something about this, the government is allowing Telstra to be totally unaccountable and to entrench its dominance not only in telecommunications but also in media through its position in Foxtel and through its ambitions to buy a major commercial television network.

Since the federal election, consumers have been slapped time after time by Telstra: mobile phone charges have been jacked up, text messaging charges have been jacked up by 13 per cent, Internet fees have gone up and Internet fees for schools have been jacked up enormously. The Easymail service that Telstra used to provide for low-income people has been scrapped completely. The White Pages have been restructured so that people in small business who operate from home and want to have a listing for their residence and for their small business have to pay an extra $126 for it.

We have seen no substantial improvement in services in regional Australia, contrary to the mythology that is promoted through gimmicks and consultants and all of the other exercises associated with the government’s Networking the Nation program. We still have enormous problems with the network. Telstra is reducing its investment in the core network and as a result, with long-term problems, that network is crumbling. That is why Labor, in concert with the Democrats, moved in the Senate yesterday for a full inquiry into the state of Telstra’s network. That is why Senator Alston tried to sabotage that inquiry. Senator Alston tried to push it off the rails because he is worried about what that inquiry will find. He is concerned that that inquiry will uncover the real truth about the state of telecommunications not only in the bush but also in metropolitan Australia—that Telstra is underinvesting in its networks while it is investing billions in other parts of the world, hankering after investing in Channel 9 and pursuing its ambitions in Foxtel.

The management of Telstra, who think they are running the world’s biggest dot com, and who are allowed to be totally unaccountable by the Howard government, lost $1 billion in their Asian ventures. Half a billion of that is taxpayers’ money, because they are half publicly owned—half a billion dollars of taxpayers’ money and nobody has been held to account! Nobody has paid the price for that loss, for that venture, with taxpayers’ money being gambled on risky Asian investments.

Telstra is allowed by this government to be totally unaccountable. It treats its customers with disdain. It is building a media and foreign empire on the back of taxpayers’ money because the Howard government al-
allows it to operate as if it is a private company. It is able to do whatever it likes, even though it is 51 per cent government owned.

Members will be aware of Telstra’s style and how they deal with customers, creditors, consumers and shareholders. I had a bit of an experience with this a few weeks ago. I chose to criticise evidence that Telstra gave to the Senate, and they threatened to sue me—a government body seeking to sue the shadow minister responsible for that area of public policy because I had the temerity to criticise the evidence that they gave to the Senate! That is how Telstra deals with people. That is their approach. It is the behaviour of the bully, of the powerful dominant monopoly that this government is allowing to be out of control.

The Howard government’s only solution to these problems is to sell the rest of Telstra. All that would do is make the problems worse. This morning Senator Alston let the cat out of the bag—he obviously had not been talking to his National Party colleagues for a couple of days—and said they would do it within months, not years. All of the sham, all of the bluster from the National Party about looking after the interests of people in regional Australia, is exposed as meaningless—just a sham to try and ensure that some people out there somewhere continue to vote for them. Privatising Telstra will create a gigantic private monopoly that will not only be able to totally entrench its dominance of telecommunications but also extend that dominance into media—particularly if the government is able to get its cross-media ownership laws repealed—by buying a major TV station, maybe throwing in the Fairfax newspapers for good measure and maybe buying a whole raft of radio stations. Telstra is a huge organisation with enough money to do these things and barely bat an eyelid and to use the cash flow that is generated from its monopoly in order to achieve these objectives.

If Telstra is privatised, services in the bush will get worse, not better. It will be precisely like the banks. If Telstra is privately owned, it will chase the most lucrative markets and it will leave people in regional Australia as second-class citizens to languish with the crumbs off the table, exactly as the banks have done. Telstra will be too powerful to regulate if it is privately owned. All of the gimmeracks and baubles of the Networking the Nation scheme will count for nothing because, once Telstra is privately owned, it will decide that it does not want to do these things anymore—that it is not really that interested in providing some of these things for people who are not that profitable—and no government will have the power to ensure that these commitments continue to be enforced.

Labor’s approach to these issues is to deal with them on their merits and to develop solutions to the problems. We are interested in getting better service for consumers, a better deal for regional Australia, genuine competition and efficient regulation, not the sham-bales—the complex, burdensome, costly regime—that we now have. We do not want misuse of monopoly power. We want all Australians to be guaranteed access to what is an essential service: telecommunications. Rather than participate in this debate in a genuine and constructive way, the minister’s only contribution is to play little political games, to try cheap stunts and to try and take shots merely because Labor have the strength and the courage to canvass alternatives—to look at options, including some that are controversial, like structural separation—in order to ensure that we can have a genuine public policy debate about these issues.

The government’s approach to the question of structural separation is interesting. Members would have heard the government refer to the fact that I have canvassed this, along with a number of options, as a possibility, as something that needs to be considered. Senator Alston has described this as ‘lunacy’ and ‘the nuclear option’. What he has forgotten to tell people is that his own government is signed up to a commitment to examine the structural separation option, courtesy of its participation in the National Competition Principles Agreement. He has an obligation under the National Competition Principles Agreement, which he and the government have signed up to. That is precisely what the Labor Party is doing: looking at the
issue. The National Competition Council keeps reminding him of it. Every year, the National Competition Council bobs up and says, ‘When you privatised Telstra in accordance with the provision in the National Competition Principles Agreement, you acquired an obligation to examine the possibility of structural separation, because it may be necessary to make telecommunications more competitive.’ The minister ignores the fact that he is under an obligation—in accordance with an agreement that he and his government have signed up to—to do precisely what the Labor Party is doing: to look at the issue.

The dirty little secret that is underneath this issue came out in Senate estimates hearings a couple of weeks ago, and that is: who will get the money? Where is the money going? We have been told by the Treasurer all along that the money will pay off debt. In fact, it will not. Treasury officials indicated—and there is stuff in the budget that demonstrates this—that because they want to keep the bond market going, because they want to ensure that there is still an amount of Commonwealth government debt to sustain that, they will have an investment fund. But they will not invest in infrastructure—as suggested by the member for Batman, very sensibly—and they will not invest in Australian industry. Perhaps Peter Costello might regard that as a little bit socialist. What they will do is invest in foreign government bonds and shares. So, in other words, we will be selling Telstra to buy Microsoft; selling Telstra to buy IBM. I gather there are a few Enron shares going cheap—they might want to buy some of them—or possibly they might want to retrospectively fix some of the problems that we have had with HIH and One.Tel. Perhaps they could buy those shares off the shelf and reverse some of the corporate collapses that have occurred under their stewardship.

Perhaps we should not be unduly harsh on the Treasurer. He has had a bit of experience with this overseas stuff. Perhaps the loss of $5 billion of taxpayers’ money, gambling on the US currency market in New York, was a dry run just to get his hand in, to get a bit of experience with dealing with these big sums of money, gambling on foreign markets. Maybe he has learnt his lesson; maybe he now understands that this is not the right way to go. We will watch with interest to see what he does. Once again, we are seeing the real Peter Costello in all this. The mask slips off occasionally and, in this instance, it slipped off again.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Melbourne will remember standing order 80.

Mr TANNER—We are seeing the real Treasurer—the mask is slipping off again. He is a hardline, right-wing ideologue who believes in selling Telstra because he is opposed to government ownership of anything. That is why he wants to sell Telstra: he is opposed to government doing and owning anything. If you look through his history, you will see the same pattern. Always underneath the image is the substance, which is a hardline, right-wing ideologue who is opposed to government involvement in anything. In the 1970s, he was in Young Labor; in the 1980s, suddenly he was in the H.R. Nicholls Society—an extraordinary conversion. Later on, he left the Baptist Church and went into the warmer, softer, cuddlier territory of the Anglican Church. In the 1990s, he was in the parliament, in the Liberal Party. He became the leader of the right wing of the Liberal Party and, more recently—

Mr Adams—Next he’ll join the Masons.

Mr TANNER—I do not think he is in the Masons yet, but give him a chance, Member for Lyons—there is still time. More recently, he has become the leader of the moderates—the leader of the Liberal wets: Peter Costello. He marched for reconciliation; he supported the republic—

The DEPUTY SPEAKER—Standing order 80 requires members to be called by their seats.

Mr TANNER—He does not like Pauline Hanson. But, of course, his mate Mr Kroger is out there as a board member of the ABC trying to bring down the ABC because it supports these things. So the things that Peter Costello is supposedly signed up to as the moderate—reconciliation, republicanism, multiculturalism—are the reasons why Peter
Costello, his mate Michael Kroger and the Minister for Communications, Information Technology and the Arts, Richard Alston, are trying to nobble the ABC. So, once again, the real Peter Costello and the real Howard government are coming out here. They are on about selling Telstra because they do not believe the government should be responsible for delivering essential services to Australian citizens. Labor do. We will continue to oppose the sale of Telstra. We will continue to explore appropriate reform alternatives and develop an appropriate strategy that will deliver better services for consumers, better prices and decent services for people in regional Australia. *(Time expired)*

Mr McGAURAN *(Gippsland—Minister for Science)* *(4.00 p.m.)*—"It was very instructive listening to and watching the honourable member for Melbourne bring forward this MPI for he could not hold the attention, let alone the interest, of his colleagues on the back bench. It was not until he engaged in the politics of hate—the personal denigration of the Treasurer in a very personal way, even touching on the Treasurer’s religious convictions—that anybody on the opposition side sat up and took notice. Prior to that, they were wandering around and talking amongst themselves. We on this side struggled to even hear the member for Melbourne at the dispatch box because of the cacophony of background noise by his colleagues talking amongst themselves.

Mr Laurie Ferguson interjecting—

The DEPUTY SPEAKER *(Hon. I.R. Causley)*—The member for Reid!

Mr McGAURAN—That is how interested they are.

Mr Laurie Ferguson interjecting—

The DEPUTY SPEAKER—The member for Reid is highly disorderly.

Mr McGAURAN—That is how interested they are, because they know this is an entirely phoney and entirely concocted MPI. It is of such importance to the opposition that they ask one question in question time, and probably two or three questions on telecommunications and Telstra over this entire parliamentary session. That is how serious they are. How seriously are we meant to take them when they can ask the Leader of the House several questions—out of their 10 allocated in question time—but not ask questions on Telstra issues. What a joke! Why are the opposition taking up the time of the parliament with something they do not believe themselves? We on this side do take telecommunications policy seriously; we have one. We have many relating to the various and diverse components of the telecommunications sector. The opposition have none except to pour out their hatred of Telstra.

It was extraordinary to listen to the member for Melbourne—and I am certain the Hansard will travel far and wide at different levels within Telstra and beyond Telstra. He accused Telstra of being totally unaccountable. Tell that to the Australian Securities and Investment Commission. Tell that to the Australian Consumer and Competition Commission. He accused them of dominance in pay TV and of treating their customers with disdain. It is now personal with the member for Melbourne; his own feelings and hatred of the management of Telstra and the entity of Telstra are now clouding his judgment. He abused the management of Telstra when he accused them of gambling with taxpayers’ money. He slandered them. Then he accused them, with a glass jaw, of pressuring him. What complete and utter nonsense. What the member for Melbourne did was issue a press release on 28 May entitled ‘Telstra deceives the Senate.’ That is sure to get Telstra’s attention.

Mr Tanner—They did.

Mr McGAURAN—You accused them of the heinous crime of deceiving the Senate. He interjects: ‘Yes, they did.’ He said this: Telstra has been caught red-handed deceiving the Senate—

and this is the important quote as far as I can see that takes it outside of the normal political argy-bargy—

… Telstra’s Finance and Administration Director …

an individual—

misled the Senate and the Australian public by giving inaccurate evidence.
You have slandered an individual and compromised his career prospects.

The DEPUTY SPEAKER—The word ‘you’ is contrary to standing order 80.

Mr McGAURAN—The member for Melbourne has made very serious accusations indeed. To my knowledge Telstra never threatened to sue Mr Tanner, as he well knows; rather, they informed the member for Melbourne of the legal advice they had obtained. Like any responsible corporation, when a senior member of the opposition accuses it of misleading deception then of course it investigates and establishes the truth of the issue. But when they found that the member had completely misrepresented the individual concerned they referred it to their lawyers. In fairness and out of loyalty to their employee, they simply wanted Mr Tanner to know that Mr Tanner was completely wrong. But no, Mr Tanner has instead redoubled his efforts to slander the management of Telstra.

The DEPUTY SPEAKER—I dare say you are referring to the member for Melbourne.

Mr McGAURAN—The member for Melbourne has tried to make a political issue out of the fact and win a bit of sympathy. All he has done is draw everyone’s attention to the particulars of the issue. Any reasonable, fair-minded person, unburdened by the mad ideology of the member for Melbourne on this issue, would come down on the side of the Telstra official and the Telstra management support of that official.

The member for Melbourne went on and said things that were just extraordinary. I wrote them down as much as I could. For instance, he accused Telstra of having a powerful, dominant monopoly—a powerful, dominant monopoly! Since we came to government, we have issued some 90 carrier licences. There have been a number of new and innovative services brought onto the market. We have seen prices drop for businesses and consumers and the quality of service correspondingly increase. We have set a regulatory framework which has fostered and nurtured competition—90 new carrier licences, and Telstra is alleged to have a monopoly! Again, tell that to Professor Fels and the Australian Competition and Consumer Commission. It is another unwanted, unjustifiable, unsupported accusation against Telstra. He also makes the accusation there has been no improvement to services in rural Australia. Nobody with any sense of balance or objectivity would reach that conclusion. There is no doubt at all that services in rural Australia have been upgraded very substantially by Telstra, particularly with the establishment of Country Wide.

What a slur on good, hardworking Telstra people throughout the nation! In my Country Wide, which covers a large part of southeastern Victoria, there are brilliant people. They respond to issues brought directly to their attention or raised through my office, they get in the car and go to the furthest reaches of Gippsland, they provide a personal service and they are extraordinarily supportive. As a result, the people of Gippsland, and from talking to my regional and rural colleagues, it is a very representative view—regard Telstra as having made extraordinary efforts to increase the standard. The efforts of Telstra itself have been supported by massive appropriations from the government. Over $1 billion has been invested by way of specific schemes to increase the infrastructure of rural Victoria—and rural Australia, not just rural Victoria—

Mr Tanner—Not just Victoria?

Mr McGAURAN—Not just Tasmania and rural Victoria. That is always going to be the case. The issue is not the ownership of Telstra; it is the regulatory regime, the level of competition and the level of rural services. A government is always going to have to provide appropriations to bridge the gap between rural and urban telecommunications. It does not matter if Telstra is 100 per cent owned by shareholders or half owned by government in that regard, because the government will always have to allocate specific appropriations to improve the infrastructure of rural Australia. So, in that regard, the ownership of Telstra is a furphy. Again, I stress that the member for Melbourne is running a political campaign, now fuelled not just by his left-wing ideology but also by his
hurt personal feelings regarding Telstra. Today he has personalised the attack onto the management of Telstra. You have made unsubstantiated, demonstrably false accusations against Telstra. You have completely misrepresented—

The DEPUTY SPEAKER—The word ‘you’ is slipping in again, Minister.

Mr McGauran—The member for Melbourne has completely misrepresented the track record of Telstra and its place in the telecommunications industry. The member for Melbourne is not bringing anything constructive to this debate. I suspect that the MPI today, coming on the back of an absence of questions in question time, is really just a smokescreen for the trouble that he is now got himself into, because, in his Telstra discussion paper, he wants to break up Telstra.

The convoluted logic of the member for Melbourne is very hard to grasp; there is no consistency. On the one hand, he gives every impression to his colleagues of maintaining Telstra as the old PMG, the old Telecom—and didn’t they provide a great service! Wasn’t that Telecom just fabulous! I wish we could go back to the days of Telecom—100 per cent government owned, completely union dominated and hopelessly overstaffed. Yes, give me the good old days! He wants to go back to Telecom when he is with his colleagues—Senator Sue Mackay has certainly given him a very hard time over this, we hear in the corridors—but when he is with Macquarie and his banker friends he develops this paper about breaking up Telstra and separating its functions. What that would do to the profitability and capability of Telstra is anybody’s guess, except that it would wreck it, and wreck its levels of service and its finances.

It is quite laughable, as the head honcho of the CEPU, Col Cooper, made abundantly clear when he told the media that Mr Tanner is an ‘intellectual giant’. I think he had his tongue firmly in his cheek when he said that but perhaps he was trying to soften the blow—a bit like the way a lawyer in court says ‘with great respect’. According to Mr Cooper, Mr Tanner is:

... an intellectual giant who doesn’t understand the issue. He’s been conned by Macquarie Bank.

I am afraid Mr Cooper’s comments mirror the views of a great many of his colleagues, and today’s MPI is trying to assuage their criticisms of him.

Mr Tanner—Aren’t I in the pockets of the unions?

Mr McGauran—Yes, he is in the pockets of the union on the one hand, and he is in the pocket of the merchant bankers on the other. He is all over the place. He does not know what he wants for Telstra. All we know is that he will consistently abuse, criticise and denigrate Telstra. He has a personal hatred of Telstra. The honourable member fails to take into account the level of service provided by Telstra in country areas, the new funding put in by the government and the reforms undertaken by Telstra itself. This is an opposition without a clue.

Mr Griffin interjecting—

The DEPUTY SPEAKER—The member for Bruce, I think, has already been warned today.

Mr McGauran—On a major policy issue, the shadow minister is all over the shop. He has no policy. He cannot support the government’s injection of funding for rural infrastructure, he cannot accept Telstra’s reforms and the setting up of Telstra Country Wide; all he can do then is establish a Senate inquiry, which will be dominated by the Labor Party and the Democrats. As Senator Alston has said, it is a kangaroo court. I think it is more than that: I think it is a payback. It is a payback to Telstra. It is purely a poor man’s version of the Spanish Inquisition. Having slandered the management and having shown himself to be overly thin-skinned, the honourable member now takes refuge in a Senate inquiry. It will bog down for months. You have made up your mind. Everything we needed to know that we did not already previously know about your approach to policy for Telstra and the telecommunications sector has been revealed in this 15-minute contribution to the MPI. We now know that the whole point of the Senate inquiry is to serve your political agenda. You have no openness—
The DEPUTY SPEAKER—Minister, you were doing well, but you are slipping back into using ‘you’.

Mr McGauran—The honourable member has no objectivity, the honourable member is not interested in policy solutions; the honourable member is interested only in a Senate inquiry as a substitute for a confused and scant policy position of his own, one which his colleagues in the Australian Labor Party have not endorsed but have rejected—

Mr Sidebottom—Really? Have you read it? Of course you haven’t.

Mr Tanner interjecting—

Mr McGauran—They have not rejected it yet? Good! So there are others in the opposition who believe that Telstra should be broken up and scattered to the four winds. Thank you! I am glad that the member for Melbourne revealed to us, by way of interjection, that his loopy proposal is still active, there is still chance for him to get it through his loopy colleagues. It is very helpful to know that the member for Melbourne has not given up, so we must give him marks for perseverance. Even in the face of logic, total opposition and ridicule, the member for Melbourne will persist—I wonder for how long.

Did we get some questions in question time as a lead-up to the MPI? No. Instead, the honourable member was reduced to misquoting and misrepresenting Senator Alston in his one question on this issue today and his only question for several weeks. He may have deliberately intended to misrepresent Senator Alston. As the transcript shows, Senator Alston did not make the assertion the honourable member accuses him of. Quite frankly, we have the clear, unambiguous position that Telstra should be sold but only after services in rural and regional Australia are adequate. Three times we have taken our policy to the Australian people and three times we have won. Labor are slow learners.

Mr Hatton (Blaxland) (4.15 p.m.)—How could we depict the minister’s speech thematically? I suppose a good way to depict it, to have a little theme running right through it, would be ‘ET, phone home.’

Mr Martin Ferguson—You are stealing from the Australian taxpayer.

Mr McGauran—Get a policy.

Mr Martin Ferguson—Light fingers McGauran!

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order!

Mr Martin Ferguson—Go and rort your TA again! You are stealing from the taxpayer.

The DEPUTY SPEAKER—The member for Batman will withdraw that!

Mr Martin Ferguson—What? TA McGauran?

The DEPUTY SPEAKER—The member for Batman will withdraw that comment.

Mr Martin Ferguson—You are a crook and everyone knows it.

The DEPUTY SPEAKER—The member for Batman will withdraw or I will have to name him.

Mr Martin Ferguson—I withdraw and apologise to you, Mr Deputy Speaker.

Mr Hatton—The theme that could have operated is ‘ET, phone home’ because it was evident from everything that the minister said, struggling as he was not for one minute or two but for almost 15 to have a response that was in any way coordinated, sensible, reliable or balanced—to say nothing about substance—that he probably believes that the government should not have privatised any of Telstra. That is a good thing to note, because of all of the things he had to say about people in country Australia and in regional areas of Australia working for Telstra—that they are doing a great job, they had done a great job and you could rely on them completely. I would agree with that; we can see that.
The minister may or may not know—he probably does not—that my brother worked almost all his working life for Telstra, even though they tried to shut him out when this government came to office. The people who work for Telstra have always given it their all. That is why not one per cent of Telstra should have been sold by this government. Instead of that, they have sold 49.9 per cent of Telstra and they want to sell the rest. That is evident from what the minister who has portfolio responsibility argued this very day on the ABC this morning. I will come to that in a moment. It has been denied here, of course, by the Leader of the National Party. The Leader of the National Party in parliament today said that this really is not a case of the minister talking about selling Telstra within months; it is a case of getting around to a bit of benchmarking within months. Let us rework it: what he said was not what he said at all. I will refer to what he did say shortly.

I am Deputy Chair of the Standing Committee on Communications, Information Technology and the Arts. I cannot do anything much except show you this submission which has gone to our committee. The committee have a brief to report on wireless broadband and its ability to go the last mile, particularly in the bush. The minister has agreed to our terms of reference—he was helpful in putting them together—but he has specifically said that we have to report by December this year. Every member of this House knows that a committee of the depth and complexity of this one and with the task that we have been given would normally be expected to run for eight months, 10 months or 12 months to have a full investigation. But the minister has put the time line on this. The minister has put the time line on this. The minister has a very short time line and a very short window of opportunity in terms of what has to happen. That is bolstered by the fact that we have to report in six months because the minister has his own little inquiry going and he wants that inquiry to report before Christmas so he can make some determinations. In the next few months, rather than the next few years, there might be a Christmas present to the people of Australia.

The minister was pretty fair and accurate in the way he presented what he thought. The report today says that he said the government hoped to make telecommunications services in rural areas adequate within months, after which time they could fully move to privatise the telco. He said:

I think we are still on track. We are wanting to ensure that service levels are adequate ... I think we are moving in the right direction. These things take time but ... we are talking ... months, not years.

How the Deputy Prime Minister could equivocate and turn months not years about moving in the right direction into flogging off the thing and into initiating the benchmarking process and actually seeing if what the Besley report showed last time is true—the next Besley report into services in the bush, which the minister is initiating—is beyond me. I do not really take that. We have seen over the past couple of months the Leader of the National Party and Deputy Prime Minister moving inexorably towards the sale, pressured as he is by the other members of his cabinet.

Mr Bevis—Boswell has sold out.

Mr HATTON—They have basically given up. Senator Boswell has sold out totally. He used to be a great defender of Telstra in the bush. He has sold out. We have a simple situation: in black and white the minister has indicated that the government want to move quickly on this. They have already put the squeeze on Senator Boswell, they have put the squeeze on the Deputy Prime Minister, and they are moving as hard as they can.

They will not have much else to sell. If they flog Telstra there will only be Medibank Private. They have already flogged off everything else. What have they given us instead? Almost everything that the minister at the table said in his response was without foundation, if you look at what they have practically done. For instance, with Networking the Nation, every member on this side of the House from regional areas and every member of our caucus committees—who have all travelled from one end of the country to the other—knows that Networking the Nation is a joke.
It is not about putting adequate telecommunications infrastructure into regional Australia, it is about what you can do, electorate by electorate, to allow people to decide what bit of infrastructure they will throw in. It might be a bit of videoconferencing here or better Internet capacity there. The emphasis has primarily been on National Party seats, of course, and others; but that has been an entirely uncoordinated and un-integrated program. It has not networked the bush. We had a bit of money rolled out and a lot of advertising rolled out, but the ongoing effect is that that money has primarily been wasted because real telecommunications services for the bush have not been provided.

The minister knows where he is going. He knows where he is taking the National Party and he knows what he wants to do. We are dealing with a Telstra that we currently half own. If it was flogged off, it would give the government a one-off payment. As our shadow minister has indicated, the Treasurer is known for his gambling habits in relation to his responsibilities in the Treasury and we know about his losses. Having had those problems in terms of the money markets, we do not want to go onto the Bourse and have the Treasurer dealing in the world’s exchange markets. We think that a lot of the investments would not work. However, we actually have an investment in 51 per cent of the biggest company in Australia. That company makes a return to all the Australian people—about 18 million people who now own 49 per cent instead of the lot—of $1 billion to $2 billion a year. That income stream is provided every year the company is still half owned by the Australian government.

Everything that we need to do in the bush to provide services in regional and remote Australia can be provided out of that income stream from Telstra because it comes directly back to the government. Unfortunately, half of it is hived off to the small number of people in Australia who own the other half. However, I am sure that most of those people would be relatively happy if the government maintained half ownership of Telstra, because they know that there needs to be regulation in the market. They really do not want the rest of Telstra to be sold off and their part ownership to be diluted by that ownership going to others.

This government has not done the right thing by flogging off half of Telstra. If it sells the other half, we will have an absolutely mammoth company which completely dominates the market and which has 95 per cent of the industry’s profits and 75 per cent of the industry’s revenue but which will be un-trammelled by government regulators. Whatever Mr Fels and others attempt to do, the market dominance and power of a fully privatised Telstra will not deliver to rural and regional Australia and it will not deliver to the Australian economy at large. We should have had full government ownership of this company. We have half of it and we need to maintain it. We have a government which is breaking its neck to get all the billions it would get from the sale of the rest of Telstra and all it would do is put the money towards paying off debt. Basically, this is a Mother Hubbard government—one that does not concern itself at all with the infrastructure. When you go to the cupboard, there will be nothing there. (Time expired)

Mr BAIRD (Cook) (4.25 p.m.)—I listened to the members for Melbourne and Blaxland in their vague and misguided attempts to try and fill in time in regard to this matter of public importance. This debate has been motivated by the member for Melbourne from his own personal issues about the management of Telstra. There is no doubt that the members for Melbourne and Blaxland are all over the shop, along with the opposition in general, on the issue of Telstra.

Before the election, the then Leader of the Opposition was running around the countryside with his great big board and his pledge that he would never, ever sell off Telstra and committing that to the Australian people. The Australian people were not impressed and they returned this government. We made our position clear: we would sell off Telstra when we were satisfied that the level of service in country Australia was sufficient. That remains the case. Despite the rhetoric from the opposition and despite their attempts in this area, the people of Australia say to the government, ‘We know what you
are doing, we know that you want to ensure the services, and this kite-flying by the opposition is not going to work.’

After the election, the opposition tried a new approach—they said they wanted to sell off parts of Telstra. The member for Melbourne has come out with his policy, saying he wants to sell some parts of Telstra while he wants to keep other parts. The only problem with that is they want to sell off the most profitable parts and the government would keep the least profitable parts. That sounds like something out of the central Moscow branch of the former communist state. That makes no sense in a modern economy; it is going back to the dark ages of the old socialist Labor model. They are out of touch, they have lost their way and this MPI is a clear indication of that.

The Labor Party have no credibility in general communications policy in this country. This government have delivered in a very significant way for rural and country Australia in three major ways: first, in terms of straight competition to have a range of service providers in this country which will provide a greater range of services and lower prices, as has been demonstrated; and, secondly, legislation on the minimum level of service that can occur for the operations of the Telstra network. For example, how long it takes to install or fix a phone is legislated. That did not occur under the previous government. They expect us to forget that and they come in here claiming that their policies will change the world, but they were in government for 13 years and they changed nothing and did nothing, and we had this greatly inflated Telstra organisation that was inefficient and overmanned in many areas. In terms of delivery for rural Australia, it certainly did not deliver.

The third way in which this government have delivered is in respect of infrastructure and funding provided to build the Australian nation. The funds that have gone out to rural and regional Australia have worked. We all remember that they switched off the analogue mobile network service without having a replacement, which would have meant that much of rural Australia would have been without a mobile connection. This government had to work overtime to make sure that the mobile network was in place. The CDMA network was implemented by this government. This is one of the prime examples of where the opposition simply failed to operate. In respect of the general fund network, the Telstra social bonus, the Networking the Nation program and the government’s response to the telecommunications service inquiry—the TSI—which was led by Mr Besley and which identified some real areas that needed to be addressed, this government moved to fix the problems.

The opposition are simply not prepared to stand on their own record. During their period in government, Telstra had no customer service guarantee; there was no service obligation. Under this government, there has been a total change. In remote areas it took up to 27 months for a phone to be installed. There were no government programs to assist communities to address their legitimate telecommunications needs. People in large areas of Australia did not have access to untimed local calls or decent Internet connections. And the analog network was closed down— as I have just outlined—without the backup needed.

Since coming into government the coalition have embarked on a wide ranging and comprehensive process of improving telecommunications services for all Australians by putting in place a competitive telecommunications regulatory environment. Over 90 carrier licences have been issued under this government, and we have seen a number of new and innovative services brought to the market. And we have seen those price drops I mentioned earlier. The government have a commitment to continuous improvement of the regulatory regime. We passed amendments in 1999 and 2001 to further enhance competition and deliver benefits to telecommunications users. Further amendments were announced by the minister recently and they will be introduced into the parliament in the near future.

We have put in place a number of strong consumer safeguards to ensure consumers enjoy minimum levels of service. The customer service guarantee means that phone companies must now install or fix phones
within prescribed time periods otherwise the customer is entitled to compensation. The independent regulator reports quarterly on performance of carriers against this standard. This government introduced the digital data obligation. Under this, 96 per cent of Australians are able to obtain a 64 kilobits-per-second ISDN service on request. That is with a rebate of 50 per cent of the price, capped at $765, and is payable in relation to satellite equipment installation.

We have strengthened the universal service obligation and reduced the time that people have to wait for provision of services. People in rural areas had to wait up to 27 months for a phone to be installed. This period has now been cut to six months. When the service cannot be supplied within 30 days, an interim service must be provided. Additionally, when a service cannot be repaired within five working days, an interim service must be supplied. It is part of our requirement that all Australians must have access to untimed local calls. We want to ensure that not only are price caps in place for Telstra services but arrangements are in place to ensure that low-income customers are adequately protected from increases in line rentals.

The changes we made in the mobile network were very clear. Telstra consequently rolled out the CDMA network, which now covers 97 per cent of Australia’s population—a great achievement.

Mr Windsor interjecting—

Mr Baird—We have had targeted funding programs, which my friend to my right, Mr Windsor, would know all about. We have supported a competitive environment, with a number of targeted funding programs. For example, in 1997 we put in place the $250 million Networking the Nation program. This program has funded over 775 community based projects, including improved Internet access, additional mobile phone coverage, broadband initiatives and community based IT training programs.

Further, we introduced a $1 billion Telstra Social Bonus program. This was added to the Networking the Nation program and allowed local government authorities to provide on-line access service to stimulate Internet delivery in regional and rural Australia, and improve telecommunications services in rural Australia. The fund also provided continuous mobile phone coverage on a number of national highways, as well as untimed local calls, the creation of a TV fund to extend SBS services and additional mobile phone coverage. The Social Bonus enabled environmental spending.

The Besley inquiry addressed some of the problems. There was a further package of initiatives, with $88 million for more phone coverage, $50 million for effective Internet speed and $50 million for a national communications fund. Indigenous communities were covered and over $1 billion was allotted to rural and regional Australia. The poor performance of Labor in government was very clear. The initiatives that have been taken by this government in terms of providing more competition, as well as guarantees and funding programs, are very clear. (Time expired)

Mr Windsor (New England) (4.35 p.m.)—I recognise my old state colleague on my left, Mr Baird. By his definition I am one of the three per cent of Australians who do not receive CDMA coverage where I reside. I do not find that acceptable and I doubt the mathematics in terms of the three per cent. Those of us who live in country electorates are very well aware that there are many black spots in terms of mobile phone coverage and Internet reception. One of the very basic provisions, that of cabling underground for normal telephone reception, is in a shocking state in many parts of regional Australia, not only west of the range but also towards coastal areas. The infrastructure that is underground is an absolute disgrace. Anybody that has anything to do with the people who have been working to fix underground cables after lightning strikes, outages and those sorts of things would understand that the infrastructure in regional Australia is in an appalling state. It is no wonder that the government wants to divest itself of that asset, because there are enormous costs involved in restoring that infrastructure to some sort of workable order in the future.
I do not think this matter of public importance should be debated today, because I do not think there is a problem with the sale. In fact, in recent documentation many members within the government, particularly National Party members, have indicated that Telstra is not up to scratch and it will not be up to scratch in a matter of months. The member for Hume said that it would take many years. The member for Wide Bay suggested that there were a lot of people in his constituency that were very concerned, and that it would take quite some time. Even the Deputy Prime Minister, who has recently had a new cable attached to his abode, has said that he does not believe that a move to sell the rest of Telstra would be happening, because it is too early as yet. Even today, under pressure from his Liberal colleagues who have been making announcements in his absence, he indicated that he would be looking at some sort of benchmarking. So I would believe the National Party, as I always have because of their honesty and integrity in relation to country issues, when they say that they will not be a part of any sale, even though they have been guided in the past by the Liberal Party. I think this is one of those issues on which the National Party leadership will stand up for its constituency and demand that it not be sold.

I do have some concerns in relation to a few other issues involving Telstra. I would hope that the members of the Senate, in particular—even though many of them do not have direct experience with country areas—would look at the other issues involved in any sale of Telstra. I hope that they would not be bought off on some short-term lolly shop agenda. I hope that they would look to the long term for country constituents. I think that what we are looking at is very important. There are countless examples where infrastructure has been sold off in the last decade and country people have suffered as a result, after the sale.

There have been many people saying here today—and, quite rightly—that there has been an improvement in Telstra’s service. The question has to be asked: why has that happened? Has competition meant all that to them? I doubt very much whether that has driven that agenda in country areas; it may well have had some impact in the metropolitan areas. Why has it happened? My colleague the member for Calare has been one of the very vocal people in this place over the years, arguing that infrastructure service levels were not up to scratch, and Telstra Country Wide was eventually put in place. If there was ever an argument in favour of having an Independent member in the parliament, this is it. The member for Calare does need congratulating on that particular issue, because he has driven that issue. Telstra Country Wide would not have been established had it not been for the vocal opposition of the member for Calare articulating the concerns of his constituents in regional Australia about the possible sale of Telstra.

Why else has it improved? It has improved—and I think everybody in this place would know this—because there has been a political imperative to make it look better. Through the Besley report and other reports—whether they be dummed reports or purely political documents—there has been a political imperative to make Telstra look better in regional Australia. That is because there is a degree of guilt concerning any possible sale that some people could be classified as second-class citizens in relation to having access to technology into the future. So there has been this political imperative that has been driving it.

There is money to burn in regional Australia at the moment. If there are any problems, there is a Telstra problem register—and I have established them in my own electorate. A lot of the problems are getting fixed very quickly now, not because there are more people working there but because of the political imperative that some government ownership has over the performance of Telstra. If we remove that political imperative and we sell and we have our day in the lolly shop with the funds, will that mean that for the large corporation that buys Telstra—it may be partly overseas owned and driven by shareholder imperatives—that the same pressure will be applied in relation to regional, remote and
minor services? Will new technology be guaranteed into the future? The answer is, obviously, no.

Anybody who has taken the time to seek some legal advice about what the parliament can actually do through legislative and regulatory controls in relation to a sale document of Telstra would know that you cannot guarantee future services—some of which have not even been invented yet. You cannot guarantee those sorts of things into the future. There is no guarantee. We cannot legislate in this parliament to make sure that a company in 10, 30, 40 or 50 years time will deliver services that have not yet been invented. For instance, an overseas company might buy a part of Telstra. Over time it might make a large investment in some sort of Singaporean or Indian arrangement—as has been in the news recently—and that investment might not be seen to be profitable and it might incur large losses. How would you guarantee, in terms of legislation in this place on the sale of Telstra in 2002 or 2003, that that particular company would have to go into debt to provide certain facilities and services to the people of Lightning Ridge? It is an absolutely joke to think that that sort of thing could happen.

If you need any more indications, particularly of the current government’s bona fides in relation to that particular theory, look at what has happened with Kingsford Smith airport. Yesterday there were ironclad guarantees about service levels and pricing levels for regional people. Today or five years out, there could be quite significant changes. The company that is buying Sydney airport can make significant changes in five years time. They are the sort of controls that we have seen in the past. Once something of government ownership is sold—something as essential as basic communications that all Australians should have equality of access to—there are no guarantees of service delivery into the future.

The DEPUTY SPEAKER (Mr Jenkins)—Order! The time for the discussion has concluded.

FAMILY LAW AMENDMENT (CHILD PROTECTION CONVENTION) BILL 2002
Report from Main Committee
Bill returned from Main Committee with amendments; certified copy of the bill and schedule of amendments presented.

Ordered that this bill be considered forthwith.

Main Committee amendments—

(1) Schedule 1, item 25, page 8 (line 17), omit “court order or other”.

(2) Schedule 1, item 25, page 8 (lines 21 and 22), omit “that is not a party to the Child Protection Convention”, substitute “for which the Child Protection Convention has not entered into force”.

(3) Schedule 1, item 25, page 11 (line 1), omit “authority in”, substitute “authority of”.

(4) Schedule 1, item 25, page 16 (line 1), after “measure”, insert “required by the situation”.

(5) Schedule 1, item 25, page 17 (line 19), omit “authority in”, substitute “authority of”.

Schedule 1, item 25, page 22 (line 15), after “measure”, insert “required by the situation”.

Schedule 1, item 25, page 23 (lines 13 and 14), omit “, any other Commonwealth law or any law of a State or Territory”.

Question agreed to.
Bill, as amended, agreed to.

Third Reading

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (4.45 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.

COMMITTEES

Joint Committee of Public Accounts and Audit

Report

Mr CHARLES (La Trobe) (4.46 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the following report: Report No. 389: Review of Auditor-General’s reports 2000-01, fourth quarter.
Ordered that the report be printed.

Mr CHARLES—by leave—On behalf of the Joint Committee of Public Accounts and Audit, I present the committee’s report No. 389: Australian Defence Force Reserve, Assessment of new claims for the age pension by Centrelink, Family and Community Services’ oversight of Centrelink’s assessment of new claims for the age pension and performance information for Commonwealth financial assistance under the Natural Heritage Trust. This is our review of Auditor-General’s reports for the fourth quarter of 2000-01.

The committee held a public hearing on Tuesday, 30 April 2001 to discuss these ANAO reports with the relevant Commonwealth agencies. I will briefly discuss issues in each of the selected reports in turn. In its examination of Audit report No. 33, the committee examined resources and costs of the Defence Reserve, Army Reserve roles and tasks, and the attraction and retention of personnel to the Army Reserve. The committee agrees with the ANAO that Defence should annually establish and publish the full costs of each reserve service and the capabilities provided, in order to provide full transparency of the costs of maintaining reserve forces. The committee has recommended that Defence give urgent attention to developing its financial and management systems to enable it to provide full costing of the reserve forces.

The committee notes that the process of defining the roles and tasks for reserve units is progressing, and strongly encourages the early completion of the single entitlement document review. The audit report made the point that the broad structure of the Army Reserve has remained largely unchanged over several decades. The changed strategic role for the reserves towards contemporary military operations, as defined in the Defence 2000 white paper, raises the question of the appropriateness of current Army Reserve structures to meet changing roles and tasks. The committee considers that there are compelling reasons to rationalise the Army Reserve force structure to ensure that it is based on strategic guidance and on the outcomes of the Army study of its reserve roles and tasks. In the Army Reserve, discharges have exceeded enlistments almost every year since 1988-89. In the past few years, the gap between separations and recruitment has increased. The committee strongly encourages the ADF to continue its work on identification and provision of incentives which could lead to an increase in the number of personnel available for active reserve service.

In the second and third reports selected, Audit report No. 34 and Audit report No. 35, the committee examined the efficiency of the procedures developed for assessment of new claims for the age pension by Centrelink from different perspectives. The two audits were undertaken in parallel by ANAO. In Audit report No. 34, ANAO looked at Centrelink’s preventive quality controls to ensure accuracy and correct decisions at the new claims stage. In Audit report No. 35, ANAO examined those aspects of the Department of Family and Community Services-Centrelink business arrangements designed to assist the Department of Family and Community Services in its oversight of the assessment of new claims for the age pension by Centrelink. For 1999-2000, the agreed performance standard between the two agencies was 95 per cent ‘correctly assessed’, while for 2000-01, the standard was 95 per cent ‘completely accurate’. The audit focus was on compliance management, accountability and performance. In this, ANAO used, as the basis for its audits, Centrelink’s own working definition of accuracy:

Payment at the right rate, from the right date, to the right person with the right product.

ANAO also examined the accuracy of Centrelink’s own reporting on compliance, as provided by Centrelink to the department. The committee selected these two audit reports for review because it was concerned at the discrepancies between the error rates found by the audit team and Centrelink’s reporting of its accuracy in its annual reports. Centrelink had reported an accuracy rate of 98 per cent for 1999-2000. ANAO stated that its audit findings showed that, in that financial year, approximately 52.1 per cent of new age pension assessments contained at least one actionable error, while some 95.6 per cent contained at least one administrative
error. On the basis of the audit, ANAO indicated that the accuracy standard of 95 per cent for that year was unattainable.

While the committee accepts that some age pension claims are complex, the committee is nevertheless disturbed by ANAO’s findings. Inaccuracies result in incorrect payments, which translates into hardship for age pension clients. Committee members commented at the public hearing on the stress experienced by their constituents when faced with overpayment or underpayment. The committee acknowledges that, faced with the audit findings, Centrelink has made improvements such as appointing an extra 130 complex assessment officers—who are specially trained—and checking all claims processed by inexperienced staff. This resulted in reported accuracy rates of about 85 per cent in early 2002—still below the 95 per cent agreed standard. Assessment of new claims has been further assisted by the rules simplification ordered by the Minister for Family and Community Services in 2002.

I now turn to the final ANAO report the committee reviewed in this quarter—Audit report No. 43. The report concluded that performance information used to support the administration of Commonwealth financial assistance under the Natural Heritage Trust had strong design features but significant management and reporting challenges. A key issue was the absence of a finalised core set of performance indicators. The report also noted that the absence of baseline data on environmental conditions in much of Australia had been a major constraint on measuring and reporting on changes and trends. The Natural Heritage Ministerial Board has agreed to the continuation of the national land and water resources audit until June 2007, and the committee notes its potential to provide better access to quality data for Natural Heritage Trust mark II. The committee considers that an improved needs assessment will enable better judgments to be made about project priorities for Natural Heritage Trust mark II.

The committee has taken evidence that closer attention has been paid to issues of baseline setting, monitoring, evaluation and reporting in the planning and development for the implementation of this new program and the National Action Plan for Salinity and Water Quality. The committee can only reiterate its opinion of 1998—namely, that there must be concern when large amounts of public funds are committed and programs implemented before problems are adequately identified and performance information systems are in place.

I conclude by thanking, on behalf of the committee, the witnesses who contributed their time and expertise to the committee’s review process. I am also indebted to my colleagues on the committee, who have dedicated their time and effort to reviewing these Auditor-General’s reports. As well, I would like to thank the members of the secretariat who were involved in the inquiries. I commend the report to the House.

Ms PLIBERSEK (Sydney) (4.54 p.m.)—by leave—I also rise to commend the Audit report No. 389: Review of Auditor-General’s reports 2000-01, fourth quarter to the House. I know, Mr Deputy Speaker, that you yourself would find it very interesting reading. I hope that, if you have a little time, you will take the opportunity to read the report. This report, numbered 389, is the outcome of a review by the Joint Committee of Public Accounts and Audit of the Auditor-General’s audit reports, tabled in the fourth quarter of 2000-01. It is a little delayed because of the intervening election, so we were looking at audit reports that had occurred some time ago. For that reason I was pleased to see that some of the departments had indeed made an effort to pick up on the suggestions that the Auditor-General had made to improve their efficiencies. As the member for La Trobe has described, the audit reports that we considered were Audit report No. 33: Australian Defence Force Reserves; Audit report No. 34: Assessment of new claims for the aged pension by Centrelink; Audit report No. 35: Family and Community Services’ oversight of Centrelink’s assessment of new claims for the aged pension; and Audit report No. 43: Performance information for Commonwealth financial assistance under the Natural Heritage Trust. We dealt with all of those reports at a public hearing in Canberra on 30 April.
In looking at the Defence Force Reserves audit report, I think that the striking aspect of the report was the Auditor-General’s suggestion that Defence should be able to provide full transparency of the costs of maintaining Reserve forces. This is particularly in light of the changing roles of the Defence Force Reserves. Those changing roles also led the Auditor-General to recommend strongly that the roles of the Defence Force Reserves should be more accurately defined. Indeed, Defence tells us that this definition is progressing. We hope that we will see an early completion of that review. The recruitment and retention rates in the Army Reserve, in particular, were a matter of some concern. Discharges have exceeded enlistments in most years since 1988-89. This is, of course, a significant problem, particularly in relation to retention. Recruiting a person is obviously expensive and difficult, particularly with initial training. Holding on to the people who are already enlisted is very important indeed. The committee thought at the time—and there was much discussion about this fact—that there was the necessity for some more formal process when people separate from the Defence Force Reserves to inquire into the reasons that they are no longer interested in being in the Reserve forces.

The two reports we looked at in relation to Centrelink and their assessment of new claims for the aged pension were also of great concern to members of the committee. The error rates reported by the Auditor-General were substantially higher than those reported by Centrelink in their annual report. I do not think that the committee received a particularly satisfactory response from Centrelink as to why that might be. We had a number of witnesses from Centrelink and they gave quite extensive testimony to the committee, but I would not say that any of us were particularly satisfied with the descriptions they gave us for the differences in reported error rates. We were indeed very disturbed by the ANAO findings about those inaccuracies. They cause great difficulty for clients of Centrelink, whether they are overpayments or underpayments. Of course, underpayments are immediately more difficult, but if a person receives an overpayment and is required to pay back a lump sum to Centrelink—even to pay it back over time by having their pension reduced for a number of weeks or months—that can lead to quite serious hardship. I am sure that all members of parliament have dealt with cases like that in their offices.

The fourth report that we looked at related to the administration of Commonwealth financial assistance under the Natural Heritage Trust. There were significant management and reporting challenges when it came to the design of the Natural Heritage Trust. One of the real problems was an absence of a finalised core set of performance indicators and an absence of baseline data on environmental conditions. There was no way to measure how the very large government spending in this area has improved the environment, if indeed it has. That is a difficulty because you are talking about very long-term improvements in many areas. However, if we are going to spend large amounts of taxpayers’ money on environmental programs then we have to have some way of measuring which are effective and which are not.

I want to quote the report’s comments on the Natural Heritage Trust. The report says: The Committee considers that there is still little ability to assess the impact the NHT has had overall and what progress has been made towards program goals such as the conservation, repair and sustainable use of Australia’s natural environment.

There was an indication from witnesses who appeared before us that these comments were taken on board and that the Natural Heritage Trust mark II will make efforts to account for that spending in a much more satisfactory way. I will conclude with another quote. The report says: The Committee can only reiterate its opinion of 1998, namely, that there must be concern when large amounts of public funds are committed and programs implemented before problems are adequately identified and performance information systems are in place.

Mr GEORGIOU (Kooyong) (5.01 p.m.)—by leave—Audit Report No. 389 of the Joint Committee on Public Accounts and Audit covers a number of Attorney-General’s reports as set out by the member for La Trobe earlier. In the brief period available to
I would like to focus on Audit report No. 33 on the Australian Defence Force Reserves. The reserve forces are fundamentally important to Australia’s overall military capabilities, and the purpose of this audit was to identify possible areas for improvement in the Defence Force’s management of its reserve program. The JCPAA examined the progress made by the Department of Defence on the audit report’s recommendations, focusing on three issues: the roles and tasks of the reserves, resources and costs, and the attraction and retention of reservists.

The ANAO recommended that the department complete a roles and tasks study to ensure that the Army Reserve could effectively complement, rather than duplicate, the roles filled by the full-time Army. The Defence Force is working towards this, and it is imperative from both a cost and a potency perspective that their combat force sustainment model deliver this complementarity.

The need for transparency gave rise to the ANAO recommendation that Defence publish annually the full cost of each component of the reserve forces. Given the size of the sums being dealt with—and the audit report indicates that the Reserve Force expenditure was around $1 billion in 1999-2000—the JCPAA feels that the department’s financial and management systems require immediate attention.

With regard to the attraction and retention of reservists, the ANAO found that since 1997 there have been significant difficulties in both recruitment and retention, particularly for the Army and Navy Reserves. The committee agreed with the ANAO’s findings that the reserve forces would increase their capabilities and cost-effectiveness by encouraging retiring full-time Defence Force members to transfer to the active reserves. As a result of the ANAO’s initial recommendation, Defence has commissioned a study to identify appropriate incentives for members discharged from the permanent forces. The JCPAA now recommends that Defence conduct a research study to identify the reasons why people leave the reserve force. This will give Defence a greater awareness of any problematic elements of the reserve program that may require attention. This is something that the committee will continue to monitor. I commend the report to the House.

Mr CHARLES (La Trobe) (5.04 p.m.)—by leave—I move:

That the House take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Treaties Committee

Report

Ms JULIE BISHOP (Curtin) (5.05 p.m.)—by leave—On Monday, 24 June I presented to the parliament report No. 46 of the Joint Standing Committee on Treaties, which contained the results of an inquiry conducted by the treaties committee into a protocol to the double taxation agreement with the United States of America, tabled in the parliament on 12 March 2002. As a result of the committee’s scrutiny of this treaty, the committee withheld support for binding treaty action on the protocol pending the receipt of further information from Treasury and the Australian Taxation Office concerning its benefit to Australia. I am pleased to report to the House that the committee has received the additional information it had requested confirming the benefits to Australia. I am pleased to report to the House that the committee has received the additional information it had requested confirming the benefits to Australia. On the basis of this information, the committee has resolved to recommend binding treaty action on the protocol to the double taxation agreement with the United States of America.

Mr WILKIE (Swan) (5.06 p.m.)—by leave—In view of the fact that the department has provided further information in relation to this matter, I support the statement made by the member for Curtin in relation to report No. 46 of the treaties committee. I would point out, though, that I am disappointed that the department did not provide adequate information in the first place and I acknowledge that the additional information provided, although more substantial, could be more conclusive. Therefore, I also acknowledge that another recommendation contained in the report will address this lack of a proper model to determine real benefits to Australia of double taxation agreements.
generally. I commend the report to the House.

**Ms Julie Bishop**—I ask leave of the House to present a copy of my statement.

Leave granted.

**BUSINESS**

**Rearrangement**

Mr **ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (5.07 p.m.)—I move:

That order of the day No. 3 be postponed until a later hour this day.

Question agreed to.

**TAXATION: ZONE PROPOSALS**

Mr **WINDSOR** (New England) (5.07 p.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent me from moving the following motion forthwith:

That in light of the NSW Farmers Association City-Country Snapshot Report showing the growing divide between city and country and the new 10 year discriminatory US Farm Bill, this House discusses as a matter of urgency the adoption of zonal taxation proposals as put forward by the National Farmers Federation, the Institute of Chartered Accountants and the Local Government Association as a way of overcoming the population drift, economic decline and inequity of services in country Australia.

The **DEPUTY SPEAKER (Mr Barresi)**—Is the motion seconded?

Mr **Andren**—I second the motion and reserve my right to speak.

Mr **WINDSOR**—This motion has been—

Mr **ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (5.09 p.m.)—With some reluctance, I move:

That the member be not further heard.

Question put.

The House divided. [5.13 p.m.]

(The Deputy Speaker—Mr Barresi)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>78</th>
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<tr>
<td>Noes</td>
<td>59</td>
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<td>Majority</td>
<td>19</td>
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**AYES**


**NOES**

Wednesday, 26 June 2002

Kerr, D.J.C.
Latham, M.W.
Livermore, K.F.
Martin, S.P.
McLeay, L.B.
Mossfield, F.W.
O’Byrne, M.A.
O’Connor, B.P.
Price, L.R.S.
Ripoll, B.F.
Rudd, K.M.
Sercombe, R.C.G.
Smith, S.F.
Swan, W.M.
Thomson, K.J.
Zahra, C.J.

Mr Martin Ferguson—Mr Deputy Speaker, I rise on a point of order: on the basis of your ruling that the noes have the motion, the member for New England is entitled to speak. I ask that you uphold the standing orders and give him the call.

The DEPUTY SPEAKER—The member for New England does not have the call. The parliamentary secretary is to resume the debate. Members will either leave the chamber or take their seats.

Mr SLIPPER—They talk about higher parliamentary standards—they are a rabble.

Opposition members interjecting—

The DEPUTY SPEAKER—The member for Watson and the member for Oxley will excuse themselves as they are not attired in the proper manner—the member for Fairfax, likewise.

Mr SLIPPER—The Department of Defence proposes to provide an alarmed perimeter security fence around RAAF Base Tindal at Katherine in the Northern Territory to enhance base security.

Mr McMullan—Mr Deputy Speaker, I rise on a point of order: on the basis of your ruling that the noes have the motion, the member for New England is entitled to speak. I ask that you uphold the standing orders and give him the call.

The DEPUTY SPEAKER (Mr Barresi)—The question is that the motion to suspend standing orders be agreed to. All those of that opinion say aye. Those against say no. I think the ayes have it.

Honourable members interjecting—

The DEPUTY SPEAKER—Order! My apology. The noes have it.

Question negatived.

COMMITTEES

Public Works Committee

Reference

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.20 p.m.)—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Perimeter Security Fence, RAAF Base Tindal at Katherine in the Northern Territory to enhance base security.

Mr Martin Ferguson—Mr Deputy Speaker, I rise on a point of order: I understood, on the basis of your ruling, that the honourable member for New England is entitled to the call to speak to his proposed motion. I ask that, in accordance with your ruling, he be given the call.

The DEPUTY SPEAKER (Mr Barresi)—I understand that the member for New England does not have the right to speak. I have called the parliamentary secretary, and that ruling stands.

King, C.F.
Lawrence, C.M.
Macklin, J.L.
McFarlane, J.S.
McMullan, R.F.
Murphy, J. P.
O’Connor, G.M.
Pilbersek, T.
Quick, H.V.*
Roxon, N.L.
Sciaccia, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Windsor, A.H.C.
* denotes teller
Mr SLIPPER—Mr Deputy Speaker, on the point of order: the member for Fraser should have listened to the proceedings of the House. The motion that was put to the chamber was the substantive motion moved by the member for New England for suspension of standing orders, and that was negatived. Thus, it is appropriate that we should move on to the next item of business. You, Mr Deputy Speaker, quite correctly have done so.

Mrs Crosio—Mr Deputy Speaker, further to the point of order before the House, the motion that was called by you, when everyone came in, was that the member be not further heard. That was the vote we took: that the member be not further heard.

The DEPUTY SPEAKER—I thank the member for Prospect. In fact, the division was with regard to that the member be not further heard. I then subsequently put the question, and that question was negatived. The matter is dealt with. I call the parliamentary secretary.

Mr SLIPPER—I have moved a motion and now I am speaking to the motion. The Department of Defence proposes to provide an alarmed perimeter security fence around the Royal Australian Air Force Base Tindal at Katherine in the Northern Territory to enhance base security. RAAF Base Tindal is one part of a chain of airfields stretching across northern Australia from Learmonth in Western Australia to Townsville in North Queensland. It is home base for No. 75 Squadron, a tactical fighter squadron equipped with FA18 Hornets. Tindal is also a deployment base for other Defence elements, a staging area for exercises conducted in the area and a possible secondary base for the airborne early warning and control capability. The capability of RAAF Base Tindal to conduct its role in peace or in war can be seriously degraded by loss or damage arising from sabotage or theft. Also, injury to personnel entering RAAF controlled areas may give rise to claims if access is inadequately controlled and signposted.

To prevent and counter threats associated with sabotage or theft and to reduce the likelihood of injury, a physical security protection system is required for RAAF Base Tindal. A component of an integrated protection system is a fence of sufficient standard to be effective in preventing or detecting unauthorised access. The proposed perimeter fence system is expected to consist of the following components: one, a chain mesh security fence about three metres high, which will be enhanced by the installation of sensors; two, a computerised control centre within the base to which the fence sensors will be connected to facilitate an effective response to an attempted overland trespass into the base; and, three, supporting ancillary works, including provision of maintenance and response access, cattle fencing, culvert works and a firebreak.

Over the construction period of some nine to 12 months, about 30 to 40 personnel may be directly employed on construction activities. Additional effort will be associated with off-site prefabrication and material activity to support the project. The budget estimate for the proposed works is $9.25 million. Subject to parliamentary approval, construction will start early next year and will be completed by the end of that year. I commend the motion to the House.

Mr SNOWDON (Lingiari) (5.28 p.m.)—Can I say to the parliamentary secretary, speaking on the referral to the Public Works Committee, that obviously as the member for Lingiari, which is the area in which the Air Force base of Tindal is situated...
fence portfolio appropriately, instead of getting six airborne early warning aircraft, we are getting only four, and that is entirely due to mismanagement by the government.

As someone who was at the opening of Tindal and who has visited Tindal on many occasions and seen its development over the years through a number of phases, I know this work is worth while and welcome. I am sure it will add substantially to the security of the base and all that is within it. I hope we will see spin-offs into the local Territory community. I hope that the contracts do not just go to interstate firms, as sometimes is the case, and that we see small business, which the minister at the table was so concerned about—

Mr Hockey—The minister for small business.

Mr Snowdon—Yes, the minister for small business. I hope he makes sure that in terms of the tender processes the people in Katherine get a fair shot. If you look at the way in which tender processes operate under this government, by and large they go to big companies, not small businesses. If the small businesses are successful in getting anything out of them, it is because some drop has trickled down the system. It is not because this government has had them at the front of its mind—quite the contrary. I commend the reference to the House.

Mr Slipper—That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Stage 1 Redevelopment and facilities for the Airborne Early Warning and Control Aircraft, RAAF Base Williamtown, Newcastle, NSW.

The Department of Defence proposes to provide a range of new and redeveloped facilities and infrastructure necessary to support the introduction into service of the airborne early warning and control aircraft to be based at RAAF Base Williamtown near Newcastle, New South Wales. In 1997 the government foreshadowed the development of an airborne early warning and control capability for the Australian Defence Force. This re-
requirement was confirmed in the 2000 Defence white paper. In December 2000, Defence entered into a contract with the Boeing company for the supply and associated support of four Boeing 737-700 early warning and control aircraft under the $3.4 billion Defence acquisition project.

RAAF Base Williamtown has been a permanent fighter base since it began operation in 1941 and is to be retained as a major RAAF base. The base contains one of the major Defence airfields and is staffed by about 2,300 service and civilian personnel. The introduction of the airborne early warning and control capability to RAAF Base Williamtown will see an increase in the base working population of approximately 350 personnel comprising mainly No. 2 Squadron personnel who will command and operate the capability. Existing base working accommodation and airfield facilities are fully utilised and cannot accommodate the forecast increase in personnel and aircraft. Many of the base facilities and engineering services are reaching the end of their economic life and require either replacement or substantial upgrade. Many facilities are located in high noise zones and others are positioned in functionally inefficient locations.

The RAAF Base Williamtown development stage 1 and the airborne early warning and control project are intended to provide facilities and infrastructure services in support of the airborne early warning and control capability and to establish the basis for subsequent base redevelopment. The project redresses the present infrastructure and accommodation inadequacies and enhances the overall effectiveness of a base that is a key Defence asset.

The project provides new and upgraded facilities including: (1) new headquarters and operating facilities for No. 2 Squadron; (2) a new airborne early warning and control aircraft maintenance facility; (3) a new airborne early warning and control support centre comprising simulators and associated facilities to support the airborne early warning and control capability; (4) a new apron area to accommodate four airborne early warning and control aircraft; (5) new and upgraded aviation fuel storage facilities; (6) overlay works to the runway and taxiways; (7) replacement of airfield lighting systems; (8) a new ordnance loading complex; (9) new student accommodation; (10) upgrade of the base sewage disposal system; (11) upgrade of the base high voltage reticulation system, including construction of a new central emergency power station; and, (12) upgrade of other associated engineering services, including water supply, stormwater disposal and communications infrastructure.

The estimated cost of the proposed works is $149 million. Current planning is to have the first two aircraft on location at RAAF Base Williamtown in 2006 and in-service capability established by 2007. Subject to parliamentary approval, construction will start early next year and be completed by the end of 2006 to coincide with aircraft delivery. The member for Paterson who, fortunately, was re-elected at the poll last year, has been a very strong supporter of the Williamtown base and he no doubt will be speaking in support of this reference to the Public Works Committee.

Mr BALDWIN (Paterson) (5.37 p.m.)—I fully support the reference to the Joint Standing Committee on Public Works of this stage 1 redevelopment facility for the airborne early warning and control aircraft facilities at RAAF Base Williamtown.

Mr Fitzgibbon—Bob Horne should be taking all the credit for this.

Mr Hockey—Where is he?

The DEPUTY SPEAKER—The member for Paterson has the floor.

Mr BALDWIN—There is no underestimating the value of RAAF Base Williamtown and what it does for our economic benefit in the region. I would take this opportunity to remind the House that the Labor Party has done everything it can to turn projects away from Defence Industries in the Hunter. The member for Hunter laughs, but one of his mob, Allan Morris, the then member for Newcastle, sat on the hill fiddling while Newcastle burned as an industrial base for defence contracts. It was the former member for Newcastle who single-handedly helped drive the frigate contracts to Williamstown in Victoria, away from the Hunter. So
when I hear the interjection from the member for Hunter, obviously he has no basis in fact nor understanding of what is required to support defence industries in the Hunter—

Mr Fitzgibbon—Tell us about Peter Reith’s plans for the Hunter!

The DEPUTY SPEAKER—The member for Hunter will cease interjecting.

Mr Baldwin—The Williamtown RAAF base will benefit, and benefit greatly, but not as much the local community, by the introduction of the AEWC program into Williamtown. These four aircraft that will be brought to Williamtown will create around 350 extra jobs. There will be an immediate investment of around $149 million over the next few years up to 2006, providing a support structure there for the people. I would make a point of reminding the House again that, even with the Hawk lead-in fighter project, a great project for the area, the Labor Party and members of the Labor Party tried to take that project from Williamtown and locate it at a base in Victoria—Avalon, I think it was.

But what is important with this project being referred—and I urge the committee to go through it quickly and approve it quickly so that the expenditure can commence—is that we look forward to seeing a new headquarters and operating facilities for the No. 2 Squadron and the new AEWC aircraft maintenance facility. The problem is that part of the RAAF base has grown beyond its capability and needs further infrastructure and development to make sure that these aircraft can be based safely there and provide operational units for the defence of Australia. There is perhaps no more important feature than having advanced early warning aircraft projects up in the sky and, linking that in with the Jindalee project, that we have a great understanding of what is happening in our skies and in the areas around Australia.

Unlike the member for Hunter, I support Defence Industries to make sure that it brings economic benefits. The $17 million that we spent in 2002-03 at RAAF Base Williamtown is a welcome investment—in particular, the commitment of $2 million for a childcare facility with 50 to 60 places, which will help not only defence families at the base but other families in the Port Stephens community. The member for Hunter talks about the previous member for Paterson, Bob Horne. If Mr Horne had spent as much time and effort in getting jobs into the area as he did in spending huge amounts on printing, then the area would have been a lot better off over the last three years.

Question agreed to.

PAPERS

Mr Slipper (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.41 p.m.)—by leave—I table the Human Rights and Equal Opportunity Commission’s report No. 17, which was inadvertently omitted from the documents tabled earlier today. I have spoken to the Chief Opposition Whip and the Attorney-General, on whose behalf this tabling is taking place. I have spoken to the shadow Attorney-General.

MIGRATION LEGISLATION AMENDMENT (PROCEDURAL FAIRNESS) BILL 2002
Second Reading
Debate resumed.

Mr Mossfield (Greenway) (5.42 p.m.)—In my speech prior to question time, I raised quite a number of points and I just want to recap them quickly. Certainly as far as the Migration Legislation Amendment (Procedural Fairness) Bill 2002 is concerned, speakers on this side of the House were calling on the government to consult with the Labor opposition and to take a more bipartisan attitude to immigration matters in general—not to use the immigration issues as a political wedge but to consider the people involved and consult with the Labor opposition and, hopefully, get a satisfactory resolution to a number of these matters that we have before the House at the moment. Regarding consultation, the other thing we would also ask is that the government give consideration to withdrawing the bill and to waiting until a number of legal cases that are now before the courts are finalised, because we think that would have a big bearing on the outcome.
At the end of my earlier address, I was drawing the House’s attention to matters that had been raised in the Senate on this issue. I made the point that, while the government majority on the Senate Legal and Constitutional Legislation Committee had rejected a number of criticisms of the bill, these nevertheless were very genuine concerns, and I thought it necessary to raise these in the House again and once again ask the government to give some further consideration to them. These are that the bill may, through the exclusion of judicial supervision, make decision makers unaccountable and lead to poor administration. This is a very serious item, and I think it is a matter that the government should take consideration of. We do not want decisions to be made and find out that these decision makers are unaccountable and that we do have poor administration. Another issue raised at the Senate Legal and Constitutional Legislation Committee was that the bill’s exclusion of judicial supervision is contrary to Australia’s international obligations. This in itself is another major issue. The other question was that the bill’s exclusion of judicial supervision is contrary to the constitutional separation of powers and, further, that the bill is unnecessary, given the privative clauses introduced under the Migration Legislation Amendment (Judicial Review) Act 2001.

I point out these concerns—some are more valid than others and some have more weight than others, but they are concerns nevertheless—because I think the government needs to address them. I said in a debate on a different issue last week that if you put 17 lawyers in a room you will get 43 different opinions, and with this legislation it is no different. It was interesting that in her contribution to this debate the member for Forde made the point that in this House we have more than our fair share of lawyers. She was not overconfident that they were making much of a contribution to this place. The Labor party are not going oppose this legislation but we do believe that there may be a better way to go about it—a more constructive way. It is a great pity that the government does not see it this way.

I have outlined the concerns many have raised, and these concerns are reflected in the amendment moved by the member for Lalor. The points in the amendment are once again worth referring to. No. 1 is that Labor supports immigration matters being determined in a fast and fair manner. I think this is very important because when we refer to and hear from people in the detention centres we find that it is not food or accommodation that they are most concerned about; it is not knowing when the decision is going to be made. They want to know that the decision will be made, that it will be fair and that it will be made in a fast manner.

The other issue in the amendment is that even the Department of Immigration and Multicultural and Indigenous Affairs has conceded that it is not certain that the bill is needed to achieve its end of ensuring that the common law natural justice hearing rule is excluded from immigration decision making. This is an amazing situation. Even the government department is not saying that this legislation is absolutely necessary. With these few remarks I indicate my total support for the amendment moved by the member for Lalor.

Ms PLIBERSEK (Sydney) (5.46 p.m.)—I would also like to add my voice of support for the amendments moved by the member for Lalor. The Migration Legislation Amendment (Procedural Fairness) Bill 2002 has been rushed with indecent haste into this place. The amendments moved by the member for Lalor reflect a more measured approach to processing asylum seekers. An earlier speaker said that ours is the least constructive opposition any government has had to work with. Surely that title goes to the Liberal opposition that blocked supply some time ago. When we are asked about when the opposition is prepared to cooperate with the government, we seek compromise—we seek a constructive approach—but we will not agree automatically to anything the government puts up, particularly when we believe it is to the detriment of the Australian public. We are completely entitled to put up amendments which we believe will improve legislation that comes before the parliament. Why should we agree to a lack of scrutiny?
Why should we agree to the indecent haste with which this legislation has been brought before us?

There is certainly a demonstrable lack of willingness on the part of the government to cooperate or to seek cooperation on these sorts of issues, and we all know the reason. The reason is that it does not suit the government’s political agenda to find compromise on the areas of immigration or processing of asylum seekers or how we deal with refugees. The government decided some time ago, before the last election, that it was in its interests to have as much conflict and division as possible on this issue and to convince the Australian public that it is a pressing, serious issue that affects their everyday lives. It is scaremongering and it is the sort of thing that any government that is in trouble does. It looks for an external threat and an internal enemy. We see the evidence of it here.

Mr Hockey—A government in trouble? Tanya!

Ms PLIBERSEK—It is a government that is running out of steam, if the minister would prefer that terminology. Many legitimate concerns have been expressed about this piece of legislation. The first concern that is quoted in the report is whether the codes of procedure adequately replace the common law natural justice hearing rule. According to the Senate Legal and Constitutional Legislation Committee report on this legislation, there was some evidence given in regard to this concern and it seemed that all of the witnesses agreed that it was virtually impossible to properly codify common law natural justice principles. Certainly, the department seemed to agree that it was impossible to codify every circumstance. They admitted that their people, despite the best intentions and the best training, make mistakes. It does not take a genius to work that out. People do not follow procedures, and information can be supplied to the wrong person.

One example that was given was that the authorised person was often notified of upcoming hearings, whereas the applicant was not necessarily notified. One witness suggested that the applicant and the authorised person should be notified at the same time. It does not seem like a difficult task to do that. Obviously, if someone is not notified of a hearing and thus misses a deadline and is excluded from a proper appeal process, that is a very serious omission on the part of the minister or his delegates. Other examples might be that immigration agents make errors. We all know that immigration agents vary greatly in their abilities and in their quality. Indeed, many people will remember the case of Abel Miranda, who was jailed for a number of years for inappropriate behaviour. Bad immigration agents take some time to find out, because their unsuccessful cases are deported. They do not make complaints to the consumer affairs minister; they are too busy being deported.

Protection visas are another area where it is difficult to codify common law natural justice principles. Protection visas are often rejected because of country information which is relied on by the Refugee Review Tribunal. The RRT is not required to disclose that information, yet the Law Institute of Victoria gave the example to the Senate Legal and Constitutional Affairs Legislation Committee of a case for an application for a protection visa which was refused. The RRT refused to provide the country information on which that rejection was based and, when it was obtained later under freedom of information, it was found that the information in the country report was wrong or it may have been misinterpreted by the RRT. With mistakes like that, it is obvious that once someone is deported, if they are deported back into a situation where they face significant danger, those mistakes are not merely administrative errors; they are a little more serious than that.

Another broad area of concern raised with the Senate Legal and Constitutional Affairs Legislation Committee about this legislation was whether the exclusion of judicial supervision will make decision-makers accountable and lead to poor administration. As a parliament, that is something that we should be concerned about. Another concern was whether the exclusion of judicial supervision is contrary to Australia’s international
obligations and the constitutional separation of powers.

In respect of our international obligations, the refugee convention and related conventions are pieces of international law for which we have accepted responsibility quite willingly. No-one forced us to ratify any of those conventions. The domestic laws that we have set up to support the ratification of these conventions were not forced upon us. We volunteered to sign the 1951 convention and we need to take our responsibilities very seriously.

The fourth major area of concern reported on by the Senate Legal and Constitutional Affairs Legislation Committee related to whether the bill was necessary at all, having regard to the privative clause. With all those concerns, Labor senators agreed that there was no need to rush to enact this legislation, particularly because there are five cases at the moment before the High Court which, when decided, will very likely have some impact on this legislation and on whether or not it is necessary. Page 29 of the report on the provisions of the Migration Legislation Amendment (Procedural Fairness) Bill 2002 states:

Labor Senators note that five Federal Court decisions, including that of Gyles J quoted above, dealing with this issue are before a specially constituted five person Full Court of the Federal Court as this report is being written. The case commenced on 3 June and is to hear appeals from five decisions of single judges, including those of Heerey J in Turcan, Tamberlin J in NABE 2001 and Mansfield J in Wang. The appeals will raise the issue of the extent, if any, to which s 474 is effective. It therefore appears that an authoritative Full Court statement on the question of whether or not the common law natural justice hearing rule is excluded is imminent. Therefore, Labor Senators believe that it would be prudent to hear the result of this case before legislating further in the area. Indeed DIMIA has conceded that it is not certain that the Bill is needed to achieve its end of ensuring that the common law natural justice hearing rule is excluded.

It should also be noted that a case is shortly due for hearing before the High Court which raises squarely the question of whether or not the entire privative clause is constitutional. This case is called Sayed v The Commonwealth. Once again, it seems prudent to allow this case which will be heard in the short term to be decided before legislating again in this area.

This proposal has been around for some time. It has been to the Senate Legal and Constitutional Legislation Committee and a number of witnesses have expressed concerns. High Court decisions are coming up in relation to this area. It makes absolute sense for us to wait a few extra weeks or a couple of months to hear the results of these High Court decisions before we rush this legislation through. The legislation is being rushed through, not for any policy reason, but for a purely political reason. It is simply another attempt by the government to be seen as tough on refugees and I question the motivation of that sort of behaviour.

I agree—and I know my Labor colleagues agree—that appeals should not be endless nor should they be based on frivolous grounds. However, the sorts of examples that were given in evidence to the Senate Legal and Constitutional Affairs Legislation Committee are not frivolous. They include decisions being made on incorrect country information; applicants not receiving notice of hearings; and translations of complex documents taking a long time and thus making applicants miss deadlines in replying to the department. These are all genuine reasons for people to complain and wish to have their cases dealt with properly.

As the Refugee Council of Australia points out, it seems rather inconsistent that the only area of administrative law where a wrong decision can cost a person their life is the only area where there is no judicial review. The Refugee Council also stressed the importance of developing jurisprudence in this area to guide decision makers and it accepts that something should be done to curb the abuse of judicial review, but it argues that that can best be done through introducing leave provisions for access to the Federal Court and by making legal advice available to prospective litigants.

If we stop to consider the costs of an error in this sort of case, it is a sobering experience. When the member for Fremantle spoke earlier, she referred to a young Iranian man who, while suffering extreme depression and being unaware of his rights, was scheduled
by the minister for deportation to Iran on an Iranian vessel—strangely enough, the same Iranian vessel that he and his brother had stowed away on to come to Australia.

Mr Ruddock—It is their obligation to take them back. There is nothing strange about that.

Ms PLIBERSEK—That was despite the fact that his brother, who had also fled Iran but had been convinced to return voluntarily, was never heard of after arriving by plane in Iran. He disappeared without a trace when he returned to Iran. However, we are prepared to send this young man back to face those consequences.

Undoubtedly, there are delays in processing. The processing of refugee claims can be slow, but there are many suggestions about how we can speed up this process in ways that do not involve taking away people’s rights. If asylum seekers who are not a threat to the Australian community were allowed to live under supervision in the community rather than waiting in detention centres while their claims were finalised, waiting times would not be such an issue. There are very obviously some groups that are no threat to the Australian community: children, the aged, the physically frail or people who have a number of family members or even one family member already living in the community in Australia and accepted as a refugee. It makes perfect sense for those people to be able to live under supervision in the community.

We have agreement on this side that children, in particular, should not be kept in detention centres. In Sweden they are detained for three days at most—maybe six days in extreme cases. They are released into the community with their carers. If there is a serious risk of absconding, one parent is kept behind, but the rest of the family have liberal visiting rights. In contrast, we have children in Australia who are kept in centres like Curtin and Woomera for many months at a time. It is a well-established fact that children who witness domestic violence are severely emotionally affected by that, to the extent that the witnessing of domestic violence is considered by most authorities as a type of child abuse. And yet we have children living in detention centres who are witnessing suicide attempts, who are witnessing self-harm, who are being locked in solitary confinement with their parents, who are suffering serious mistreatment—and this is at the hands of the Australian authorities.

There is an organisation called Just and Fair Asylum, which has recorded the stories of a number of asylum seekers. I want to share with the House just two of those stories. This is the story of Ali:

What did your parents hope for you at eight? That you would be happy, that you would go to a good school, play sport, learn to surf, have great friends and have fun? What if, instead, your family had been so afraid for you that they spent all their money smuggling you out of your country, without being able to afford to come with you, praying you would somehow survive?

Ali is an Afghani boy who was detained in Woomera. His family could not come with him. When he arrived, he wandered about aimlessly, day and night, dirty and uncared for. Seeing his state, a family there took him under their wing, and he moved with them to a house in a security compound in Woomera township as part of Minister Ruddock’s pilot scheme of house arrest instead of detention for selected families. Eventually, however, the family were granted temporary protection visas and released. Ali was not. He has lost his own family, and his foster family. Now he finds himself having to bond with a third family. He is philosophical though, and tells others this placement is temporary too.

Ali is eight years old. He knows the Taliban have now gone. He does not know what happened to his family.

Another example from this same document produced by Just and Fair Asylum is the story of Aesha:

Aesha is now 15 years old. Perhaps she was too young to fully grasp why she had to leave her home, her friends, grandparents—people who loved her when she was 12 years old. She came to Australia and immediately went to Woomera Detention Centre.

She was 12 and locked in solitary confinement during raids by guards in riot gear—batons, shields, gauntlets, boots and black helmets with shields to cover their faces. After that, when she was allowed out of her cell for breaks she was too afraid to go to the toilet.

Now she is incontinent day and night. She is deeply humiliated, and still very afraid.
That is not the only case of teenage girls, in particular, that I have heard of who, because of the shock of their incarceration, become incontinent. Surely, in a civilised country like this we should not be doing this to children and adolescents.

As I said earlier, we need to speed up processing time, but not by making the process unfair. We cannot afford mistakes in this area, because the costs are too great. I am worried that this government is not only not interested in natural justice for asylum seekers but not interested in basic fairness and not interested in the conditions in detention centres. I am also worried that people who speak up in detention centres about the conditions within them are punished or singled out in other ways.

I believe that Dr Aamer Sultan, who was awarded a Human Rights and Equal Opportunity Commission award, is still incarcerated. I met Dr Sultan when I presented him with his Human Rights and Equal Opportunity Commission award at Villawood Detention Centre. It amazes me that someone who obviously has so much to contribute to his community and to the Australian community should be treated like a criminal and kept behind bars. I felt inexpressible sadness at having to walk out of the detention centre and leave behind someone who has committed no crime. He sought asylum, as he is entitled to do under international law, and we have kept him in jail for doing that—for four years.

The ALP are interested in supporting genuine measures aimed at reducing processing times for asylum seekers in Australia, but inevitably we are sceptical about this government’s intention in this area. Speeding up processing times must not be at the expense of procedural fairness for asylum seekers, because the cost of making mistakes is too great.

Mr ANDREN (Calare) (6.06 p.m.)—I want to speak briefly to indicate my concern about measures that, according to my advice, will exclude common law principles of natural justice from the making of immigration decisions in this country through the exclusion of the general rules of procedural fairness as grounds upon which judicial review may be carried out. As far as I can see, the Migration Legislation Amendment (Procedural Fairness) Bill 2002 is an example of the executive freeing itself from the checks and balances that are basic to the workings of democratic society. This is supposed to be a country that prides itself on the fair go and its egalitarian society. This has been strikingly absent from some legislation that has been before this House in recent weeks.

One of the simplest principles of government and our democratic system is that, like all citizens, the executive government is subject to the law. It is the function of the judiciary to make sure that the executive does not act beyond its power. In its provisions, this bill is attempting to clarify the procedure under which immigration decisions are made in an effort to ensure that procedural fairness, or natural justice, is encapsulated within the decision making process. This means that an applicant will not be able to argue that his or her case did not receive a fair hearing, because the procedure does not allow it. Visa applicants who have not been given a fair hearing will have no grounds for appeal to the superior Australian courts for a judicial review of immigration decisions by the Department of Immigration and Multicultural and Indigenous Affairs, the Migration Review Tribunal, the Refugee Review Tribunal or the minister.

My understanding is that this bill is meant to complement section 474 of the Migration Legislation Amendment (Judicial Review) Act 2001, which determined that an administrative decision relating to immigration cases: (1), is final and conclusive; (2), must not be challenged, appealed against, reviewed, quashed or questioned in any court; and, (3), is not subject to prohibition, mandamus, injunction, declaration or certiorari in any court or on any account. The validity of this section in its exclusion of the common law rules of natural justice—and, indeed, its constitutionality—will inevitably be determined in the courts. The judicial review bill was one of a number of migration related bills that came before the House late last year in the post-Tampa, post-September 11 and pre-election climate. This knee-jerk excision of access to courts for decisions made
by the government or its department should be judged in this political climate.

That the government would now introduce this procedural fairness bill raises the question: is it purely political to keep the polls rolling on asylum seekers or does the government feel that its section 474—the privative clause—will fall over when put to the judicial and constitutional test? Certainly the precedent suggests that this may happen. In effect, these bills are designed to expand the jurisdiction of decision makers under the Migration Act. How then will the privative clause and the provisions that exclude procedural fairness influence the development of administrative law and judicial review? For example, will there now be a haphazard development in the law on other judicial review grounds, such as bias and jurisdictional error? Experience suggests that there is a real risk of such haphazard development where laws such as this are made and overturned in the courts.

The High Court’s jurisdiction over decisions made by the Commonwealth is constitutionally entrenched, and this court is already overburdened by the cases that have been denied review in the Federal Court by the privative clause, or the supposed natural justice, in the Migration Act. As pointed out in the Bills Digest, this bill will effectively reverse the High Court’s decision in the case referred to as the Miah case, where the court found that the procedures mandated in the Migration Act for departmental decision making neither constituted a code of procedure nor excluded procedural fairness. Therefore, the court had the power to overturn the department’s decision. This decision had overturned the ALP’s 1992 attempt to achieve an exhaustive codification of the same procedures to exclude judicial review. The officer in question was deemed to have not given Mr Miah the opportunity to comment on reports in regard to the situation in his own country and thus was not given a fair and adequate hearing of his case. As I understand it, the bill now before the House does not in any way add to the procedures mandated in the act or put in place measures which tighten their application, save than to add new sections that determine the procedures:

... are taken to be an exhaustive statement of the requirements of the natural justice hearing rule in relation to the matters they deal with.

So, rather than prevent the ‘bad decisions’ happening, this bill just removes a further avenue of recourse in having such decisions reviewed. These issues were examined by the Senate Legal and Constitutional Legislation Committee’s consideration of the bill. Broadly, the issues looked at were: whether the codes of procedure adequately replaced the common law natural justice hearing rule; whether the exclusion of judicial supervision will make decision makers unaccountable and lead to poor administration; whether the exclusion of judicial supervision is contrary to Australia’s international obligations and the constitutional separation of powers; and whether the bill is necessary, in light of section 474 of the Migration Act. The committee’s report recommended that the bill be passed but contained dissenting reports from ALP and Democrats senators that it be opposed.

I have found little to convince me in this bill and in advice on it that it should be passed, especially in regard to the exclusion of the judiciary being contrary to the constitutional separation of powers. In this attempt to encapsulate natural justice in the procedures set out in the Migration Act to remove procedural fairness as grounds for judicial appeal, the executive becomes the regulator of its own decisions, as far as I can see. There is little doubt that the procedures should be tightened to improve the efficiency and speed of processing of migration claims, but efficiency does not come through removing the review process. This only serves to open the system to further bad decisions and instil a rigidity in the process which will not be able to be applicable to the situation of every applicant. Even with clearly set out procedures, the human element in the process means that mistakes can and will be made.

Section 75(v) of the Constitution gives the High Court the jurisdiction to hear any case brought against officers of the Commonwealth, so it is conceivable that this legisla-
tion will fail, as will perhaps the privative clause—section 474 of last year’s judicial review amendment to the act. In that case, this legislation is simply a waste of time. I cannot support any bill that removes the common law principle of natural justice from a process of executive decision making for one particular area of the law. Efficiency of process is no reason to undermine the separation of powers, a cornerstone of our constitutional democracy. The delays and inefficiency in the immigration processes that are consistently brought up in defence of this bill and related legislation are most often the result of bad decision making and not the meddling of the courts, as some people might have us believe.

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.14 p.m.)—I will try not to take long, but I am always provoked in these discussions to remind people of the situation that we are dealing with. In the light of the comments of the member for Calare, the member for Fremantle, certainly, and the member for Sydney, in particular—and perhaps even the comments of the members for Lowe and Greenway, which I heard—I think it is important to focus on the numbers of checks and balances that are in our system and the divergent outcomes that emerge in relation to assessing claims for similar cohorts.

What you find in Australia is that people are far more likely to get asylum claims accepted than they are if they are considered in other places by bodies whose reputations are not normally brought into question. When decisions are made by the UNHCR that suggest that large numbers of Iranians and, now, Afghans who have sought to come to Australia to lodge asylum claims are not refugees, but when, considered under our system, a significant proportion of those are found to be refugees, you have to ask yourself why it happens.

The fact is that a system that provides enormous opportunities for people to use the opportunity not only to lodge applications but also to exploit formality can create an enormous amount of delay—delay which is then used to argue that people ought to have different outcomes to which they might not have otherwise been entitled. A whole range of matters have been put to me for exercise of discretion. Where people have been before courts for long periods of time, where they have remained in Australia for long periods of time and when the system has been used effectively to ensure that they have remained here for four, five or six years at times, the argument used is that they have been here sufficiently long, the kids are in school and there are a whole lot of human factors that ought to be now taken into account which would allow them to remain.

So the decisions were taken a long time ago to enact legislation in the migration area—because it is one of the few areas in which if you lodge continual appeals you obtain extra time—to enable decision making to be fair, to provide opportunities for appeal, to get rid of formality, to make sure that it occurs expeditiously and to provide just outcomes. Just outcomes are not obtained if you merely apply the framework of law that has been developed for the common law system over a long period of time. There are many areas in which, to achieve just outcomes, we have determined to adopt different models—models which are used successfully and provide justice in other parts of the world. What is so magic about the common law system to which the members of the profession that I am part of are attached that means that, say, the civil system is one that does not provide a just outcome? But, even if those arguments had some validity, the point is that we have now built into the system opportunities for people who believe that the tribunals and courts have failed them to be able to go to a minister and put claims.

It is very interesting, when you have those claims put before you, to focus on how people see them. I always look to see whether there is an argument about, essentially, a justice issue when matters are put before me. I have had people putting claims before me and seeking intervention to allow further applications to be made where people have not, for one reason or another, had the opportunity to have their day in court. They did not get their application in on time, and they
said that someone else was to blame for it. The argument was put that, because they did not get the chance to access the courts and have their day in court, I should automatically intervene and allow a fresh application, with all of the consequences of that. I simply said to my officials, 'Before I am prepared to consider this, ask the people involved whether they have a proper argument in this case that, when the matter gets to the court, they are going to advance as to why this person ought to be able to stay in Australia on the basis that they are a refugee. What is the issue of substance—the justice issue—that I am having to deal with? It is not that they did not get their day in court, but that they had a substantial issue that if they did have their day in court they would have been able to argue. Invariably, members of the legal profession do not seem to be able to get their minds around that sort of question. It is because they are so used to using formality to argue the case, because that very often enables them to satisfy the client's aspirations simply to remain here, particularly if they are already in the community.

I will not seek to reflect too much on the nature of the divergent speeches we have had during the course of the debate. They have been divergent. They reflect a variety of views, which I am sure members of the opposition would acknowledge seem to exist on these questions in their party at the moment. They reflect that variety of views, and anybody who listens to or reads the debate will see it. But I do want to focus on some comments made by the shadow minister, in the first instance, in relation to what I think was an offer to me. It was an offer to look at how we might be able to deal with some of these issues in relation to obtaining fair and just outcomes, but obtaining them quickly. At the moment an argument is being run that, when people are detained to have their claims dealt with and are being held so that they are available, if you cannot deal with them quickly then they are being treated unfairly. There ought to be finality and resolution. I say that, when you have got essentially five avenues of appeal that you can pursue, that argument can be used. The matter has to be dealt with.

I have not heard from the opposition but I will continue to listen very closely to any suggestions, other than the one that came from the member for Sydney that is always trotted out, which is that we introduce another avenue for further litigation—the institution of leave proceedings before people are able to access the courts. All the advice that has been made available to me is that, if you use the system of obtaining leave before you are able to get before a court, people will litigate and appeal the leave decision if that will get them a longer period in Australia. I have been advised that leave provisions would not be helpful in this area. But I would certainly like to think positively. Let me assure the shadow minister that I am more than happy for my officers to sit down with her and go through all of the ideas that we are thinking about to try and deal with these issues and to give her an opportunity to also perhaps try out some of her ideas on us. We would be more than happy for that to occur, and I say that in good faith. I have never taken the view that I can develop all of the ideas and work out all of the ways of dealing with these things. It is nothing churlish—I will pick up other people's useful ideas if they are there and if they will improve the system.

The important point—and the honourable member for Calare recognised this—is that this bill is about putting in place the intention of the Labor Party in 1992. This bill is to establish the original intention of the parliament by reasserting the primacy of codes of procedure within the Migration Act. That code, which we expected decision makers to comply with, was to ensure that they were able to deal with visa applications fairly, efficiently and with certainty. I have to say that that was the parliament's intention then. Our view is that it should still be the way in which these issues are dealt with. This government remains committed to providing applicants with procedural fairness and to delivering efficient and certain decision making processes. However, as has been mentioned over the course of the debate, the majority of the High Court in the Miah case emphasised that parliament's intention to exclude the common law natural justice principles must be unmistakably clear in
legislation. I must say that I looked at the second reading speeches and the explanatory memoranda and I thought that intention was clear. But in order to put the matter beyond doubt, to give the Federal Court and the judiciary some guidance and to remove any uncertainty, we are of the view that we should legislate in this area.

The fact is that whether the Federal Court judiciary, or the High Court for that matter, considers that the privative clause does or does not exclude natural justice from the Migration Act, this bill simply puts that matter beyond doubt. This bill makes it abundantly clear that the parliament wants this objective to be implemented, whether the privative clause has been effective in achieving that outcome or not. It is for more abundant caution. Decision making processes must continue in the absence of a definitive ruling by the courts on the effectiveness of the privative clause. This bill provides the certainty that decision makers require in order to confidently discharge their duties without having to decipher what the common law natural justice or procedural fairness rules may require in each particular case. Labor’s recommendation not to pass the bill at this time would have serious implications for decision makers. It would unnecessarily continue uncertainty which is currently being experienced by decision makers because of these decisions.

This is not a matter where the government are pushing to try and make a point in relation to divisions in the Labor Party. This is not a matter that has been dealt with urgently in the sense that we are dealing with it out of the ordinary way. This matter has been dealt with by way of a bill introduced in the last parliament. It lapsed, of course, because of the election. It was reintroduced immediately after the government were re-elected. We gave an opportunity for parliamentary committees to be able to deliberate on the matter. It is now at the point where the parliament has the benefit of the advice that has been offered by the parliamentary committees that are dealing with this legislation. It is not being pressed for some sinister political objective; it is being pressed because we believe it is an important measure to restore certainty to the system.

Labor seems to have based its decision, in the proposed second reading amendment that suggests that we should delay the implementation of the measure, on a flawed proposition that the High Court will be determining the issue in the short term in the matter of Sayed v. the Commonwealth. It would be presumptive of me to in some way suggest that the High Court would deal with it in a particular way or in a particular time frame. I do not think it would be appropriate for me to do that. But it has been of interest to me that the Labor Party seems to have more advice about what is happening in relation to this particular litigation than even my advisers have had. I only learned today that, while the applicant in this case is seeking a declaration from the High Court that the privative clause is unconstitutional, the matter has been set down before a single judge and a date has now been set for dealing with the issue for, I think, 3 September. The matter of Sayed has been mentioned in the course of the debate. The only point I would make is that, in one way or another, even if the Federal Court makes a decision, it is very likely to be appealed.

Ms Gillard—We don’t know that it will be appealed.

Mr Ruddock—I simply make the point that, with five judges, I would be very surprised—even if you had a decision that was five to nil—if the sorts of people who take an interest in litigation in this area would let the matter go without having their day in the High Court.

Ms Gillard—Want to bet?

Mr Ruddock—I do not take bets in these matters. What I do say is that the terms of the bill itself make it very clear that we had regard to the privative clause legislation and that we wanted this issue dealt with so that it was beyond doubt. I think that it is certainly not appropriate to postpone implementation because of litigation that may or may not deal with the issue fully. As I say, the bill explicitly sets out parliament’s intention by expressly providing that the codes of the procedure in the act are an exhaustive
statement of the natural justice hearing rule, and in this way it affirms the strong commitment to promoting fairness and efficiency in decision making. I hope that in the Senate the Labor Party will see the good sense in allowing the matter to be enacted and that the guidance that I think is necessary is provided as quickly as possible.

The DEPUTY SPEAKER (Mr Wilkie)—The original question was that this bill be now read a second time. To this the honourable member for Lalor has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Question agreed to.
Original question agreed to.
Bill read a second time.

Third Reading

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (6.32 p.m.)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

PERSONAL EXPLANATIONS

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.32 p.m.)—Mr Deputy Speaker, I wish to make a personal explanation.

The DEPUTY SPEAKER (Mr Wilkie)—Does the honourable member claim to have been misrepresented?

Mr ABBOTT—Yes, I do.

The DEPUTY SPEAKER—Please proceed.

Mr ABBOTT—In question time today the member for Prospect attributed a statement to me about Malcolm Turnbull and very kindly agreed to furnish the document on which her statement was based. I am grateful to the member for Prospect for providing me with that statement. It is a report from the Sydney Morning Herald on 13 September 1997, which says, ‘A draft strategy prepared for Australians for Constitutional Monarchy’, obtained by the Sydney Morning Herald. It quotes from this draft strategy and refers to Mr Turnbull. The report says, ‘The document, understood to have been prepared by a staff member in the office of New South Wales Liberal backbencher and staunch monarchist Mr Tony Abbott ...’ Let me repeat for the benefit of the House that I never made this statement and I never authorised anyone to make this statement.

Mrs Crosio—Is that the David Oldfield excuse? It was someone in your office! Don’t you control your staff?

Mr ABBOTT—No staff member that I had authority for ever made this statement. I think we can take it, if this is the evidence that the member for Prospect has, that the statement was never made by me. So the statement that the member for Prospect made was made in error.

Mr Hockey—Apologise!

Mr ABBOTT—I appreciate that the member for Prospect is a decent person, and I am not demanding an apology, but I do think that at least some acknowledgment of error would be appropriate.

The DEPUTY SPEAKER—Order! Minister, you are now advancing an argument. Please resume your seat.

Mr Swan—Mr Deputy Speaker, on a point of order: while the minister is debating the matter, I would like to know what steps he has taken to reprimand the staff member responsible.

Mr Hockey—She lied to the House and she should apologise.
The DEPUTY SPEAKER—Order!

Mrs Crosio—I find that offensive. I suggest the minister check the *Hansard* and I will provide him with the proof.

Mr Hockey—Where is the proof, Janice?

The DEPUTY SPEAKER—Order! I require the minister to withdraw that statement that the member for Prospect has lied.

Mr Hockey—I withdraw. She grievously misled the House.

The DEPUTY SPEAKER—The minister will withdraw unreservedly.

Mr Hockey—I withdraw.

**RESEARCH AGENCIES LEGISLATION AMENDMENT BILL 2002**

Second Reading

Debate resumed from 21 March, on motion by Mr McGauran:

That this bill be now read a second time.

The DEPUTY SPEAKER (Mr Wilkie)—I call the member for Jagajaga.

Mr Hockey—Tell the truth! That is outrageous.

Mrs Crosio—You are another David Oldfield. You work for Pauline Hanson, you get paid by—

The DEPUTY SPEAKER—Order! The member for Jagajaga has the call and will be heard in silence.

Mrs Crosio—So we are not responsible for our staff anymore!

Mr Hockey—The Labor Party cannot even control its members, let alone its staff.

Mrs Crosio—You have had five years to make up for it.

The DEPUTY SPEAKER—Order! The interjections being conducted across the chamber will cease.

Mr Abbott—Mr Deputy Speaker, I rise on a point of order. The member for Prospect found something objectionable and the minister withdrew.

Ms Macklin—What point of order is this?

Mr Abbott—I find the comments that the member for Prospect has just made offensive under standing order 75, and I think she should withdraw.

Mr Swan—Mr Deputy Speaker, on the point of order, you gave the call to the member for Jagajaga.

The DEPUTY SPEAKER—Any member has the right to raise a point of order at any time. In this case, I do not believe that the point of order is valid. I call the member for Jagajaga.

Mr Abbott—Further to the point of order, Mr Deputy Speaker: on the basis of no substantial evidence, the member for Prospect has made what I regard as an offensive statement and, under standing order 75, I require her to withdraw it.

Mr Swan—Mr Deputy Speaker, on the point of order: there was no point of order raised by the Leader of the House. He was seeking to debate the matter that he raised earlier. There was no point of order at all.

Mr Price—Mr Deputy Speaker, I rise on a point of order. If a member is making a personal explanation about a newspaper report, there is an obligation that they make it as soon as possible for that personal explanation to be valid. One would have presumed that, if the minister found that he had been misrepresented by a newspaper article in 1997, he would have been obliged to have made a personal explanation sometime in 1997. If he was then drawing the attention of you and the House to an earlier retraction, I think we could have some sympathy and entertain the personal explanation, but I find it quite outside the standing orders.

The DEPUTY SPEAKER—I believe this matter has been dealt with.

Mr Andrews—Mr Deputy Speaker, on the point of order, standing order 75 provides:

No Member may use offensive words against either House of the Parliament or any Member thereof...

Standing order 78 provides:

When the attention of the Speaker is drawn to words used, he or she shall determine whether or not they are offensive or disorderly.
It is my understanding that the practice of the House has been that, when a member draws the Speaker’s attention to words which he or she regards as offensive, the Speaker asks for those words to be withdrawn.

**The DEPUTY SPEAKER**—Order! I will rule on the point of order.

**Mrs Crosio**—Further to the point of order, Mr Deputy Speaker: the minister comes into the House and so diligently quotes from standing order 78, and I will refer you again to standing order 78—

**The DEPUTY SPEAKER**—The member for Prospect does not have the call at this stage.

**Mrs Crosio**—I am seeking the call on a further point of order.

**The DEPUTY SPEAKER**—The member for Prospect.

**Mrs Crosio**—Thank you, Mr Deputy Speaker. Further to the point of order on standing order 78, read out by the minister at the table: if he or anybody in this House finds my words—that any employee, meaning a member of parliament, is not responsible for the actions and words of their office employees—offensive, then I suggest that all three ministers sitting over there had better look at the code of conduct of people employed in their offices. I personally believe, Mr Deputy Speaker, that you, as a member of parliament, are responsible for the statements made by people from your office. If you find that offensive, you have got a problem.

**The DEPUTY SPEAKER**—Order! Do you raise a further point of order, Minister?

**Mr Abbott**—I do, Mr Deputy Speaker. The point that I found offensive under standing order 75 was the statement that I knowingly employed someone to work for someone else. That is a very offensive statement, and that is what I require to be withdrawn. Let me just say: I do not recall ever seeing this newspaper article until it was drawn to my attention after the member for Prospect made it available to my office today and, on the basis of this article, she is not entitled to make the statement she did. She was grievously in error, and I think she should have the decency to acknowledge that.

**Ms MACKLIN (Jagajaga)** (6.41 p.m.)—Thank you, Mr Deputy Speaker. The Research Agencies Legislation Amendment Bill 2002 contains some sensible amendments that would remove unnecessary restrictions on the commercial operations of the Australian Nuclear Science and Technology Organisation and the Australian Institute of Marine Science, as well as some other minor changes. The Australian Nuclear Science and Technology Organisation was set up through Commonwealth legislation in 1987. This agency has responsibility for the operation of the nuclear reactor at Lucas Heights in New South Wales. It also has a broader role in nuclear science and in fulfilling Australia’s international obligations in this area. The Australian Institute of Marine Science was established by Commonwealth legislation in 1972. It opened in 1977 at Cape Ferguson near Townsville. The institute undertakes research as well as being involved in related commercial activities concerning the application of marine science to fisheries, marine ecology and the like.

The bill arises from advice from the Auditor-General about barriers to commercialisation being experienced by these agencies. The opposition will be supporting the provisions of this bill. However, there are two broad areas of concern that underlie this legislation. The first is the very difficult question of how to reach an appropriate balance between freeing up institutions so that they can reap the educational benefits of commercialisation while protecting the principles of corporate governance and financial due diligence. The experience of the higher education sector more generally in this area is far from settled.
Income from commercial activities in universities has to some extent replaced Commonwealth funds, at least by stealth. There is evidence of problems with accountability, financial and administrative probity and transparency of reporting. A potential problem in this area, for example, is the role of the Australian Nuclear Science and Technology Organisation in operating a technology park, including the leasing of some of its property at this park to high technology companies and public sector organisations. It also earns significant revenue from land management projects. The extent to which these projects contribute to or distract from the organisation’s core research activities is unclear.

These problems are potentially increased if, as has happened in some universities, the agencies decide to utilise company structures and shift away from public scrutiny. If the agencies either directly or indirectly enter into loans, this can expose them and public investment to financial risk, particularly if their experience in financial management is limited. I note that one of the amendments will increase from $100,000 to $1 million the value of any contract that the Australian Institute of Marine Science may enter into. This is a substantial increase that will need careful management. It certainly would be desirable for the government to have safeguards to make sure that these concerns are met.

In supporting the bill, the opposition do not in any way accept that this removes any of the government’s responsibility to provide adequate financial support either for the Australian Nuclear Science and Technology Organisation or for the Australian Institute of Marine Science. We certainly would not want these developments to weaken in any way these agencies’ core capacities or responsibilities for research and development. The opposition will certainly expect the government to take its responsibilities in this area seriously, and we will be monitoring its performance.

The second area of concern that I want to raise tonight relates to the government’s record in research and development more generally. On our side of the parliament, we understand the importance of education and research to Australia’s future prosperity and therefore to our social development and community life. Research and development is the key to the accumulation of knowledge that is essential for sustained economic growth in an economy like ours. An OECD report on knowledge based economies says:

Today’s rapid advances in science and technology mean that OECD economies are increasingly based on knowledge ... the ability to create, distribute and exploit knowledge and information ... is often regarded as the single most important factor underlying economic growth and improvements in the quality of life ...

‘Underlying economic growth and improvements in the quality of life’ is the key point. The document continues:

... the competitiveness of firms depends crucially on how well they make use of their intangible assets such as skills and creativity and gain access to new ones by cooperating with other firms and universities.

The government does not seem to share this understanding. The Backing Australia’s Ability program certainly does not make up for the damage that the Howard government has done to research and development since 1996. The Backing Australia’s Ability package was essentially a response to the crisis in confidence that the government’s policies, both in higher education and research, have created.

The initiatives in Backing Australia’s Ability are nothing short of half-hearted. They restore only a fraction of the $3 billion cut from Australia’s university operating grants and the $2 billion cut in research and development programs that have occurred since 1996. Research and development investment in Australia in 1999-2000 fell to 1.3 per cent of our gross domestic product, nearly $2 billion less than in 1996-97. What an outrageous achievement on the part of this government! This means that Australia’s research and development effort is almost $4 billion behind the OECD average.

According to the Group of Eight universities’ research, the Howard government’s promises will not enable Australia’s investment in R&D to reach the averages of the other developed countries. We are not any-
where near being able to get to the average of the OECD. Look at this year’s budget: this year’s education, science and training budget contained a paltry $12 million in new measures for the entire portfolio, an investment of only 0.1 per cent. When you consider that the overall education, training and science budget is $12 billion, no wonder you would call it a half-hearted approach.

It is certainly true that it is consistent with the government’s underlying strategy. We saw that underlying strategy come out in the Intergenerational Report, which was released as part of the budget papers. That report predicted, in a very miserable approach to the future, that productivity growth will decline—an extraordinary outlook on the future of our country to predict that productivity growth will decline—and that investment in education will decline. These are the things that are essential if we are to look forward to future economic and employment growth.

On our side of the parliament, we do not accept that that is the only way to take this country forward, and we will have a very different outlook on these critical issues of investment in education and research and development. We also know that much of the Backing Australia’s Ability funding is back-loaded. More than half of the funds promised are for 2004-05 and beyond. We certainly know on our side of the parliament that you cannot rely on the government’s promises. We have seen one of those promises just recently overturned—the Prime Minister’s assurance to never introduce deregulated university fees. That one has been thrown out, so any assurance on looking forward to making sure that the Backing Australia’s Ability money will flow through past 2004-05 is unknown.

Australians are looking for a clear sign that the government has a vision for the future where economic prosperity is built on a solid platform of investment in education, research and development. It says a lot about the government’s thinking that industry still remains pretty lukewarm about Backing Australia’s Ability and the programs that are part of that. Australian business expenditure on research and development as a proportion of the total OECD average fell from over 60 per cent in 1995 to around 40 per cent in the year 2000.

We know that Backing Australia’s Ability will not stem the brain drain. The issue of rewards and incentives for research staff has certainly not been addressed. We also know that one of the legacies that the Howard government has left us is the loss of 1,100 staff from the Commonwealth Scientific and Industrial Research Organisation—the CSIRO.

Another serious issue in this regard is the current review into higher education by the Minister for Education, Science and Training. The terms of reference and his related discussion papers do not, from our point of view, adequately address the important issues affecting research in Australia’s universities. In particular, from the report that the minister released just last Friday night, at 7.30 p.m. in the Blue Mountains—an extraordinary time if you want to engage in a public debate on a serious issue—the minister does not appear to understand the critical relationship between teaching, scholarship and research.

The minister, in his first report as part of his review of universities, flagged the possible development of one or two of what have been called ‘elite universities’—institutions that would be internationally competitive. What he does not seem to realise is that we already have a number of universities that are, in many of their disciplines, internationally competitive. Certainly the university here, the Australian National University, is internationally competitive in many areas. But you can go right up to the top of the country, to James Cook University, which is internationally competitive when it comes to marine science, or right down to the other end of the country, to the University of Tasmania, which is also internationally competitive, certainly in many areas to do with the Antarctic and issues that are critical to its location.

The minister, in the most recent report that he has released, asked questions about the separation of teaching and research in our universities. What I would say is that the minister’s questions on this issue are extremely simplistic. It is as if he is reinventing the wheel by asking whether institutions
should be diverse or should—and I quote from the latest discussion paper—‘strive for a balance between their teaching and research functions’. He goes on to say that research should necessarily occur in the same institution in which that research area is taught. What is very troubling is the kind of thinking that reaches for a structural solution and underlies these questions. The structural solution that I assume he is reaching for is the notion of differentiating teaching from research universities. He is suggesting this major structural solution to what is a system-wide problem in our universities—a system-wide problem driven by serious cuts delivered as a result of the Howard government’s attitude to higher education. The report goes on to actually blame the people in our universities for failing to deliver high quality teaching and research. The people who talk to me—the staff and students in our universities—are pretty tired of being blamed for the malaise in those institutions which, from their point of view and ours, is caused by the government’s neglect.

Teaching and scholarship are two sides of the same coin. In universities, as in other learning environments, they reinforce each other to make sure we have effective and innovative approaches to learning. Policy in this area has to do a lot more than achieve a balance between teaching and research. A more fundamental task is to make sure that we are able to integrate teaching, scholarship and research, both within the institutions and right across the higher education sector as a whole, and to do that in ways that reach out to the global research community. Each of the universities that I have mentioned tonight is certainly doing exactly that. We need to find ways that have teaching and research working closely together in a constructive and coherent way—not a system in which academic staff have few opportunities to contribute actively to both the creation and the dissemination of knowledge.

The creation of the conditions for division—in this case, between higher education institutions or between different parts of Australia—is certainly the outcome of what the minister has put forward. The suggestion that we have two elite universities would create serious divisions between those two elite universities, which one might assume would be in the major metropolitan areas. We would have a significant divide between those institutions and the rest, and certainly between the cities and the regions. We do not want to see that sort of division emerge in our higher education sector. We are very concerned that this is the context in which this current bill is placed.

While supporting the particular changes to the bill, there are very serious fundamental issues in research that urgently need addressing, both in the higher education sector and more broadly. This certainly applies in industry as well. We look forward to the government bringing forward a serious response to these issues if we are not to go down the path that is reflected in the Intergenerational Report, which would see our country go backwards. We would rather have a research and development effort, an education effort, that increases the capacity of our great country to create wealth so that it can lead to an increased standard of living and an improved quality of life for all our citizens. That can only come about if we do, in fact, have a proud reputation in research and scholarship—a reputation that we know is urgently needed. I gather, from the way in which the Minister for Education, Science and Training was talking, it will not come about as a result of increased investment by the government. So we will continue to put the argument forward and, of course, hope to get the opportunity to improve this critical area of investment sometime in the future in government.

Mr HAASE (Kalgoorlie) (6.59 p.m.)—I rise this evening to support the Research Agencies Legislation Amendment Bill 2002. This bill amends two acts, the Australian Institute of Marine Science Act 1972—the act that established AIMS—and the Australian Nuclear Science and Technology Organisation Act 1987—the act that established ANSTO. AIMS, an authority on tropical marine science, was established in recognition of the growing importance of the marine sector to Australia. ANSTO was established to provide a broad range of technical expertise needed to support Australia’s interests in
nuclear science and technology. Both AIMS and ANSTO have recently developed technologies in their areas of research specialisation that have significant applications outside of those areas. These technologies have been attracting Australian and international interest, but the AIMS and ANSTO legislation restricts each agency to pursuing commercialisation of research and technologies only in areas directly relevant to their respective charters. Passage of this bill will provide substantially increased scope for the commercial activities of AIMS and ANSTO so that they will be able to develop technologies outside, as well as within, the areas of marine science and technology and nuclear science and technology respectively.

This evening I heard the member for Jagajaga speak. For a moment I thought that the member for Jagajaga—a member of the Labor Party—had been washed over by some new sense of cooperation and rationale, because she stated quite clearly that she was supporting this bill. However, it was a short-lived condition, because she then went on to berate the government for their shortcomings in the funding of various agencies. I would like to remind this House that when we took over government in 1996 we inherited Labor’s debt of $96 billion. It is carping and selective criticism indeed for the member for Jagajaga to suggest that in some way with a debt of $96 billion and record high interest rates—and I personally recall bridging finance of 24 per cent—those sorts of interest rate conditions would be in any way conducive to organisations, be they private, corporate or government, borrowing money and investing in almost anything. What you need, of course, is low interest rates, and the low interest rates that we have now created by paying back some $60 billion of Labor’s $96 billion debt are saving us now something in the order of $5 billion per annum in interest. That saving can be spent on many organisations all to the betterment of this country by creating an economic environment where business is prepared to borrow to invest to allow this nation to go forward.

I for one strongly recognise that people are our great investment in this country. The opportunities that are created by this bill in allowing AIMS and ANSTO to act outside their existing restrictions will allow the people of this country to once again become our most valuable and vital resource. From these people come the ideas and research necessary for our country to develop, to compete and to succeed in an international arena. The government are strong supporters of the potential and evident innovations seen in this country and have backed this support with initiatives such as Backing Australia’s Ability. We acknowledge the value of research to our further development and we are actively nurturing and encouraging the best use of our mines, resources and research for the advancement of our national interests. This is a matter of national importance. The alternative to encouraging research is to stagnate. If you attempt to stand still, you go backwards.

The bill before us today will enable the Australian Institute of Marine Science and the Australian Nuclear Science and Technology Organisation to gain the best possible commercial benefits from technologies they have developed and will develop in the future. This ability is necessary so that these agencies can be brought in line with the highly successful CSIRO to allow industry and the nation to benefit from these technological advances. AIMS is well known already in the north-west of my electorate, having had a laboratory at Dampier for five years. AIMS has just recently completed a three-week expedition in the Exmouth Gulf in the vicinity of Ningaloo Reef. It is one of the many examples of research agencies working hand in hand with industry to provide research information that benefits both industry and the environment alike. Using its research vessel, the RV Cape Ferguson, the expedition, which is supported by Woodside Petroleum, was aimed at building on the knowledge of the natural forces driving the region’s fisheries and biodiversity.

The first stage of the trip, which started on 2 April, focused on the food chain and the tidal fronts underpinning the prawn fishery and marine productivity of the Exmouth Gulf. The second stage involved tracking whale sharks congregating at Ningaloo Reef. This will have an added spin-off inasmuch as it is a great source of attraction for interna-
tional tourists from all over the world who congregate in the Exmouth area each year to view the migration of whales, the whale sharks and, of course, the turtles and dolphins in that area. The information that is being compiled by the CSIRO will allow tour operators to more successfully predict when those pods of whales and whale sharks will be visible for tourists in the area. The latter part of the expedition is in collaboration with the CSIRO and the Department of Conservation and Land Management scientists.

Research has a major role to play in the mineral and resource rich lands and ocean that make up the Kalgoorlie electorate. The Minister for Science has already referred to ANSTO’s work in the area of environmental technologies relevant to the mining industry. The project he referred to, the Sulfide Solutions Research Project, is working to address an issue recognised by the mining industry as being of critical environmental importance. Known as ‘acid mine drainage’, it is an issue which the mining industry worldwide is prepared to spend millions of dollars to address. Contrary to popular public belief in metropolitan areas, the mining industry is a very environmentally conscious industry. They know that those resources are there to be developed and mined for the good of communities, for the wealth of those communities and the people in them, and, unless solutions are found to some of the problems encountered in the mining industry, our environment will be spoiled. The environment is appreciated by miners and by other citizens alike.

ANSTO has the largest research team in the world working in this area and has established an enviable reputation for its in-depth knowledge of the issues facing the mining industry. It also has the cooperation of leading mining companies, many of which are based in Western Australia. I welcome this research and these changes to legislation which will enable ANSTO to commercialise these exciting technologies because, with the work that ANSTO is doing in this particular field in the mining industry, more jobs will be created. There will be a more viable mining industry solving environmental problems, and those jobs will create larger communities and better prosperity.

The CSIRO is already leading by example: Australian scientists with the CSIRO have developed what is believed to be the world’s first automatic system for mapping the minerals in drill core samples. This research development has the potential to save the mining industry millions of dollars. The new system applies satellite based mineral mapping know-how to significantly increase the geological knowledge gained from drill cores, chips and powders. The technology has been successfully tested at the Sunrise goldmine in Western Australia and is to be trialed at Mount Isa and sites in South Australia in the future. These types of projects show the importance of both the government and the Australian public supporting research agencies such as AIMS, ANSTO and the CSIRO.

One project I am particularly aware of and strongly support has the potential to generate millions of dollars and to put a relatively unknown area on the international scientific map. Known as SKA, or the Square Kilometre Array, this is being promoted by an international collaboration which includes the CSIRO subsidiary and the Australian Telescope National Facility as well as representation from Canada, Europe, China, India and the USA. This project has an estimated cost of $1 billion and aims to develop an international radio telescope with a sensitivity 100 times greater than any existing radio telescope. The telescope will have a total collecting area of one square kilometre, with an operation in the frequency range of between 100 megahertz and 20 gigahertz. The SKA will be the world’s premier instrument for astronomical imaging and its uses will include a probe back in time to investigate the origins of the universe and the formation of galaxies.

While to many members of the public the SKA project is little more than sci-fi fantasy, the reality is that it could be happening right on our doorstep. We are not talking about the middle of Sydney or Melbourne but, potentially, a little-known area of outback Australia. The site for the SKA is still being investigated and is yet undetermined, but a remote
The area of the Gascoyne in Western Australia is being considered and promoted as the desirable potential site. There are actually three potential sites being studied in Western Australia: one is in the northern Murchison area, encompassing Mileura and Nookawarra stations; another site further south takes in Meka and Murgoo stations; and a third side is east of Kalgoorlie, close to Eucla.

You may wonder why these remote, isolated stations are viewed as suitable for a $1 billion scientific project. It proves there are still some advantages to being remote and sparsely populated. One of the major criteria for the site is for it to be 'radio quiet'—simply put, this means a site which is exposed to low levels of radio frequency interference. Testing at Mileura Station in April 2001 found it was within radio quietness limitations, and this data is being used to build a case for the siting of the SKA in Western Australia. Two further rounds of radio quietness testing are planned for 2002-03.

I know a tremendous amount of work on this project has been carried out at the Western Australian level by both Dr Joseph Patrone and the Mid West Development Commission. The 2003 SKA International Workshop will be held in Geraldton at the end of July, following the International Astronomers Union general assembly in Sydney. About 100 members from the IAU and the international radio astronomy community are expected to attend, with the workshop providing an important opportunity to demonstrate the competitiveness and suitability of the Mileura site for the SKA. For Western Australia, or indeed Australia, to win the bid as the SKA site would be a major coup with tremendous scientific and economic benefits. The annual expenditure on this project will be in the vicinity of $90 million, all much-needed funds that will go into Western Australia and, more importantly, into parts of the local community.

In 1990, the CSIRO committed $1.5 million to a SKA research and development seed project. This was followed in August last year by the Commonwealth government announcing the success of a major national research facility bid submitted by Australian astronomers. This means that, over the next five years, about $20 million will be spent on SKA research and development. Site selection is due to be finalised during 2006, with construction of the SKA facility not expected to begin until at least 2010.

This is outlining good works already being done by the CSIRO. The CSIRO is already able through legislation to carry out many activities and to enter into many contracts that at this stage ANSTO and AIMS are not allowed to do, because of the limitations of legislation. Passing this bill will allow new freedoms for those two agencies, which will give them the opportunity to maximise the profitability of their endeavours. Maximising their profits will maximise opportunities for Australians—for Australian families—to gain from the wealth created by the commercialisation of successful research projects. Those successful research projects quite obviously from time to time will be of international significance, that research data will have vital importance for overseas situations, and Australia will continue to be at the forefront of solving industrial and social problems. My support for this project and for scientific research in Australia is immensely strong. Research is both necessary and desirable, and I am pleased to support this bill and commend it to the House.
courage greater cooperation between industry and research institutions. Without this, the government may not achieve its goal of adding $6 billion in additional private sector spending on research and development during the five years of the innovation plan. The amendments proposed by this bill address the issues of commercialising the research carried out by the Institute of Marine Science and the Australian Nuclear Science and Technology Organisation.

As part of the government’s work on this matter, the CSIRO, Institute of Marine Science and ANSTO acts were examined to ensure that they do not inhibit the commercialisation of research developed by these agencies. The Australian Government Solicitor found that both the Institute of Marine Science and the ANSTO legislation were most restrictive in this context, imposing commercialisation restrictions. Hence this bill, which proposes to facilitate commercialisation by removing such restrictions.

I turn to the program established by the Institute of Marine Science to support the conservation and management of the north and west marine zones of Australia, areas that have high conservation value and are rich in oil, gas, fisheries and minerals. Currently, Institute of Marine Science research is based on five projects that focus on: first, predicting climate impacts on marine ecosystems; second, exploring and conserving marine biodiversity; third, sustaining marine living resources; fourth, measuring human impacts in coastal marine ecosystems; and, finally, deriving benefits from marine biotechnology.

While I am on the topic of conserving marine biodiversity I should congratulate the Victorian environment minister, Cheryl Garbutt, on the recent passage of legislation through the Victorian parliament that will finally allow the establishment of 13 marine national parks and 11 sanctuaries covering about five per cent of Victoria’s coastline. That legislation was withdrawn 12 months ago after initially being opposed by the Liberal opposition. The Victorian government is to be praised for continuing the proud Labor tradition of protecting the environment. It was an historic moment that ensures that a significant portion of Victoria’s marine ecosystems are protected for the enjoyment of future generations. Victoria’s marine areas are often underappreciated, and the marine national parks will help redress that. That decision is further evidence that Labor governments deliver on the environment.

I want to turn to some of the work of the Institute of Marine Science, in particular their role in what I consider to be the world’s most comprehensive survey of coral bleaching, a survey which was recently carried out on the Great Barrier Reef and which has found that bleaching in the Great Barrier Reef Marine Park may be the worst on record. This survey was carried out by scientists from the Institute of Marine Science but there was involvement from CRC Reef and the Great Barrier Reef Marine Park Authority. The research covered more than 640 reefs from the northern tip to the southern end of the Great Barrier Reef Marine Park. It used light aircraft. The team also used scuba divers to confirm results and to determine whether corals were likely to recover from bleaching or would die. Dr Ray Berkelmans from CRC Reef, who led the aerial survey team, said:

Our aerial surveys found that nearly 60% of the reef area in marine park was heat-stressed to some extent as indicated by bleaching. Until now, the coral bleaching episode in 1998 was the worst on record, but the 2002 event—that is, this year’s event—was probably worse because more reef area was affected. The most severe bleaching occurred on reefs close to shore in both bleaching events, but the 2002 event has affected a greater area of reefs further offshore.

Dr Paul Marshall of the Great Barrier Reef Marine Park Authority, who led the underwater surveys, said:

Our underwater surveys found that few reefs escaped bleaching, but it appears likely that most reefs will recover with only minor death of corals. However, we did find that of the most severely bleached reefs were devastated with between 50% and 90% of coral dead at some sites.

He went on to say:

Australia has been lucky to see another major bleaching event without widespread death of corals but the devastation we have seen at some sites
provides a vivid warning of what could happen if hot water events become more frequent and severe.

The marine park authority pointed out that it cannot control the weather, but it is working to reduce other stresses on coral reefs. Dr Terry Done from the Australian Institute of Marine Science said:

We may be witnessing the beginning of a slow-motion degradation of the reef system that will only get worse in coming decades. The Institute of Marine Science, CRC Reef and the Great Barrier Reef Marine Park Authority will continue to keep a careful watch on the health of the reef and improve our understanding of the implications of global warming for reef management.

Bleaching is a sign of stress. Corals appear bleached when they expel the tiny plants that usually live in their flesh. High water temperatures and other environmental conditions stress corals and cause them to bleach. Many corals can recover from bleaching, but if temperatures stay too high for too long, the corals will die. The fact that the world’s most comprehensive survey of coral bleaching, from top to bottom, inshore reefs and offshore reefs, aerial surveys and underwater surveys, has found that bleaching in the Great Barrier Reef is the worst on record must act as a wake-up call to all Australians about the need for urgent action to address climate change.

As I have indicated before, the Howard government must change its position and ratify the Kyoto protocol on climate change. If we do not take concerted action to address climate change, including ratifying the Kyoto protocol, the glorious, riotous profusion of colour and life that is the Great Barrier Reef will not be there for our children and it will not be part of their future. For that to happen on our watch would be scandalous. To allow one of the natural wonders of the world to be trashed in this way would be an indictment of all of us. These serious findings must act as a wake-up call to all of us. They must bring home to all Australians that climate change is not something that is out there on the never, never; it is a here-and-now phenomenon which requires attention and action.

I want to turn now to ANSTO, the other research and development organisation mentioned in the bill. ANSTO is Australia’s national nuclear research and development organisation. It was established by the Australian Nuclear Science and Technology Organisation Act 1987. I understand that it has a staff of approximately 800 and that it is located at the Lucas Heights Science and Technology Centre in southern Sydney. The Science and Technology Centre occupies 70 hectares and is surrounded by a 1.6 kilometre buffer zone. ANSTO operates Australia’s only nuclear reactor, which is used to produce radioactive products for use in medicine and industry.

A licence to construct the replacement research reactor at Lucas Heights was issued by the nuclear regulating authority, ARPANSA, on 5 April this year. Back in July 2000, the contract to construct the replacement reactor was awarded to an Argentinean company, INVAP, working with an Australian joint venture subcontractor comprising John Holland Construction and Engineering and Evans Deakin Industries. It is expected that the replacement reactor will be in operation by 2005. Sites for the storage of low-level and intermediate-level radioactive waste from the reactor have yet to be determined. This is a matter of some concern to the opposition. We have indicated, for example, our opposition to the location of sites for the storage of low-level and intermediate-level radioactive waste in communities which are opposed to their location. That is a matter of considerable significance in South Australia, which has legislated against the establishment of such sites in that state.

ANSTO advises the Commonwealth government on issues associated with the nuclear fuel cycle and the operation of nuclear facilities. It also supports industry through the development and application of nuclear science based technology and associated capabilities. ANSTO’s mission statement consists of four components, one of them being to apply technologies resulting from research:

... and other relevant unique capabilities to focused research and development and other scientific activities to increase the competitiveness of
Australian industry and improve the quality of life for all Australians.

The government has agreed that ANSTO should receive additional funding to cover the increased costs associated with regulation, that backlog maintenance funding be provided for three years and that there be no further cuts to ANSTO’s research funding.

The amendments to the ANSTO Act are in two parts. Part 1 amends some of the functions and powers of ANSTO to allow the organisation to engage in a range of commercial activities, and part 2 increases the financial limit on contracts that ANSTO may enter into without ministerial approval. The effect of the amendments proposed by this bill is to provide the Institute of Marine Science and ANSTO with a greater degree of independence from ministerial direction. Nevertheless, both statutory bodies will continue to be subject to government control and supervision by way of their own enabling legislation and the provisions of the Commonwealth Authorities and Companies Act.

The bill does not alter the situation that the principal source of funding for the Institute of Marine Science and ANSTO will continue to be parliamentary appropriations. External earnings at present make up about 20 to 30 per cent of each agency’s budget, and setting an external earnings target is part of the negotiations for each agency’s triennial funding plan. The Institute of Marine Science is given the power to borrow money from lenders with the approval of the finance minister. There are provisions for the Commonwealth to guarantee these loans.

I intend to make some remarks about the Lucas Heights reactor, which is an important area of ANSTO activity, and in particular about the recent discovery of an earthquake fault line at the site of the replacement facility for the ageing Lucas Heights nuclear reactor. That fault line was found last week by the Australian Nuclear Science and Technology Organisation—ANSTO—during a geological study of excavation for the new reactor’s foundations. That study is being carried out by a New Zealand company, the Institute of Geological and Nuclear Sciences. It was reported to the nuclear regulatory body, the Australian Radiation Protection and Nuclear Safety Agency—ARPANSA—which has commissioned a full report on the possible implications for the site of this fault line. Construction on the $320 million replacement reactor began back in April. When completed in 2005, the reactor is designed to be used to make nuclear medicine—

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 7.30 p.m., I propose the question:

That the House do now adjourn.

Banks Electorate: Public Liability Insurance

Mr MELHAM (Banks) (7.30 p.m.)—Tonight I wish to raise a matter on behalf of the people of Banks. I have memories of the weekend sporting matches and community based events which played such a part of my childhood in Panania. As a member of parliament, I am asked to attend many events in the community today. I freely admit it is a part of the job which I most enjoy. We are now well aware of the disaster which public liability insurance has become in this country. The spiralling cost of insurance premiums is putting at risk the activities of our community’s important non-profit organisations, sporting groups and volunteers, not to mention the strain it is putting on small businesses. The Commonwealth has a clear responsibility in the matter of public liability insurance, and it has failed most spectacularly to accept that responsibility. Let me take you through just a few examples in my electorate of Banks, of where the government’s inaction is causing pain.

Over the last 15 years, the Panania RSL Youth Soccer Club has conducted an annual community event, a fireworks night on the Queen’s Birthday weekend in June. Typically, the event brought together up to 5,000 people in a family environment. This year, the event was cancelled as insurance coverage was withdrawn by the club’s insurers.

At Roselands Amateur Swimming Club, the club secretary has explained that fees will rise later this year to cover the rise in insurance fees. Dot Brown says the club want to keep their fees down so that all ordinary working-class mums and dads can come and
have their kids learn to swim. It saves lives. A big increase will keep out families who would like to come, but they have to have enough money to run their club.

The manager of Revesby Pool has said he is concerned about the increase in insurance premiums. Premiums have increased by 360 per cent, from $3,000 in the year 2000 to $10,000 in 2001-02. This year, the manager fears they may be $50,000. An increase of this magnitude could possibly make this community site unworkable.

Seniors Shotball is a community based activity group for seniors. The group have been advised by their insurer that the company would not be prepared to reinsure. After calling up to 10 brokers, the group have finally found a broker to work with them but are currently awaiting the paperwork to ensure that it is an approved company. As an incorporated association, the group must be insured with an approved company.

New South Wales Cricket, which is responsible for the insurance of all cricket in New South Wales cricket clubs, advises that its public liability insurance has increased this year by $50,000. I am advised that the net effect of this is that there is $50,000 less spent on carrying out development of cricket in New South Wales.

This is just the tip of the iceberg. Our whole community is severely affected by the government’s inaction. I believe that this is a matter which must be dealt with by the states, the territories and the Commonwealth acting together. It is not enough for the Commonwealth to point the finger at the states and say, ‘This is your problem.’ One of a number of measures that Labor proposes includes the introduction of price exploitation powers, similar to those used for the introduction of the GST, being given to the ACCC. The ACCC must be given real power to prevent price exploitation and ensure that savings are passed on to policyholders in the form of lower premiums. This is one simple way of ensuring that community groups, sporting groups and community volunteers continue their role as the lifeblood of our communities. On behalf of the people of Banks, I call on the government to consider this measure and to implement it as a matter of urgency.

This is the role of government. If we were to pay these community groups money for the activities they have done which enrich our community and engender a community spirit, we would not have enough money in the budget. That is why the government needs to act. That is the role of government in this instance. That is why it should not just be federal; it should be federal, state and local government and the community working together. It is not a political issue. I know there are members on the other side that strongly believe as I do. I think it is our contribution. This is money well spent. Let us get together, fix the problem and continue with the wonderful community spirit that we have enjoyed over many years.

International Criminal Court

Mrs DRAPER (Makin) (7.35 p.m.)—The 1998 Rome statute for the establishment of an International Criminal Court is a document of good intentions. I join with all other members in supporting the intent to bring to justice those who commit the worst possible crimes, of genocide and the mass slaughter of innocent lives. I remain, however, unconvinced that the court will achieve its aim and I am somewhat fearful that it may have repercussions that will be to the detriment of this nation and the free world in general. Nevertheless, thanks to the frank and forthright debate within the government, and the endeavours of the Attorney-General, the Minister for Foreign Affairs and our Prime Minister, the conditions imposed on our acceptance of the statute have gone some way to allaying those fears.

I note that the honourable member for Mackellar has described it as a ‘Clayton’s ratification’, because not only are we declaring the primacy of Australian law and the Australian legal system as a reservation attached to our ratification of the statute; we have incorporated these conditions in the Australian legislation implementing our obligations under the statute. This means that there can be no prosecution of an Australian citizen in the International Criminal Court without the consent of the Australian Attorney-General, and that the offences of geno-
cide, crimes against humanity and war crimes under the International Criminal Court statute will be dealt with in the same way that they are implemented in Australian law.

The establishment of an International Criminal Court has long been sought by those who see it as an answer to the barbarism we have witnessed in the 20th century. The assumption behind the good intentions is that all nations will act the same way to the establishment of internationally agreed treaties and laws, and that all nations enter into those agreements with the full intention of implementing them. But, as Neville Chamberlain discovered in 1938, dictators see such high-minded diplomacy merely as a means of furthering their own aims.

Perhaps the International Criminal Court would work if all the nations of the world were free market liberal democracies such as our own. But to ignore the fact that democracy is still enjoyed by only a minority of the people of the world is to blind oneself to the reality. Nation states are political entities. You can no more remove the politics from the affairs of a nation than you can force them to behave as if their own culture, history and traditions were of no importance to them. Nations will generally act in their own interests and do whatever they can to further those interests.

I believe the International Criminal Court may not be isolated from these pressures. In fact, I fear that it will be used as a political tool by those nations who do not share our respect for the rule of law, justice, freedom and democracy. History teaches us that they will act in this way. In some of the arguments for the statute there is an element of moral and cultural relativism. It has become fashionable in some quarters to disavow any value judgments, particularly when it comes to assessing the way nations are governed. In the minds of the cultural relativists, our system of democracy and the rule of law cannot be held to be superior to any other. But our cherished freedoms and liberties have been bought at too high a price for us to allow such claims to go unchallenged.

It may be politically incorrect to say so, but I do believe that Australia’s system of government, our respect for the rights and responsibilities of individuals, our freedoms of speech, of worship and of association and the protection of private property and support for a market based economy makes our system superior to that of many other nations whose citizens are not able to enjoy the benefits of such liberties. The danger lies in the appointment of judges to the International Criminal Court from those nations that do not have the same respect for the rule of law and individual liberty that Australia does.

The argument has been put that a permanent court is preferable to ad hoc establishment of international courts dealing with specific incidents. I am not convinced of this. The setting up of the courts following World War II and, more recently, after the conflict in the Balkans has worked well. The former dictator of Yugoslavia is presently facing justice before an international court. Are proponents of a permanent court really suggesting that he would have been brought to justice sooner if the Rome statute were already in place? Does anyone really believe that the leaders of rogue nations are going to be quaking in their boots because an international court is established? If so, I think they are sadly deluding themselves. These are my concerns and fears. They have been somewhat allayed by the conditions imposed by the government, and I note the Prime Minister’s statement that Australia retains— (Time expired)

The SPEAKER—Order! I point out to the member for Makin—and the same thing occurred last night—that standing order 71 says:

No Member may allude to any debate or proceedings of the same session unless such allusion be relevant to the matter under discussion.

I did not interrupt the member for Makin but, in fact, the ICC legislation has proceeded through the House and I would not want to create a precedent.

Hasluck Electorate: Superannuation

Ms JACKSON (Hasluck) (7.40 p.m.)—This government talks about applying the ‘rule of law’ in Australian workplaces and I ask tonight: why don’t they start by ensuring
that all employers are observing the current rule of law by paying the superannuation guarantee on behalf of their employees? Firstly, I need to commiserate with a man who phoned the Australian Taxation Office 30 times on Monday to try to get an answer to his question. My office could not get through on the Superannuation Helpline for most of yesterday. The line was permanently busy. After doing a bit of research, we think we have discovered why. An estimated 28 per cent, or 216,000, of the 800,000 employers in Australia have not paid their employees’ superannuation guarantee contributions correctly, which means that there are potentially a million workers out there trying to find out what they can do about it.

On 20 March this year, the Labor shadow spokesperson, Senator Nick Sherry, reported to the Senate that the tax office have received some 11,000 complaints about unpaid superannuation in the year 2001 alone and have admitted that the amount of outstanding superannuation guarantee payments is at least $116 million. Despite the fact that employees regularly lose unpaid superannuation entitlements when companies are in financial trouble, this government will not include superannuation contributions in their already inadequate employee entitlements scheme—yet these moneys belong to the employee and we expect employees to rely on them in their retirement. Lost superannuation not only has a devastating effect on the individuals concerned but will have a significant impact on Australian taxpayers. It will mean a greater reliance on the pension at a time when the Australian community will be least able to afford it. This is a significant issue for Australian families and the Australian government.

The issue is of personal significance to many of the people I represent. Judy Baker is a constituent in the federal seat of Hasluck who is owed $7,033.56 plus interest for a period from 1997 to 2001. Judy is 53 years of age and trying to plan her retirement. As a low-income earner, every cent counts. Judy could be out of pocket by around $10,000 in retirement moneys when she comes to retire. Judy’s employer has not paid superannuation for her since 1997-98. Judy lodged her complaint with the Australian Taxation Office in May 2001. She has not even been given any guarantee that her moneys will be recovered.

Sharon and Dean Campbell are also Hasluck constituents. Sharon and Dean’s employer did not pay their superannuation contributions. Sharon Campbell worked with Quantrill Pty Ltd from 20 July 1998 to 15 March 2000 and did not receive a cent. Sharon lodged her complaint with the Australian Taxation Office on 20 July 2000—almost two years ago. She has no idea what the ATO is currently doing with her complaint and if she will ever see her moneys. My office discovered yesterday that an administrator had been appointed to the company and, on contacting the administrator, we discovered that the company had been sold and Sharon’s superannuation moneys may be paid. Let us hope so.

Another constituent, Neville Peters, has only been paid $62.82 in superannuation since joining his employer on 26 September 1994. He left his employment in 1998 and lodged an official complaint with the Australian Taxation Office at that time. He received an acknowledgement letter but has heard nothing more since. The failure of the Australian Taxation Office has been spectacular. The number of cases is growing all the time as employers discover that they can get away with not paying their obligations under the Superannuation Guarantee (Administration) Act.

So what are the government doing? They refuse to include unpaid superannuation as part of their inadequate employee entitlements scheme. Under the Howard scheme, if your employer goes bust so does your retirement future. Their priority is to reduce the amount of tax on superannuation contributions paid by high-income earners. The recent changes we have seen in this budget will produce a $370 million tax cut to the wealthiest three per cent of working Australians while it will do nothing to enhance the retirement income of ordinary working Australians.

The government have delayed the introduction of the requirement for employers to make superannuation contributions on at least a quarterly basis, so it takes much
longer to track down employers who are not making contributions, and employees lose thousands of dollars in compound interest. What is desperately needed is an agency that has the resources and the will to take on offending employers by prosecuting for the recovery of all unpaid benefits going back to 1992, when the act was introduced. We all pay if these employers are not brought to book.

**Ryan Electorate: 2001 Australian Students Prize**

Mr **JOHNSON** (Ryan) (7.45 p.m.)—It is a great pleasure to speak in this parliament about a number of young people in my electorate of Ryan. I wish to pay tribute to them this evening. They are excelling in their community spirit and in their support of the Ryan community, and I wish to acknowledge their contribution to our community and, indirectly, to our country. In particular, I want to mention some students who have been awarded the 2001 Australian Students Prize. The Australian Students Prize is a Commonwealth initiative designed to give national recognition to academic excellence and achievement in secondary education. I think it is very important that this country acknowledges our young people who dedicate themselves to improving themselves through study in school and university.

The prize comprises a certificate and a payment of $2,000. Five hundred prizes are available every year. The Commonwealth should be very proud of this contribution it makes in this arena. In the Ryan community, there were 18 students who were awarded the 2001 Australian Students Prize. I note from the 2001 census that there are 44 schools in Ryan. I hope that next year or, indeed, this year there will be many more students from the schools of Ryan that I can acknowledge. I would like to congratulate the following students: Eden Bird, Samantha Bonning, Luke Boosey, Siobhan Gannon, Naomi Garrad, Mahtab Ghadiri, Sarah Good, Angela Harding, Richard Hargreaves, Benjamin Harries, Katherine Henry, John Lai, Benjamin Morrow, Robert Mullins, Michael Overell, Genevieve Thomson, Valerie Ting and Jenny Wong.

It is not easy in today’s environment for students to work hard and achieve high standards. The world is full of distractions, but I think these students deserve a special mention, as do all students from all electorates in the country who have achieved well. I take the opportunity to encourage the students in the electorates of my friends and colleagues here, the member for Wentworth and the member for Moncrieff, to match the high standards of the students from the electorate of Ryan. I congratulate all students who have achieved high success. I also think it is important to pay tribute to the schoolteachers in all our schools. They play a very important part in nurturing students to achieve their best. I am sure that my friends and colleagues, the member for Wentworth and the member for Moncrieff, would also acknowledge that. Too often schoolteachers are not remembered, but they play a very important role. Of course, parents do as well. I congratulate the parents, the families and the relatives of these Ryan students who have been very successful.

I will very briefly mention in this parliament this evening a handful of other students who have done well in different fields. Simon Ingram from Chapel Hill in Ryan was a representative for Moggill in the Queensland Youth Parliament, which is happening at the moment. So I congratulate Simon Ingram for his contribution to the community. Ms Jess Henry from the suburb of Corinda won a bronze medal in the 2002 International Hairstylist Society Competition. What a significant accomplishment, and I salute that. A young man, Michael Driver from Mount Ommaney, and a friend of his, Ewan McGregor, achieved record scores in athletics at the Australian Age Championships. Andrew Wines was selected for the National School Constitutional Convention—a great achievement by Andrew Wines. Another young chap, Andrew Kopittke from Jindalee, was selected as a member of the Australian Youth Orchestra—a wonderful achievement by young Andrew, and I compliment him. His father is Mr Eric Kopittke, who is a teacher at St Peter’s Lutheran College, where I attended. It is no wonder that Andrew did well as a student there. I congratulate Andrew for his success. Again, I congratulate
all the young people in Ryan for their contribution to our country and encourage them to continue their hard work in the interests of promoting our nation and, indeed, a civil society, which I know all members of this parliament treasure.

Anzac Medals

Mr ADAMS (Lyons) (7.50 p.m.)—Last week, I was alerted to a news item that appeared on 24 April in the *Sydney Morning Herald* which discussed the attempt by a news organisation to stir national pride in the Anzac tradition by importing thousands of commemorative medals which they proposed to distribute after the death of the last surviving Anzac, Tasmanian Alec Campbell. The item, in itself, showed that there was an attempt to commercialise the efforts of our last Anzacs, which I thought was pretty tacky anyway, but it was the fact that the medals were made in China that made it interesting. The medals were stopped at Customs because they breached schedule 1 of the Customs (Prohibited Imports) Regulations, which prohibits the importation of any goods that bear or contain the word ‘Anzac’.

The item appeared again on *Media Watch* on 27 May, and it appears from that bulletin that News Limited were rescued in their tacky mission by this federal government.

Let us look at the facts. The regulations protecting the word ‘Anzac’ first appeared in the Statutory Rules 1921 in a bid to ensure that the word ‘Anzac’ is kept and revered as part of that wonderful spirit of the First World War, to honour those many Defence Force people who lost their lives and those who returned after one of the most horrific conflicts this world has ever known. The prohibition of imports has been in place since 1935. It was imposed at the demand of the RSL, who wanted to protect Australia’s most sacred icon from commercial exploitation. The rules were included in the Customs (Prohibited Imports) Regulations in 1956 and have remained in statutes since that time.

Along come News Limited with a breezy little campaign to give themselves a bit of kudos and make a few bucks for the RSL and other charities in passing. This plan, according to *Media Watch*, was to sell tens of thousands of little Anzac souvenirs after the last Anzac—Tasmania’s Alec Campbell—had died. Apparently the RSL agreed with the idea, but I doubt whether the RSL were aware that the largesse about to be directed to them was due to goods being made in China. They also did not check to see whether there were any regulations regarding the import of such items. Customs was pretty clear—the items were seized because they breached schedule 1 of the Customs (Prohibited Imports) Act. The project also breached Veterans’ Affairs regulations that prohibit the use of the word ‘Anzac’ for commercial or entertainment purposes—including such things as company registration, designs or trademarks. According to the *Sydney Morning Herald*, which has obviously done its homework well, the medallions fall foul of the law in a third way—they feature the rising sun emblem, the use of which is prohibited under section 81 of the Defence Act.

Suddenly the federal government are faced with a nice conundrum: should they help to save News Limited from a large loss from this entrepreneurial scheme or should they stick by the much-trumpeted reverence of the Anzac tradition held so dearly by the Prime Minister and deny the entry of these goods? Even if they were sympathetic to the cause, the problem was that the Customs Act allows no ministerial discretion on this regulation. I guess the power of the entrepreneur became apparent. The Minister for Veterans’ Affairs, Danna Vale, moved quickly to amend the regulations to delete the absolute prohibition on the importation of these types of medals. Therefore, she could give her ministerial tick to the import of these questionable goods. It seems that Minister Vale approved those ‘as an educational tool, and as the proceeds will go to the RSL’.

Today we have the retirement of Bruce Ruxton, the long-term Victorian president of the RSL, who has committed a great deal of time and energy representing the service men and women of this nation—by the way, I wish him and his wife a happy retirement. I wonder what his view is of the fact that these medals were made in China? I would like to think that Mr Campbell himself would have been very disturbed that his passing had been
marked with the mass trade of this trinket. Unlike some in this country, he would probably have been amused by the fact that this bauble was made in China, where good communist workers have been beavering away to make a capitalist memento for a solid left-wing worker and union leader who believed in things like the power of the people and union representation.

The parliamentary powers have been abused by this action of the government to amend this legislation because someone did not do their homework on how goods are imported. It is this sort of action that the government seems to do regularly, trampling on the sensitivities of Australians for some cheap political expediency. Don’t cross Mr Murdoch! (Time expired)

Moncrieff Electorate: Westpac Surf Lifesaving Helicopter Service

Mr CIOBO (Moncrieff) (7.55 p.m.)—I rise this evening to talk about a service that exists on the Gold Coast and has existed there since 1976. It is a service that goes to the very heart of what being a Gold Coaster is and what tourists can expect when they visit the Gold Coast. The service I refer to is the surf lifesaving helicopter rescue service, otherwise known on the Gold Coast as the Westpac Surf Lifesaving Helicopter Service. I had the fortune of having a trip in the surf lifesaving helicopter several weeks ago at the behest and invitation of Eddie Bennett, who is the coordinator of the Westpac Surf Lifesaving Helicopter Service. I can say that it is an incredible service. My eyes were well and truly opened to the significant benefits that flow as a direct result of the operation of this service.

As I mentioned, it started in 1976. Today it is crewed by 31 different people who live locally on the Gold Coast. Of those 31, it is worth highlighting that only two are paid and the other 29 are in fact all volunteers. There are seven paid pilots—I mentioned Eddie Bennett, and he and Richard Snell are the main two pilots for the Westpac surf lifesaving helicopter. If I may reflect for a short time on my experiences, I can say that it really is unique to have the opportunity to fly over the high-rises of the Gold Coast. I spent about 1½ hours travelling from South Stradbroke Island all the way down to the Tweed border.

There are some within the surf lifesaving movement, as I understand, who look at the figures and say that the surf lifesaving helicopter does not in fact do many rescues on a yearly basis, but to look at that statistic alone is to belittle the important work that the helicopter does in terms of prevention. Most importantly, from my experience in the helicopter, I can say that this wonderful service played a direct role in having the flags moved in some of the 25 beaches to make sure that, from a prevention point of view, swimmers were not in any great risk from any rips that were developing or from any shark menace. It is a service that operates 24 hours a day, 365 days a year and it is most frequent in the surf season, which is from September through to May. In fact, over that season there are some 18,000 individual beach checks that are made.

Mr King—It helps the lifesavers, too.

Mr CIOBO—As the member for Wentworth mentioned, it is of direct benefit to those who are actually patrolling on the beach and standing in the towers and who do not have the ability to have a bird’s-eye view, as it were, of what is taking place 100 or 200 metres out from the beach. This is where real value is added by the operation of the Westpac surf lifesaving helicopter.

I would also mention the fact that, if it were not for the Westpac Bank, this important and fundamental service would not have the opportunity to operate on the Gold Coast as it does. This is again something that is a very tangible and significant contribution to the community and that has significant tourism benefits. I can say that, as the federal member for Moncrieff, it was an absolute pleasure to be associated with a number of men and women who are totally and utterly committed not only to their community but also to many hours of voluntary service, working as part of the community to ensure that our tourists and our locals are well protected by the surf lifesaving service.

They have in fact two principal roles. Their primary role is the surf and beach patrols, search and rescue over water, and search and rescue over land. It was in fact
the surf lifesaving service that was the principal instigator of all the rescue services that currently operate throughout Australia. It is interesting to note as an aside that it was in fact in the early 1940s that the service started. Although the helicopter service started in 1976, in the early 1940s the surf lifesavers actually operated a fixed-wing aircraft to fly up and down the beaches of the Gold Coast checking for sharks. So you can see that there is a great deal of history and lineage there. I am very proud to play my role in being part of the volunteer surf lifesaving helicopter service.

Mr Andrews to present a bill for an act to amend the Health Insurance Act 1973, and for other purposes.

Mrs Vale to present a bill for an act to amend the law with respect to veterans’ entitlements, and for related purposes.

Ms Worth to present a bill for an act to amend the Therapeutic Goods Act 1989, and for related purposes.

Mr Slipper to present a bill for an act to amend the law relating to superannuation, and for related purposes.

Mr Slipper to present a bill for an act to provide for contributions to be made towards the superannuation of low income earners, and for related purposes.

Mr Entsch to present a bill for an act to amend and repeal legislation relating to industry, tourism and resources, and for related purposes.

Mr Entsch to present a bill for an act to amend legislation relating to intellectual property, and for related purposes.

Mr Anthony to present a bill for an act to amend the law relating to social security in its application to disabled persons, and for related purposes.

Mr Crean to present a bill for an act to amend the Workplace Relations Act 1996 and for related purposes.

Mr Barresi to move—That this House:

(1) expresses its gratitude to the “Heroes of Kokoda” as we reflect upon the 60th anniversary of the Battles to Save Australia, and accordingly give due honour and respect to the memory of these heroes by:

(a) supporting the development of the Kokoda Track as a National Memorial Park, which will ensure it remains a historical, cultural and commemorative experience for all Australians; and

(b) establishing a joint Australian and Papua New Guinean Master Plan under the guidance of Australian Government and local PNG Provincial government personnel;

(2) expresses support of the Government’s commitment of $1.5 million for the establishment of 3 memorials in Papua New Guinea, one of which will be constructed at Isurava to commemorate the Battle at Kokoda; and
(3) calls on all Australians in this the 60th anniversary month to commemorate the sacrifice of the 39th Battalion, 2/14, 2/16 and 21st Brigade and all other servicemen who participated in the battles along the Kokoda Track by:
(a) inaugurating a National Day of Remembrance celebrated both in Australia and at Owers Corner, PNG;
(b) congratulating the Australian Football League, the members, supporters and administrators of the Sydney Swans and Richmond Tigers for their annual commemorative game at Stadium Australia, honouring the Spirit of Kokoda; and
(c) supporting the establishment of a Fuzzy Wuzzy Angel Scholarship Foundation to educate the sons and daughters of the Kokoda Trail Villagers as a sign of our nation’s gratitude for the selfless sacrifice of the local people during the campaign.
Wednesday, 26 June 2002

The DEPUTY SPEAKER (Hon. I.R. Causley) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Social Welfare: Emergency Relief

Ms MACKLIN (Jagajaga) (9.40 a.m.)—Today I would like to strongly support a call for additional support for emergency relief. The Banyule Support and Information Centre, which is based in my electorate, has written to the government setting out the increasing demands for emergency relief from parts of our community. This group, commonly known as BANSIC, is an excellent resource for my constituents in the City of Banyule, and offers a range of support and referral services from trained volunteers in a wide range of areas—personal and family counselling, Centrelink assistance and, most importantly, food vouchers and budget advice. All of this assistance is provided free.

I have been contacted by the President of BANSIC, Elaine Craddock, who is very concerned that, while local demands for emergency relief continue to increase, this has not been matched by an increase in funding for emergency relief. Over the last five years BANSIC has experienced a marked increase in emergency relief requests. However, over the same period emergency relief funding from Family and Community Services has remained the same, ignoring this very real increase in demand from very needy people.

BANSIC is in a very embarrassing predicament. Because of the lack of funds, it is forced to ration its food vouchers to such an extent that it can only give $25 to a family and $15 to a single person. Of course, $25 does not carry a family very far. While BANSIC is the 12th highest in Victoria in terms of the number of people it helps, it is right at the bottom of the barrel when it comes to funding—26th out of a group of 28. It is unfortunate that in my electorate there are a number of people who need the help of organisations such as BANSIC and are in need of emergency relief. In West Heidelberg in particular, we have a very seriously disadvantaged group of people who are on fixed incomes and whose money does not stretch as far as it once did. They do turn, unfortunately on a regular basis, to organisations such as BANSIC for help to get them through.

The difficult thing for them, of course, is that it is often not a one-off experience but, unfortunately, a regular and, in many cases, humiliating experience. As their fridge breaks down or their children need shoes or car registration comes along, these are expenses that many people in that community, in a very important part of my electorate, just cannot meet on their own. So we do have to make sure that we are able to support the very important work that BANSIC does. I call on the Howard government to make sure that they increase the availability of emergency relief so that these people can get the support that they need. (Time expired)

Aviation: Jet Service to Coffs Harbour

Mr HARTSUYKER (Cowper) (9.43 a.m.)—I would like to bring to the attention of the House the significance of the date of 1 August. To many, 1 August may be known as the horse’s birthday, but more significant in the history of Coffs Harbour within my electorate is that it will mark the commencement of a new daily jet service by Virgin Blue, using the technologically advanced Boeing 737-700—a very fine aircraft, very technically advanced, offering a great service.
Many people who wish to travel to my electorate because of the many fine resorts, such as Pelican Beach, Pacific Bay and the Nautilus resort, wish to enjoy the comfort of wide-bodied jet transport. I am pleased to say that, with this new daily Virgin service, wide-bodied jet services will now be available into Coffs Harbour. It shows the great deal of effort that the local council has put into our airport, and it also shows the vision of the former mayor, Mr John Smith, who was a great visionary within our region and a great supporter of the airport. As a result of that vision and the continuing support of the local council, the airport has become a major regional asset and has been able to secure excellent services such as the new daily jet service by Virgin.

It also shows the worth of the government’s support for regional aviation and the importance that regional aviation has in the development of our regional areas and our tourism industries. Some great introductory offers will come with this, which I think will create employment and will showcase the many fine tourism assets in the electorate of Cowper, and this service will complement the very fine services currently offered by Hazelton and Qantas in those areas. I would also say that perhaps the member for Sydney could enjoy the use of this service. It has great introductory prices. She would enjoy a very quick trip to Coffs Harbour—I believe the flight time will be around 40 minutes—

Ms Plibersek—I look forward to that.

Mr HARTSUYKER—and she could stay at a very fine resort. Not only do we have major resorts; we have excellent boutique resorts that offer fine dining in superb environments and settings, such as the Waterside Guesthouse, which is operated by Christof Myer, a very well accredited chef who makes a dining experience not just dining but art.

So we have great tourism products and we now have an excellent jet service to complement our existing aviation facilities. Certainly I can see that this jet service will help to create employment and to showcase the fact that regional aviation is an important community asset; it is important to create jobs. It is a very fine service indeed and I would like to compliment Virgin on their decision, their confidence in Coffs Harbour and their confidence in the electorate of Cowper. I am most pleased. In fact, Mr Deputy Speaker Causley, you may wish to avail yourself of this service at some stage.

Ms Plibersek—President George Bush’s long-awaited speech on Israel and Palestine will probably do more harm than good. If he is genuine about wanting peace in the Middle East, he needs to take an even-handed approach and not support Israeli aggression at any cost. His preparedness to dictate to the Palestinians who their leadership should be stands in stark contrast to his unwillingness to lay down any real conditions on the Israeli leadership. There should of course be democratic elections in Palestine, but the results of those elections are for the Palestinians to decide, not George Bush. It is clear that Ariel Sharon will see this speech as a vindication of the aggressive military action that has occurred in Palestinian areas. Ross Dunn, the Herald correspondent, says that the most likely effect of the speech is to:

... give the Israeli Prime Minister, Ariel Sharon, the international endorsement he has been seeking for a new and stronger military offensive inside the Palestinian areas.

Even the Israeli foreign minister, Shimon Peres, is reported to have criticised the speech as doing more harm than good. Highly regarded ABC foreign correspondent Tim Palmer this morning described Mr Peres’s reaction to the speech of President Bush. He said that during the President’s speech Shimon Peres ‘became angry.’ Mr Palmer quotes Mr Peres as saying:
He’s making a fatal mistake making the creation of a Palestinian state dependent on a change of leadership. You can’t just brush Yasser Arafat aside with one speech.

Mr Palmer said that Mr Peres became so angry that he turned off the television even before President Bush had finished the long-awaited speech and that before Mr Peres left the room, he said:

The abyss into which the region will now plunge will be as deep as the expectations of this speech were high. There will be a bloodbath.

Most observers seem to agree that this so-called solution is naive at best and will probably extend rather than shorten the armed conflict in the region. Mr Sharon has made it clear over the years that he is not interested in achieving any peace with the Palestinians which would give them autonomy and control over land that includes settlements. What is needed is an international peacekeeping force. Australia should participate in such a force and should indeed lobby the international community to ensure it happens. Conflict in the Middle East will never end as long as the Israeli government is bent on winning a war against the Palestinians rather than making peace with them. And, of course, the same goes for the Palestinian side.

My heart goes out to the families of all those on both sides of the conflict who have lost loved ones. I hope that peace will be achieved soon. I just despair that President Bush has squandered such a valuable opportunity for facilitating that peace.

Roads: Tugun Bypass

Mrs MAY (McPherson) (9.49 a.m.)—There is a stretch of road that runs between Queensland and New South Wales that is notorious for its traffic bottlenecks. To fix the bottleneck there is a proposal to construct the Tugun bypass—a road that runs for 6.7 kilometres: 3.4 kilometres in New South Wales and 3.3 kilometres in Queensland. It is a state road and it is the responsibility of the Queensland and New South Wales state governments. There is no doubt that this road is an important part of Gold Coast city infrastructure, and the federal government acknowledges its importance and is prepared to contribute to the project.

The Queensland government is the project manager of this venture. The federal government is not. It is the Queensland state government who sets the agenda and the timetable for constructing this very important road. Before the federal government can commit taxpayer dollars to the project, the federal transport minister needs to know what the final cost of the project is going to be. The federal minister has expressed concern at the continuing escalation of cost for the bypass. The initial estimate was $70 million. New estimates are said to be around $280 million, and still climbing. The project sign erected during the last state election campaign, with great fanfare, indicates the approximate cost at $157 million. The Queensland Treasurer, Terry Mackenroth, was reported recently as saying that the Queensland government had committed its share and that the federal government must come up with its share. For a state treasurer to ask for an open cheque is absolutely ludicrous.

The federal government has again and again sought full details of the project, and I call on the Queensland state government to provide this information. The Tugun bypass is a divisive issue in the region and is not helped by the inaccurate reporting in our local tabloid, the Gold Coast Bulletin. This paper recently reported that the latest delay with the Tugun bypass was due to the federal government’s changes to the criteria for the environmental impact statement. This is not true. The federal legislation changed, but there was a two-year transitional period to meet the new criteria and the Queensland state government still could not meet the deadline. The delays are attributable to the state governments but, true to form, the Gold Coast Bulletin chose not to report the issue correctly.
The commitment made by the state government in last week's budget means that the money is there to commence the job of building the Tugun bypass. It is good news for the electorate as long as we see a start to the project before the next state election campaign. I want to assure the constituents of McPherson that the federal government is strongly committed to the project. Through the working party established with the Queensland Minister for Transport, I hope that we see a cost for the project put on the table, that we see a final route for the bypass and the environmental impact statement completed to comply with federal government legislation. Nobody wants any more delays on this bypass. I call on the Queensland government, as project manager, to progress this matter as efficiently as possible and to strongly lobby the New South Wales government to come on board and accept their responsibility for part of that road.

**General Employee Entitlements and Redundancy Scheme**

Mr RIPOLL (Oxley) (9.52 a.m.)—It is with great disappointment that I inform the House that the Howard government’s General Employee Entitlements and Redundancy Scheme, GEERS, has failed several of my constituents. GEERS was set up to help people recover their entitlements in the event of the company they worked for going broke. However, GEERS is turning away legitimate claimants and, as a result, causing more heartache and suffering. My constituents Arthur ‘Jim’ Pank, formerly of Forestdale, Edwin Gooderham of Durack and Lindsay Hartigan, also from Durack, have had to deal with not only losing their jobs but with finding out that their entitlements are gone and then making a claim to GEERS—only to have it coldly rejected by an uncaring and mean-spirited government.

Jim, Lindsay and Edwin all lost their jobs with a company called Raycash Pty Ltd. They are owed about $60,000 in entitlements, and they are not alone. Many more people lost their jobs the day Raycash went bust. The liquidators of Raycash advised me that they will only be able to pay back a few thousand dollars of entitlements owed from the company’s assets. This is where GEERS should have stepped in, but GEERS has knocked back their claim and their appeal, despite legal advice from Raycash’s liquidators stating that their claim is valid and that GEERS is liable to pay.

GEERS is a complete failure. Today it has only paid out 70 per cent of total workers entitlements. On top of this, revelations in Senate estimates committee hearings show that the government has managed to process only 54 per cent of claims within four months of receiving them—it’s target is 80 per cent—and that, due to caps on the scheme, workers have missed out on $9.4 million of their legal entitlements. The budget for the scheme has also blown out by $20 million. As a result, workers are missing out on entitlements while the cost to the taxpayer is also blowing out. People like Lindsay, Edwin and Jim are suffering. They are owed thousands of dollars and they are all nearing retirement. Effectively, their retirement funds have been stolen and the government will not lift a finger to help them.

For the past two years Labor has proposed a national insurance scheme to cover 100 per cent of workers entitlements. This scheme would make large businesses contribute to an insurance fund, which would then ensure that 100 per cent of workers entitlements were covered in the event of insolvency. The federal government would make payments on behalf of smaller business. Labor estimates that its scheme would cost businesses with more than 20 employees only about 0.1 per cent of payroll. The Howard government should be standing up for people like Lindsay and Edwin and Jim, just as it did for National Textiles workers and Ansett workers. It should admit that its taxpayer-funded safety net scheme is a costly failure and it should put in place a national employment entitlements insurance scheme that will guarantee no less than 100 per cent of all workers entitlements. The tragedy that has befallen
my constituents should never happen to anyone again. The Minister for Employment and Workplace Relations, Minister Abbott—the big ‘A’—should stop trying to create industrial war and instead go out there and promote some peace and help workers get all of the entitlements which are their due.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Before I call the honourable member for Gilmore, I say to the member for Oxley that the chair will not tolerate terms such as the big ‘A’, big ‘C’ or big ‘D’. In future, remember that.

State and Local Government: Funding Arrangements

Mrs GASH (Gilmore) (9.55 a.m.)—I rise this morning to talk about this government’s inquiry into the way local government is funded. I am on the record as saying that maybe it is time for alternative methods of administering federal funds. We seem to get better results and value for money by dealing directly with the people through local government. In my electorate, all three councils—Shoalhaven, Kiama and Wingecarribee—welcomed this inquiry and look forward to the results being both published and actioned. They announced this sentiment at a recent opportunity that they each had to present their visions to the Minister for Transport and Regional Services and, at the time, the Acting Prime Minister, the Hon. John Anderson.

Part of the reason that councils welcome this inquiry is that once and for all it will demonstrate what they believe has been happening for some time in New South Wales—that is, the erosion of councils’ available funds through increased responsibilities being passed on to them by state governments that do not provide added ongoing funding to perform those extra functions. As an example, just yesterday one council rang me to say they had been required by the New South Wales state government to inspect and report on all properties in terms of bush fire risk. This has been performed on an ad hoc basis in the past as properties with special risks or requirements have come to councils’ notice through the DA process. Now the procedure is mandatory for every property, with full reporting to the state government required within a fairly tight time frame. In my electorate of Gilmore, one of the most fire-prone areas in the world, there are approximately 62,000 properties.

What funding, you ask, has come from the New South Wales state government with this new requirement? Absolutely none. Somehow, out of their already fully committed budgets, our councils have to find the resources to employ suitably qualified officers to go out to inspect and report on every single property. And where do you think the money will come from? Will it come from road maintenance? Will it come from playground equipment? Maybe it will come from the waste management section. I know: let us take it out of the assistance they give to volunteer rural fire brigades, shall we? I think not.

This federal government has, against all Labor’s best efforts, brought in a new tax system. All that GST—which is a growth fund, meaning that the funds generated will increase every year—all that extra money, is being paid directly to the state governments. Where is that money going? How can they take increased funding every year and not pass at least some of it on to our local councils? The New South Wales government certainly is quick enough to flick-pass extra work and blame on to local government. I think it is about time it passed on the money as well. This inquiry cannot come soon enough, and I too look forward to seeing the results.

I conclude by saying that my experience in dealing with the state government has been less than productive and has been very bureaucratic. Just look at what happened with the construction of Main Road 92: the state government is dragging its heels, while Shoalhaven City Council has gotten off its backside, sunk its own money into this investment and got going on

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REP'TS MAIN COMMITTEE
building its share of the road. This inquiry is long overdue, and I believe that significant changes will flow as a result of the findings.

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

FAMILY LAW AMENDMENT (CHILD PROTECTION CONVENTION) BILL 2002

Second Reading

Debate resumed from 13 March, on motion by Mr Williams:

That this bill be now read a second time.

Mr McCLELLAND (Barton) (9.58 a.m.)—The opposition fully support the Family Law Amendment (Child Protection Convention) Bill 2002. However, we will be moving a second reading amendment, which I will come to later in my speech. I think it is fair to say that matters relating to parental responsibility, the care of children and access to children are probably some of the most distressing matters that members of parliament have to deal with in their electoral offices. They can be incredibly frustrating where there are conflict of jurisdiction issues, particularly where a child resides overseas or is taken overseas. In that context, the opposition fully support this bill, which amends the Family Law Act 1975 to implement the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children 1996.

On Monday, 24 June the Joint Standing Committee on Treaties recommended that Australia ratify this convention. I commend the treaties committee for the solid work that it has done on this bill and, indeed, generally. The convention and the bill aim to provide clear rules to resolve jurisdictional conflicts between courts of different countries in proceedings involving children. The rules will cover four main issues: firstly, whether a court has jurisdiction to hear an international parental responsibility dispute; secondly, which country's law is to be applied in determining international parental responsibility disputes; thirdly, what conditions must be satisfied to ensure international recognition and enforcement of parenting orders; and, finally, what obligations courts in Australia and overseas have to cooperate in the protection of children. They are the essential elements of the more detailed provisions.

In March this year, the opposition referred the bill to the Senate Legal and Constitutional Legislation Committee to report on whether it properly implements Australia's obligations under the convention. The committee reported in May, concluding that the bill does so and recommending unanimously that the bill be supported. As I noted earlier, the Joint Standing Committee on Treaties has also essentially come to the same conclusion.

Concerns were raised in submissions to the Senate committee from several organisations, including the Legal Aid Directors Secretariat and the National Council of Single Mothers and their Children. They raised a number of issues. Those issues included, for instance, a conflict between the child protection convention and the child abduction convention as they saw it, the lack of a definition of 'habitual residence' in the bill, the rights of non-married fathers, the enforcement in Australia of decisions by foreign courts, and the extension of the jurisdiction of the Family Court to other convention countries. We believe that the arguments presented and the concerns raised by those organisations were addressed in the committee’s report and the opposition is satisfied that the concerns, in so far as they are yet to be attended to, do not justify delaying the passage of this bill.

The committee noted that the limited number of concerns raised during its inquiry was probably a consequence of the fact that the bill resulted from a long process of consultation. Following the making of the convention, a Commonwealth-state working group was estab-
lished in 1997. It published two issues papers on the implications of ratification for Commonwealth, state and territory legislation. The working group reported in 1999 and proposed amendments to Commonwealth, state and territory laws.

I note that the Queensland government expressed concern to the Joint Standing Committee on Treaties that the Commonwealth is seeking the passage of this bill before the states and territories have finalised their legislation. The Queensland government’s submission stated:

Taking binding treaty action prior to the necessary implementing legislation for States and Territories being in place is likely to cause considerable legal and administrative difficulties. It would constrain the effective implementation of the Convention in Australia.

In light of this concern, the joint standing committee has encouraged close consultation between the Attorney-General’s Department and states and territories in relation to the model state and territory legislation currently under preparation to ensure that all Australian legislation is harmonised and to ensure effective implementation of the convention. We also endorse that call by the treaties committee but, again, we think the legislation is of such importance that there should be no delay in its passage through this House. We urge the Attorney-General to apply himself to consulting with the states and territories as the committee has recommended, and we have no doubt that he will do so.

In summary, the bill will provide greater certainty in international disputes involving children, and the opposition fully supports its measures. The passage of the bill is an appropriate occasion, we believe, to note that there are also a range of other pressing matters relating to the care and nurture of children generally, including children in Australia and Australian children overseas. On that basis, we therefore propose a second reading amendment, which I have foreshadowed. I move:

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

“whilst not denying the bill a second reading, this House:

(1) notes the underpinning principle of the Bill is to ensure that the best interests of children are protected;
(2) strongly endorses this principle which should apply to all matters relating to the care and nurture of children throughout Australia;
(3) calls upon the Government to respond to the recommendations of the Joint Standing Committee on Treaties relating to steps necessary to implement the Convention on the Rights of the Child; and
(4) notes that Labor’s proposal for a Children’s Commissioner would further the best interests and protection of children nationally”.

The member for Gellibrand, the shadow minister for youth and children, will say a little more about those matters in her contribution.

Turning to the third paragraph of the motion, having commended the work of the treaties committee generally, I fully acknowledge it was an initiative of this government, although arising from a recommendation made under the previous government from the House of Representatives Legal and Constitutional Affairs Committee. The treaties committee, I believe, has been a great initiative in terms of inviting submissions from the public on significant treaty action before it is ratified. In so doing, I think it has been a mechanism for establishing to the Australian community that we very much benefit from being part of an international community, and that a lot can be done through international cooperative means such as this to make life easier for citizens of all countries—and, in this important area, to protect children.

Returning to paragraph (3) of our second reading motion, I think it was in October 1998 that the Joint Standing Committee on Treaties reported in respect of the convention concern-
ing the rights of children. I was a member of the committee at that time. It was an excellent report and it came about as a result of tremendously hard work undertaken by the secretariat. I draw the government’s attention to a number of recommendations made in that report. We really should be looking at measures we can take to further a number of those very significant recommendations. Having said that, I will conclude my remarks and let others contribute to the debate.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Is the amendment seconded?

Ms ROXON (Gellibrand) (10.09 a.m.)—I second the amendment, Mr Deputy Speaker. I would like to acknowledge the comments made by the member for Barton, who has the carriage of this matter for the opposition. He set out our full support for the terms of the Family Law Amendment (Child Protection Convention) Bill 2002. He outlined in some detail what the bill sets out to achieve.

Any member of the House who has gone through this bill in detail will have noted that it is an incredibly technical bill. The main purpose, for anyone who is trying to read it, would be a little hard to uncover. But it does highlight in this area how complex the laws and regulations between countries, let alone between states, can be. We do sometimes lose sight of the fact that, as governments, we should be trying to make sure that the best interests of children are put first when determining how we handle these matters. The bill seeks to do that, and that is the reason why Labor supports the initiatives.

We do note that the bill has an international focus in that it deals with jurisdictional difficulties between countries, but the point needs to be made that we have a number of very serious jurisdictional problems within our own country by virtue of having a federal system. I think lots more work can be done in this area. The purpose of our second reading amendment is to highlight not our lack of support for the bill but where we think the principles that underlie this bill can be taken and developed further in the interests of Australian children. Anyone who has spoken with children’s welfare workers or has worked in the Family Court, the Children’s Court or in the area of domestic violence—as has the member for Sydney, who will also be speaking in this debate—will know that our legal system, try as it might, sometimes does cause great difficulties for those interested in the protection of children. We have an obligation at a national level to make sure that we do what we can to make that system work better. It does require an enormous amount of hard work and lots of cooperation between states and the Commonwealth, which often is very difficult to obtain, but I think it is something that on both sides of the House we need to push a little harder for. The type of detailed work that went into the committee review and the preparation of this bill is obviously a sign that it can be done. However, there does need to be a bit of will for us to do that.

The second reading amendment also endorses the principle that we should highlight the importance of caring for and nurturing children throughout Australia and Australian children throughout the rest of the world. Again, this builds on the notion that we actually need to better value our children. There is a changing understanding of the nature of childhood. I think we have moved past the idea that children should be seen and not heard, that they should quietly do what they are told at all times and, if we want to go back, that they should go and work in the coalmines—and, to go further back than that, that children themselves should be having children when they are 11 or 12. Our views in a Western democracy about what childhood means have changed as we have learned more about how children develop, about the importance of brain development in the very early years of a child’s life, about the importance of children being kept safe and healthy and about how that has an effect on their life course in the future. We have acknowledged more and more that children are actually young people and
that children are not there to be treated as possessions and bossed around. I think that parents are the ones who best understand this and that sometimes governments and other organisations have been slower to pick this up.

Talking about the interests of and the valuing of children has created a little misunderstanding and fear that somehow this is something that has to run counter to the interests of parents. There is a very strong sense of this in some sections of the community, and it has come about because we need to have a better debate about valuing children. Valuing children means valuing children in families and valuing the role that parents have in the development of their children. We need to be able to provide the support that parents need to give their children the best start in life as well. This is why the second reading amendment also deals with the recommendations made by the joint standing committee that the member for Barton referred to. The report of that committee dealt with a whole range of things that would make a great difference to children’s lives in this country, and it is disappointing that there has been no formal response at all from the government on this, despite the cross-party and cross-House work that has been done and the comprehensive way the report dealt with a whole range of issues affecting children in Australia. We urge that attention be given to this.

I do note that the government has established the position of Minister for Children and Youth Affairs—an initiative that we have supported. We think that is an important step, and we have done the same thing in having a shadow minister for children and youth—in this instance, me—to make a statement about the importance of children and young people deserving to have their interests looked after by a spokesperson in this place. But there is no point in having the title if we cannot do more with it. We want to see the minister take a little more action in this area and take very seriously his role in trying to further the interests and well-being of children across the country.

It is for this reason that the last point of our second reading amendment refers to our proposal to establish a children’s commissioner, which we believe would further the best interests and protection of children nationally. I would like to take a little time to detail what we think a children’s commissioner would do and why we are urging the government to consider this as an initiative worthy of taking up. It really goes to the issues and the underlying principles I have already spoken about in this bill. We must acknowledge that there needs to be some sort of national voice for children. We must acknowledge that they are in a different position from that of most other members of this community. They are not free to vote, often they are not free to speak out as readily as other members of the public are and often they are not in the position to do that even if they are given the means.

We need to recognise that there should be an organisation, a body or a person that is able to consider the best interests of children and advocate to both government and the public what the children’s interests are and what might be in their best interests. They would play a role as an independent statutory office, which is what we are proposing for a national commissioner for children and young people. They would play a role which was entirely independent of government. As other commissioners have done in the past, I am sure they would be able to put a lot of pressure on governments of all colours. This is not a suggestion that we think would be appropriate just when there is a Liberal government; we think that a Labor government would benefit from the expertise and advocacy of a commissioner for children and young people—a commissioner who would have a specific interest in, and would lobby government and inform the public on, areas that may not otherwise be taken up by government.

I think a commissioner for children and young people could play a very important role in valuing children as people and as part of our society. I have been increasingly disturbed to
hear, in the small amount of debate that there has been on the Intergenerational Report, which was part of the budget, about the dropping number of children. It seems that the only discussion that we have had from the government on this is that we are going to have fewer taxpayers to pay for us in our old age, rather than actually talking about how we are going to make sure that those children have the most opportunities in life, a chance to be able to develop and meet their full potential and to be able to be valued as children while they are children and not just seen as future taxpayers for the rest of us.

A very important reason that we have put forward this proposal for a commissioner for children and young people is that we believe there is a role to be played nationally in the protection of our children. I do not think anyone in this House can ignore the absolute scourge in our community of child abuse and child sexual abuse. This is a devastating problem across the country. It is not just in the churches or Aboriginal communities; it can be in all families. It can involve people with different economic means and people in different parts of the world—in urban areas like mine and in regional areas like that of the Deputy Speaker, Mr Causley. This is a very serious issue. I am sure that other speakers will mention this, but there really are no words to describe how terrible, how tragic, how violent and how awful are some of the examples that are presented to us day in and day out of the abuse of children, sometimes as young as three and four, and of the emotional and physical trauma, let alone the long-term physical and emotional damage, caused to these children. I know I cannot describe it adequately in this House, but I do think it is important to try to describe some of it, because one of the problems that we face in dealing with child abuse and child sexual abuse is that no one wants to talk about it—it is an embarrassing and uncomfortable thing for people to deal with. Unfortunately, in the argument over the Governor-General’s handling in his previous life of a child abuse matter, we basically saw that, at the national level, our Prime Minister and our Governor-General—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The honourable member for Gellibrand should be aware of standing order 74.

Ms ROXON—Yes, I am, Mr Deputy Speaker. The point that I am trying to make is that at a national level we lack an ability to articulate the extent of this problem and the methods for us to be able to deal with it. We think that the establishment of a commissioner for children and young people is a way for us to have an independent office that is able to speak out on some of these issues, and it would have the resources and the position within the community to do that without fear or favour, without political interest needing to motivate action. That is an important role and something we must be prepared to take on. This is an area where the states have an important role to play—I do not deny that. There is a massive social problem in Australia. I do not want to overstate it, but the bigger risk is that we understate it and fail to deal with it. Having an independent statutory office at a national level which is expert in this area and which is focused on these issues is one way of trying to move the debate forward.

In our proposal, which was launched by our leader, Simon Crean, and me in May, we have set out some steps that we would like to explore and consult further with the community on. We invited feedback from the federal departments and from the minister, but we have yet to receive any response. One of the issues that we have identified is our proposal to introduce a national ‘working with children check’. This builds on the work that has already been done in Queensland and New South Wales by the children’s commissioners in both those states. It involves a check on a person who is working with children to ensure that they do not have a criminal record in a relevant area and that they are clear of any violent or sexual offences against children. In New South Wales they go a step further and do past employment checks
and checks for family violence orders that might be relevant and not only is there a check, but a legislative prohibition makes it illegal for someone who is disqualified to work with children. In Queensland it is an administrative process. A clearance is done and a card is presented to a person to say, ‘Yes, you are eligible to work with children,’ or to be the scoutmaster or to run a school boarding house or the cubs group or whatever other thing it might be.

We are consulting very widely on this issue because it would be a big change, but we think it would be a very practical way of taking some steps at a national level which would help ensure that the adults who are working with our children are appropriate. Parents must be able to be confident to leave their children at child-care centres and at schools, to go on sports camps and to do other things. It is vital for children’s healthy development and wellbeing to be able to get out and about and experience a wide range of things. None of us underestimates how important it is for children to be exposed to a range of experiences and for them to have with a range of adults relationships that are healthy and positive, but we should undertake a check so that those people who are deemed inappropriate to be caring for and working with children are not able to do so. That would be a great step forward for us.

We have also said that we would like to consult with the community about introducing terms in contracts for those organisations that receive federal funding to ensure that they have protocols in place for the prevention of child abuse and, in the event that child abuse does occur, for the handling of complaints. The many organisations that have the benefit of public funding should take steps to be able to protect our children in the future. Also in this area, and something even more directly related to this bill rather than our second reading amendment, are some of the jurisdictional problems between the states and the Commonwealth—I mentioned them briefly before—but especially in the overlap between child protection matters and Family Court matters. I know that the Family Court and the Attorney-General’s Department have already been doing some work. I suspect it is one of those works of art, an issue for all governments. But we need to draw a line in the sand somewhere and say, ‘This is a problem that we need to deal with quickly.’ We cannot just let it go on forever.

I know the Family Court has done some really good work in looking at how these orders in different systems can often work against each other, where child protection workers can be saying that it is not safe to leave children in a certain environment and the Family Court can be making orders granting custody to that parent. These are difficult issues, but they are ones that need to be dealt with. We think that there would be an opportunity. We do not necessarily need to wait for there to be a commissioner for children and young people to be established to deal with some of these things. They are issues that should be dealt with, where the Commonwealth has a clear responsibility.

We have also said that we would like some consultations on whether it is possible to have a national approach to the definitions of ‘child abuse’ and ‘neglect’, to mandatory reporting requirements and to other reporting matters. These are issues that are often raised. They would not be new to the government. They are incredibly complex. I do not raise them as issues that I think there is any simple answer to; but a commissioner for children and young people would potentially be able to play a role in furthering some of this debate.

Child abuse is only one issue, though it is a very important issue and has a great impact on those that are affected by it: there are many other issues that children and young people are interested in and that their parents are interested in that we think a national commissioner for children and young people could deal with. I refer to issues such as children’s health, changing health patterns and how we need to take some steps to make sure that we are going to bring up children who will be healthy in the future. We have no national children’s services
agenda. We have a very hotchpotch system between local government, the states and the Commonwealth for the provision of our preschool services. I do not mean preschool as it is called in some states where it relates to four-year-olds for the year before they go to school; I mean services provided to those children under five or six before they are at school. It includes child care, maternal and child health issues, preschool and kindergarten services, playgroups and a whole range of other things.

Now that we are learning much more about early childhood development and the absolutely central importance of those first couple of years in a child’s life and the impact they can have on their life as an adult, we must look at investing more in these years and we must make sure that the community understands their importance. We think that a national commissioner for children and young people could do that. We think that they could help provide a voice for young people, for young adults, who do not have an effective conduit to government any more. At the national level there is no funded youth peak organisation. There is only the Youth Roundtable, and that does not play a role of providing ongoing advice to government or to the public. We think it is incredibly important that some method for governments to communicate with young people be re-established. That is one of the things that we also would like to consult on further.

In summary, this bill is an important one. It is one that we support. We think it indicates that there are people within the government and on both sides of the House who are interested in the protection of children. But we need to take it a step further. We need to remember that we cannot just do that internationally; we need to do it locally. There are many steps that we can take and provide leadership for at the national level. If we are really interested in advocating for the health and wellbeing of our children and young people, we must do it at a national level and we must not turn a blind eye to some of the really difficult problems that are occurring in this area.

I commend the bill to the House and commend the second reading amendment. We would be delighted if the government would consider taking up some of these proposals and we have already offered bipartisan support on the small initiatives that the government have taken in this area, particularly in the area of children’s health and wellbeing.

Ms PLIBERSEK (Sydney) (10.27 a.m.)—As the member for Gellibrand said, the Family Law Amendment (Child Protection Convention) Bill 2002 is a very important bill and one that the Labor Party supports. When I saw the speakers list this morning, I was very surprised to notice that there are no members of the government speaking on this very important legislation. I know that often legislation is relegated to the Main Committee when it is considered uncontroversial, but surely uncontroversial does not mean unimportant. In a case like this, where we are talking about the best interests of children, I am very surprised that a government that continues to say that the nuclear family is the most important unit of society does not see the importance of having at least one or two speakers on the speakers list for this important legislation.

The second reading amendment that has been moved by the member for Barton draws attention to some of the more important aspects of this legislation. We certainly will not be opposing the legislation, as the member for Barton and the member for Gellibrand have stated, but the amendment does draw attention to the fact that the underpinning principle of this bill must be to ensure that the best interests of children are protected and that this principle should apply to all matters relating to the care and nurture of children throughout Australia.

There have been any number of international conventions relating to the care and protection of children, particularly in relation to maintenance being paid to people who reside in
Australia where one parent lives overseas and the child resides in Australia. We have agreements with countries overseas to collect maintenance payments from people who have children residing in Australia when that parent lives overseas. This is an area that is fraught with difficulty, because we know that one of the reasons that some parents move overseas is specifically to avoid their child maintenance obligations. It is disappointing that, despite the fact that we have conventions relating to maintenance, parents are often frustrated in trying to collect money owed to them by non-custodial parents living overseas. The only people who really suffer in this ongoing battle inevitably are the children who are not receiving proper maintenance from their non-custodial parents.

The convention on child protection covers the attribution, exercise, termination or restriction of parental responsibility, rights of custody and access, guardianship and curatorship, the designation of functions of any person or body having charge of the child’s personal property, the placement of the child in foster care, institutional care or any similar arrangement, the supervision by a public authority of the care of a child by any person having charge of the child, and the administration, conservation or disposal of the child’s property. The preamble to the convention specifically excludes a number of areas, including the establishment or contesting of a parent-child relationship, decisions on adoption, the names of the child, emancipation, maintenance obligations, trusts or succession, social security, public measures of education or health, penal offences committed by children, and decisions on the rights of asylum and immigration.

I understand that maintenance obligations are specifically excluded because of the enormous amount of bureaucratic support needed to pursue maintenance obligations in an international context in this way. It is still frustrating, however, that I have any number of constituents who tell me that after years and years of working with the Australian Child Support Agency and establishing the whereabouts and even the bank account details of non-custodial parents living overseas, they are still unable to claim support from the non-custodial parents.

I have one particular case that I have been working on since 1998. Without mentioning the name of anyone involved, it is a constituent of mine who lives in Balmain with her daughter. With respect to her circumstances, the case was registered for collection as a stage 2 case from 1997. The Child Support Agency collected only one payment on this lady’s behalf of less than $1,200 through a tax refund intercept. That occurred in 1998. In 1999, the Child Support Agency determined that the non-custodial parent had ceased to be a resident of Australia for the purposes of the Income Tax Assessment Act and the case was ended retrospectively, with about $13,000 of accumulated debt. That debt was obviated when the case was ended retrospectively. The non-custodial parent went to live in Ireland and the custodial parent obtained an overseas maintenance order requiring the non-custodial parent to pay child support of $250 a week. The order was registered for CSA collection in January 2000 and the liability was backdated to November 1999.

In accordance with the procedure, the CSA overseas team, which is based in Hobart, arranged for the Australian Government Solicitor to register the order with the child support collection agency in Ireland. That was properly done and details of the non-custodial parent’s address, bank account and employment details in Ireland were passed on to the Irish authorities. To date, no payments have been transferred to the CSA. At the time of this advice from the minister, the non-custodial parent owed about $14,000. So the non-custodial parent had a $13,000 debt wiped, and has since accumulated another debt of at least $14,000. This was some time ago, so I presume the debt is substantially higher now. So, despite the fact that we have these international agreements with other countries, there is a vast degree of frustration
on the part of custodial parents in Australia in trying to collect child support from non-custodial parents living overseas. While this bill does not cover that situation, I think it is an area that the Australian authorities will have to work a lot harder on with our overseas colleagues.

I had another case where a custodial parent separated from her husband in 1993. The support issues dragged on for about six years. In 1998 she received only $5,000 in a lump sum as support for their child. The non-custodial parent left Australia for the Czech Republic. We have a reciprocal agreement with the Czech Republic to recover child support payments from non-custodial parents who go to the Czech Republic, yet no money has been recovered from this non-custodial parent. The custodial parent in this case had specifically asked the Child Support Agency to anticipate that the non-custodial parent was likely to leave the country and to make arrangements to prevent him leaving until he had made arrangements to ensure that he would pay maintenance. The Australian legislation allows for her to tell the Child Support Agency that her estranged husband was likely to leave the country. The Child Support Agency did not take any action and the custodial parent was told, only after repeated phone calls to the agency, that they had given up on her case due to underresourcing and were unable to collect any moneys owing to her. This custodial parent had done the right thing: she had notified the Child Support Agency of changes in circumstance—and in fact had pre-empted those changes—by warning the agency that the non-custodial parent was likely to leave the country—yet they did not see fit to tell the custodial parent that they had given up trying to recover money. They left it for her to find out herself after many frustrating phone calls.

The sorts of child custody and maintenance cases that come in to electorate offices are some of the most heartbreaking. Everyone recognises that the ongoing conflict that children witness and the emotional strain placed on parents by this conflict are undoubtedly detrimental to children. In most cases, no matter what the outcome is, the suffering is quite extreme for many children—and no more so than in cases of child abduction. I noted the concerns of the National Council for Single Mothers and Their Children. They had a number of concerns about how this convention would fit in with the child abduction convention. I think that the child abduction convention was something that anyone working in the area of child protection was very keen to see passed.

While I do not advocate the abduction of children and never would, the sad reality is that in many cases there are parents who, believing quite sincerely that their children are in danger of physical, sexual or emotional abuse, may abduct these children. The National Council of Single Mothers and Their Children was pointing out that in some countries overseas, where there is a presumption that children will stay with the father and that nationals of those countries are given some privileges in cases of deciding custody arrangements, this might be the only option that some women feel is available to them.

On further examination of the Family Law Amendment (Child Protection Convention) Bill 2002, while those concerns are perfectly valid and something that the parliament did need to address by looking at the bill more carefully, I think that the interaction between the two conventions is not necessarily a bad one. The child abduction convention deals with the short-term impact of an abduction, whereas the child protection convention deals with longer-term decisions about where children will eventually live and who will have responsibility for them, and I think that that interaction is quite a proper one. However, even where these conventions are drafted with the best of intentions and are drafted quite thoughtfully, one of the concerns is that Australian citizens face additional problems in taking action under the conventions in
overseas countries. Quite often, legal systems are difficult for us to comprehend and it is difficult to find difficult legal representation overseas.

I have another very serious case of child abduction where the abducted child and the non-custodial parent who has abducted her are living in New York. To have access to the New York court system, my constituent is of course expected to pay commercial rates to hire a lawyer in New York. The sort of prices that we are talking about—especially when you factor in the exchange rate—make it almost impossible for my client to afford that legal representation, particularly when you consider airfares to go over to appear in the hearings as well. The delays that are experienced in the New York court system mean that my client has had to travel over to New York a number of times, only to get there and be disappointed.

I am sorry to say that I believe that the weight given to Australian documentation and representations from Australian authorities in this case has been minimal. There was an order in place that this child should not be taken out of the country. We have a copy of an Australian Federal Police airport watch notification for this child. The child’s older sister, who remains in Australia, is beside herself at being separated from her sister. While my view is that it is quite clear where the law stands, if a person does not have the money to afford legal representation or, for some other reason, cannot understand the legal system in a country that is very different from ours, then having access to justice in these cases is quite a step further than just having the law on your side, even if it is international law.

I would like to conclude by reiterating what the two previous speakers said: that this bill must ensure that the best interests of the child are protected and that all Australian laws and policies should take that as their central principle. In addition to that, we have also moved that the Joint Standing Committee on Treaties should take the necessary steps to implement the Convention on the Rights of the Child. I think this is another important area and, with more time, I would certainly like to canvass that. But a first step, certainly, in treating Australian children properly is to standardise some of the child protection measures between states, as the member for Gellibrand said. A second thing I would add is that keeping young children, including unaccompanied children, in detention centres in a country like Australia makes it very difficult for us to hold up our heads internationally when we are talking about the Convention on the Rights of the Child.

Our proposal for a children’s commissioner would allow us to canvass these issues more publicly, not in a partisan way but with an independent person who is charged with being a strong voice for children in Australia. The sorts of issues that I think would be priority issues for a children’s commissioner are those that the member for Gellibrand was talking about in relation to child abuse and child sexual abuse. The number of cases reported to authorities in Australia is truly shocking. Not all of those cases are found to have substance, but if even 10 per cent of the tens of thousands of cases reported to the New South Wales Department of Community Services alone every year are found to be substantiated, we can quite rightly refer to child abuse in this country as an epidemic.

I think that governments have begun to realise and have begun to address this issue quite seriously but, because of the enormous numbers of children we are talking about and because child abuse, like domestic violence, has always been considered something to be hidden in the domestic sphere and not talked about publicly, we are really only at the very beginning of the process of addressing child abuse and child sexual abuse. We do have a very long way to go, and I think that programs, such as Families First in New South Wales, that start at the very beginning with community visits to young families when they first bring their babies home from hospital—visits that teach parents to be good parents and to look for support when they

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are at the end of their tether—are incredibly important in protecting children not just in the first months of their lives by teaching parents to seek help when they need it but throughout their lives.

I commend this legislation to the House. I believe it is important to take an international view of child protection, because we know that children are moving around the world much more than they did 50 years ago. These sorts of conventions mean that, as long as a country is a signatory, parents can have some comfort in knowing that, if their children are taken away without permission, they will have some recourse to international law in regaining custody of their children.

Ms KING (Ballarat) (10.48 a.m.)—I rise to speak on the Family Law Amendment (Child Protection Convention) Bill 2002. The bill amends the Family Law Act 1975 to allow Australia to proceed with the ratification of the Convention on the Rights of the Child. The convention is designed to address conflicts in jurisdictions in children’s matters between courts in different countries. The bill implements arrangements to guarantee the recognition and enforcement in Australia of parenting orders for other convention countries, and vice versa.

In an era where there are greater numbers of cross-country marriages and where the global movement of people between countries is an everyday occurrence, it is overwhelmingly apparent that the potential for conflict over which country has jurisdiction in deciding parental responsibility when relationships break down must be addressed. The cases in which this conflict does arise are often very public, the disputes are often bitter and drawn out, and there is an enormous lack of clarity as to which country’s laws should apply.

The Senate Legal and Constitutional Affairs References Committee commented, ‘At present, there are no clear rules and procedures governing such disputes, with the result that Australian courts and overseas courts sometimes make conflicting parenting orders in relation to the same children. Authorities in one country may fail to act because they assume that authorities in another country have responsibility for a child.’ In cases that involve the protection of children, this is clearly unacceptable. The Family Law Amendment (Child Protection Convention) Bill 2002 goes beyond lip-service and changes the Family Law Act 1975 to provide clear jurisdictional rules for courts here and abroad. It continues the work of developing multilateral instruments for the protection of children.

A division having been called in the House of Representatives—

Sitting suspended from 10.50 a.m. to 11.05 a.m.

Ms KING—Too often, children can find themselves in the middle of bitter parental responsibility disputes. Governments cannot change the fact that relationships break down, but they can do all within their power to ensure that the overriding principle in making decisions is what is in the best interests of the child. I cannot begin to imagine how parents must feel when they find themselves caught up in a complex tangle of international law when attempting to resolve parental responsibility disputes. Added to the mix is the potential that those children may need to be subject to child protection laws. Parents in these circumstances speak of ‘being plunged initially into a world of bewilderment, despair and hopelessness; this often becomes worse as they realise there are few quick solutions and they must go through a minefield of legal, cultural and often linguistic barriers to get children back or disputes resolved’. The voices of children who are placed in these circumstances are often never heard. The preamble of the convention states:

The best interests of the child are to be a primary consideration in reaching decisions under the terms of the Convention.
There is a great deal of lip-service paid to statements such as this without actually enacting them. Every day we continue to hear of cases of children being exploited, being placed in vulnerable circumstances and being abused. That is why Labor has moved an amendment that calls for the underpinning principle of the bill—that is, that the best interests of children are protected—to apply to all matters relating to the care and nurture of children throughout Australia, whether they are Australian citizens or children who are refugees.

I want to speak a bit about children in detention here. The Family Law Amendment (Child Protection Convention) Bill 2002 sets out the circumstances in which a Family Court in Australia may exercise jurisdiction with respect to measures to protect a child and includes the circumstance of when a child is present in Australia as a refugee. The bill is silent about those children seeking refugee status. These children are treated as non-citizens, and I would argue that we are treating them as though they are non-human—children like six-year-old Shayan who, after 18 months in an Australian detention centre, had to be hospitalised as he had stopped talking, eating and drinking.

I have two women in my electorate who have worked as nurses in Woomera. They told their story to our local newspaper, the Ballarat Courier. In relation to children they had in their care, they told me of children who, on arrival in detention, are healthy, happy and optimistic about their future. Both these nurses told me that the impact of detention on children was severe and that almost all the children experienced severe developmental delay, are well below normal weight and height measures for children of their age and culture, frequently bed-wet and exhibit significant signs of trauma. Both these nurses tell of the stress that they underwent on a daily basis as children begged them to let them stay with them in the nurses’ area rather than being returned to the general detention population. This is nothing short of child abuse.

The fact that these children have not had refugee status, or have had their claim rejected but Australia is unable to reach agreement with their country of origin for their return, is no excuse for government sanctioned child abuse. Both these women had no preconceived ideas about Australia’s immigration program; if anything, they tell me that they think that people should not come here unauthorised. They have no agenda to push. They just have what they have seen, their judgment based on years of professional experience and their fundamental decency as members of the Ballarat community who believe that children should never be treated like this. It seems to me that, as we make the formal moves to ratify the child protection convention, we should be taking a hard look at what governments are doing to perpetuate the abuse of children. Detention is no place for children, and I again join with my colleagues in calling on the government to get the children out from behind the razor wire.

It seems to me that, given the daily revelations of child abuse and the damage that it has caused countless lives, we should also take a long hard look at establishing a national response to the issue. The establishment of a national child and youth commissioner is long overdue. Children and young people should have an advocate of the highest level. Labor has outlined the roles that a national youth commissioner should play. They include: providing national leadership and advocacy on children’s issues; monitoring the welfare and wellbeing of Australia’s children regularly and regularly reporting on their status; developing mechanisms to assist the coordination of best practice service models for children and youth programs, including protocols for dealing with child abuse complaints; providing leadership and coordination for a national code on relevant children’s issues in conjunction with the states and territories; picking up on good ideas, such as ‘the working with children check’; identifying and conducting research into children’s issues; promoting relevant public education.
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campaigns; promoting understanding and investment in early childhood development; consulting with children and young people about issues affecting them; reviewing legislation, policies and practices relating to children; and conducting inquiries, reporting to the parliament and making recommendations to the Minister for Children and Youth Affairs.

The report on child protection 2000-01 released in April by the Australian Institute of Health and Welfare noted an increase in the number of notifications of child abuse since 1996 and an upward trend in the numbers of children on care and protection orders. These figures show that we are seriously failing young children. We have to focus on doing all we can to prevent abuse and neglect. The government’s focus on standardising mandatory reporting is not enough; it is after the event and it is not going to stop child abuse. We have an obligation to focus on preventing child abuse and neglect happening in the first place. We need to understand and address the complex causal factors and scrutinise the adequacy of current family support programs designed to help parents and their children. The Men and Family Relationships Program is an example of this, and while I welcome the government’s decision to extend funding for a year, it stops woefully short of recognising the importance that this program has in strengthening families and preventing domestic violence and child abuse.

We need to stop seeing family support programs such as the provision of child care, income support and family relationship counselling as somehow not being the main game for the federal government. We need a national commissioner for children and youth and we need to put the issue of child protection in the national spotlight. I had the opportunity to speak to Moira Rayner, who was Victoria’s previous sex discrimination commissioner, before she took up the post of children’s commissioner in the UK. On asking her what decided her to take the job, she said something along the lines of: ‘I knew the government was serious about their commitment to children when I turned up for my interview and there wasn’t an adult in sight. The kids ran the interview process and made the decision. How can you refuse a job that children have chosen you for?’ I think it is a pretty powerful statement by governments and public service departments to give over that much power to children. I hope that when we have a national commissioner for children in Australia we can have as much faith in our children.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (11.12 a.m.)—In summing up the debate and making some concluding remarks, I would like to thank all honourable members who have contributed to the debate on this most important issue and this significant legislation. The proposed amendments to the Family Law Act will enable Australia to ratify the Hague convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children. Ratification of the convention will be of significant benefit to Australian families, particularly to children who are the subject of international family law or child protection litigation. Like it or not, litigation is still the final resort for a minority of parents. Jurisdictional certainty and finality of court orders will be features of the convention.

I want to remind members that the objective of the Family Law Amendment (Child Protection Convention) Bill 2002 is to address conflicts in jurisdiction on matters between courts in different countries. At present, there are no clear rules and procedures governing such disputes, with the result that Australian and overseas courts sometimes make conflicting parenting orders in relation to the same children. Authorities in one country may fail to act because they assume that Australian and overseas courts have taken responsibility for a child. The convention and the bill which implements it are designed to overcome these difficulties by providing clear jurisdictional rules for courts here and abroad. The bill also implements arrangements to guarantee the recognition and enforcement in Australia of parenting orders for other
convention countries. It will establish mechanisms to facilitate cooperation between courts in Australia and courts overseas in parental responsibility cases. Under the convention, the parental responsibility of an unmarried Australian father will be automatically recognised in those countries where, ordinarily, a father who is not married to the child’s mother has no rights of custody by operation of law.

The convention will also address the problem of international cases involving protection of children from abuse and neglect. It is in the best interests of children that there be internationally agreed rules determining which child protection authorities have jurisdiction in relation to a child. Commonwealth and state officials have been cooperating in the development of an appropriate legislative scheme to implement the convention in Australia. This means that parents will know which countries’ courts will make decisions about their children and will not be subject to uncertainty due to conflicting parenting orders from different courts in different countries. It also means that it will be clear which countries’ child protection authorities have jurisdiction in relation to a child.

The convention was drafted by family law experts from 48 countries under the auspices of the Hague Conference on Private International Law, the foremost international organisation in development of modern conflict of laws instruments in the family law area. Few countries have yet ratified the convention, as it was completed only recently; but a number of countries with which Australia has had international family law conflicts cases are working towards ratification.

There have been a number of amendments suggested and a number of serious issues raised in relation to the protection of children which cut across several portfolios, and these amendments were moved by the member for Barton and seconded by the member for Gellibrand. I want to say that any further consideration of these issues need not delay progress of this amendment bill. The bill has been considered by the Senate Legal and Constitutional Legislation Committee, and that committee reported last month that the bill should be passed. The convention has been subject to scrutiny by the Joint Standing Committee on Treaties, with the committee recommending that Australia ratify the convention.

The DEPUTY SPEAKER (Hon. B.C. Scott)—The original question was that this bill be now read a second time. To this the honourable member for Barton has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (11.17 a.m.)—I present a supplementary explanatory memorandum to the bill. I ask leave of the Main Committee to move government amendments (1) to (7) as circulated together.

Leave granted.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (11.18 a.m.)—I move:

(1) Schedule 1, item 25, page 8 (line 17), omit “court order or other”.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (11.18 a.m.)—I move:

(1) Schedule 1, item 25, page 8 (line 17), omit “court order or other”.

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Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (11.18 a.m.)—I move:

(1) Schedule 1, item 25, page 8 (line 17), omit “court order or other”.
(2) Schedule 1, item 25, page 8 (lines 21 and 22), omit “that is not a party to the Child Protection Convention”, substitute “for which the Child Protection Convention has not entered into force”.

(3) Schedule 1, item 25, page 11 (line 1), omit “authority in”, substitute “authority of”.

(4) Schedule 1, item 25, page 16 (line 1), after “measure”, insert “required by the situation”.

(5) Schedule 1, item 25, page 17 (line 19), omit “authority in”, substitute “authority of”.

(6) Schedule 1, item 25, page 22 (line 15), after “measure”, insert “required by the situation”.

(7) Schedule 1, item 25, page 23 (lines 13 and 14), omit “, any other Commonwealth law or any law of a State or Territory”.

I believe that in the summary we were able to indicate that the government is most serious about the child protection convention and I would most earnestly recommend that these amendments now be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

HER MAJESTY THE QUEEN

Address of Congratulation

Debate resumed from 18 June, on motion by Mr Abbott:

That the House take note of the following paper:

Address of Congratulation—Queen’s Golden Jubilee.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (11.19 a.m.)—Mr Deputy Speaker Scott, I want to congratulate you on your appointment to high office. I am particularly pleased to see you this morning in the chair and I speak at this time in the absence of the honourable member for Chifley who, no doubt, will be in the chamber shortly. I am quite happy to place on record at this stage my very great respect for Her Majesty Queen Elizabeth, who is celebrating her Golden Jubilee.

Mr Randall—We’re going to hear some forelock tugging to the Queen now, aren’t we?

Mr SLIPPER—Her Majesty has done a wonderful job, and I know that the member who interjected is also a very strong supporter of Her Majesty and the role that she has played as the sovereign of this nation during the last 50 years. Indeed, when one considers the passing of Her late Majesty Queen Elizabeth The Queen Mother only a short time ago, the entire life of that remarkable lady, in effect, was the period of Federation of this nation. Her Majesty The Queen has been Queen for approximately half of Australia’s period of Federation. During that time Australia has matured as a nation. We have grown up and, indeed, the role of the Queen has altered as the years have gone on. Regardless of the views of individual Australians, Her Majesty is someone whom people broadly recognise as having done an outstanding job, and I consider that all Australians would wish Her Majesty well in this, the year of her Golden Jubilee.

Her Majesty was one of two children. The then Princess Elizabeth and her late sister, Princess Margaret, were well known during the period of the war when the royal family chose to stay in the United Kingdom at a time when other royal families, given the threat of invasion and attack, went to safer areas. In fact, when Buckingham Palace was bombed, Her Majesty The Queen Mother made the comment that at last she could look the East End in the face.

Her Majesty became Queen of Australia in 1952 and she has been a tireless and popular monarch. Some statistics might not be known by many people: she has some 350 official en-
gagements each year; she entertains nearly 50,000 people at Buckingham Palace; she serves as patron or president of some 700 organisations; and she travels extensively, as is appropriate for a person who is not only Queen of Australia but also head of the Commonwealth. Most recently, we were fortunate in Queensland, and in Australia more generally, to have Her Majesty here during the Commonwealth Heads of Government Meeting. She was present on the Sunshine Coast. I think she is a person who is a paragon of duty, and people throughout the world recognise her outstanding role.

Her Majesty married His Royal Highness Prince Philip, the Duke of Edinburgh, in 1947, and they have four children. Everyone knows that those four children have played an important role as members of the royal family. The Prince of Wales is, of course, heir to the throne.

Her Majesty was the first monarch to make full use of television. The decision to allow a documentary on the royal family, which was broadcast in 1969, opened up the monarchy to millions of viewers around the world. While at the time many may have thought the documentary was justified as a way of humanising the royals, some observers have said that it opened the way for more intrusive coverage in the late 1990s, which has had quite disastrous consequences.

During the past 50 years the Queen and the Duke have done an amazing amount for hundreds of organisations around the world. The Queen pioneered the walkabout. While it must have provided a nightmare for the security officials, the Queen thought that it was appropriate that she and the people of the nations of which she is Queen ought to be able to meet without the oppressive barrier of excessive security.

Further statistics reveal that, since 1952, the Queen has conferred 380,630 honours and awards. The Queen has received around three million items of correspondence and she has sent just about 100,000 telegrams to people attaining the age of 100 years in the United Kingdom, Australia and in other countries of the Commonwealth. The Sunshine Coast appears to have large numbers of people of amazing longevity. We regularly hear of telegrams that Her Majesty has sent to constituents of mine on the Sunshine Coast.

The Queen is the sixth longest serving monarch and she attained that particular position on 21 June this year. Only five other Kings or Queens in the history of the Commonwealth have reigned for 50 years or more, these being: Queen Victoria, George III, Henry III, Edward III and James VI of Scotland, who subsequently became James I of England. Queen Elizabeth is the 40th monarch since William the Conqueror obtained the Crown of the England.

Her Majesty is someone who travels widely and it is probably regrettable that the Queen has not visited Australia more in recent years. I suspect that, given the republican debate, the Queen did not want to be seen to be influencing the people of Australia one way or the other. She is a profoundly correct constitutional monarch and maybe she felt that it was inappropriate for her to visit this nation while we were sorting out our constitutional future.

History, of course, recognises that the people of Australia voted in the referendum to maintain our links with the monarchy. All states and a national majority voted to preserve our current system of government, which has given this nation freedom, stability and a way of life that is the envy of people throughout the world. The Queen has visited Australia twice since, and I hope that we will see the monarch visiting on very many more occasions.

It is also interesting to note that, regardless of the point of view of individuals in relation to the Constitution, whenever the Queen has visited Australia she has been received with courtesy. There was some worry that when the Queen was present those who had lost the republican debate might see it appropriate to take out their loss on the monarch, but happily that was
not the Australian way. It is a credit to all people that Her Majesty received the usual warm welcome that she always does.

I believe that our current system of government serves Australia well. We do now effectively have an Australian as head of state: the Governor-General, who carries out all day-to-day functions of the monarch in Australia. Australia has been through a period of constitutional evolution and it would be unthinkable for the Queen herself today to interfere with the day-to-day constitutional arrangements in this nation.

I suppose in many respects, as a country, we have our cake and we eat it too. We have all of the benefits of a constitutional monarchy and we have all the benefits of a republic. Australia has been declared by some to be a crowned republic. While that is probably not an appropriate term, it does indicate that sovereignty resides with the people and shows that we have a system with democratic elections. When one turns on one’s television set and looks at what happens in other countries around the world that do not enjoy our democratic traditions, it can be seen that the current system of government has served Australia well. From my point of view, I am very happy to see that system continue and was relieved to see that system supported in the referendum. In a way, maybe the result of the referendum also recognised the fact that Australians saw the Queen as having done her duty during very trying personal circumstances over a very long period.

I have a lot more information in relation to Her Majesty The Queen, but time is short. In my constituency, a majority of some 63 per cent voted no in the referendum, and on their behalf I can say that we greatly admire the role that the Queen has carried out and her continued service. I am hopeful that she and her successors will be given the opportunity to continue as Australia’s sovereigns in the future, bearing in mind that we already have an Australian head of state in the person of His Excellency the Governor-General.

Mr DANBY (Melbourne Ports) (11.30 a.m.)—It is a bit odd that following the previous speaker, the member for Fisher—who had 63 per cent of his constituency vote against the republic—I would rise to speak on this particular motion having had 66 per cent of my constituents support the republic; but in fact many of us who are republicans have a benign view of the Queen for the reasons described by the member for Fisher. I think many of us, who appreciate the kind of democracy we live in, understand that this is the Anglo-Saxon tradition that has been passed down to us. It is not the only tradition in this country anymore; we do appreciate the rule of law, the separation of powers and the ability to laugh at ourselves, which we have learnt from the English. That sense of irony, that madcap sense of humour, is perhaps unparalleled in any other country in the world that the English inhabit. I certainly appreciate that as something that most Australians enjoy, participate in and reflect in their own regard for themselves. In particular, the ability to laugh at ourselves is one that not too many people in other countries have.

The success of the current monarch is largely due to her own personal attitude and the modernisation of the monarchy as well as her ability to eschew that sense of privilege that many Australians in an egalitarian society find alienating. The current monarch is able to mix very well with her subjects, both in the United Kingdom and in other countries of the Commonwealth, when she visits them. The member for Fisher talked, for instance, about the messages that people receive on appropriate occasions. Of course, many of our constituents all appreciated the messages they received on their 100th birthday. I have seen many of those messages delivered in my electorate.

At the same time, events that underline that old-fashioned sense of privilege make many people uncomfortable with the divine right of kings and with the monarchy in general. Some
of the events outlined by the member for Werriwa yesterday in the House of Representatives included the treatment of Australia’s Prime Minister. While I am a member of the opposition, I do find it unpleasant to have to read that, when the Prime Minister was in London for the funeral of the Queen Mother, there was a proposal to take him and the other prime ministers by bus to Westminster Abbey. Only as a result of the insistence of the high commissioners were the prime ministers taken there by car. In fact, they were seated in a position in Westminster Abbey where they could not see the ceremonies, so they had no contact with the mourning family. Indeed, our Prime Minister was seated behind Prince Ernest August of Hanover.

It is quite understandable that, at a subsequent meeting at the foreign office with the British Prime Minister, the three foreign prime ministers from Canada, Australia and New Zealand apparently expressed their outrage at this expression of raw privilege. At least one vowed never to return to the United Kingdom. I suspect that was not, as the member for Werriwa says, our Prime Minister. These kinds of events need to be treated with sensitivity in the modern age. I am sure that the current monarch, if she had known about it, would have had nothing to do with these arrangements. I suspect that it was some middle-ranking official who became very officious during all of these events who was responsible for this and did not understand that in the modern world you cannot humiliate democratically elected leaders by making them sit behind Prince Ernest August of Hanover.

I want to take this opportunity to focus on some of the events around the death of the Queen Mother that I believe go to the great credit of the royal family. Many of them were mentioned in the speeches on the Queen Mother’s death but I think this is an appropriate occasion to return to them. First of all, we remember, as many people from both sides noticed, to the Queen Mother’s great credit, that during the Second World War she refused to leave London. I believe her remark went something to the effect of: ‘The King won’t go, the children won’t go and I certainly won’t go.’ I remember in many of the contributions that at the time Hitler described her as ‘the most dangerous woman’—from his point of view, obviously—‘in Europe’. I think that related to a very famous film clip where she went into the East End of London in the middle of the Blitz, put down flowers and greeted some of the poorest people in London who were being bombed by the Germans and had had their houses destroyed. The effect of someone of such great privilege going there and identifying with her own people obviously was understood by the Nazi propagandists to be very dangerous for their cause.

I notice that the Prime Minister also said that, during the Blitz, the Queen Mother said that she was going to learn to shoot, and in fact she learnt to shoot in the grounds of Buckingham Palace, because she did not want to go as easily as those other European monarchs. This was an odd remark, given the fact that she was sheltering Queen Wilhelmina of Holland, but I suppose it underlined the English attitude to King Leopold of Belgium, whom the English quite rightly regarded as giving up the game a bit too early.

I wanted this opportunity to reflect on some newly available facts that speculate about why the royal family, and the late Queen Mother in particular, never forgave the abdicated Edward VIII—the Queen Mother’s brother-in-law—and his wife Wallis Simpson or welcomed them back to England and into the bosom of the royal family. First of all, the most important thing to understand about this is that she and the royal family understood what Churchill understood and wrote and broadcast about and which was the attitude of the free world at the time: the fight with Nazism was literally a fight to the death. Edward VIII was very strongly supported by Churchill in the period of his abdication, and that is a fortunate fact of history which I will return to in a minute.
In a recently published book, the masterful historian John Lukacs discusses those vital few days in London in the British war cabinet after the fall of France, 24 to 28 May 1940, when the fate of democracy, the advance of mankind, was in the balance. Let us remember the Nazis were in total control of all of Europe, the Soviet Union in an alliance with Nazi Germany and the United States not involved in the war. Edward VIII had been in the south of France and was taken to Spain and then to Portugal. It was a very close-run thing whether he would return to his duties, as desired by the British war cabinet—they wanted him to be High Commissioner to the Bahamas. Various important agents of the SD were trying to inveigle him to become what can only be described as a traitor king following an invasion by the Nazis of Britain. In the book *Five Days in London* by John Lukacs, he describes the fact that, despite what was thought at the time and all the subsequent information we have about the United Kingdom, it was a very close-run thing whether the British would surrender. There was a proposal that Lord Halifax had from the Italian Ambassador to London, which meant that a treaty would have been entered into, leaving the Germans and Italians in control of all of Europe and, on the other hand, the British in control of their colonies, with their navy. It would have been a very tempting offer for Britain to accept.

In those circumstances the Queen Mother understood that, if her brother-in-law had been monarch at the time and a person to whom Churchill would have listened, the pressure from members of the war cabinet who wanted to accept a surrender or peace treaty with Nazi dominated Europe, together with a monarch who had been in the company of Herr Hitler would have been very great. The behaviour of Edward VIII in Portugal seemed to many people in the United Kingdom to indicate that he might accept Nazi blandishments, and this would have been extremely worrying. In the second volume of Churchill’s wartime memoirs, it is clear that only his letter to Edward VIII made the former king accept the decision to go to the Bahamas and take the job as High Commissioner and not be captured as the spokesman for Nazi Germany and become, as I said, the potential traitor king for an invaded Britain.

I do not wish to distract the Australian parliament any longer with obscure musings on English history, but I believe that, because of our common traditions, to a large extent Britain’s history is our history. You can judge the measure of someone by how they behave in a conflict, particularly in a desperate life and death struggle like the Second World War. The understandable attitude of the British monarchy to Edward VIII because of the potential role that they saw him fulfilling is very understandable and, in my view, very commendable. It says a lot about the English monarchy—our constitutional rulers at the moment. Notwithstanding that admiration, I believe—and I believe the majority of the Australian people believe—that we should move to another form of government, namely an Australian republic, a system which, perhaps, will not be disrupted by direct election of republicans at the next referendum opportunity.

Mr HUNT (Flinders) (11.42 a.m.)—It is a great honour and pleasure to rise and join others in congratulating Her Majesty Queen Elizabeth II on her golden jubilee. I wish to talk about three things: her contribution to Australia, her life and some of her enduring achievements, and the legacy that she leaves for us.

In considering the contribution Her Majesty Queen Elizabeth II has made to Australia, we need to go back to her first visit to Australia as monarch in 1954. During that time, she created for herself a great bond with the people of Australia. Over time, that has helped to transcend political debates. It has provided a point of affection for Australians in their focus on a particular institutional figure. It has perhaps been best evidenced through her direct contribution to an Australian institution, namely the Royal Flying Doctor Service. On 15 March 1963,
while visiting Alice Springs, the Queen broadcast on radio and across the Royal Flying Doctor Service a message of support for the Royal Flying Doctor Service. She spoke directly to people from the most outlying areas of Australia and, in so doing, she reached out to them in a personal and direct way. At the same time, she made an extraordinary contribution to the morale and the force of community recognition of the Royal Flying Doctor Service. During her broadcast of 15 March 1963, she said very clearly:

Today I am speaking to you from the Flying Doctor base at Alice Springs. The late Doctor John Flynn, the founder of the service, once said: ‘If you start a good idea nothing will stop it.’ The truth of his prediction has been proved by the enormous development of the service now operating from thirteen bases and covering a vast area of central Australia.

She went on to say:

Having a family myself, I fully understand what this mantle of safety must mean to wives and mothers and the encouragement it gives to new families to move out to develop these lonely areas.

At a very practical level this was about making a contribution to the institutions and the life of Australia. On behalf of all Australians, I acknowledge that and thank Her Majesty for that work, which has contributed to the development of a critical institution concerned with the care and protection of rural families. That is part of her work and her contribution to Australia.

After her 50 years as monarch, there are a number of key things that we need to be aware of. Firstly, she becomes one of only six monarchs in the history of the British kingdom to have reigned for 50 years or more. She is the 40th monarch since William the Conqueror obtained the crown of England. She plays a very important role in offering care and concern for people throughout the Commonwealth. She has conferred over 380,000 honours and awards, conducted over 460 investitures, outlasted nine previous prime ministers and is now with the first prime minister born after the commencement of her reign.

Above all else, there has been a set of what I believe are four significant symbolic achievements. The first is to be a figurehead for not just the United Kingdom but the Commonwealth as a whole. In so doing, she has generated great affection and been a point of unity for people from throughout the Commonwealth. Secondly, she has developed the respect of individuals through her personal conduct and contribution to the work of the nation and of charities. Thirdly, she has helped oversee a transition to a modern monarchy, one that lives with all its flaws and faults in the glare of public attention. She has managed this transition through her own personal conduct being beyond and above reproach on all occasions. Fourthly, she and her family have been tireless workers for charities. In Australia there are numerous charities and organisations which seek the royal imprimatur and which believe that they are stronger for their links to the organisation. That is a great contribution which the Queen has made.

I do not wish to speak about political arrangements today. This is not the time nor the place for it. I simply wish to say that Her Majesty Queen Elizabeth II deserves our congratulations on her Jubilee. She has served the Commonwealth well and Australia well and has done so with particular personal grace. She has been a figurehead, has earned respect and has overseen the transition to a modern monarchy. In so doing, she has earned the great affection, admiration and trust of the people of Australia.

Mr PRICE (Chifley) (11.48 a.m.)—Our leader, Simon Crean, the member for Hotham, has already spoken on behalf of the Australian Labor Party and its supporters in conveying our congratulations to Her Majesty on the occasion of her Golden Jubilee. As the Member for Chifley, I have an opportunity to on behalf of my constituents also add their congratulations.
It is fair to say that the Queen is a much admired person, deeply respected by all Australians. I certainly am one such person, although I am also a republican.

As I was walking up here to speak on this motion, I reflected that there were three occasions when I saw the Queen. I remember being at Cowra, where my father was a fencing contractor. As primary school students we were rounded up in the local park, and Her Majesty and her consort drove in a jeep up and down. I have a very vivid recollection of that event. The other was that the Queen and the Duke of Edinburgh were gracious enough to open the Mount Druitt Hospital. At the time I was the deputy chairman of it. As I constantly point out, a want of ecclesiastical qualifications prevented me from being the chairman of the board. I know that it created a great impact on our community at the time. Of course, the other occasion was the opening of this parliament, in which many others participated.

I do want to thank her for her dedication and contribution. Rather cheekily, I thought that as Her Majesty is the Queen of Australia I should really get the library to search out how many days in that 50 years she was in Australia. But with her title of Queen of Australia we do not expect her to reside in this great land of ours. It is also true that she has in her time seen the waning of the empire and the establishment of the Commonwealth and of CHOGM. Our Prime Minister recently chaired this significant institution and was very much concerned about what was happening in Zimbabwe. Without in any way wishing to diminish the efforts of the Prime Minister or of the Commonwealth, whilst there was some action, it did not go to the extent that all honourable members would wish to see in that unhappy country.

I find it ironic that, as the member for Chifley, I have had opportunities to speak on the passing of Her Royal Highness Princess Margaret, to speak on this motion and to speak on the passing of the Queen Mother, an opportunity which I did not exercise. It is ironic that, as members of this House, we do not get an opportunity to speak on the commitment of our troops to Afghanistan. I am one of those members who strongly supports the commitment of our troops to Afghanistan and the war on terrorism. We do not get an opportunity to speak on the Prime Minister’s visit to America. Without in any way wishing to sit in judgment on the success or otherwise of that visit, I think it is important to say that this visit, post September 11—a seminal event for the American nation and indeed for the world—was a very important visit to that country. As members of parliament we do not get an opportunity to talk about that, because there has been no ministerial statement. Unfortunately there was a death of a member of the SAS in Afghanistan and we had no way of expressing our appreciation as a nation to that solider and particularly to his family. There is no question about the job the SAS have done, and are doing, in Afghanistan, but there is no discussion about whether there is an exit strategy for Australia in Afghanistan or in East Timor.

I mentioned that I was a republican. I see the honourable member for Mackellar here and I think it is very fair that she should take some credit for a very successful campaign on the occasion of the referendum about a republic. Whilst all members respect the Queen, I think it is fair to say that on our side of politics particularly, but not exclusively, we are republican. We believe that in this new century and this new millennium it is not appropriate that some- one who is not an Australian and does not reside here should be our head of state.

I know we are getting into a debate about who is our head of state, but I thought the proof was in the pudding when the Prime Minister went to the funeral of the Queen Mother. He said it was appropriate that as Prime Minister he should go, and I agree that it was. But the Governor-General, our vice-regal representative, did not go and represent Australia. I would have thought that, if we did have a republic and a president, we would have both the president of Australia and the Prime Minister at such an important occasion. I look forward to the oppor-
tunity for a further debate about the republic. I commend Kim Beazley for his proposition that there should be two referendums. The people of Australia should be asked whether or not they wish to have an Australian republic. If that vote is resolved in the affirmative—that is, a majority of Australians and a majority of people in the states feel that way—then we can go forward and refine some models.

I accepted the argument that there should be no direct election of a president but, having seen the results of the referendum, particularly in my own electorate, when—again, full credit to the honourable member for Mackellar—it was overwhelmingly carried that there should be no republic, I am inclined to the view that if the people say they want the direct election of a president then we ought to have the direct election of a president. To the many lawyers in this parliament—some on our side; more on the government side—I say that we need to work through the difficulties that this presents. But you cannot afford to ignore the wishes of the people.

As a member of parliament who has been here for a little while, I look forward to a new republican debate. I look forward to a new referendum, where the people of Australia will be given the opportunity to decide whether or not they wish Australia to become a republic—a question as simple as yes or no. Then we would go on, as I say, to the second stage of the debate. But having said that, the people of Australia should be under no illusions. The majority of countries that form the Commonwealth are in fact republics. The Queen, as the head of the Commonwealth, will still have a role in Australia, and I am sure she would be most welcome on any occasion that she would seek to visit this country and would be treated with the same warmth and affection that she has always received. I know there was some controversy when Prime Minister Keating was in power, and it revolved around the touching of the royal personage. But there was nothing in that, in my view, that was intended to be disrespectful of the Queen. It was more the polite concern of one individual for another, as the Queen was being escorted through the crowd.

I conclude on this point: we always should have had this debate. It would have been scandalous to have left the passing of such an important milestone uncommented on by this House. But it shows the government’s priorities. We cannot talk about and debate the Prime Minister’s important visit to America after September 11. We cannot talk about and debate the commitment of troops. We cannot give the troops that we have sent overseas—in particular the SAS, who are very much in harm’s way and are doing an outstanding job—the knowledge that they go about their task with the full support of each and every member of this House. We cannot even have a debate about the newly announced Australian policy of endorsing America’s first-strike policy. I do not know how many members here are concerned about the current situation in the Middle East. The President of America has made an important announcement. There will be no debate in this House about how Australia responds to that initiative and what our expectation will be of that delivering peace.

I despair that, when we look around the globe, we still see so much these days of the old evils of terror, of inhumanity toward people, of hunger and of people being dispossessed. Not only do we have a responsibility as a middle sized country but we have a responsibility as a democracy to consider these issues and to have the opportunity to make comment.

Let me finish on this note: the government very proudly announced its budget, and there was an extensive debate on the appropriations. An important part of the scrutiny of a government’s budget—both by the opposition, I might say, and also by its own members—is to have a debate on the various portfolios, but all that was truncated. Again, I am a little worried; I have paid at least three compliments to the honourable member for Mackellar, but I commend
her for her desire to bring about possible reform in this area. Again I point out: we are elected representatives in this place. We welcome the opportunity to speak on the passing of the Princess Royal and the Queen Mother and on the Golden Jubilee. That is appropriate. But what about all the other important issues? Should we not be able to say to our constituents, ‘Yes, we considered these matters. They were discussed in the party room and, yes, I put my views on the Hansard record.’ We are being denied the opportunity. We are seen as democratic eunuchs in this place because of the priorities of this government and the lack of appropriate time allocated to debate significant issues.

I will finish where I left off: I wish to pass on my personal and my constituents’ congratulations to Her Majesty on her Golden Jubilee. I believe, as I said earlier, she is one of the women most admired in Australia. In saying that, I acknowledge that as being a truth—and I do not resile from the fact that I also long for a republic.

**Mrs BRONWYN BISHOP (Mackellar) (12.02 p.m.)—**I was going to begin by noting the kind compliments from the honourable member for Chifley and to further note what wise constituents he had when it came to voting on the referendum. I might say that there we have a connection, because my constituents also voted no. In rising to address this motion to take note of the Address of Congratulation to Her Majesty The Queen on the Golden Jubilee, I do so realising what an amazing change of history Her Majesty’s reign has spanned. She became queen as such a young girl, in her early twenties in 1952, upon the death of her father, and has seen the changes that have taken place across the world in that period and yet has remained a person who has earned the respect of not only the United Kingdom and the Commonwealth as a whole but also, very much so, the people of Australia.

Our system of governance works for us, and you could call us a ‘crowned republic’, because we have all the benefits of a system that a republic perhaps holds out and yet we have the stability of having a constitutional monarchy, which gives us a stability that—certainly if you look at the history of republics around the world—republics do not seem to enjoy. If you look in our own region, you can see that Thailand and Malaysia enjoy a monarchical system. You can see that Spain was only able to return democracy to that country by restoring the monarchy. So, as an institution, I think monarchy has a good track record.

Her Majesty, in the 50 years of her reign, has had great sadnesses and tragedies in her life, and also great joys. I suppose that is something which ordinary folk, including us, can identify with. There has been a lot written about the royal family, their collapsing marriages, their foibles or whatever, yet in reality I suppose it makes them just a bit more like us. There have been changing mores in that 50-year period, yet the institution of the monarchy has remained steadfast. She was always there as the reliable monarch in whom confidence could be had.

For our part, as I said, our system works and gives us the benefit of that concept of a crowned republic. Our head of state is our Governor-General and the monarch exercises her authority or her powers with regard to us in accordance with the doctrine of the divisibility of the Crown—an interesting doctrine that means that when she is dealing with matters of Australia as the Queen of Australia, she exclusively looks at the laws of Australia and the needs of Australia, but all power, in terms of ability to appoint and sack prime ministers, lies in the hands of the Governor-General.

If I were to devise a test as to whether or not the Governor-General was the head of state, I certainly would not be using as a test whether or not he attended a funeral. I would be saying: who has the power to appoint and sack a Prime Minister? And we know the answer to that question.
In the same year as the Queen celebrates her Golden Jubilee, she of course has also lost her mother and her sister. The tragedy of losing those people who were so close to her must have placed a very marked dampener on what would otherwise have been a year full of rejoicing. However, anyone who saw the television footage of the concerts on the lawn of Buckingham Palace could see that she was certainly enjoying her Golden Jubilee and, more particularly, so were the people who attended. Two million people applied for tickets to attend those two concerts. They included some Australians, because I tried hard for a couple of my constituents, but they did not get in the ballot.

If we reflect upon how Her Majesty is regarded by people across the world, perhaps it is in contrast to the way other monarchs have been regarded during other periods in history. If we look back to the Victorian era, we can think of the power of Queen Victoria when she was the head of a great empire, yet people very often forget that she was a vastly unpopular figure for many years of her reign and really did have to be, shall we say, cajoled into coming back into contact with the people over whom she reigned.

Queen Elizabeth II has never endured that sort of ignominy. She has had, in her own terms, an annus horribilis in one particular year; she has had her sadnesses and her joys. But may we simply say: God save the Queen.

Mr KING (Wentworth) (12.09 p.m.)—I welcome the opportunity to join with other honourable members in marking Her Majesty Queen Elizabeth’s Golden Jubilee and in supporting the Prime Minister’s address of congratulations to the Queen on this occasion. It is appropriate that the parliament, in a spirit of bipartisanship, considers the address which extends our warm congratulations at this time of celebration of the Golden Jubilee of her accession to the throne and expresses our respect and regard for the dedication she has displayed in the service of the Commonwealth and her deep and abiding commitment to Australia and her people.

The Queen’s reign has been, by so many measures, a remarkable period. As the Prime Minister noted in his address, just three other British monarchs have reigned for longer and she will overtake all their records in just 13 years time. The Prime Minister also noted that 10 British prime ministers have come and gone in that 50-year period and, as our head of state, she has seen 10 Australian prime ministers in office and has appointed 11 governors-general. The length of her reign is particularly poignant to me because I was born in the year the Queen commenced her reign. To think of the commitment and dedication involved in fulfilling her responsibilities over a period equivalent to my lifetime marked by extraordinary social, political and economic change is quite remarkable.

It is not just the length of the Queen’s reign that is significant. She has had to meet many personal and other challenges in that time. One not often appreciated is the change in the nature of the Crown itself from that of an imperial head of state to leadership of a significant group of like-minded states that form the Commonwealth of Nations. At the same time she has watched, if not encouraged, Australia to grow to the strong, independent nation we have become today, not just by her visits but also by her advice and her example of tolerance and virtue.

Many have commented on the changes that have occurred around the world during the course of her reign. Part of her success is that, perhaps like the great passenger liner that bears her mother’s name, she has moved with the currents of time and evolving attitudes while maintaining a steady course as the centre of those traditions that typify Westminster’s democracy. Is it any wonder that she has been described by His Honour Justice Kirby as the most successful female politician of the 20th century?
The Golden Jubilee has been an occasion for celebration around the Commonwealth of Nations and also, especially and understandably, in the United Kingdom. I suspect that both those who support the monarchy in that country and those who would prefer a different system have been taken aback by the extent of the public support for the Jubilee that we all observed during that almost tumultuous weekend earlier this month. The size of the crowds and the resounding sounds of hundreds of thousands of Britons joining in one voice to their various national anthems and songs were clearly not just the result of pageantry and pop stars. They reflected the enduring respect that the peoples of the United Kingdom have for their Queen and for the institution that she represents.

I have heard first-hand reports from some of those that joined Britons for that celebratory weekend. My friend and constituent, Peter Cavanagh, was one of those in the crowd representing the Australian Commonwealth society. He has told me of the genuine excitement amongst the populace in London that day and the dizzying levels of patriotism and national pride. He also mentioned his pride in attending, as a guest of our High Commission, the raising of the flags of the Commonwealth of Nations in the grounds of Marlborough House, the Commonwealth headquarters, in the hours preceding the commencement of the celebrations.

It is interesting to reflect on the level of support that the Queen and the royal family continue to receive in the United Kingdom. Clearly, part of it is British admiration for tradition and an institution that has been at the apex of the United Kingdom’s political and cultural life for so many centuries. But it is more than that. A constitutional monarchy, by its very nature, relies more than any other system of government on the maintenance of support for the individual who occupies the throne. Support for Britain’s monarchy has waxed and waned over the centuries, most frequently as a reflection of British society’s respect for the monarch of the day.

Of course, that is not entirely so. There are those in Britain who, for ideological reasons, will always advocate different forms of government no matter how highly they regard their king or queen. Perhaps in time that sentiment may change, but it is hard to see, following the support demonstrated for the royal family during the course of this year. That very personal nature of the monarchy and the fact that it remains held in such high respect in the United Kingdom is perhaps the greatest testimony to the service that has been given by the Queen. She has steadfastly devoted her life to public service and acquitted her responsibilities with great dignity, compassion and commitment and she has performed her responsibilities as constitutional head of state with great tact and respect for the democratic processes of that country.

In Australia, we have not seen mass outpourings of celebrations for the Jubilee. While some have seen that as a reflection of a republican spirit, I suspect it is just as much a sign of the different and mature attitude that we have towards the Queen and our great respect for her. I have no doubt of the affection in which the Queen is held in this country and the respect Australians have for her service as both our constitutional head of state and her role as head of the Commonwealth of Nations. That respect transcends the borders of the republican debate. The fact that the Queen was never a part of the republican movement’s campaign for change reflects the admiration in which we all hold her for the service she gives to our country. I wish the Queen and her family well during the course of the celebrations that she well and truly deserves for her half-century of dedication to those vows she took at her coronation 49 years ago.

Mr HARTSUYKER (Cowper) (12.15 p.m.)—I rise to congratulate the Queen on her Golden Jubilee year. As Australia’s constitutional monarch over the past 50 years, the Queen
has symbolically been our head of state for half our nation’s history since Federation. Throughout those 50 years, the Queen has reigned over a period which has seen significant transformation in the way we live. Improved communications, a change in the dynamics of society and the ongoing challenges of maintaining a safe and secure world have all contributed to a new world order. The Queen has presided over those times with a tremendous sense of dignity. While some sceptics today question the role of the British monarch, I believe the public’s genuine affection for Queen Elizabeth remains undeniably strong across the Commonwealth.

The warmth with which she is considered by many Australians not only is a reflection of the depth of feeling towards her in our nation but recognises the close rapport she has developed with the Australian people and the 54 independent countries who make up the Commonwealth. While we now live in a global economy, it is quite easy to overlook the benefits of the Commonwealth as it fosters international cooperation and trade links between people all over the world.

The Queen has made a vital contribution to the maintenance of the Commonwealth since she inherited the throne following the unexpected death of King George VI in 1952. From the earliest days, the Queen took on her new role with energetic commitment. She not only fulfilled her political obligations admirably but also was very proactive in meeting her duties within the Commonwealth.

Within the first years of her reign, the Queen travelled to many parts of the Commonwealth never visited before by her predecessors. The Queen also conducted state visits to countries including Norway, Sweden, Portugal, France, Denmark, the USA and the Netherlands. This approach not only consolidated the role of the monarch within the Commonwealth but raised the profile of the monarch in many other countries.

Throughout her early days, the Queen also had to balance her public duties with the needs of her family. Family life remained an essential part of her life throughout her official duties. As well as being sovereign, the Queen was a mother of two young children. She had two young children to care for at the time her father died. With the birth of Prince Andrew in 1960, the Queen became the first reigning sovereign to give birth since Queen Victoria, who had her youngest child, Princess Beatrice, in 1857. But the birth of other child did not dampen her desire to make the work of the monarchy accessible to an even wider range of people.

During her visit to Australia and New Zealand in 1970, for example, the Queen and the Duke of Edinburgh initiated a new practice—the walkabout—to allow them to meet as many people as possible. Increased access to the lives of the members of the royal family by the media was also allowed. In an effort to break down the barriers and division which had been created over time, the Queen made several historic overseas visits during the sixties. One such visit was to West Germany, the first since World War II. She encouraged other members of the royal family to attend independence ceremonies for countries formerly of the British Empire, giving rise to the Commonwealth in its present form as a network of countries sharing friendship across the globe.

Her empathy for the people of rural and regional Australia was always prevalent. But it was probably best personified in 1963 when she visited the home of the Royal Flying Doctor Service. She made a historic speech across the Royal Flying Doctor Service radio network, paying tribute to those Australians who had pioneered the development of regions outside metropolitan Australia. Over her 50 years as Australia’s head of state the Queen has visited Australia some 14 times, evidence of her love for our country and her status within our nation. On the international stage, too, there have been several firsts. The Queen paid a historic visit.
to communist Yugoslavia, travelled to Japan as a guest of Emperor Hirohito, was the first British sovereign to travel to the Middle East in 1979 and visited Pope John Paul II in the Vatican in 1980.

The Commonwealth has continued to go from strength to strength. The Queen as head of the Commonwealth visited Ottawa at the time of the Commonwealth Heads of Government Meeting being held there. Since then the Queen has been present in the host country for every CHOGM meeting in Britain or abroad to demonstrate her commitment to the organisation and its principles. While many of her duties have been ceremonially and diplomatically based, the Queen has also addressed a number of difficult issues as the head of the British armed forces. In the 1980s there were two conflicts involving UK servicemen and women. British troops travelled to the South Atlantic in 1982 to recover the Falkland Islands in South Georgia. The Queen shared the anxiety of many mothers of men and women serving in that conflict, with Prince Andrew the pilot of a Sea King helicopter during that war. In the second conflict British forces travelled to the Gulf in the Middle East in 1991 to assist the allied action to drive out the Iraqi forces from occupied Kuwait. The Queen led the ceremonial commemoration of an event in the Second World War, the 50th anniversary of the Battle of Britain.

In more recent times the Queen has continued to break down political and religious barriers. History was made in 1982 when Pope John Paul II visited Britain, the first pope to do so for some 450 years. If one looks back over the past 50 years, the last five decades are littered with positive contributions that Queen Elizabeth II has made. From an Australian’s perspective you only have to look at the stability that our governments provide to recognise that the system we have enjoyed works extremely well compared with the alternatives. The ongoing success of that system is in part due to the manner in which it is administered by its leaders. The Queen has had to handle some sensitive and at times controversial constitutional issues over the years. She has done so with skill, integrity and propriety.

In the 50th anniversary year, many Australians felt for Queen Elizabeth II following the loss of her sister Margaret and the much loved Queen Mother. Indeed I was privileged to speak recently at functions conducted by the Macksville, Eungai and Wooli-Minnie Waters branches of the CWA. The Wooli-Minnie Waters branch share their 50th birthday with the Golden Jubilee of the Queen. I was most honoured to attend the 50th birthday of the Wooli-Minnie Waters CWA branch. Organisations such as the CWA are very focused on and aware of the positive contributions that the Queen and the monarchy have made to our country and are absolute and staunch supporters of the monarchy. Anyone who has any doubts with regard to the impact of Queen Elizabeth on the lives of Australians should speak to people such as Laurel Heaton, Lorna Power and Margaret Rumbel from Eungai CWA or perhaps Janice Wilkinson, Noni Bailey and Lyn Wilson from the Wooli-Minnie Waters branch of the CWA.

We all congratulate Her Majesty on her Golden Jubilee year and thank her for her presiding over a system that has been an integral part of the development of our nation. Many residents of the city of Coffs Harbour within my electorate fondly recall 1970 when the Queen visited Coffs Harbour. It is my recollection that the Royal yacht Britannia actually came into the harbour in that year. Her Majesty took time to meet many local people and visited many of the local attractions of which we are so proud. A number of ladies from the CWA branches across my electorate expressed to me their admiration of the Queen and the mixed emotions that she must feel in a year which recognises such a great achievement. In conclusion I would like to congratulate Her Majesty the Queen on her Golden Jubilee year and thank her for her contribution to our great nation.
Ms GAMBARO (Petrie) (12.23 p.m.)—It is with great pleasure that I also rise today to congratulate Her Majesty Queen Elizabeth II on the celebration of her Golden Jubilee. There are few British monarchs who have achieved golden jubilee status. Indeed the records are scarce as to how the likes of Henry III, Edward III and James VI celebrated their 50-year milestones. The first British monarch to celebrate a golden jubilee in a significant way was George III, followed by Queen Victoria. The Queen celebrated her Silver Jubilee in 1977—25 years on the throne. Her Majesty’s service to the Commonwealth for 50 years demonstrates her energy and commitment to her position and subjects.

On the day of her accession in 1952, Queen Elizabeth praised her father and dedicated her reign to using his standard as the measure for her role as a monarch. Her Majesty declared that she would continue to work as he had done in upholding constitutional government and advancing the happiness and the prosperity of her peoples as they were spread throughout the world. King George VI was the most significant influence, along with her mother, in how she saw her role as the monarch and how that role has changed and adapted. The world and the monarchy have both experienced considerable change in the last 50 years. We saw the end of the Cold War and the beginning of a new millennium. We saw new nations formed and medical breakthroughs occur. Today we can expect to live 10 years longer than we did in the era of our parents and we can also expect to lead much healthier and fitter lives well beyond retirement. In all of this, the Queen has held steadfastly to the ideals that were instilled in her by both of her parents while facing the growing complexity of this world. British Prime Minister Tony Blair spoke of this in his speech to honour the Queen on her Golden Jubilee. He remarked that the Queen’s Golden Jubilee was a remarkable achievement, not simply for maintaining the throne for such a period, but for making changes despite being in a world that often pays ‘scant regard to tradition and often values passing fashions above enduring faith’.

In a world of 24-hour a day media the Queen has displayed calm and strength. Her reign is also testimony to the changing tide of the monarchy and its ability to adapt to changes in society. She has indeed stood the test of time and the often fickle tastes of fashion and society. Her Majesty is prized for her courage, her determination and her ability to progress through those most difficult of times. The photos of the young princess in army attire during World War II demonstrated the tenacity that would sustain her during her 50-year reign. As a young princess she showed spirit and determination, like that of her mother when she assisted in Britain’s war effort.

At the Queen Mother’s funeral earlier this year the Cockney King and the people of East London showed their respect for the Queen Mother, who remained in London during the Blitz. Her natural warmth helped usher in a more human face to the royal family, one that has continually been endorsed by the Queen herself. Her Majesty has stood tall and maintained a strong demeanour, despite facing her own annus horribilis. She won the hearts of many when she told the world in 1992 that the year had not been its best. She also won admiration when she admitted that the year was not one that she would look back on with any great fondness. But she saw its impact as positive. She spoke of how criticism could be beneficial for those in public life and how criticism can sometimes effect positive change. Her frankness humanised this very remarkable woman. It brought back to the present day overtures of her coronation speech on the evening of 2 June 1953 when, with sincerity and realism for the future, she said:

I am sure that this, my Coronation, is not the symbol of a power and of a splendour that are gone but a declaration of our hopes for the future, and for the years I may, by God’s Grace and Mercy, be given to reign and serve as your Queen.
Although deference sometimes may be given by birthright, admiration and affection are earned.

In the years following her most horrible year, much has happened to the royal family. The death of Princess Diana in 1997 demonstrated the way in which the lives of royalty can touch us so deeply. The gradual awakening of the younger royals has once again seen the monarchy given new verve, but with one constant—that of the Queen. Today, support for the monarchy in Britain is at one of its highest levels in decades and the monarchy has Queen Elizabeth to thank for this. In his sermon to honour Her Majesty Queen Elizabeth II on her Golden Jubilee, the Archbishop of Canterbury stated that, unlike much in this modern world, where more and more relationships are tested and often break down, the Queen’s relationship with her people has grown, and grown stronger with the passage of time. It is significant that we honour our monarch in this Golden Jubilee.

This year has been a very sad year for her. She has seen the passing of her sister and her mother in a year marking her accession to the throne. It also serves as a reminder of the death of her father, King George VI. Her sister, Princess Margaret, the Princess Royal, was buried on the same day 50 years on as her father had been. Although this is a year of celebration and triumph, it is also tinged with sadness at the passing of those who have been with her during that 50-year reign. To simply call the past 50 years of Her Majesty’s reign ‘a period of service’ would be to discount the commitment she has shown, despite changes in her own family and in society as a whole.

There have been few centuries to rival the 20th century, with its political and demographic changes. Although the British Empire has changed its boundaries over this period, the resurgence of the likes of the Commonwealth Games and CHOGM recently held in Queensland have continued to encourage a sense of unity among nations dispersed throughout the world. I will always remember fondly the 1982 Commonwealth Games in Brisbane. They were quite unique. They encouraged more worldwide interest in Brisbane and Queensland and helped to place Brisbane as a suitable contender for World Expo in 1988. The Queen showed that she clearly enjoyed the games, and when the giant mascot, Matilda the kangaroo, winked at the crowd, the Queen was seen to smile and enjoy the quaintness of the act. The people of Brisbane and the people of my electorate of Petrie have very fond memories of the Queen’s visits to our city and our state. I want to pay tribute to the Redcliffe Constitutional Monarchists Association and also to the late Peter Josland for much of the work he did with regard to the monarchy.

We are the people of her Commonwealth and we are very proud to be called Queen-slanders. We honour her as our monarch, and I know that I speak on behalf of my electorate when I extend our congratulations to Her Majesty Queen Elizabeth II on her Golden Jubilee. We sincerely thank Her Majesty for her commitment and dedication, despite difficult times. We wish her much happiness as she continues to reign as the Queen of the Commonwealth and our Queen of Australia.

Debate (on motion by Mr Neville) adjourned.

Main Committee adjourned at 12.33 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Migration Agents Registration Authority
(Question No. 484)

Mr Laurie Ferguson asked the Minister for Citizenship and Multicultural Affairs, upon notice, on 6 June 2002:

(1) How many directors are currently serving on the Board of the Migration Agents Registration Authority (MARA).

(2) What was the total sum of (a) remuneration and (b) travel expenses for Board members in (i) 2000-2001 and (ii) 2001-2002.

(3) What is the nature of the remuneration that is currently payable to (a) the Chairman and (b) other Members of the Board.

(4) What is the basis of the payments of $200,000 and $150,000 that were made to his Department by MARA in 1999-2000 and 2000-2001, respectively.

(5) Is MARA expected to make further payments to his Department in 2001-2002 and 2002-2003; if so, what are the expected sums.

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

(1) There are 13 directors currently serving on the Board of the MARA.

(2) The total sums paid to Board members for remuneration and travel were:

   (a) Board Remuneration
       (i) $252,223.00 for 2000-2001.
       (ii) $198,463.39 for the period 1 July 2001 to 30 May 2002.

   (b) Travel Expenses
       (ii) $9,208.13 for the period 1 July 2001 to 30 May 2002.

(3) (a) The Chairman is paid a fee of $540 per day (based on an 8-hour day) plus expenses as they are incurred when attending to meetings and matters relating to the MARA which are reported to the Secretariat. (b) The other members of the Board (including the Vice Chairman) are paid a fee of $440 per day (based on an 8-hour day) plus expenses as they are incurred when attending to meetings and matters relating to MARA which are reported to the Secretariat.

(4) Under the current Deed of Agreement between the MIA and the Department, the MIA has agreed 'to contribute to the Commonwealth's costs in providing essential services (including providing legal, policy and litigation services) to support the operation of the statutory requirements. The payment was set at $200,000 for 1999-2000 and was reduced to $150,000 for 2000-2001 and 2001-2002 when a new Deed of Agreement was negotiated in December 2000.

(5) Under the current Deed of Agreement the MARA is required to make a payment to the Department of $150,000 for 2001-2002 on 30 June 2002. The amount to be paid in 2002-2003 will be subject to the terms for the next Deed of Agreement.